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AUG 15 2017

No. 17-5568

S.C. SUPREME COURT

FILED

MAY 3 2017

OFFICE OF THE CLERK  
SUPREME COURT, U.S.

IN THE

SUPREME COURT OF THE UNITED STATES

Gregory L. Campbell — PETITIONER  
(Your Name)

VS.

State of South Carolina — RESPONDENT(S)

MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS*

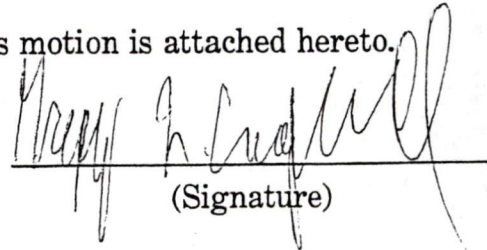
The petitioner asks leave to file the attached petition for a writ of certiorari without prepayment of costs and to proceed *in forma pauperis*.

Petitioner has previously been granted leave to proceed *in forma pauperis* in the following court(s):

State of South Carolina Circuit Court 15<sup>th</sup> cir. and  
State of South Carolina Court of Appeals 22<sup>nd</sup> cir

Petitioner has **not** previously been granted leave to proceed *in forma pauperis* in any other court.

Petitioner's affidavit or declaration in support of this motion is attached hereto.

  
(Signature)

IN THE SUPREME COURT  
OF THE  
UNITED STATES

RECEIVED  
AUG 15 2017  
S.C. SUPREME COURT

Campbell, Gregory L.  
Plaintiff by pro-se

V.

Superior Court of the United States Case No. \_\_\_\_\_  
Supreme Court of South Carolina Appellant Case No. 2017-000893  
South Carolina Court of Appeals Case No. 2016-002320  
Lower Court of Common Pleas Case No. 2016-CP-22-00049

State of South Carolina  
Defendant

**AFFIDAVIT ACCOMPANING MOTION TO PROCEED  
IN FORMA PAUPERIS**

I affirm under penalty of perjury that because of my poverty I cannot prepay the docket fees of my appeal or post a bond for them. I believe I am entitled to redress. I affirm under penalty of perjury United States laws that my answer on this form are true and correct. \*28 U.S.C. 1746; 18 U.S.C. 1621,) (please see attached *Financial Declaration, Financial Statement, and Proof of Income.*)

**MY ISSUE ON APPEAL ARE:**

1. According to the Appellant Court State of South Carolina 22<sup>nd</sup> Circuit, isn't the Judge's Order to grant the State of South Carolina (Attorney General Wilson) Defendant's Motion to Set Aside Entry of Default is immediately appealable, because the Court of Common Pleas 22<sup>nd</sup> Judicial Circuit Judge Steven John stated himself that his decision



Income source	Average monthly amount during the past 12 months		Amount expected next month	
	You	Spouse	You	Spouse
Employment	\$ 0	\$ N/A	\$ 0	\$ N/A
Self-employment	\$ 0	\$ N/A	\$ 0	\$ N/A
Income from real property (such as rental income)	\$ 0	\$ N/A	\$ 0	\$ N/A
Interest and dividends	\$ 0	\$ N/A	\$ 0	\$ N/A
Gifts	\$ 0	\$ N/A	\$ 0	\$ N/A
Alimony	\$ 0	\$ N/A	\$ 0	\$ N/A
Child support	\$ 0	\$ N/A	\$ 0	\$ N/A
Retirement (such as social security, pensions, annuities, insurance)	\$ 0	\$ N/A	\$ 0	\$ N/A
Disability (such as social security, insurance payments)	\$ 1100.00	\$ N/A	\$ 1100.00	\$ N/A
Unemployment payments	\$ 0	\$ N/A	\$ 0	\$ N/A
Public-assistance (such as welfare)	\$ 0	\$ N/A	\$ 0	\$ N/A
Other (specify):	\$ 0	\$ N/A	\$ 0	\$ N/A
<b>Total monthly income:</b>	<b>\$ 1,100.00</b>	<b>\$ N/A</b>	<b>\$ 1,100.00</b>	<b>\$ N/A</b>

2. List your employment history for the past two years, most recent employer first. (Gross monthly pay is before taxes or other deductions.) N/A

Employer	Address	Dates of employment	Gross monthly pay
			\$
			\$
			\$

3. List your spouse's employment history for the past two years, most recent employer first. (Gross monthly pay is before taxes or other deductions.) *N/A*

Employer	Address	Dates of employment	Gross monthly pay
			\$
			\$
			\$

4. How much cash do you ~~and your spouse~~ have? \$ *100.00*

Below, state any money you or your spouse have in bank accounts or in any other financial institution.

Financial Institution	Type of Account	Amount you have	Amount your spouse has
<i>SunTrust</i>	<i>Savings</i>	<i>\$ 100 00</i>	<i>\$ N/A</i>
<i>SunTrust</i>	<i>Checking</i>	<i>\$ 65.00</i>	<i>\$ N/A</i>
		\$	<i>\$ N/A</i>

If you are a prisoner seeking to appeal a judgment in a civil action or proceeding, you must attach a statement certified by the appropriate institutional officer showing all receipts, expenditures, and balances during the last six months in your institutional accounts. If you have multiple accounts, perhaps because you have been in multiple institutions, attach one certified statement of each account.

