

In the State of South Carolina  
The South Carolina Court of Appeals

Michael Wayne Jeffcoat, #257930, Appellant,

v.

State of South Carolina and the Honorable  
Donald V. Myers, Defendants,

Of which the State of South Carolina is  
the Respondent.

**RECEIVED**

FEB 15 2017

Appellate Case No. 2016-001902.

SC Court of Appeals

Appellant's Motion to Reconsider.

Pursuant to the Court's Order of January 26, 2017, Appellant was denied leave to proceed In Forma Pauperis. For reasons set forth below, Appellant respectfully requests this Court to reconsider said Order and reverse the previous ruling, granting Appellant leave to proceed In Forma Pauperis.

## Judicial History

On June 30, 2014 this case was originally filed in the Lexington County Court of Common Pleas. (See, 2014-CP-32-02372.)

This filing occurred pursuant to Order of the Chief Administrative Judge only after a factual finding that this case presents issues involving Appellant's fundamental rights.

Ex Parte: Martin v. State, 321 S.C. 533, 471 S.E.2d 134 (1995).

Upon filing this case with the Court of Appeals, Appellant motioned for leave to proceed In Forma Pauperis. He alleged he was without funds sufficient to pay the filing fee or the costs of this proceeding. Appellant also averred to this Court his case involved resolving his being denied fundamental rights. On January 26, 2017, this Court

denied Appellant's motion to proceed In Forma Pauperis.

### The Order

Conspicuously absent from the Court's January 26, 2017 Order is any finding of fact. This Court has effectively reversed the Lower Court's finding of fact that Appellant's case involves his fundamental rights. This reversal has been accomplished silently.

Absent also from this Order is application of any rule of law upon which denying Appellant access to this Court is based.

Finally, this Order is eligible for reconsideration because it effectively discontinues the action due to Appellant's only means of bringing the action is In Forma Pauperis. Cf., Lake v. State, 333 S.C. 382, 510 S.E.2d 228 (Ct. App. 1998).

### Argument and Authority

June 17, 1992 the General Sessions Court for Lexington County accepted a guilty plea agreement that Appellant would plea guilty to a non-violent offense. The trial court erred by reducing the charge from CSC 1st Degree to CSC 2nd Degree. Even though the judge wrote on the sentencing sheet it was a non-violent offense and he recommended shock probation, it did not cure the error.

Appellant had no knowledge during or after serving the three (3) year sentence imposed that he had been convicted of a "most serious offense"; until, the State sought Life without parole in 1998. No one would challenge the prior conviction, and he was sentenced under § 17-27-45.

"[W]here certain fundamental rights are involved, this Constitution requires that an indigent be allowed access to the courts." Ex Parte Martin v. State, 321 S.C. 533, 535, 471 S.E.2d 134 (1995).

"In Lakes v. State, 333 S.C. 382, 510 S.E.2d 228 (Ct. App. 1998), this Court found the order denying Lake's request to proceed in forma pauperis effectively discontinued the action because Lake's only means of bringing the action was in forma pauperis..." Ex Parte Martin, supra.

The question is "whether the cause of action concerns a fundamental right that requires waiver of the filing fee", Martin v. State, supra.

Appellant is serving Life Without Parole due to a scrivener's

error by the judge at the time of sentencing. This involves fundamental rights.

One question posed by this case is, "what is the meaning of 'correction of sentencing' contemplated by §17-27-20(A): does it include actions requesting the proper statute be applied to fulfill a plea agreement, without the sentence imposed being disturbed"?

The court's January 26, 2017 Order denying In Forma Pauperis status to Appellant is completely devoid of facts or legal reasoning. A sanner occasion it is when a lower court decision is overruled by a higher court without any factual or legal basis.

The Lower Court, in granting In Forma Pauperis status

to Appellate/Plaintiff, was required by law to determine whether or not the case presented questions involving fundamental rights. Ex Parte Martin, supra. The current Order overturns the Lower Court fact-finding, silently.

