

APPELLANT'S PETITION TO REHEAR SEPTEMBER 14, 2017

ORDER DENEYING MY TO PROCEED *in forma pauperis*

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM RICHLAND COUNTY
COURT OF COMMON PLEAS

JEAN H. TOAL, CIRCUIT COURT JUDGE

RECEIVED

Case No. 2014-CP-40-08059

OCT 09 2017

Appellate Case No. 2017-001788

SC Court of Appeals

George Cleveland, III.....Appellant

vs.

Rebecca Schimsa, and Gov. Henry McMaster.....Respondents

PETITION FOR REHEARING

Office of the Attorney General
Kevin Desmond Maroney, Asst. Atty. Gen.
Post Office Box 11549
Columbia, S.C. 29211-1549
Counsel of Record

George Cleveland, III, *pro se*
400 Hunter Street
Seneca, S.C. 29678
Cell no. 864-784-7223

Email: gcleveland7475@gmail.com

1.

PETITION TO REHEAR SEPTEMBER 14, 2017 ORDER

MAY IT PLEASE THE COURT: George Cleveland, III, proceeding *pro se*, respectfully submits this Petition to Rehear this Court's Order of **September 14, 2017** which denied my Motion to Proceed *in forma pauperis* on the following grounds:

The Court cited *Ex Parte Martin* 321 S.C. 533, 471 2d. 134 (1995) is in conflict with *Bounds v. Smith* 430 U.S. 819, 97 S.ct. 1491 N.C. (1977)

2.

ARGUMENT

This Court Overlooked the *Bounds* Court Principle to Allow me

Meaningful Access to the Courts without paying the filing fee:

This Court denied my Motion to proceed *in forma pauperis* by Order of September 14, 2017, app 1, under *Ex Parte Martin* 321 S.C. 533, 471 S.E. 2d 134 (1995) (hereinafter *Ex Parte Martin*)

The *Ex Parte Martin* court held that "motion to proceed *in forma pauperis* may only be granted... by constitutional provisions," *id at 535 at 134-35*, on the other hand, the Supreme Court of the United States held under *Bounds V. Smith* 430 U.S. 817, 97 S.ct. 1491 (1977) (hereinafter *Bounds*) "in order to prevent

1

'effective foreclosed access' indigent [Appellant] must be allowed to file Appeals... without payment of docket fees..." *id* at 822 at 1495.

In my Motion to proceed *in forma pauperis*, I expressly cited the *Bounds* court, app 2, but this Court overlooked this controlling case, *id*; therefore, this Court must Grant this instant Petition to Rehear whether the *Ex Parte Martin* court is in conflict with the *Bounds* Court respectively.

3

CONCLUSION

3-1. **WHEREFORE: GRANT** my Petition to Rehear the **September 14, 2017** order which denied my Motion to Proceed *in forma pauperis*.

3-2. **Order** additional Briefing if it pleases the Court.

3-3. **Order** any additional relied this Court deems just, proper, and/ or impartial.

Respectfully Submitted,

s/

George Cleveland, III

400 Hunter Street

Seneca, S.C. 29678

Cell no. 864-784-7223

Email: gcleveland7475@gmail.com

Dated: October 09, 2017

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APPELLENT'S APPENDIX IN SUPPORT OF PETITION
TO REHEAR SEPTEMBER 14, 2017 ORDER
THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM RICHLAND COUNTY
COURT OF COMMON PLEAS
JEAN H. TOAL, CIRCUIT COURT JUDGE

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App. 1

The South Carolina Court of Appeals

George Cleveland, III, Appellant,

v.

State of South Carolina, Respondent.

Appellate Case No. 2017-001788

ORDER

The motion to proceed *in forma pauperis* is denied pursuant to *Ex parte Martin*, 321 S.C. 533, 471 S.E.2d 134 (1995). The filing fee must be paid within fifteen days of the date of this order.


FOR THE COURT

Columbia, South Carolina

cc:

George C Cleveland, III

Kevin Desmond Maroney, Esquire

FILED

September 14, 2017

App 2

APPELLANT'S BOUNDS v. SMITH:

MAY IT PLEASE THE COURT: George Cleveland, III, proceeding pro se, respectfully request this Court to Grant my Motion to Motion to Proceed *nforma pauperis* under *Bounds v. Smith* 430 U.S. 819, 97 S.ct. 1491 N.C. (1977), on the following grounds:

DECLARATION

I lack the funds to pay the \$100 filing fee, see attached supporting Affidavit.