5. List the assets, and their values, which you own or your spouse owns. Do not list clothing and ordinary household furnishings. *N/A*

Home	Other real estate	Motor vehicle #1
(Value) \$	(Value) \$	(Value) \$
		Make and year:
		Model:
		Registration #:

Utilities (electricity, heating fuel, water, sewer, and telephone)	\$ 200.00	\$ N/A
Home maintenance (repairs and upkeep)	\$ 0	\$ N/A
Food	\$ 280.00	\$ N/A
Clothing	\$ 200.00	\$ N/A
Laundry and dry-cleaning	\$ 20.00	\$ N/A
Medical and dental expenses	\$ 160.00	\$ N/A
Transportation (not including motor vehicle payments)	\$ 150.00	\$ N/A
Recreation, entertainment, newspapers, magazines, etc.	\$ 0	\$ N/A
Insurance (not deducted from wages or included in mortgage payments)		
Homeowner's or renter's:	\$ 0	\$ N/A
Life:	\$ 0	\$ N/A
Health:	\$ 0	\$ N/A
Motor vehicle:	\$ 0	\$ N/A
Other: Rent	\$ 300.00	\$ N/A
Taxes (not deducted from wages or included in mortgage payments) (specify):	\$ 0	\$ N/A
Installment payments		
Motor Vehicle:	\$ 0	\$ N/A
Credit card (name):	\$ 0	\$ N/A
Department store (name):	\$ 0	\$ N/A
Other:	\$ 0	\$ N/A
Alimony, maintenance, and support paid to others	\$ 0	\$ N/A
Regular expenses for operation of business, profession, or farm (attach detailed statement)	\$ 0	\$ N/A
Other (specify):	\$ 0	\$ N/A
<b>Total monthly expenses:</b>	<b>\$ 1310.00</b>	<b>\$ N/A</b>

9. Do you expect any major changes to your monthly income or expenses or in your assets or liabilities during the next 12 months? Yes

Yes  No

If yes, describe on an attached sheet.

I plan to relocate and will be conducting matters from abroad which will decrease my funds further.

10. Have you spent — or will you be spending — any money for expenses or attorney fees in connection with this lawsuit?  Yes  No

If yes, how much? \$ \_\_\_\_\_

11. Provide any other information that will help explain why you cannot pay the docket fees for your appeal. Everything should be self explanatory.

I just don't receive enough finances to file this suit and provide for myself.

12. State the city and state of your legal residence.

Woodstock, Georgia

Your daytime phone number: (424) 332-6490

Your age: 36 Your years of schooling: 17 yrs.

Last four digits of your social-security number: 5106

SOCIAL SECURITY ADMINISTRATION

Date: December 22, 2016  
Claim Number: XXX-XX-5106A  
XXX-XX-5106DC

GREGORY L CAMPBELL  
607 N HAZARD ST  
GEORGETOWN SC 29440-3343

You asked us for information from your record. The information that you requested is shown below. If you want anyone else to have this information, you may send them this letter.

Information About Current Social Security Benefits

Beginning December 2016, the full monthly  
Social Security benefit before any deductions is.....\$ 1164.80

We deduct \$0.00 for medical insurance premiums each month.

The regular monthly Social Security payment is.....\$ 1164.00  
(We must round down to the whole dollar.)

Social Security benefits for a given month are paid the following month. (For example, Social Security benefits for March are paid in April.)

Your Social Security benefits are paid on or about the third of each month.

Information About Supplemental Security Income Payments

Beginning February 2003, the current  
Supplemental Security Income payment is.....\$ 0.00

This is after we have withheld 52.00 to recover an overpayment.

This payment amount may change from month to month if income or living situation changes.

Supplemental Security Income Payments are paid the month they are due. (For example, Supplemental Security Income Payments for March are paid in March.)

Payments were stopped beginning February 2004.

There was no cost of living adjustment in Social Security benefits in December 2015. The benefit amount shown is current as of the date on this letter.

SURPREME COURT OF THE UNITED STATES

Campbell, Gregory L.  
Plaintiff

Supreme Court Case No. 2017-000893  
Appellant Court Case No. 2016-002320  
Circuit Court Case No. 2016-CP-22-00049

V.

The State of South Carolina  
Defendant

**PROOF OF SERVICE**

This is to certify that I have sent this FINANCIAL AFFIDAVIT AND MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS to the clerk of the Supreme Court of the United States with sufficient copies to be delivered on every other person required to be served, by depositing an envelope containing the above documents in the United States mail properly addressed in an stamped envelope to ensure delivery to the following address:

Clerk of the Supreme Court of the United States  
1 First Street, NE  
Washington, DC 20543

From:

Gregory L. Campbell  
P.O. Box 2036  
Georgetown S.C., 29442

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this ~~2<sup>nd</sup>~~ day of ~~May~~, 2017.

3<sup>rd</sup> July

  
Campbell, Gregory L.  
Plaintiff by pro se

No. \_\_\_\_\_

---

**Supreme Court of the United State**

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**RECEIVED**  
AUG 15 2017  
S.C. SUPREME COURT

Campbell, Gregory L.  
Petitioner

V.

