

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

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**RECEIVED**

APPEAL FROM GREENVILLE COUNTY  
In The Circuit Court  
PERRY H. GRAVELY, Circuit Court Judge

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MAR 15 2018  
SC Court of Appeals

Appellate Case No. 2017-002636

C.A. No. 2017-CP-23-1463

South Carolina Department of Corrections, Brian Sterling, and  
Scott Lewis Respondents

vs.

Harold Ayton Appellant

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OBJECTION TO RESPONDENT'S RETURN TO APPELLANT'S MOTION TO PROCEED IN FORMA PAUPERIS

Appellant Harold Ayton hereby Object and Respond to Respondent South Carolina Department of Corrections, Brian Sterling, and Scott Lewis (Respondent) Return To Appellant's Motion To Proceed In Forma Pauperis.

On Page (1) Lines 1 through 9:

The Respondent has stated that the Appellant's Motion To Proceed In Forma Pauperis is captioned and that the undersigned counsel has never been served with a copy of the Appellant's Motion which have been Filed by the Court on February 8, 2018.

Appellant Objects and states that Appellant's Motion to Proceed In Forma Pauperis and Affidavit to Proceed Without Payment of Cost and Fees is not caption because each motion support each other, and the Respondent was served with each motion that was hand written by the Appellant because the Respondent are and has been aware that the staff here at the Perry Correctional does not make hand made generated copies of legal motions.

On Page (2) Lines 1 through 8:

The Respondent has stated that Appellant seeks to proceed with his appeal in the

above-captioned matter without payment of Fees or costs, on account of his poverty. The Appellant's Affidavit in Support of his Motion sets forth that he has no money or income.

Appellant Objects and states that he has submitted his motion to proceed in forma pauperis as well his trust fund account at the institution where he is housed at that proves that he does not have any money to pay the fee for the appeal and that the Appellant does not have a paying job to where he's receiving income. The Appellant is indigent and does not have any money or no income coming in to pay for his appeal and ask that the court allow him to proceed with his appeal.

On Page (2) Lines 9 through 16

The Respondent has stated that the Appellant filed a civil action seeking damages under alleged causes of action for: 1.) Trover and Replevin; 2.) Nuisance; 3.) Conversion 4.) Detinue; 5.) False Imprisonment; 6.) Outrage Mental Anguish; and 7.) Gross Negligence. The thrust of the Appellant's causes of action was that he was improperly imprisoned and wanted monetary damages for being incarcerated after pleading guilty and being sentenced. The Honorable Perry H. Gravely granted the Respondent's Motion to Dismiss in the underlying action.

Appellant Objects and states that he filed a civil action seeking damages for False Imprisonment because he was never sentenced by a guilty plea due to the entire process being a Sham Pleading, Sham Legal Process, Nugatory Proceeding in violation of S.C. Statute Code 14-5-730 S.C. Statute Code 16-17-735 and S.C. Rule Criminal Procedure 3(c). Appellant directs the court to his verified complaint at Page (3) Lines 1 through 29 where it clearly shows that a Sham Legal Process took place at a Nugatory Proceeding inside a DeFacto Moot Court on December 4, 2012 by the solicitor impersonating as state officials in an official capacity subjecting the Appellant to a Sham Legal Process at a DeFacto Moot Court under Sham Fraudulent Indictments that confer NO JURISDICTION on any court by not being indicted which renders the Sentencing Commitment Order Void and Fraudulent, which the Appellant submits as Objection to Page (2) Lines 9 through 16 as argument to the Respondent's Motion as genuine issues of material fact that in dispute that give rise to a civil trial by jury. The Honorable Perry H. Gravely has abused his discretion and has violated the law as well the Appellant's Due Process Rights by not looking at the evidence that the Appellant has presented which the Appellant has proving his case by a preponderance

erence of the evidence. Appellant's evidence preponderates where it is more convincing to the trier of fact than the opposing evidence. Appellant's evidence refers to proof which leads the trier of fact to find that the existence of the fact in issue is more probable than not.