"The order of the [ ] court is largely conclusory and totally devoid of pertinent facts on which it based its decision." Appeal of Myers, 273 S.C. 180, 255 S.E.2d 450 (1979);

Cudd v. Cudd, 275 S.C. 415, 272 S.E.2d 173 (1980); Georgetown

DSS v. Phipps, 278 S.C. 64, 292 S.E.2d 184 (1982);


Shafer v. Shafer, 283 S.C. 205, 320 S.E.2d 730 (1984).

### Conclusion

Wherefore, for the reasons set forth above, the Appellant prays the Court reconsider its Order ~~is~~.

in this case, and that the Court grant Appellant leave to proceed In Forma Pauperis, and that this Court grant any such or other relief as may be deemed in the interests of justice.

Respectfully submitted:

  
\_\_\_\_\_  
Michael Wayne Jellicott, #257930, Pro Se  
McCormick CI  
386 Redemption Way  
McCormick, SC 29899

Dated: 2/13/17

In the State of South Carolina  
The South Carolina Court of Appeals

Michael Wayne Jeffcoat, #257930, Appellant,

v.

State of South Carolina and the Honorable  
Donald V. Myers, Defendants,

**RECEIVED**

FEB 15 2017

Of which the State of South Carolina is  
the Respondent. **SC Court of Appeals**

Appellate Case No. 2016-001902

---

Affidavit In Support of  
Appellant's Motion To Reconsider

Personally appears Affiant Michael Wayne Jeffcoat who,  
first being duly sworn, hereby deposes and says:

1. I am the Appellant in the above-captioned case in  
which I raise issues of fundamental rights protected by  
the United States Constitution, and I believe I am entitled  
to relief.

(continued page 2)

Affidavit of Michael Wayne Jeffcoat  
Page Two of Two Pages

2. I do not possess, nor have available for my use, funds sufficient to pay the filing fee nor the costs of this proceeding.

3. I have not ordered the transcript in this case simply because I can not pay for it.

4. I am being denied access to the courts unlawfully.

Further Affiant Sayeth Not.

S/ Michael Jeffcoat  
Affiant

Sworn to and subscribed before me  
this 13 day of February, 2017

JCF Rankler

Notary Public

My commission expires: 12-16-2019

In the State of South Carolina

Affidavit of Service

In the Court of Appeals

Personally appears Affiant Michael Wayne Jeffcoat who, first being duly sworn, hereby deposes and says I placed originals of my "Appellant's Motion to Reconsider" and "Affidavit in Support of Appellant's motion to Reconsider" in sealed, postage prepaid envelopes addressed to (1) Harley L. Kirkland, Esq., P.O. Box 11549, Columbia, SC 29211-1549, and (2) Hon Jerry Abbott Kitchings, Clerk, P.O. Box 11629, Columbia, SC 29211-1629, and deposited same in the Mc Cormick CI mail room on this 12<sup>th</sup> day of February, 2017,

S/ Michael Wayne Jeffcoat  
Affiant

Sworn to and subscribed before me this 13 day of February, 2017.

JC Franklin  
Notary Public  
My Commission expires: 12-16-2019

**RECEIVED**  
FEB 15 2017  
SC Court of Appeals

Michael Jeffcoat, #257930  
McCormick, CI  
386 Redemption Way  
McCormick, SC 29809  
February 13, 2017

Hon. Jenny Abbott Kitchings, Clerk  
SC Court of Appeals  
P.O. Box 11629  
Columbia, SC 29211-1629

**RECEIVED**

FEB 15 2017

SC Court of Appeals

Re: Jeffcoat v. State, App. Cs. No. 2016-001902  
"Motion to Reconsider"  
"Affidavit of Appellant in Support of Motion to Reconsider"

Dear Ms. Kitchings:

Enclosed you will find the above-referenced documents for  
filing in your office.

With kind regards,

Sincerely,

Michael Jeffcoat

Enclosures

Michael Jeffcoat # 257930  
F-4 (A) # 193

McCormick Correctional Institute  
386 Redemption Way  
McCormick, SC 29899

**RECEIVED**

FEB 13 2017

MAIL ROOM

**RECEIVED**

FEB 15 2017

SC Court of Appeals

Hon. Jenny Abbott Kitchings, Clerk  
SC Court of Appeals  
P.O. Box 11629  
Columbia, SC 29211-1629