The State of South Carolina  
Respondents

**On Petition for Writ of Certiorari to the  
United States Court of  
Appeals for the 22<sup>nd</sup> Circuit**

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**PETITION FOR WRIT OF CERTORARI**

---

Campbell, Gregory L.  
Plaintiff by pro-se  
P.O. Box 2036  
Georgetown, SC 29440  
Ph. (424) 332-6490  
gregisblessed@yahoo.com

Cotter, Leslie Jr.  
Counsel for Defendant  
State of South Carolina  
P.O. Drawer 7788  
Columbia, SC 29202  
Ph. (803) 576-3710  
lcotter@richardsonplowden.com

## QUESTION(S) PRESENTED

1. Why according to the Appellant Court State of South Carolina 22<sup>nd</sup> Circuit, isn't the Judge's Order to grant the State of South Carolina (Attorney General Wilson) Defendant's Motion to Set Aside Entry of Default not immediately appealable, when Court of Common Pleas 22<sup>nd</sup> Judicial Circuit Judge Steven John stated himself that his decision was final, and if I Campbell, Gregory L. the Plaintiff didn't agree with the decision, I should do something about it?
2. Where is the Justice in the Honorable Judge Steven John's decision when he according to SRCP 4b, wrongly granted the State of South Carolina (Attorney General Wilson) Defendant's Motion to Set Aside Entry of Default and dismissed the Motion for Summary Judgement entered by me Campbell, Gregory L. the Plaintiff?
3. Why according to the Supreme Court State of South Carolina 22<sup>nd</sup> Circuit, can't I, Gregory L. Campbell the Petitioner, utilize my right to appeal, to appeal an Order from the Appellant Court, State of South Carolina without filing a motion to reinstate or a motion for rehearing, when the Order clearly dismissed the filed Appeal and remitted it to the lower court?

**LIST OF PARTIES**

Gregory L.  
Plaintiff by pro-se  
P.O. Box 2036  
Georgetown, SC 29440  
Ph. (424) 332-6490  
gregisblessed@yahoo.com

Cotter, Leslie Jr.  
Counsel for Defendant  
State of South Carolina  
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The Superior Court of the United States Case No. \_\_\_\_\_

The Supreme Court of South Carolina Appellant Case No. 2017-000893

The South Carolina Court of Appeals Case No. 2016-002320

Lower Court of Common Pleas Case No. 2016-CP-22-00049

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**PETITION FOR  
WRIT OF CERTORARI**

Petitioner Gregory L. Campbell respectfully petition for writ of Certorari to review the judgement of the Circuit Court of Georgetown South Carolina, South Carolina Court of Appeals, and the South Carolina Supreme Court for the 22th Circuit.

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**OPINION(s) BELOW**

The opinion of the Supreme Court is reported at 293 S.C. 173, 642 S.E.2d 551 (2007) and is included in Appendix (App.) A

The opinion of the Court of Appels is reported at 293 S.C. 436, 361 S.E.2d 340 (1987) and is included in Appendix (App.) B

The opinion of the Court of Common Pleas is reported at 298 S.C. 465, 381 S.E.2d 499, 502 (1989) and is included in Appendix (App.) C

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**JURISDICTION**

On December 16, 2016, the South Carolina Court of Appeals entered its judgment. On April 21, 2017, the South Carolina Supreme Court entered its judgment. The jurisdiction of this Court is invoked under 28 U.S.C. 1257(a)

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**CONSTITUTIONAL AND STATUTOY  
PROVISIONS INVOLVED**

The Sixth Amendment, as incorporated against the States by the Fourteenth Amendment, provides in that "[T]he right to counsel is the right to the effective assistance of counsel." From the beginning of the cases holding that counsel must be appointed for defendants unable to afford to retain a lawyer, the Court has indicated that appointment must be made in a manner that affords "effective aid in the preparation and trial of the case." *Glasser v. United States*, 315 U.S.

60, 70 (1942) Of course, the government must not interfere with representation, either through the manner of appointment or through the imposition of restrictions upon appointed or retained counsel that would impede his ability fairly to provide a defense, but the Sixth Amendment goes further than that. "The right to counsel prevents the States from conducting trials at which persons who face incarceration must defend themselves without adequate legal assistance. "That is, a criminal trial initiated and conducted by government is state action that may be so fundamentally unfair that no conviction obtained thereby may be allowed to stand, irrespective of the possible fact that government did nothing itself to bring about the unfairness. Thus, ineffective assistance provided by retained counsel provides a basis for finding a Sixth Amendment denial in a trial. *McMann v. Richardson*, 397 U.S. 759, 771 n.14 (1970); *Powell v. Alabama*, 287 U.S. 45, 71-72 (1932);

Further Statutory Provision involved is a felony charge and is titled False Imprisonment. It is defined as consisting of unlawful restraint against the will of an individual's personal liberty or

3.

freedom of locomotion. Unlawful detention is the gist of false imprisonment. It is also defined as any intentional detention of the person of another unauthorized by law. False imprisonment is any illegal imprisonment without any process whatever, or under color of process wholly illegal, regardless of whether any crime has been committed, or a debt due. *Riegel v. Hygrade Seed Co.*, 47 F. Supp. 290, 293 (D.N.Y. 1942)

The right to appeal as is incorporated in rule 201 (a) of the South Carolina rules for appeal is listed as following: Appeal may be taken, as provided by law, from any final judgment, appealable order or decision. Further, the review of decisions of the State Board of Canvassers in election cases shall be by petition for a writ of certiorari under S.C. Code Ann. §§ 7-17-250 and 7-17-270. The same rule 201(b) enable I, Gregory L. Campbell the Petitioner to appeal in that it states: Only a party aggrieved by an order, judgment, sentence or decision may appeal. Last amended by Order dated January 29, 2009, effective April 29, 2009, by Order of the same date

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**INTRODUCTION**

“[A]n appellate court has an obligation to make an independent examination of the whole record in order to make sure that the judgement was just. On the 16<sup>th</sup> day of December,

4.