On Page (2) Lines 17 through 23:

The Respondent has stated that South Carolina law is clear on this issue. As set forth in Martin v. State 321 S.C. 533, 535-36, 471 S.e.2d 134, 134-35 (1995), in the absence of a statutory provision allowing the General Waiver of Filing Fees, we conclude motions to proceed in forma pauperis may only be granted where specifically authorized by statute or required by constitutional provisions. Appellant Ayton's case does not fit within one of the statutory or constitutional exceptions to the requirement of a filing fee set forth in Martin and his case does not concern a fundamental right that requires waiver of the filing fee.

Appellant Objects and states that his case does fit within the statutory and the constitution. The Appellant has showed the court that he is indigent by providing the court with a copy of his prison trust fund account statement. The Appellant's case is dealing with False Imprisonment which he's being held against his will and lack of subject matter jurisdiction which the courts had no jurisdiction to hear his case and pronounce judgement all in violation of the Appellant's Due Process Right, Fundamental Fairness and his Equal Protection Clause of the Appellant's Fourteenth Amendment Right, and can be raise at any time.

Based on the foregoing, the Appellant's Due Process Right and Fundamental Fairness and his Equal Protection Clause of his Fourteenth Amendment of the United States Constitution he is entitle and should be able to proceed in forma pauperis due to he is indigent. If denied to proceed in forma pauperis will violate the Appellant's Fourteenth Amendment Due Process Right and Equal Protection Clause because he's being intentionally treated differently from others similarly situated and that there is no rational basis for the difference in treatment due to the Appellant poverty. Further, the Appellant respectfully request that the court grants him to proceed in forma pauperis.

Respectfully submitted,



HAROLD AYTON # 353371

PERRY CORRECTIONAL INST

430 OAKLAWN RD

PELZER, SC 29669

ATTORNEY FOR APPELLANT

GREENVILLE, SOUTH CAROLINA

MARCH , 2018

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*South Carolina Department of Corrections, Brian Sterling, and  
Scott Lewis* Respondents


vs.

*Harold Ayton, #353371* Appellant

PROOF OF SERVICE

*I, Harold Ayton, #353371 the prose Appellant do hereby certify that I have caused to serve upon the Respondent a true and accurate copy of Appellant Objection To The Respondent's Return To Appellant's Motion To Proceed In Forma Pauperis by depositing a copy of it in the United States mail, First Class, in an envelope with proper postage affixed thereto and addressed as shown below on this \_\_\_\_\_ day of March, 2018.*

*James P. Walsh  
Post Office Box 6728  
Greenville, SC 29606*

  
Harold Ayton #353371  
*430 Oaklawn Rd  
Pelzer, SC 29669  
Appellant*

*Greenville, SC*

Perry Correctional Inst  
Harold Ayton # 353371  
430 Oaklawn Rd  
Pelzer, SC 29669

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MAR 15 2018  
SC Court of Appeals

The Honorable Jenny Abbott Kitchings

3-12-18

South Carolina Court of Appeals

Post Office Box 11629

Columbia, SC 29211-1629

Re: Harold Ayton, # 353371 vs. South Carolina Department of Corrections, et al.  
Appellate Case No.: 2017-002636

Dear Ms. Kitchings:

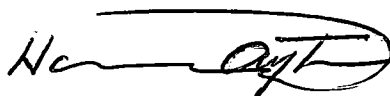
Please find enclosed for filing Appellants Objection To Respondents Return To Appellants Motion to Proceed In Forma Pauperis in the above-referenced matter along with the Proof of Service serving same on the Respondent.

I ask that may you please clock stamp this motion so i can make copies of it because here at Perry Correctional the staff won't make copies of hand written unless it's clock stamped and filed. But i do need this clock stamp so i can serve a copy to the Respondent.

As always, i appreciate your assistance on this matter.

With kindest regards

Sincerely



Perry Correctional Inst  
Harold Ayton #353371  
430 Oaklawn Rd  
Pelzer, SC 29669

The Honorable Jenny Abbott Kitchens  
South Carolina Court of Appeals  
Post Office Box 11629  
Columbia, SC 29211-1629

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