

THE STATE OF SOUTH CAROLINA
In the Supreme Court

Appellate Case No: 2014-002029

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

Judge Doyet A. Early, III, Circuit Court Judge

Case No. 2008-CP-40-6656

John R. Rakowsky, Respondent

v.

Irene Santacroce, Appellant
Estate of Doris Holt, Appellant
Rodney Lail, Appellant

and

James B. Spencer, Appellant, *Pro Se*

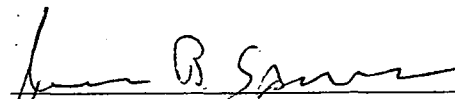
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OCT 22 2018

SC Court of Appeals

**MOTION AND AFFIDAVIT TO PROCEED
IN FORMA PAUPERIS**

By:


James B. Spencer, *Pro Se*
Suite 183
7001 Saint Andrews Road
Columbia, SC 29212

The *Pro Se* Petitioner, James Spencer, ("Petitioner") moves this court for relief from the costs of filing, service and any other costs that may be assigned and/or assessed by the Court in matters concerning Appellate Court case no: 2014-002029.

DISCUSSION

Petitioner is impoverished and 100% disabled. Petitioner is on oxygen, has no discretionary income and cannot pay for medical treatment that is necessitated by his medical condition due to poverty. **See attached affidavit.**

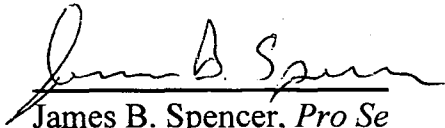
Petitioner is seeking to pursue due process claims for violations of the 5th and 14th Amendments to the United States Constitution in Federal Court. To do such the law requires the Petitioner seek the exhaustion-of-remedies through the state courts including the South Carolina Supreme Court.

The United States Supreme Court has held that fees and/or costs that chill and/or foreclose an impoverished party's opportunity to be heard are violations of both the 1st Amendment and 14th Amendment to the United States Constitution. In Boddie v. Connecticut, the United States Supreme Court held:

"Just as a generally valid notice procedure may fail to satisfy due process because of the circumstances of the defendant, so too a cost requirement, valid on its face, may offend due process because it operates to foreclose a particular party's opportunity to be heard. The State's obligations under the Fourteenth Amendment are not simply generalized ones; rather, the State owes to each individual that process which, in light of the values of a free society, can be characterized as due." Boddie v. Connecticut, 401 U.S. 371, 380, 91 S. Ct. 780, 787 (1971)

Petitioner asserts the fees/costs and any other charges incurred by seeking access to the Federal Courts through the South Carolina Supreme Court effectively is a denial of access to the courts due to his impoverished state. Therefore, the *Pro Se* Petitioner humbly requests this Honorable Court to remove this financial impediment.

Respectfully submitted,
October 18, 2018,

A handwritten signature in cursive script, appearing to read "James B. Spencer", is written over a horizontal line.

James B. Spencer, *Pro Se*
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7001 Saint Andrews Road
Columbia, SC 29212

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and

James B. Spencer, Appellant, *Pro Se*

**AFFIDAVIT TO PROCEED
IN FORMA PAUPERIS**

The *Pro Se* Petitioner, James Spencer, ("Petitioner") submits this affidavit as part of his motion to move this court for relief from the costs of filing, service and

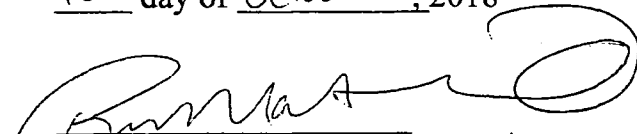
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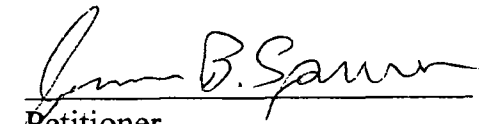
any other costs that may be assigned or assessed by the Court in matters concerning Appellate Court case no: 2014-002029.

I, James Spencer, being duly sworn, state that I am the Petitioner and I do not have the funds available to pay the costs of filing, service and any other costs incurred by pursuing these matters in the South Carolina Supreme Court. I request all filings in the South Carolina Supreme Court regarding this case cited above will be without cost to Petitioner.

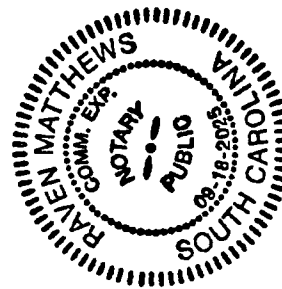
Sworn to before me this

18th day of October, 2018


Notary Public of South Carolina


Petitioner

My Comission expires: 09/8/2025



CERTIFICATE OF SERVICE

The undersigned hereby certifies that on October 18, 2018, the document described below, was(were) served on all parties of record in this case by mailing a copy, by US mail or by courier.

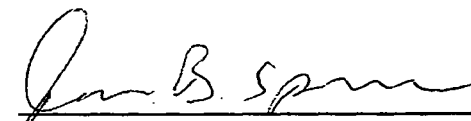
Documents Served: **MOTION AND AFFIDAVIT TO PROCEED
IN FORMA PAUPERIS**

Parties Served:

Desa Ballard, Esquire
Ballard and Watson, Attorneys at Law
PO Box 6338
West Columbia, SC 29171
Attorney for John Rakowsky

Michael G. Sribnick, M.D., J.D., LLC
3 Kenilworth Avenue
Charleston, S.C. 29403
Attorney for: Estate of Doris Holt,
Rodney Lail,
Irene Santacroce

Honorable Jenny Abbott Kitchings
Clerk of Court
1220 Senate Street
Columbia, South Carolina 29201

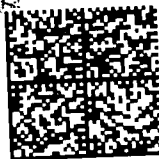


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