2016 the South Carolina Court of Appeal dismissed my Gregory L. Campbell the Petitioner's request for an appeal on grounds of the order given to set aside entry of default is not Immediately appealable and cited: *McLendon v. S.C. Dep't of Highways & Pub. Transp.*, 313 S.C. 525,443S.E.2d539. This same was appealed to the Supreme Court of South Carolina on the 13<sup>th</sup> day of April 2017. Whereas, the Supreme Court of South Carolina who has the same obligation to make an independent examination of the whole record in order to make sure that the judgement was just; on the 21<sup>st</sup> day of April, 2017 the South Carolina Supreme Court denied my Gregory L. Campbell the Petitioner's request for an appeal stating that the case was remitted to the lower court and I Gregory L. Campbell the petitioner could have motion for reinstatement or rehearing and cited: *Wise v. S.C. Dep't of Corr.*, 372 S.C. 173,642S.E.2d551(2007). I Gregory L. Campbell Petitioner am highly aggrieved by the Lower Court, The Appellant Court, and the Supreme Court of South Carolina decisions and respectfully petitions to have these decisions reviewed and corrected. I Gregory L. Campbell the Petitioner respectfully petitions to have this decision, and all other decisions of the lower courts, reviewed and corrected.

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**STATEMENT OF THE CASE**

**A. Introduction**

I Gregory L. Campbell the Petitioner filed a Complaint against the State of South Carolina Respondent, by and through the State of South Carolina Attorney General Alan

**5.**

McCroy Wilson; for false imprisonment, failure to provide effective counsel, and violating my constitutional right; with the Georgetown County Clerk of Court of Civil Division; on the 18<sup>th</sup> day of February, 2016. The same Summons and Complaint was served to the State of South Carolina (defendant Attorney General Wilson) on the 8<sup>th</sup> day of March, 2016, pursuant to Rule 4(a-d) SCRCP. On the 17<sup>th</sup> day of March 2016 I, Gregory L. Campbell received a US Postal Return Receipt indicating that the State of South Carolina (Attorney General Wilson) Respondent, did receive the Summons and Complaint on the 8<sup>th</sup> day of March, 2016.

**B. The Process**

According to the SCRCP rule 4(b) Process, the State of South Carolina (Attorney General Wilson) Respondent, had 30 days (as stated in the summons) from the day that the State of South Carolina (Attorney General Wilson) Respondent, received the served Summons and Complaint to provide an answer to the Clerk of Court of Georgetown County Civil Division and to I Gregory L. Campbell the Petitioner, or judgement by default shall be rendered to I, Gregory L. Campbell the Petitioner for the relief demanded in the Complaint.

On the 11<sup>th</sup> day of April, 2016 I, Gregory L. Campbell the Petitioner filed a Motion for Summary Judgement for a default judgement because the defendant the State of South Carolina (Attorney General Wilson) Respondent, had not provided an answer to the Clerk of Georgetown County or me, Gregory L. Campbell the Petitioner. I, Gregory L. Campbell the Petitioner and the State of South Carolina (Attorney General Wilson) Respondent, both received a hearing to the Motion for Summary Judgment on the 2<sup>nd</sup> day of June 2016. When the Respondent Attorney General Wilson received the hearing from the clerk of court of Georgetown County Civil

Division, his attorney, Attorney Leslie A. Cotter Jr. filed on his behalf a Motion for Continuance along with other motions one being a Motion to Set Aside Default and another Motion to Dismiss the case. After an exchange in judges, Honorable Judge Steven John, took over the case, and granted the Defendant's Attorney Leslie A. Cotter Jr. Motion for Continuance.

### **C. THE HEARING ON FILED MOTIONS**

I, Gregory L. Campbell the Petitioner and the State of South Carolina (Attorney General Wilson) Respondent, had a hearing of all the filed motions on the 9<sup>th</sup> day of September 2016. On this same 9<sup>th</sup> day of September 2016, the Honorable Judge Steven John granted the State of South Carolina Motion to Set Aside Entry of Default judgement and denied my Gregory L. Campbell motion for Summary Judgement. I disagree with the Judge's decision because it went against the SCRPC Rule 4 ("Process"). The State of South Carolina according to SCRPC Rule 4b, should not have been able to respond at the time of the hearing, except to show good cause due to their failure to provide an answer within the given time. There was no filed Motion to Extend Time to Answer. The only reason, which didn't show good cause, that, the State of South Carolina (Attorney General Wilson) Respondent, offered for not responding to the served Summon and Complaint, was that they had an interoffice error. This purported inexcusable excuse was, in the sight of injustice, fed to the Honorable Judge Steven John stating that the Attorney Leslie A. Cotter Jr., was confused by a "later" served Summons and Complaint that look identical, even though the heading clearly stated the difference.

**D. HONORABLE JUDGE DECISION**

The Honorable Judge Steven John granted the State of South Carolina Motion to Set Aside Entry of Default and told me, Gregory L. Campbell the Petitioner, "THE COURT RULED ON THAT ISSUE. I'VE DECIDED IT. I APPRECIATE YOU DON'T AGREEE. YOU CAN DO WHATEVER YOU BELIEVE IS NEDCESSARY TO PROTECT YOUR INTEREST ONCE THE ORDER IS SIGNED, BUT THAT ISSUE IS DECIDED. WE ARE DONE WITH THAT ISSUE". (See pg15 lines 1-5 of the transcript) The decision to Set Aside Entry of Default was granted on the 27<sup>th</sup> day of September, 2016 claiming the Defendant showed "good cause" according to Rule 55c. The Summary Judgement wasn't considered a Default Judgement, although it plainly stated the default, and was denied.

