

IN THE STATE OF SOUTH CAROLINA
In the Court of Appeals

Appellate Case No. 2017-001709

The Honorable Deborah Brooks Durden
Trial Court Case No.2017ALJ040349AP

Leroy A. McKenzie, #300416, Appellant,

v.

South Carolina Department of Corrections, Respondent.

PETITION FOR REHEARING AND REHEARING ENBANC

COMES NOW, Leroy A. McKenzie, Appellant in the above captioned. Appellant resides at a public institution, indigent pro se. This instant action is pursuant to Rule 221, SCACR. Appellant pursuant to the Court's Order "Denied" reinstatement, dated November 29, 2017, and received by Appellant on December 1, 2017, kindly request rehearing/rehearing enbanc for point overlooked or misapprehended by the Court. (See Arnold v. Carolina Power & Light Co., 168 SC 163, 167 SE 234).

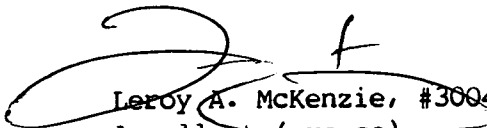
The Court overlooks that this action concern fundamental rights that requires waiver of the filing fee. (See Smith v. Bennett, 81 SCT 895). Appellant setforth claims in his appeal of violations of fundamental US Const. rights under the Eighth Amendment's proscription against cruel and unusual punishment and against retaliation for assertion of the same and the Fourteenth Amendment's Due Process and Equal Protection Clauses; also under The Americans with Disabilities Act (ADA) and against retaliation for assertion of the same.

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SC Court of Appeals

THEREFORE, there is strong argument that these issues were properly before this Court and the Court overlooks the fact the Order foreclosed access to the courts of South Carolina where Appellant's cause of action involves fundamental rights and the Order will discontinue the action by pro se, indigent Appellant, deprived of Due Process and Equal Protection rights to access the courts for redress of grievances of his fundamental rights without any justification by compelling state interest since "Exhaustion" is required by the AEDPA, 42USC §1997e(a); and SC Administrative Procedures Act (APA).


Leroy A. McKenzie, #300416
Appellant (pro se)

Lieber Cor. Inst./SA-62
P.O. Box 205
Ridgeville, SC 29472

Dorchester, South Carolina
December 11th, 2017

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PROOF OF SERVICE

I certify that I have served the PETITION FOR REHEARING AND REHEARING ENBANC on Jenny Abbott Kitchings, Clerk South Carolina Court of Appeals and David Tatarsky, Esquire, SCDC by depositing a copy of it in the Lieber Cor. Inst. Mailroom (Inter-Agency Mail) on December 11th, 2017, addressed to Jenny Abbott Kitchings, Clerk, P.O. Box 11629, Columbia, SC 29211 and David Tatarsky, General Counsel (SCDC), 4444 Broad River Road, P.O. Box 21787, Columbia, SC 29221-1787.


Leroy A. McKenzie, #300416
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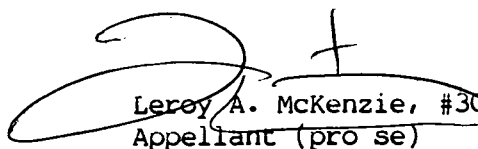
December 11, 2017

Re: L.A. McKenzie, #300416 v. SCDC, Appellate Case No.2017-001709
(Petition for REHEARING/REHEARING ENBANC)

Dear Ms. Kitchings,

Please find enclosed Appellant's PETITION FOR REHEARING AND REHEARING ENBANC and PROOF OF SERVICE. Please file in the above captioned. The Respondent(s) are served.

Sincerely,


Leroy A. McKenzie, #300416
Appellant (pro se)

cc: David Tatarsky, Esquire (SCDC General Counsel)

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Honorable Jenny Abbott Kitchings, Clerk
South Carolina Court of Appeals
P.O. Box 11629
Columbia, SC 29211

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THE DEPARTMENT DOES NOT ASSUME RESPONSIBILITY
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DEPARTMENT OF CORRECTIONS