

THE STATE OF SOUTH CAROLINA
In the Court of Appeals
APPEAL FROM RICHLAND COUNTY
Court of Common Pleas
Jocelyn Newman, Circuit Judge
Civil Case No 2017-CP-4000584
Appellate Case No 2018-001025

TherL Taylor

Appellant/Plaintiff

PLAINTIFF'S PETITION FOR REHEARING

R. Smith, SCDC, et al

Respondent

NOW COMES Appellant, forced pro se because of extreme poverty hereby request a Petition For Rehearing pursuant to Rules 221, 207, 224 and 267 of the SCACR, Rule 60 (a) (b), SCCRCP and Kennedy v SC Retirement System, Adv. Sh. No 27 @ 61 Also based on the following facts and extraordinary circumstances, in particularly beyond Appellant's control:

- 1) Since 2015 to present Appellant is Indigent Certified in the Court of Common Pleas and is now constitutionally and statutorily seeking Indigent Certification in the Court of Appeals, as a compelled in
Pro se individual
- 2) On July 13, 2018, pro se "Appellant" received an order dismissing this appeal from an adverse prejudicial ruling by Judge Jocelyn Newman effecting the merits, according to the "Deputy Clerk, Claire Allen" with the South Carolina Appeal Court, because of a technical-financial or ten (10) day time sensitive date subject to 207, SCARCP by not "ordering the transcript of the motion hearing", See Attachment A

South Carolina's policy favor[s] the disposition of issues on their merits rather than on technicalities," Micronics Inc v SC Dept of Revenue, 548 SE 2d 223 (Ct App 2001),

- 3) Within fifteen (15) days per Rule 221, SCACR from the July 11 order or otherwise from receiving said opinion on July 13 Appellant seeks a Petition For Rehearing

Further, Rule 221(b), SCACR, the Clerk of Court shall not send the remittitur until fifteen (15) days have elapsed since the filing of the opinion. When as here, a petition for rehearing is received before the remittitur is sent, it shall not be sent pending disposition of the petition for rehearing.

RECEIVED

JUL 26 2018

SC Court of Appeals

This pro se Appellant understands the purpose of a standard or procedural petition for rehearing is not to present points which lawyers for the losing parties have overlooked or misapprehended, nor to have the case tried in the appellate court a second time, *Arnold v Carolina*, 168 SE 2d 234 (1933).

4) On May 15, 2018 a motion hearing was partially conducted. The Circuit Judge adversely opined that directly involved SCDC employee defendant's should be "dismissed".

5) Also that Gross Negligence was inapplicable to the large amount of facts and circumstances on record.

These two rulings prejudicially impacted the merits of Plaintiff's case in chief.

6) Appellant timely filed and served defense attorney, Claude Hardin with Notice of Appeal with the appeals court, time stamped "June 4, 2018" and with the common pleas, date stamped, "June 5, 2018".

7) The Honorable Chief Clerk issued a "deficiency letter" dated June 5, 2018, of which Plaintiff promptly complied therewith.

8) As the only means available to Plaintiff, he wrote a letter to the South Carolina Court Administration seeking the identity and business address for the Court Stenographer.

9) About 3 weeks later Ms Angela Berry responded by letter dated "June 11, 2018" that the "cost" for the hearing transcript would be an estimated \$130.00.00, at \$3 25 per page. Ms Berry failed to include the Civil Case Number nor include the hearing date (May 15) with her reply. See Attachment B. Another hearing was held May 17, 2018 Arrangements were in the process of being made to secure the relevant transcription

10) From the common pleas commencement "filing fees" to the Sheriff's Process of Service "fees" of Plaintiff's summons and complaint, Appellant was and remains a certified SCDC indigent person that the lower court and sheriff has respectfully honored.

11) Applicable to the fundamental right to "be heard" in a Civil Court of Law, the Constitutionality involved [Seventh and Fourteenth Amendments, etc] Appellant's Access To the Courts provision, along with South Carolina Statutory Code of Laws, including but not limited to §24-27-400, SC Const Art I §3 respectfully sought permission to gain the same, fair, acceptance to be heard, in the court of appeals, as here to challenge the Circuit Judge's prejudicial May 15 ruling adversely effecting the merits of Appellant's case.

This prose Appellant understands the purpose of a standard on procedural petition for rehearing is not to present points which lawyers for the losing parties have overlooked or misapprehended, nor to have the case tried in the appellate court a second time, Arnold v. Caroling, 168 SE2d 234 (1993).

4) On May 15, 2018, a motion hearing WAS PARTIALLY CONDUCTED. THE CIRCUIT JUDGE ADVERSELY OPINED THAT DIRECTLY INVOLVED SCDC EMPLOYEE DEFENDANT'S SHOULD BE DISMISSED".