**E. THE APPEAL(S)**

I, Gregory L. Campbell the Petitioner, appealed this decision on the 12<sup>th</sup> day of September, 2016, to the South Carolina Court of Appeal in that the attorney for the defendant didn't show good cause in his explanation of why he didn't meet the deadline with an answer to the file and served Complaint and Summons,. On the 16<sup>th</sup> day of December, 2016 the same South Carolina Court of Appeal entered it's judgement without a full review of the case record (including the transcript) which brought this case to The United States Supreme Court. On the 7<sup>th</sup> day of March, 2017 the clerk of the Supreme Court of United States issued a letter stating that the case must be first heard in the Supreme Court of South Carolina along with several letters and an Supreme Court of United Sates Rule booklet, to correct the submitted Writ of Certori. Therefore, I Gregory L. Campbell the petitioner filed an Appeal to the Supreme Court

8.

of South Carolina on the 13<sup>th</sup> day of April, 2017; appealing the Order from the Appellant Court of South Carolina issued on the 16<sup>th</sup> day of December, 2017. On the 21<sup>st</sup> day of April, the Supreme Court of South Carolina issued an Order denying the Notice of Appeal pursuant to Rule 242(a), (c) SCRPC, and I Gregory L. Campbell the petitioner wish to appeal the Order by way of this writ of certiorari pursuant to Rule 6(a-b) SCRPC.

---

**REASONS FOR GRANTING THE PETITION**

It is the duty of the South Carolina Court of Appeal to review the entire case record prior to entering a judgement. The South Carolina Court of Appeal did on the 16<sup>th</sup> day of December, 2016, enter a judgement without considering facts of the case. The transcript had not been received which could have altered the judgement and final decision of the South Carolina Court of Appeal. This is far departed from the accepted and usual course of judicial proceedings.

Review on a writ of certiorari is not a matter of right, but of judicial discretion. This Supreme Court of the United States has Jurisdiction of this case and therefore has the capability to review the judgment of the 22<sup>nd</sup> Judicial Circuit South Carolina Court of Appeal, rule against it, and overturn it; invoked under 28 U.S.C. 1257(a).

For these compelling reasons, the petition should be granted!

---

9.

**CONCLUSION**

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Campbell, Gregory L., Petitioner by Pro-se

So Submitted on this 3<sup>rd</sup> day of July, 2

# **APPENDIX**

**A-a**

# The Supreme Court of South Carolina

Gregory L. Campbell (SCDC #363559), Petitioner,

v.

State of South Carolina and Attorney General Alan  
McCrary Wilson, Respondents.

Appellate Case No. 2017-000893

---

## ORDER

---

FILED  
ALAN J. WHITE  
CLERK OF COURT  
2017 APR 21 PM 12:24

By order dated December 16, 2016, the South Carolina Court of Appeals dismissed the appeal in this matter. When no petition for rehearing or reinstatement was received, the Court of Appeals sent the remittitur on January 5, 2017.<sup>1</sup>

Petitioner has now filed a notice of appeal dated April 13, 2017, seeking review of the decision of the South Carolina Court of Appeals in this matter. Since decisions of the Court of Appeals are reviewed by serving and filing a petition for a writ of certiorari under Rule 242 of the South Carolina Appellate Court Rules (SCACR), this notice of appeal has been construed as a petition for a writ of certiorari.

Under Rule 242(a) of the South Carolina Appellate Court Rules (SCACR), this Court will only review a final decision of the Court of Appeals, and a decision is not final for the purposes of review until a petition for rehearing or reinstatement has been acted on by the Court of Appeals. Rule 242(c), SCACR. Since no petition for rehearing or reinstatement has been ruled on by the Court of Appeals in this matter, there is no final decision for this Court to review.

Further, when no petition for rehearing or reinstatement was received by the Court of Appeals, the Court of Appeals properly sent the remittitur. Rule 221, SCACR. The sending of the remittitur ended appellate jurisdiction over this case. *Wise v. S.C. Dept. of Corr.*, 372 S.C. 173, 642 S.E.2d 551 (2007).

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<sup>1</sup> Before the Court of Appeals, the Appellate Case Number was 2016-002320.

Accordingly, the petition for a writ of certiorari is dismissed. The motion to proceed *in forma pauperis* is denied as moot.

  
\_\_\_\_\_  
FOR THE COURT C.J.

Columbia, South Carolina

April 19, 2017

cc: Leslie A. Cotter, Jr., Esquire  
Mr. Gregory L. Campbell  
The Honorable Jenny Abbott Kitchings  
The Honorable Alma Y. White

A-b

# The South Carolina Court of Appeals

Gregory L. Campbell (SCDC #363559), Appellant,

v.

State of South Carolina and Attorney General Alan McCrory Wilson, Respondents.

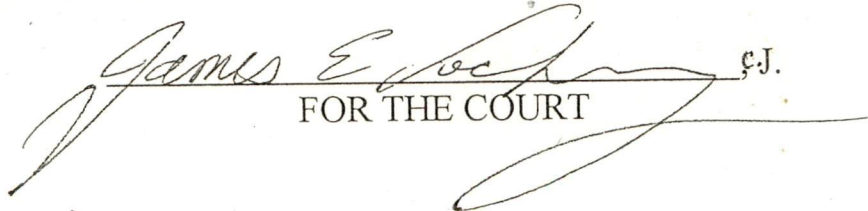
Appellate Case No. 2016-002320

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## ORDER

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This appeal arises out of two orders of the circuit court. In the first order, the court gave the appellant 30 days to file an amended complaint, after which time the court would consider the respondents' motion to dismiss filed in the circuit court. The second order grants the respondents' motion to set aside entry of default. Neither one of these orders is immediately appealable. *See Ateyah v. United of Omaha Life Ins. Co.*, 293 S.C. 436, 361 S.E.2d 340 (Ct. App. 1987) (dismissing appeal from an order setting aside entry of default as not immediately appealable); *McLendon v. S.C. Dep't of Highways & Pub. Transp.*, 313 S.C. 525, 443 S.E.2d 539 (noting generally the denial of a motion to dismiss does not establish the law of the case and the issue can be raised again at a later stage of the proceedings). Accordingly, this appeal is dismissed. The remittitur will be sent pursuant to Rule 221(b) of the South Carolina Appellate Court Rules.

