

SOUTH CAROLINA COURT OF APPEALS

RECEIVED

MAR 07 2019

Anthony Brooks
Plaintiff

Case # 2018-001907

SC Court of Appeals

vs.

SOUTH CAROLINA DEPARTMENT OF COLLECTIONS
CHRISTOPHER WILLIAMS CAPT. IT, ROOJ CAPT DUFFY,
MAJOR EARLY, T. CHURCH, SGT TUCKER, ARMS ENLOE
AND JOEL RIVERA, KENNETH MITCHEL, OFC MARTIN
AND SOUTH CAROLINA BUDGET AND CONTROL BOARD
Defendants

Plaintiff's motion for rehearing
en banc and or reinstatement of
case and objection to the clerk of
court's February 7th 2019 letter and
submission of the court's December 6th 2018
order and for the court to rule on
his January 23rd 2019 motion and the court's
January 15th 2019 order

Plaintiff moves the court for rehearing of case en banc as provided by SC, Rules
APP Rul 214. Hearing or rehearing of case by the court of APPEALS EN BANC,
(A) when hearing or rehearing en banc will be ordered, it shall require the affirmative
vote of six members of the court of APPEALS to hear or rehear an appeal or other
proceeding en banc; A hearing or rehearing en banc is not favored and ordinarily will not
be ordered except (1) when consideration by the full court is necessary to secure or maintain
uniformity of its decisions; or (2) when the proceedings involve questions of exceptional
circumstances.

Plaintiff moves for a rehearing of his January 23rd 2019, Plaintiff's motion to alter
and amend judgment under SC RCP 59 or relief from judgment as excusable neglect
under rule 60B1 and for the court to review lower court records of Plaintiff original
complaint granting in forma pauperis so Plaintiff could proceed on appeal.

Plaintiff submits that on January 15th 2019 the court denied Plaintiff to proceed
in forma pauperis pursuant to Ex parte Martin 321 SC 533, 471 SE2d 134 (1995)
stating that the filing fee must be paid within 15 days of the date of the
order, stating that Plaintiff's failure to comply with the court's order will
result in the dismissal of this appeal. The remittitur will be sent in
accordance with Rule 221, S.C.A.C.R see exhibit A. The letter was sent by
Jenny Abbott Ketchings

ON February 7th 2019 deputy clerk v. Clair Allen sent Plaintiff a letter and
remittitur sending the case to the lower court see exhibit B with a December 6th 2018
signed order of the clerk of court. This order is in guidelines with Rule 260 of

LEGAL MAIL

South Carolina Appellate court rules, dismissal and reinstatement, whenever, it appears that an appellant or petitioner has failed to comply with the requirements of those rules, the clerk shall issue an order of dismissal which shall have the same force and effect as an order of the appellate court. The case shall not be reinstated except by leave of the lower court, upon good cause shown, after notice to all parties, the clerk shall remit the case to the lower court or administrative tribunal accordance with 201 unless a motion to reinstate the appeal has been actually received by the court within 15 days of filing of the order of dismissal (the day of filing being excluded)

Plaintiff submits that he received clerk v. Allen clairs order on February ~~25th~~ 25th 2019 per signing the mail log at Broad river comm. and that Broad River mail room received the order of v. clair Allen dismissal and remittitur February 22nd 2019, See exhibit _____ Plaintiff submits that his January 23rd 2019 motion exhibit _____ attached addressed the order of dismissal and requested that the January 15th 2019 order of the Appellate court be set aside due to excusable neglect and the court to review the record to see that he was granted informia pautins in the lower court and thus shall be allowed to proceede informia pautins on Appeal v. ~~clair~~ clair Allen February 7th 2019 order shall be "rescinded" on the grounds that Plaintiff's motion to set aside judgment was filed the day he placed it in the mail box on January 23rd 2019 to be mailed to the court in guidelines with Rule 221(CS) of Appellate court rules and thus v. clair Allen should have not remitt the case to the lower court and Plaintiff's motion to alter or amend judgment or relief under rule 60 B's should have entertained his motion before dismissing the case as reinstatement. Plaintiff objects to v. clair Allen February 7th 2019 letter stating that this court sent a letter requesting the filing fee and a corrected proof of service for your correspondence filed on December 27th 2018 which this court construed as a motion to reinstate the appeal, As of the date of this letter, we have not received those corrections, therefore no further action will be taken on your motion to reinstate. Plaintiff objects and submit that on December 27th 2019 he sent the proof of service correction and that v. Allen clair allegations are untrue. Furthermore Plaintiff without any law access, books and placement on lock up at the hands