5) ALSO THAT GROSS NEGLIGENCE WAS INAPPLICABLE TO THE LARGE AMOUNT OF FACTS AND CIRCUMSTANCES ON RECORD.

THESE TWO RULINGS PREJUDICIALLY IMPACTED THE MERITS OF PLAINTIFF'S CASE IN CHIEF.

6) APPELLANT TIMELY FILED AND SERVED DEFENSE ATTORNEY, CLAUDE HARDIN WITH NOTICE OF APPEAL WITH THE APPEALS COURT, TIME STAMPED "JUNE 4, 2018" AND WITH THE COMMON PLEAS, DATE STAMPED, "JUNE 5, 2018".

7) THE HONORABLE CHIEF CLERK ISSUED A "DEFICIENCY LETTER" DATED JUNE 5, 2018, OF WHICH PLAINTIFF PROMPTLY COMPLIED THEREWITH.

8) AS THE ONLY MEANS AVAILABLE TO PLAINTIFF, HE WROTE TO THE SOUTH CAROLINA COURT ADMINISTRATION SEEKING THE IDENTITY AND BUSINESS ADDRESS FOR THE COURT STENOGRAPHER.

9) ABOUT 3 WEEKS LATER MS ANGELA BERRY RESPONDED BY LETTER DATED "JUNE 11, 2018" THAT THE "COST" FOR THE HEARING TRANSCRIPT WOULD BE AN ESTIMATED \$130.00⁰⁰ AT \$ 3.25 PER PAGE. MS BERRY FAILED TO INCLUDE THE CIVIL CASE NUMBER NOR INCLUDE THE HEARING DATE (MAY 15) WITH HER REPLY. SEE ATTACHMENT B ANOTHER HEARING WAS HELD MAY 17, 2018. ARRANGEMENTS WERE IN THE PROCESS OF BEING MADE TO SECURE THE RELEVANT TRANSCRIPTION.

10) FROM THE COMMON PLEASE COMMENCEMENT "FILING FEES" TO THE SHERIFF'S PROCESS OF SERVICE "FEES" OF PLAINTIFF'S SUMMONS AND COMPLAINT, APPELLANT WAS AND REMAINS A CERTIFIED SCDC INDIGENT PERSON THAT THE LOWER COURT AND SHERIFF HAS FULLY HONORED.

(1) APPLICABLE TO THE FUNDAMENTAL RIGHT TO "BE HEARD" IN A CIVIL COURT OF LAW, THE CONSTITUTIONALITY INVOLVED [SEVENTH AND FOURTEENTH AMENDMENTS, etc].

APPELLANT'S ACCESS TO THE COURTS PROVISION, ALONG WITH SOUTH CAROLINA STATUTE CODE OF LAWS, INCLUDING BUT NOT LIMITED TO §24-27-400, SC Const Art I §3, RESPECTFULLY SOUGHT PERMISSION TO GAIN THE SAME, FAIR, ACCEPTANCE TO BE HEARD IN THE COURT OF APPEALS, AS HERE TO CHALLENGE THE CIRCUIT JUDGE'S PREJUDICIAL MAY 15 RULING ADVERSELY EFFECTING THE MERITS OF APPELLANT'S CASE,

WHEREFORE, Appellant respectfully request the court to allow Appellant an opportunity to correct the imperfection to satisfy the Appeal Clerk's Rule 207, SCACR beyond the ten (10) day rule to make arrangements to order the twenty (20) minute motion hearing because it is physically impossible for Appellant to meet such requirement by our Federal Mail Service, Appellant's only means of communication inside defendant SCDC to the Courts, attorneys and other legal entities. An unfair ruling appearing designed to pro se litigants whom are [Indigent] not to exercise civil remedies or Constitutional legal rights.

Appellant craves to be civilly heard in the South Carolina Court of Appeals, to file his Brief on the appeal order dismissing liable SCDC individual defendants so each involved person may be held accountable for their evil-corrrupt actions.

Appellant further sayest not.

July 20, 2018



TherL Taylor, pro se

THE STATE OF SOUTH CAROLIA

In the Court of Appeals

APPEAL FROM RICHLAND COUNTY

Court of Common Pleas

RECEIVED

Jocelyn Newman, Circuit Judge

JUL 20 2018

Civil Case Number 2017-CP-4000587

MacDougall Corr. Inst.
Mailroom

Appellate Case Number 2018-001025

PROOF OF SERVICE

Appellant, the undersigned certify that I have served a PETITION FOR REHEARING on July 20, 2018. by depositing in our United States Mail a copy of the same, prepaid, addressed to as indicated below:

Claude Hardin, Attorney
1303 Blanding St.
PO Drawer 7217
Columbia, SC 29202

RECEIVED

JUL 26 2018

SC Court of Appeals



TherL Taylor
MacDougall Institution

The S.C. Court of Appeals
The Honorable Jenny Abbott Kitchings, clerk
PO Box 11629
Columbia, SC 29211

RE: TherL Taylor v. R. Smith, SCDC, et al
Case No.: 2017-CP-40-0584
Appellate Case No. 2018-001025

July 20, 2018

Dear Ms. Abbott:

Enclosed for filing please find the original and one copy
of Appellant's PETITION FOR REHEARING with Proof of Service.