 §J.  
FOR THE COURT

Columbia, South Carolina

cc:  
Gregory L. Campbell  
Leslie A. Cotter, Jr., Esquire

**FILED**  
December 16, 2016 SS.

**A-c**

STATE OF SOUTH CAROLINA  
COUNTY OF GEORGETOWN

IN THE COURT OF COMMON PLEAS  
C/A No. 2016-CP-22-00049

Gregory L. Campbell (SCDC #363559),  
  
Plaintiff,

**ORDER GRANTING DEFENDANTS'  
MAY 26, 2016, MOTION TO SET ASIDE  
DEFAULT**

vs.

State of South Carolina and Attorney General  
Alan McCrory Wilson,  
  
Defendants.

FILED  
IN THE COURT OF COMMON PLEAS  
GEORGETOWN COUNTY, SC  
2016 SEP 27 AM 11:32  
ALMA Y. WHITE  
CLERK OF COURT

**I. INTRODUCTION**

This matter is before the Court upon Defendants State of South Carolina, ["State"], and Attorney General Alan McCrory Wilson's, ["Wilson"], [hereinafter "Defendants"], Motion to Set Aside Entry of Default, to any extent that default may have been (potentially) entered, pursuant to Rule 55(c), SCRCP, as filed in the Court record on May 26, 2016. Defendants also simultaneously filed with their Motion to Set Aside Entry of Default two supporting Exhibits: (1) Exhibit A, which is the supporting Affidavit of Harley Kirkland, Esquire, ["Kirkland"], an attorney from the Attorney General's Office; and (2) Exhibit B, which contains a copy of Plaintiff's (similar) Complaint filed in the Richland County Court of Common Pleas and Defendants' Motion to Dismiss filed in Plaintiff's Richland County civil action. A hearing was held on this Motion to Set Aside Entry of Default on September 9, 2016. Present at the hearing and advancing arguments before the Court were counsel for the Defendants, Leslie A. Cotter, Jr., Esquire, ["Cotter"], and Pro-se Plaintiff Gregory L. Campbell, [hereinafter "Campbell" or "Plaintiff"].

For the reasons stated at the motions hearing set forth herein, and based upon the applicable case and statutory law, construed in the light most favorable to Plaintiff as the non-moving party and party opposing Defendants' Motion, I am constrained to conclude that: (1) no entry of default has been made by the Clerk of Court or anyone else otherwise; and, (2) Defendants' Motion to Set Aside Default is meritorious and must be granted. Rule 55 (a)-(e), SCRCP.

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*[Handwritten signature]*

## II. BACKGROUND/UNDISPUTED FACTS

As set forth in Defendants' Motion to Set Aside Entry of Default and the supporting Affidavit of Kirkland, which is undisputed, a summary of the background presented by the instant record, construed in the light most favorable to Plaintiff as the non-moving party, reveals the following.

First, it appears that an employee of the Office of the Attorney General, [hereinafter "AGO"], received a copy of the Plaintiff's Georgetown Complaint in the instant action, via certified mail, on or about March 8, 2016. Then, a few weeks later, on or about March 31, 2016, the AGO received a nearly identical Complaint from Plaintiff, also with vague, non-specific allegations and no allegations specific to these Defendants, which was filed in the Court of Common Pleas for Richland County. The Plaintiff's Richland County Complaint was submitted to Defendants' insurance carrier for the assignment of outside legal counsel. Exhibit A, Aff. of Kirkland, ¶¶ 4-6.

However, the Plaintiff's Georgetown County Complaint was inadvertently misplaced and subsequently mistakenly placed in the file for Plaintiff's Richland County Complaint. Exhibit A, Aff. of Kirkland, ¶ 7.

Outside legal counsel was assigned to defend the Plaintiff's Richland County Complaint, and assigned outside legal counsel timely filed a Motion to Dismiss in Lieu of Answer on April 27, 2016. See, Exhibit A, Aff. of Kirkland, ¶ 8 and Exhibit B to Defendants' Motion to Set Aside Default.

Thus, due to the filing error detailed above, the AGO and these Defendants had no other record of the Plaintiff's Georgetown County Complaint until the AGO received notice, via telephone, on Friday, May 20, 2016, from the Georgetown County Clerk of Court that a Motion for Summary Judgment had been scheduled for a hearing on June 2, 2016, in the Plaintiff's Georgetown County civil action. Upon receiving this telephone call and verbal notice from the Georgetown County Clerk of Court, the AGO immediately examined its records and tendered the Plaintiff's Georgetown Complaint to its insurance carrier, the South Carolina Insurance Reserve Fund ("IRF"), for the IRF to assign outside legal counsel to defend Plaintiff's Georgetown County civil action. See, Exhibit A, Aff. of Kirkland, ¶¶ 9-10.

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O.A.G.

Outside legal counsel, the Richardson Plowden & Robinson, P.A. law firm and Mr. Cotter, was assigned by the IRF to this matter on Monday, May 23, 2016, and they immediately contacted the AGO to coordinate the filing of Defendants' Motion to Set Aside Default, which was dated and served on May 25, 2016, and was filed on May 26, 2016, in the Court record. Exhibit A, Aff. of Kirkland, ¶ 11.