ARGUMENT

**BOUNDS v. SMITH REQUIRES
APPELLATE REVIEW WITHOUT PAYMENT
OF DOCKET FEES:**

The Supreme Court of the United States held under *Bounds v. Smith* 430 U.S. 817, 97 S.ct. 1491 (1977)

"...recent decisions have struck down restrictions and required remedial measures to insure that {Appellant} access to the Court is Adequate effective, and meaningful, thus in order to prevent 'effective foreclosed access' indigent {Appellant} must be allowed to file Appeals...without payment of docket fees"..., id., at 822 at 1495.

Bounds understands Appellant (s) without the means to pay the filing fee must have adequate, effective, and meaningful access to the Courts to file an Appeal so that the final Judgement of Circuit Court Judge Toal is checked for errors of law, and novel legal principals; therefore, *Bounds v. Smith* requires this Court to waive the \$100 filing fee so that my case can be reviewed by this Court respectively.

APPELLANT'S PROOF OF SERVICE

**APPEAL FROM RICHLAND COUNTY
COURT OF COMMON PLEAS
JEAN H. TOAL, CIRCUIT COURT JUDGE**

Case No. 2014-CP-40-08059
Appellate Case No. 2017-001788

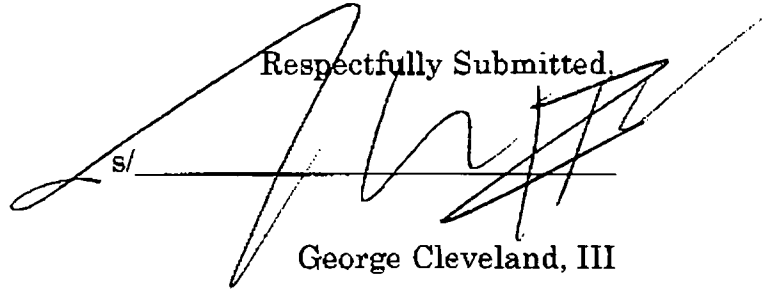
George Cleveland, III.....Appellant
vs.
Rebecca Schimsa, and Gov. Henry McMaster.....Respondent

PROOF OF SERVICE

I, George Cleveland, III, certifies that on the date below, I served the Respondent's Counsel of Record, my Petition for a Rehearing, Motion to file Rehearing Petition out-of-time, and supporting Appendix by United States Mail properly addressed, proper pre-paid postage, to the following:

**Office of the Attorney General
Kevin Desmond Moroney, Asst. Atty. Gen.
Post Office Box 11549
Columbia, S.C. 29211-1549**

Respectfully Submitted,

s/ 

George Cleveland, III

400 Hunter Street

Seneca, S.C. 29678

Cell no. 864-784-7223

Email: gcleland7475@gmail.com

Dated: October 09, 2017

APPELLANT'S MOTION TO FILE MY ATTACHED
PETITION FOR REHARING OUT OF TIME

APPEAL FROM RICHLAND COUNTY
COURT OF COMMON PLEAS
JEAN H. TOAL, CIRCUIT COURT JUDGE

RECEIVED
OCT 09 2017
SC Court of Appeals

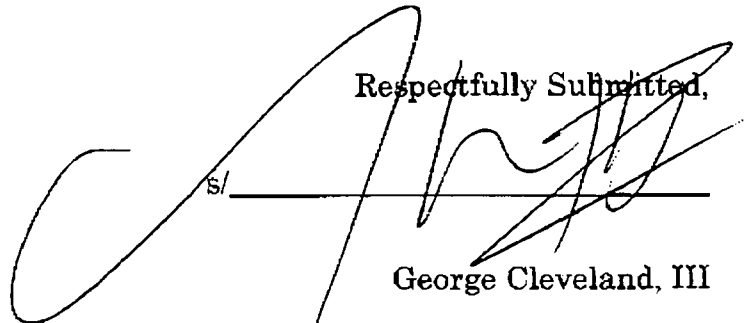
Case No. 2014-CP-40-08059
Appellate Case No. 2017-001788

George Cleveland, III.....Appellant
vs.
Rebecca Schimsa, and Gov. Henry McMaster.....Respondent

Petitioner George Cleveland, III, proceeding *pro se*, respectfully submits this instant motion to file my attached Petition to Rehear the **September 14, 2017 out-of-time**; whereas this Court Granted my Motion to extend the time to **October 04, 2017** on the following grounds:

On October 04, 2017, my Doctor's Appointment took longer than expected, October 05-06 2017, my job (I'm a Cab-driver) kept me on the road all-day, and October 07, 2017 was homecoming for Clemson football with a multitude of passengers that were in and out my vehicle all day before, during, and after the football game. These were all extraordinary events that I had no control over; consequently, I respectfully

request that this Court Grant this Motion to file my attached Petition to Rehear
the September 14, 2017 order out-of-time.