of defendant's side and without confession and tower of Plaintiff firm and local "Box" caused Plaintiff to write a letter and motion to the court on December 27th 2018 so he wouldn't default. This document was not to be construed as reinstatement but alleges grounds for reinstatement. On January 15th 2019 the court never stated anything about the court construing Plaintiff's December 27th 2018 letter as a motion to reinstatement. The court sent a letter specifically stating that if Plaintiff does not pay the filing fee in 15 days the case will be dismissed see exhibit A. In return Plaintiff filed his motion in affidavit etc see exhibit C informing the court that he is entitled to in forma pauper's quoting RULE 3 c of SCRA and quoting Martinez. Nothing in the court's January 15th 2019 order stated anything about Plaintiff not concealing his proof of service. Reason why because Plaintiff proof of service was corrected in December. V. Clair Allon Deputy Clerk February 7th 2019 letter enclosed the December 6th 2018 order of the court with a letter sent by her stating that Plaintiff failed to submit a filing fee and corrected proof of service. This is a nullity. See V. Clair Allon February 7th 2019 letter and order is capricious or arbitrary if its without a rational basis, is based on ones will and not upon any cause of reasoning and exercise of judgment is made at pleasure without adequate determining principles or is governed by no fixed rules or standards see Ross v. Moffitt supra Hatchett v. South Carolina District Council of Assemblies of God Inc 207 S.C. 107, 226 S.E.2d 253 (1976) Turberville v. Morris 263 S.C. 287, 26 S.E.2d 821 (1943) Plaintiff submits the V. Clair Allon order of February 7th 2019 is not governed by any law and shall be set aside as the January 15th 2019 order by Judge is the ruling order of this court during in forma pauper's NOT the court's December 6th 2018 order and moves the court to rule on his January 23rd 2019 motion and or grant rehearing on the January 15th 2019 order by the court dismissing the appeal on grounds of in forma pauper's ~~and~~

I swear under penalty and perjury that the foregoing is true and correct
This 1st day of March 2019 Scler

(193)

LEGAL MAIL

Exhibit A

January 15th 2019 order of dismissal

LEGAL MAIL



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1220 SENATE STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1893
FAX: (803) 734-1839
www.sccourts.org

January 15, 2019

Altony Brooks, #313000
McCormick Correctional Institution
386 Redemption Way
McCormick SC 29899

Re: Altony Brooks v. SCDC
Appellate Case No. 2018-001907

Dear Mr. Brooks:

Please see the enclosed order regarding this appeal.

Failure to comply with the Court's order will result in the dismissal of this appeal.
The remittitur will be sent in accordance with Rule 221, SCACR.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Jenny Abbott Kitchings".

CLERK

cc: Samuel F. Arthur, III, Esquire
John Gatling Hofler, III, Esquire

The South Carolina Court of Appeals

Altony Brooks, Appellant,

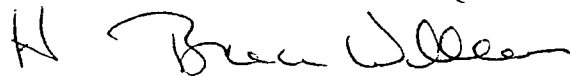
v.

South Carolina Department of Corrections, Christopher Williams, Capt., Lt. Root, Capt. Duffy, Major Earley, Lt. Church, Sgt. Tucker, Amy Enloe LPN, Ofc. Mitchum, Ofc. Rivera, John Doe Ofc., and South Carolina Budget and Control Board, Respondents.