In addition, this same outside counsel simultaneously filed on May 26, 2016, Defendants' Motion to Dismiss in Lieu of Answer, setting forth what Defendants contend are meritorious defenses and legal standards asserting, *inter alia*, that Plaintiff's claims and allegations against these Defendants, who Defendants contend are not proper party Defendants, should be dismissed as a matter of law.

### III. LAW/ANALYSIS

It is against the backdrop of Rule 55 (a) through (e), SCRCPC, and the applicable caselaw precedent, that the Court has carefully weighed and considered the instant Motion to Set Aside Default, including construing the pleadings and presented record in the light most favorable to Plaintiff as the non-moving party and the party who opposes Defendants' Motion.

First, I find and conclude that it is clear that no entry of default has been entered or made by the Clerk of Court or anyone in the presented record.

Second, even if one carefully reviews Plaintiff's motion he classified as a "Motion for Summary Judgment" filed on April 12, 2016, it does not appear to be application for default under Rule 55, SCRCPC; however, the Court shall receive and consider Plaintiff's "Motion for Summary Judgment" as his request to hold the Defendants in default.

With the above in mind, even though there has been no entry of default by the Clerk under Rule 55(a), SCRCPC, an analysis under Rule 55(c) SCRCPC, must next be undertaken.

It is axiomatic that Rule 55(c), SCRCPC, allows the Circuit Court to set aside entry of default merely "for good cause shown." Rule 55(c), SCRCPC. "In deciding whether good cause exists, the trial court should consider the following factors: (1) the timing of the defendants' motion for relief; (2) whether the defendants have a meritorious defense; and, (3) the degree of prejudice to plaintiff if relief is

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[Signature]

granted.” Wham v. Shearson Lehman Bros., Inc., 298 S.C. 462, 465, 381 S.E.2d 499, 502 (Ct. App. 1989). Whether to grant relief from entry of default is a decision within the sound discretion of the Circuit Court. Thompson v. Hammond, 299 S.C. 116, 119, 382 S.E.2d 900, 902-903 (1989); Wham, 298 S.C. at 465, 381 S.E. 2d at 502.

Applying these above standards, I find and hold that Defendants have set forth satisfactory explanations and grounds as to why their Motion to Set Aside Entry of Default should be granted and have satisfied the good cause standard. No entry of default or default judgment has been filed. As established in Defendants’ presentation and the Affidavit of Kirkland, to which there is no opposing affidavit or filing and which is undisputed, Defendants’ motion for relief was filed immediately, just two or three business days after the Defendants received a May 20, 2016, telephone call from the Clerk of Court advising about a hearing scheduled for June 2, 2016. In addition, I find these Defendants have a meritorious defense, as referenced and articulated in Defendants’ Motion to Dismiss simultaneously filed on May 26, 2016, in this matter. And, also, I conclude and find that there is no prejudice to Plaintiff because the matters asserted need to be resolved on the issues. Furthermore, again after my careful consideration of the record in the light most favorable for Plaintiff, I find that the Plaintiff (Claimant) has not established, by evidence satisfactory to the Court, his claim to relief against the Defendant State and the Defendant Wilson, an Officer of the State, in this record under Rule 55(e), SCRPC.

#### IV. CONCLUSION

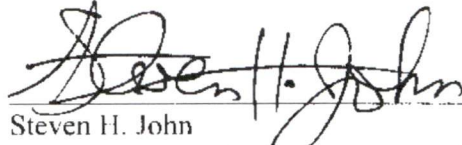
For the foregoing reasons, and based upon the applicable case and statutory law and the pleadings and record, viewed in the light most favorable to Plaintiff as the non-moving party, I find that there has been no entry of default in this matter, so Defendants did not need leave of Court or a motion to set aside entry of default.

In addition, I am lifting any entry of default if one was ever entered or to any extent otherwise. I am also denying any request by Plaintiff for entry of default, if a proper application or request has been made. And I find and conclude that Defendants’ Motion to Set Aside Default is meritorious, and

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A.H.J.

IT IS THEREFORE ORDERED, for the foregoing reasons, that Defendants' Motion to Set Aside Entry of Default SHALL BE, and HEREBY IS, GRANTED. Rule 55 (a) - (e), SCRPC.

AND IT IS SO ORDERED at Chamber South Carolina this 20th day of September, 2016.

  
\_\_\_\_\_  
Steven H. John  
South Carolina Circuit Court Judge, Presiding  
Fifteenth Judicial Circuit

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1 to. You know, I tried to think about what he might  
2 have been thinking --

3 THE COURT: You made your arguments. I'll let  
4 Mr. Campbell respond. If I deem it necessary, I'll  
5 allow you to give a brief reply.

6 MR. CAMPBELL: I would like to back up a notch.  
7 First and foremost, I'm talking about the ruling you  
8 just made, I don't see how interoffice error is a  
9 satisfactory reason to avoid or, you know, totally  
10 ignore the Rules 4(b) of the same South Carolina Code  
11 of Civil Procedure. The plaintiff was way, way over  
12 in his response to the claim, and so everything he is  
13 saying right now is really illegitimate.

14 THE COURT: I appreciate, Mr. Campbell, you  
15 disagree with how the Court ruled. First, there  
16 wasn't ever any entry of default, okay. So that's the  
17 first thing.

18 MR. CAMPBELL: Your Honor -- I'm sorry, go ahead.

19 THE COURT: There wasn't one issued, so they  
20 didn't need leave. But to the extent that any of your  
21 pleadings requested it, I denied that and ruled under  
22 55(c) that they showed good cause, and I considered  
23 all of the other issues.

