

The State of South Carolina
In the Supreme Court

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S.C. SUPREME COURT

Appeal from Lexington County
Court of Common Pleas

Gordon G. Cooper, Circuit Court Judge

Order of the Court of Appeals
(filed February 16, 2017)

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.

Appellate Case No. 2016-001902

Petition for Writ of Certiorari

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JAN 14 2017
10:08 AM

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1. The standing Order by the Court of Appeals for its Clark to reject and refuse reconsideration of <u>in</u> <u>forma pauperis</u> status "because it does not have the effect of dismissing the case" is directly opposed to its earlier ruling in <u>Lake v. State</u> , 333 S.C. 383, 510 S.E.2d 228 (Ch. App. 1998)	4
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Certificate of Counsel

Appellant certifies that the Petition for Rehearing was made and finally ruled on by the Court of Appeals on February 16, 2017.

Question Presented

1. Whether the Court of Appeals erred when issuing an Order to its Clerk to reject and refuse reconsideration of in forma pauperis status "because it does not have the effect of dismissing the case" when this is directly opposed to its earlier ruling in Lakes v. State?

Statement of the Case

Pursuant to Ex Parte: Martin v. State, 321 S.C. 553, 471

S.E.2d 134 () the Lexington County Court of Common Pleas was required to determine if this Case presented issues involving "fundamental rights" before granting Appellant in forma pauperis status. Leave to proceed in forma pauperis was granted after such finding.

On January 26, 2017, Appellant's motion to proceed in forma pauperis was denied. On February 13, 2017,

Appellant served a "Motion to Reconsider". On February 16, 2017, the case was dismissed and Appellant was notified by the Clerk that "... no further action will be taken with regard to your motion."

On February 16, 2017, this case was dismissed due to Appellant's failure to pay the filing fee on order transcript.

Argument

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

The clerk's February 16, 2017 letter which rejected

Appellant's "Motion to Reconsider" without review by the Court, "because it does not have the effect of dismissing or finally deciding the appeal", not only contradicts Lakes v. State, supra, but also prohibits the Court from even considering whether "in forma pauperis effectively discontinued the action because Appellant's only means of bringing the action was in forma pauperis". Lakes, supra.

In his "Motion to Reconsider", Appellant addressed several issues, of which he complained.

1. Appellant complained of the Court silently overruling the lower court's fact-finding that the case presents issues involving his fundamental rights.

2. Appellant objected to the denial of in forma pauperis

status without a single finding of fact or application of law.

3. Appellant argued the order denying in forma pauperis status effectively discontinues the action, so it is subject to reconsideration.

The Court of Appeals never heard the above arguments due to the standing order for the Clerk to refuse to act upon such motions.

Appellant has been denied access to the courts as a direct and proximate result of the Court of Appeals' order.

The Supreme Court of South Carolina has now been presented with two (2) diametrically opposed opinions

regarding the same set of facts between Lakes v. State, and this one, when Appellant has no other plain, adequate or complete remedy at law to redress the deprivation of access to the courts, which is in violation of the United States Constitution.

Conclusion

Wherefore, Appellant respectfully requests the Court to grant a Writ of Certiorari to Appellant for the purpose of resolving the conflict within the Court of Appeals between Lakes v. State and this case, and that the question regarding Appellant's in forma pauperis status be remanded to the Court of Appeals for reconsideration.

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Respectfully submitted:



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Dated: March 17th 2017