

143

State of South Carolina
etv the Supreme Court

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JUL 26 2017

S.C. SUPREME COURT

James B. Blakely.....Petitioner,

vs.

B. P. Sterling, et al..... Respondents

Notice of Appeal

The petitioner, James B. Blakely, hereby gives notice of Appeal from the judgment of the Court of Appeals in the above action to the Supreme Court of South Carolina.

This notice of appeal is made subsequent to personal notice of the judgment which was received on the 17 day of July, 2017.

The petitioner's exceptions to the judgment of the Appeals Court are set forth as follows:

In Evans v. Abney, 90 S.Ct. 628 (1970) "No state law or act can prevail in face of contrary federal law and Federal Courts must search out fact and truth of any proceeding or transaction
(11)

to determine if Constitution has been violated.

28 U.S.C. § 1915 (b)(4) states:

"(4) In no event shall a prisoner be prohibited from bringing a Civil action or appealing a Civil or Criminal judgment for the reason that the prisoner has no assets and no means by which to pay the initial partial filing fee."

Petitioner filed Civil action in Richland County and was granted permission to proceed in forma pauperis. In forma pauperis, once granted apply to the right to appeal to the Court.

Plus, petitioner is being denied his Fifth and Fourteenth Amendments. Clearly in 28 U.S.C. § 1915 (b)(4)

it is stated: "In no event shall a prisoner be prohibited from bringing a Civil action or appealing - no assets and no means to pay the - filing fee."

So the Court of Appeals is not recognizing Evans v. Abney, 90 S. Ct. 628, and is saying that South Carolina state law do prevail over federal law by its ruling.

Plus, the judge in the Court of Common plea failed to rule on petitioner's Motion to Compel before dismissing petitioner's Case.

Petitioner presented evidence in the Court of Common plea and was entitled to a jury trial.

Petitioner prays that this Court reverse the Court of Appeals ruling and grant petitioner's day in Court.
Thank You.

Respectfully Submitted

Dated: 7/24/17

C: ygb
ykg

James D. Blakely #255623
Broad River Constnat
4460 Broad River Rd.
Columbia, S. C. - 29210
Pro se

(3)

LEGAL MAIL

State of South Carolina
in the Supreme Court

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James B. Blakely..... Petitioner SIC SUPREME COURT

vs.

B. P. Stirling, et. al. Respondents

Proof of Service
2016-002418

at, James B. Blakely, have served upon the respondents' attorney a copy of the Notice of Appeal and my exceptions to the below address

Mr. John H. Guerry, Esq.
P.O. Drawer 7788
Columbia, S.C. 29202

postage prepaid by petitioner and mailed through the United States Postal Service First Class mail

Sworn to before me this 24th day of July 2017.

[Signature]
Notary Public For South

JANELLE J. SPEARMAN
Notary Public - State of South Carolina
My Commission Expires August 26, 2025

My Commission Expires:

/s/ James B. Blakely
James B. Blakely #2515623
Broad River Court
4460 Broad River Rd.
Columbia, S.C. 29210

Pro se

The South Carolina Court of Appeals

James Blakely and Antonio Sullivan, Plaintiffs,

Of whom James Blakely is, Appellant,

v.

South Carolina Department of Corrections; B. P. Stirling;
Sam Soltis, Deputy Director of Health; Larry Cartledge,
Warden; Dr. Days; D.P.M. Thomas, Commissary
Manager; Isa Gurbuz, Supply Manager; M. Brown, Food
Service Manager, Respondents.

Appellate Case No. 2016-002418

The Honorable Alison Renee Lee
Richland County
Trial Court Case No. 2016CP4001513

ORDER

Appellant has failed to provide the notice of appeal filing fee, as required by Rule 203 of the South Carolina Appellate Court Rules, and order of this Court dated June 16, 2017. Accordingly, this matter is dismissed. The remittitur will be sent as provided by Rule 221(b), SCACR.

FOR THE COURT

BY V. Claire Allen, Deputy
CLERK

Columbia, South Carolina
cc:
James G. Blakely, #255623
John Horton Guerry, Esquire
Michelle Parsons Kelley, Esquire

FILED

July 10, 2017

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JUL 26 2017
S.C. SUPREME COURT

DEPARTMENT OF CORRECTIONS INSTITUTION
THE DEPARTMENT OF CORRECTIONS HAS NOT
CENSORED THIS ITEM; THEREFORE, THE DEPARTMENT
DOES NOT ASSUME RESPONSIBILITY FOR ITS CONTENTS
BROADRIVER CORRECTIONAL INSTITUTION
S.C. DEPARTMENT OF CORRECTIONS

Mr. James D. Blakely #255623
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4460 Broad River Rd.
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Office of the Clerk of Court
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Columbia, S.C. 29211

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