Appellate Case No. 2018-001907

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:

Altony Brooks, #313000
Samuel F. Arthur, III, Esquire
John Gatling Hofler, III, Esquire

FILED

January 15, 2019

Exhibit B

v. Clair Allen February 7th 2019 letter of dismissal and order of December 14th 2019
Dismissal that v. Clair Allen dismissed that was reviewed upon reinstatement
on January 15th 2019 in which the court should have set aside but did not
By oversight. as well as remittitur that should have never been sent to
The lower court due to plaintiffs objection and motion to alter or mend etc

LEGAL MAIL



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1220 SENATE STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
www.sccourts.org

February 07, 2019

Altony Brooks, 313000
McCormick Correctional Institution
386 Redemption Way
McCormick SC 29899

Re: Altony Brooks v. SCDC
Appellate Case No. 2018-002057

Dear Mr. Brooks:

This Court sent a letter requesting the filing fee and a corrected proof of service for your correspondence filed on December 27, 2018, which this Court construed as a motion to reinstate the appeal. As of the date of this letter, we have not received these corrections. Therefore, no further action will be taken on your motion to reinstate.

Very truly yours,

V. Claire Allen, Deputy

CLERK

cc: Samuel F. Arthur, III, Esquire
Paul B. Wickensimer

The South Carolina Court of Appeals

Altony Brooks, Appellant,

v.

South Carolina Department of Corrections, Christopher Williams, Capt., Lt. Root, Capt. Duffy, Major Early, Lt. Church, Sgt Tucker, Amy Enloe LPN, Ofc. Mitchum, Ofc. Rivera, John Doe Ofc., and South Carolina Budget and Control Board, Respondents.

Appellate Case No. 2018-002057

The Honorable Letitia H. Verdin
Greenville County
Trial Court Case No. 2016CP2304303

ORDER

Appellant has failed to submit the \$250.00 notice of appeal filing fee, as required by Rule 203 of the South Carolina Appellate Court Rules, and letter of this Court dated November 20, 2018. Accordingly, this matter is dismissed. The remittitur will be sent as provided by Rule 221(b), SCACR.

FOR THE COURT

BY

V. Claire Allen, Deputy
CLERK

FILED

December 6, 2018

Columbia, South Carolina
cc:
Altony Brooks, 313000
Samuel F. Arthur, III, Esquire



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1220 SENATE STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
www.sccourts.org

February 07, 2019

The Honorable Paul B. Wickensimer
Courthouse
305 E North St
Greenville SC 29601-2121

REMITTITUR

Re: Altony Brooks v. SCDC
Lower Court Case No. 2016CP2304303
Appellate Case No. 2018-002057

Dear Clerk of Court:

The above referenced matter is hereby remitted to the lower court or tribunal. A copy of the judgment of this Court is enclosed.

Very truly yours,

V. Claire Allen, Deputy

CLERK

Enclosure

cc: Altony Brooks, 313000
Samuel F. Arthur, III, Esquire

Exhibit D.

Showing plaintiff didn't receive v. clair Allen letter and order of dismissal until ~~January~~ February 22nd 2019 at Broad River correctional and that Broad River mail room received it on February 22nd 2019.

LEGAL MAIL



South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS, CLERK
POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211

RECEIVED

FEB 22 2019

BRCI
MAILROOM

Hasler

02/07/2019

US POSTAGE

\$00.50



ZIP 29201
011D12602824

Brooks

FEB 18 2019

MCCI
MAIL ROOM

ALTONY BROOKS, 313000
MCCORMICK CORRECTIONAL INSTITUTION
386 REDEMPTION WAY
MCCORMICK SC 29899

S. J. H.

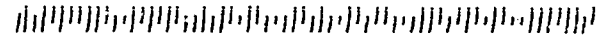


Exhibit C

plaintiff's January 23rd 2019 filed motion in affidavit to alter or amend
Judgment and or set aside judgment of January 15th 2019 order of dismissal.

LEGAL MAIL

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM GREENVILLE COUNTY
COURT OF COMMON PLEAS

Letitia H. Verdin, Circuit Court Judge

Case No: 2018-0019-07

Altony Brooks, Appellant

v.

