

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
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.....Respondents

PETITION FOR REHEARING

RECEIVED
JAN 12 2018
SC Court of Appeals

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

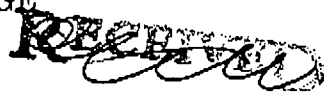
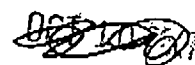
Dated: October 09, 2017

2

**APPELLANT'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

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



 SC Court of Appeals

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

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App. 1

The South Carolina Court of Appeals

George Cleveland, III, Appellant,

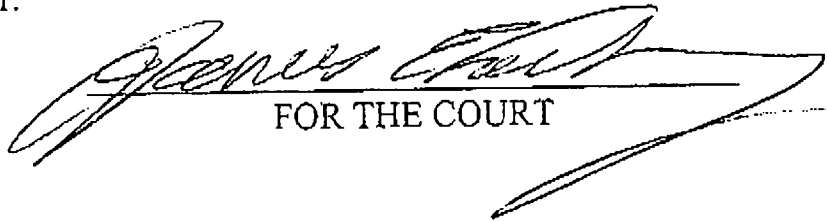
v.

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 prose, 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

RECEIVED
DEC 19 2017
SC Court of Appeals

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

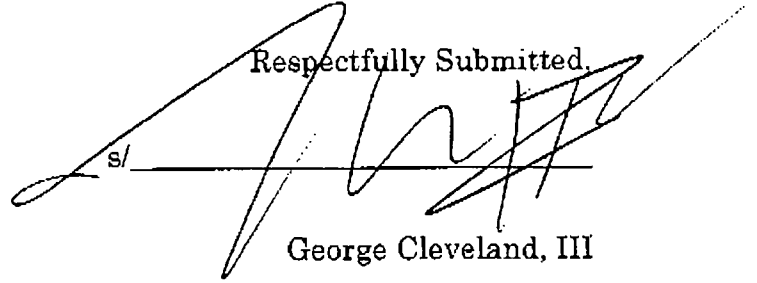
Columbia, S.C. 29211-1549

RECEIVED

JAN 12 2018

SC Court of Appeals

Respectfully Submitted,

A large, stylized handwritten signature in black ink, appearing to read 'George Cleveland, III', is written over a horizontal line. The signature is slanted to the right and has a long, sweeping tail that extends towards the right edge of the page.

George Cleveland, III

400 Hunter Street

Seneca, S.C. 29678

Cell no. 864-784-7223

Email: gcleveland7475@gmail.com

Dated: ~~October 09, 2017~~

JANUARY 12, 2018

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 recall the remittitur is granted. This court's order of dismissal filed October 9, 2017, is attached. Unless a petition for rehearing is received within fifteen days of this order, the remittitur will be sent as required by Rule 221, SCACR.


FOR THE COURT

Columbia, South Carolina

cc:

George C Cleveland, III

Kevin Desmond Maroney, Esquire

Jeanette W. McBride

FILED

Dec. 28, 2017

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JAN 12 2018
SC Court of Appeals

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SC. COURT OF APPEALS
APPELLATE CASE NO.
2017-001782

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January 12, 2018

FAX

RECEIVED
JAN 12 2018
SC Court of Appeals

To: The S.C. Court of Appeals

c/o Ms. Jenny Abbott Kitchings, *Clerk of Court*

Fax: 803-734-1839

Re: Petition for Rehearing for George Cleveland, III v. Gov. McMaster, et, al,
Appellant Case No. 2017-001788

From: George Cleveland, III, *pro se*

Dear Ms. Kitchings,

Attached to this FAX is my Petition for Rehearing (3-pages), and Supporting Appendix (3- pages), and Proof Of Service (1-page), and a copy of the \$25.00 money order for the Motion fee.

Can you please file? The original copies are post-marked, and mailed by the United States Mail to your Office with today's date respectively.

Respectfully Submitted,

s/

George Cleveland, III

400 Hunter Street

Seneca, S.C. 29678

Cell no. 864-784-7223

Email: gcleveland7475@gmail.com

cc: file

Mr. Kevin Desmond Moroney, *Asst. Atty. Gen.*