Please return a clocked in copy within the enclosed
pre-paid self addressed stamped envelope, provided for your
convenience.

Thank you.

Very truly yours,

TherL

RECEIVED

JUL 26 2018

SC Court of Appeals

687

③

Attachment A

The South Carolina Court of Appeals

TherLTaylor, #260961, Appellant,

v.

R. Smith, Jamison, J Washington, Jane/John Does,
SCDC, and Bryan Sterling, Respondents.

Appellate Case No. 2018-001025

The Honorable Jocelyn Newman
Richland County
Trial Court Case No. 2017CP4000584

ORDER

Appellant has failed to file proof of having timely ordered the transcript, as required by Rule 207 of the South Carolina Appellate Court Rules, and as required by the Court's letter of June 20, 2018. Accordingly, this matter is dismissed. The remittitur will be sent as provided by Rule 221(b), SCACR.

FOR THE COURT

BY V. Claude Allen, Deputy
CLERK

Columbia, South Carolina

cc:
Therl Taylor, 260961
Claude E. Hardin, Jr., Esquire

FILED

July 11, 2018

Attachment B

ANGELA P. BERRY
Official Court Reporter for the
Judicial Department of the State of South Carolina
734 Boinest Rd.
Prosperity, SC 29127

June 11, 2018

**ACKNOWLEDGMENT OF RECEIPT OF
REQUEST FOR TRANSCRIPT OF RECORD**

TO: TherL Taylor
MacDougall Correctional Institution
1516 Old Gilliard Road
Ridgeville, SC 29472

CAPTION: TherL Taylor V. SCDC, etal

This is to acknowledge that I received your letter requesting the Transcript of Record in the above matter. I have reviewed my records and estimate that your transcript will be 40 pages.

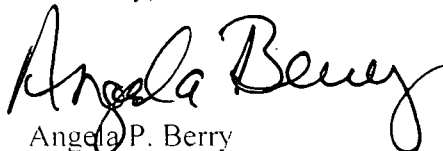
Rule 607 provides that the rate of \$3.25 shall be charged per page for a transcript, and \$.75 per page for a copy. Based on the current rate, the estimated cost will be \$ 130.00. **Upon receipt of the amount due in money order or cashier's check, I will place the transcript in line to be transcribed.**

Under our rules, I have sixty days in which to complete the transcript. In addition, I am allowed to request from Court Administration thirty day extensions, if necessary, to complete the transcript. You will be notified if extensions are granted.

If you desire to cancel the request for the transcript, a cancellation request must be made in writing. You will be responsible for payment of any portion of the transcript that has been completed.

Should you have any questions regarding the above information, please contact me at the above address. Thank you for your request in this matter.

Sincerely,



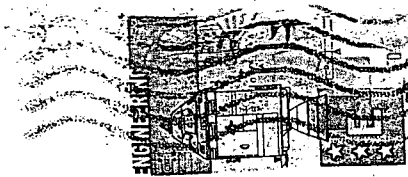
Angela P. Berry
Family Court Reporter

Angie Berry
734 Boines Rd.
Prosperity, SC 29127

Recd 6/15

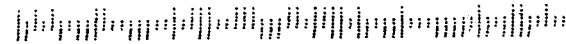
COLUMBIA SC 290

13 JUN 2008 PM 3:11



Therl Taylor
MacDougall Correctional Institution
1516 Old Gilliard Road
Ridgeville, SC 29472

29472-740846



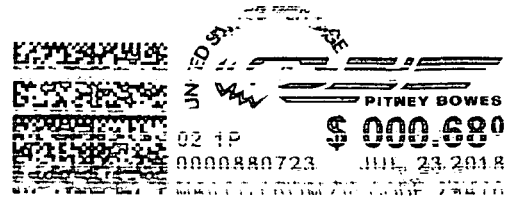
TherL Taylor, M-2-C#12
MacDaugall Institution (260961)
1516 Old Gilliard Rd
Ridgeville, SC 29172

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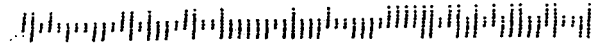
JUL 26 2018

SC Court of Appeals

The Honorable Jenny Abbott Kitchens, Clerk
PO Box 11629
Columbia, SC 29211



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JUL 23 2018

MacDougall Corr. Inst.
Mailroom

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JUL 23 2018

MacDougall Corr. Inst.
Mailroom