

State of South Carolina

In the Supreme Court

Appeal from Richland County

Court of Common Pleas

D. Craig Brown Circuit Court Judge

Appellate case # 2018-001937

Lower Court Case # 2015-CP-40-6789

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SC Court of Appeals

Tyrone Perry ----- Appellant

✓

South Carolina Dept. of Corrections ----- Respondent

59(e) motion

Office of General Counsel

Stephen H. Lunsford

4444 Broad River Rd

Columbia S.C. 29221

Attorney for Respondent

vs Tyrone Perry 307793

Tyrone Perry 307793

430 Oaklawn Rd Q2A-105

Pelzer S.C. 29669

Pursuant to Rule 59(e) SCRPC the Appellant moves to Alter or Amend judgment of this court filed October 30, 2018 and received by the Appellant on November 2, 2018.

Procedural History

The Appellant filed a complaint on mis handled personal property on November 5, 2015. A hearing was held on June 9, 2016. The Respondents failed to process the Appellant's attempts at administratively resolving the issue. The respondents put themselves in default by failing to respond in a timely manner to its own regulations. Being that the Appellant has a due process and Constitutional rights to deprivations of personal property the Appellant filed under the South Carolina Tort Claim Act. No where does the language state the Appellant has to exhaust administrative remedies. The Appellant wasn't given a chance to be fully heard nor file and get rulings on properly filed motions in the circuit court. Judicial review was denied by an arbitrary and erroneous decisions by the circuit courts

Argument

The Appellant is being denied judicial review at each level of the Court system because of his indigency status. The South Carolina Constitution Article 1 Section 3 and Article 1 Section 22 are being infringed upon and violated. The Appellant presented facts and conclusions of law to the Circuit court judge who was bias to the Appellant and stated the Appellant wants the Circuit court to overturn SCDC's final agency decision and the Administrative Law Court is the proper avenue. The respondents had almost seven months from the

initiation of the administrative process to the final decision. No final decision came within the allotted time frame per regulations and a matter of law so the Circuit Court's judgment was arbitrary and erroneous to the facts presented and case law currently in place. The Appellant filed 59(c) motions and Petitions for Rehearing in the Circuit Court but was denied judicial review which violates safeguards set out by the constitution. Being that the Appellant is indigent he can't afford filing fees of the Court of Appeals or Supreme Court, which denies the Appellant judicial review of erroneous decisions made by the circuit courts that's arbitrary to the facts presented and laws and constitutions. Under Rule 242 (A) and (B) two justices may review on sound judicial discretion if 1) novel questions of law, 2) dissent in the decision of the Court of Appeals, 3) where substantiated constitutional rights issues are involved, 4) decisions of the Court of Appeals in conflict with Supreme Court decisions.

Conclusion

For the foregoing reasons the Appellant requests the Court to Alter or Amend its order and hear the Appellant's argument and remand to the circuit court for a new hearing and allow the Appellant to proceed without payment of the filing fee.

This 5th day of November 2018

sr Tyrone Perry 307793
430 Oaklawn Rd Q2A-105
Pelzer S.C. 29669

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South Carolina Dept of Corrections ----- Respondent

Proof of Service

I certify that I have served this 59(c) by depositing a copy of it in the U.S. mail postage prepaid to the following:

S.C. Supreme Court
Daniel F. Shearouse
P.O. Box 11330
Columbia S.C. 29211

S.C. Court of Appeals
Jenny Abbott Kitchings
P.O. Box 11629
Columbia S.C. 29211

Office of General Counsel
Stephen H. Lunsford
4444 Broad River Rd
Columbia S.C. 29221

November 5, 2018

Tyrone Perry # 307793

Perry Corr. Institute

430 Oaklawn Rd Q2A-105

Pelzer S.C. 29664

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SC Court of Appeals

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