South Carolina Department of corrections, Christopher Williams Capt, Lt. Root, Capt Duff,
Major Early, Lt. Church, Sgt Tucker, Ann Elnocipn, Ofc Mitchell, Ofc Rivera
John Doe ofc. and South Carolina Budget and Control Board. Respondents

PROOF OF SERVICE

I certify that I have served the Appellants motion in affidavit to
alter or amend Judgment under SCRPC 512 or relief from Judgment
as excusable neglect under SCRPC 60 B 1 by depositing a copy of it
in the United States mail postage, pre-paid at McCormick Correctional Inst.,
on January 23rd 2018 addressed to his attorney of record Samuel F. Arthur
PO Drawer 1931 Florence SC 29503 and the South Carolina Court of
Appeals v. Clay Hill PO Box 1129 Columbia SC 29211. I swear
under penalty and perjury the foregoing is true and correct

Prison mail Box 146
January 23rd 2018

S/ Altony Brooks
Altony Brooks 3360
M.C.I.
6810 Rodemphar way
McCormick SC 29899

TO: SOUTH CAROLINA COURT OF APPEALS
PO Box 11629
Columbia, S.C. 29211

RE: ALTONY BROOKS VS. SCOTZ et al case # 2018-201907

Dear Jenny Abbot Kitchings,

Enclosed is petitioner's motion for rehearing En Banc and proof of service.
Please have these documents filed with a clock date stamp copy and returned to
me.

Thank you sl Altony Brooks

ALTONY BROOKS 313000
BROCK
4444 Broadriver Rd
Columbia SC 29016

Date March 2019

LEGAL MAIL

SOUTH CAROLINA COURT OF APPEALS

Alford Brooks
Plaintiff

Case: 2018-001907

v.
SOUTH CAROLINA Apartment Communities
Christopher Williams, Bartlett, Robert Dutton,
Maura Early, Richard G. Smith, James Gomez, and
and South Carolina Budget and Cash Fund
~~Deborah~~ ~~Constance~~

Plaintiff motion in affidavit to
alter and amend judgment
under S.C.R.P. 59 or relief from
Judgment as excusable neglect
under 60 B1 and for the court to
review lower court records of Plaintiff
original complaint regarding in forma
pauperis so Plaintiff could proceed ~~affiliated~~

Plaintiff states that the January 15th 2019 order signed by the court dismisses the case. Provided by Ex Parte Martin 321 S.C. 333 (471 S.E2d 11995) in which the Plaintiff eventually was able to Proceede in forma pauperis, as he meet the requirements of the statute to appeal and receive in forma pauperis upon his appeal to the higher court. Petitioner submits that S.C.R.P. (3) states you may only be allowed to Proceede in forma pauperis in your tort action if the court grants you leave to do so. Rule 3 (a) of the South Carolina rules of civil procedure (CR) Plaintiff who desires to file an action in forma pauperis shall file in court a motion to leave to Proceede in forma pauperis together with the complaint proposed to be filed and an affidavit ~~and~~ showing the Plaintiff inability to pay the fee required to file the ~~action~~ complaint in the court without ~~the~~ the payment of filing fees) therefore if you want to Proceede in forma pauperis in any of those actions you will need to make an appropriate motion to the circuit court.

Plaintiff submits that he did not intend to attach the civil complaint when filing this motion to Proceede in forma pauperis and thus the court denies the Plaintiff for submitting the complaint for the courts review to see if he meets leave. Plaintiff now submits a copy of the initial complaint filed in the Greenville county court of common Pleas that was granted in forma pauperis. Plaintiff further directs the court to the lower court record to review the complaint for in forma pauperis review as judicial notice and grant leave in this court upon that review and Plaintiff's motion for leave to Proceede in forma pauperis filed in this Appeal.

As provided in rule 59 E.S.C.R.P. Plaintiff moves to alter or amend the judgment and have the court allow Plaintiff to Proceede in forma pauperis.