24 MR. CAMPBELL: I'm sorry --

25 THE COURT: I appreciate that, Mr. Campbell, but

1 the Court ruled on that issue. I've decided it. I  
2 appreciate you don't agree. You can do whatever you  
3 believe is necessary to protect your interest once the  
4 order is signed, but that issue is decided. We are  
5 done with that issue.

6 MR. CAMPBELL: No, Your Honor, I believe you are  
7 done with the issue. I need to ask one question. How  
8 is -- how is interoffice error a satisfactory ruling  
9 on this --

10 THE COURT: Thank you for your question. The  
11 Court ruled on this matter. Continue on.

12 MR. CAMPBELL: Nothing further. I feel like -- I  
13 feel as if I'm being unlikely judged.

14 THE COURT: No, sir.

15 MR.. CAMPBELL: Because you strictly went against  
16 the same principle that you are trying to go back and  
17 reinforce.

18 THE COURT: Again, I feel --

19 MR. CAMPBELL: I feel that nothing I say doesn't  
20 matter at this point.

21 THE COURT: That's not true.

22 MR. CAMPBELL: I can't tell.

23 THE COURT: I understand you don't agree. I  
24 appreciate that.

25 MR. CAMPBELL: It's not me that don't agree, it

1 is your rules that don't agree.

2 THE COURT: Okay. Then that's fine. You have  
3 appropriate relief once the order is signed to protect  
4 your interest, if you want to do that, but I've issued  
5 a ruling on that particular matter.

6 Now, we've gone on to the next motion that Mr.  
7 Cotter filed on behalf of the State of South Carolina  
8 and Attorney General Wilson. They have asked that  
9 your claim, your complaint, be dismissed because it's  
10 volitive of certain sections of Rule 12 of South  
11 Carolina Rules of Civil Procedure. I'm asking you to  
12 respond to their request that your claim or complaint  
13 be dismissed in its entirety. I know you don't want  
14 that, so I'm giving you an opportunity, and I would  
15 like to hear from you, why the Court should not do  
16 that.

17 MR. CAMPBELL: The Court should not even  
18 entertain that because the Court's last ruling was  
19 incorrect.

20 THE COURT: All right, sir. Thank you. All  
21 right.

22 As to the motion by the State of South Carolina  
23 to dismiss the claim or complaint of the plaintiff,  
24 Mr. Campbell, that he filed with the Clerk of Court on  
25 January 20 of 2016 of this year, it's also the duty of

A-e

IN THE STATE COURT  
OF GEORGETOWN COUNTY  
STATE OF SOUTH CAROLINA  
(CIVIL DIVISION)

Gregory L. Campbell  
SCDC # 363559  
Ridgeland Correctional Institution  
P.O. Box 2039  
Ridgeland, SC 29936  
Vs.

Case No. 2016-CP-22-00049

State of South Carolina  
Attorney General Alan McCrory Wilson  
Dennis Bldg. Box 11549  
Columbia, SC 29211  
Re: Georgetown County

FILED  
GEORGETOWN COUNTY, SC  
2016 APR 12 AM 11:03  
ALMA Y. WHITE  
CLERK OF COURT

Motion For Summary Judgment

Now Comes the above Plaintiff, Gregory L. Campbell entering this Motion for Judgment in the above styled case for the relief demanded in the Complaint. According to Rule 12(h); and 56(a) under rules for civil procedure, "A defendant shall serve his answer within 30 days after the service of the complaint upon him,..." The said Summons and Complaint were served to the defendant above on the 8 day of March, 2016. It is now over 30 days and the defendant has not served his answer. Therefore as in accord to rule 4(b) "Judgment by default shall be rendered against him for the relief demanded in the complaint",

I, Gregory L. Campbell do affirm that the foregoing information contain in this motion is true and correct.

So, Submitted this 11 day of April 2016.

Gregory L. Campbell  
Gregory L. Campbell  
Plaintiff - Prose



SURPREME COURT OF THE UNITED STATES

Campbell, Gregory L.  
Plaintiff

V.

District Court Case No.  
Appellant Court Case No. 2016-002320  
Circuit Court Case No. 2016-CP-22-00049

The State of South Carolina  
Defendant

**PROOF OF SERVICE**

This is to certify that I have sent this PETITION FOR A WRIT OF CERTIORARI on each party to the above proceeding or that party's counsel, and on every other person required to be served, by depositing an envelope containing the above documents in the United States mail properly addressed in an stamped envelope to ensure delivery to the following address:

Clerk of the Supreme Court of the United States  
1 First Street, NE  
Washington, DC 20543

With sufficient copies to be delivered to:

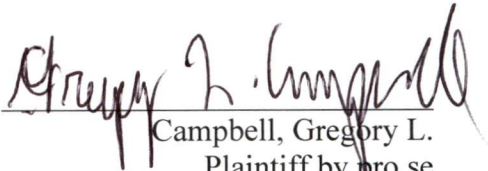
Clerk of South Carolina Court of Appeals  
P.O. Box 11629  
Columbia, SC 29211

Clerk of Court Georgetown South Carolina  
P.O. Box 479  
Georgetown, SC 29442

Counsel for Defendant  
P.O. Drawer 7788  
Columbia, SC 29202

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 3<sup>rd</sup> day of July, 2017.

  
Campbell, Gregory L.  
Plaintiff by pro se

POSTNET barcode



Supreme Court of South Carolina

P.O. Box 11330 Columbia South Carolina 29211;