Respectfully Submitted,

s/ _____
George Cleveland, III

400 Hunter Street

Seneca, S.C. 29678

Cell no. 864-784-7223

Email: gcleland7475@gmail.com

Dated: October 09, 2017

Valid Money Order includes: 1. Heat sensitive, red stop sign AND 2. Contains a True Watermark, hold up to light to view.

MoneyGram. INTERNATIONAL MONEY ORDER 88-166 763T

To Validate: Touch the stop sign, then watch it fade and reappear

10/09/2017

20765464508
MONEY ORDER - WM

PAY EXACTLY

***~~2430~~00
TWO HUNDRED ****
FORTY-THREE ****
DOLLARS 00 CENTS

60528112321123
1299000282146508

ISSUER/DRAWER:
MONEYGRAM PAYMENT SYSTEMS, INC.

Payable Through
BOKF, NA
Enid, OK

ADDRESS/DIRECCION:
Seneca

SC COURT OF APPEALS

EMPLOYEE
898 (12/21) 5005000
M 78811-Y

CALL 1-800-333-3390 TO VERIFY

MONEY ORDER NUMBER
R207654645088

MoneyGram.

20765464508
146 NN
60528112321123
10/09/2017
\$243.00

SC COURT OF APPEALS

KEEP A COPY OF THIS STUB FOR YOUR RECORDS / MANTENGA UNA COPIA DE ESTE RECIBO PARA SUS ARCHIVOS

MONEYGRAM PAYMENT SYSTEMS, INC. DRAWER
P.O. BOX 5478
MINNEAPOLIS, MN 55480

RECEIVED

OCT 09 2017

SC Court of Appeals

Valid Money Order includes: 1. Heat sensitive, red stop sign AND 2. Contains a True Watermark, hold up to light to view.

MoneyGram. INTERNATIONAL MONEY ORDER 88-166 763T

To Validate: Touch the stop sign, then watch it fade and reappear

10/09/2017

20765464507
MONEY ORDER - WM

PAY EXACTLY

***~~250~~00
TWENTY-FIVE ****
DOLLARS 00 CENTS

60528112321123
1299000282146507

ISSUER/DRAWER:
MONEYGRAM PAYMENT SYSTEMS, INC.

Payable Through
BOKF, NA
Enid, OK

ADDRESS/DIRECCION:
Seneca

SC COURT OF APPEALS

EMPLOYEE
898 (12/21) 5005000
M 78811-Y

CALL 1-800-333-3390 TO VERIFY

MONEY ORDER NUMBER
R207654645077

MoneyGram.

20765464507
146 NN
60528112321123
10/09/2017
\$25.00

SC COURT OF APPEALS

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MONEYGRAM PAYMENT SYSTEMS, INC. DRAWER
P.O. BOX 5478
MINNEAPOLIS, MN 55480

October 09, 2017

FAX

RECEIVED

The South Carolina Court of Appeals
Jenny Abbott Kitchings, Clerk of Court
Fax no. 803-734-1839

OCT 09 2017
SC Court of Appeals

Re: George Cleveland, III v. State of South Carolina, Appellate Case No. 2017-001788, Motion to file Attached Petition for Rehearing Out-of-Time,

Dear Ms. Kitchings,

Can you please file my Motion to file attached Petition for Rehearing Out-of-Time, and decide the Motion? Can you also please file Petition to Rehear the September 14, 2017 decision by the Court? I have also attached copies two (2) \$25.00 motion fee payments for both Motions to this fax. The originals are post-marked for October 09, 2017 date.

Respectfully Requested,

s/

George Cleveland, III

400 Hunter Street

Seneca, S.C. 29678

Cell no. 864-784-7223

Email: gcleveland7475@gmail.com

cc: file

Kevin Desmond Maroney, *Esquire*