IN the above case or allow petitioner under Rule 100 B to set aside the Judgment
100 B SCAP (2) states 100 B is substantially the same as code § 15-27-130

there are two differences, first existing state law provides for relief from a judgment
taken against him through his mistake; Petitioner submits that he did not put the
initial complaint with this appeal and or for in forma pauperis and that he did
file the notice of appeal believing that all documents from the Greenville county
court would transfer as due in federal appeal courts upon filing the notice of appeal.

in this instance this did not take place and this court take it as a way
to not proceede in forma pauperis; petitioner moves to amend the ruling on
the ground of the court not reviewing the lower court record to grant in forma
pauperis, as if he was able to proceede in forma pauperis in the lower court its presumed
he could proceede in forma pauperis in the South Carolina Court of Appeals in forma
pauper in the appeal of the same case at hand. Petitioner submits that
the order granting him in forma pauper is with the lower court and he does not
have it but ~~does~~ directs the court to the lower court to review that petitioner
indeede proceede in forma pauperis in the Greenville county court of common
pleas in this case on these grounds; Petitioner moves to alter or amend or
set aside Judgment

Conclusion

Petitioner shall be granted in forma pauperis after done as reviewed of
the lower court record and the record of this court to grant
Petitioner in forma pauperis in this appeal.

I swear under penalty and perjury that the foregoing is true and correct

This 23rd day of January, 2019

S/ [Signature]
Hilmi Basker 313100
MCP
3316 Palmetto Blvd
Merrimack, NC 27599

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS
APPEAL FROM GREENVILLE COUNTY
COURT OF COMMON PLEAS
letitia H. verdin, circuit court judge
CASE NO: 2018-2019-07

RECEIVED
MAR 07 2019
SC Court of Appeals

Anthony Brooks appellant
vs.

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS, Charles Williams capt, Hi Root, capt Duffa
major Early, Hi church, Sgt Tucker, Amy Enloe LFN, ofc Mitchell, ofc Rivera
John Dse ofc and SOUTH CAROLINA Budget and control Board Respondents

PROOF OF SERVICE

I certify that I have served the Appellants motion for rehearing Enbar etc
and proof of service by depositing a copy of it in the United States mail postage
pre paid at Broad River Correctional Inst on March 6th 2019 addressed to
Attorney of Record Samuel F. Arthur PO Drawer 1931 Florence SC 29503 and the
South Carolina Court of Appeals v. Ailon Clark PO Box 11629 Columbia SC 29211. I swear
under penalty and Perjury the foregoing is true and correct.

Prison mail Box rule

March 6th 2019

S. Anthony Brooks
Anthony Brooks 313000
BRCZ
444 Broad River Rd
Columbia SC 29106

LEGAL MAIL

TO: Jenny Abbat Ketchings
South Carolina Court of Appeals
PO Box 11629
Columbia SC 29211

RE: Case 2018-001907
Anthony Brooks vs State

Dear Ms. Ketchings:

Please see the enclosed motion regarding this appeal.

Please have those documents filed and send me a clock date stamp copy

patc month 2019

Very truly yours,

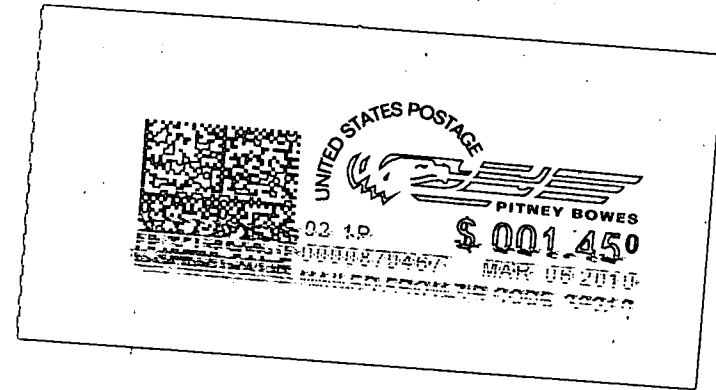
Allen Brown
Anthony Brooks 31300
BPCS
444 Broadview Rd
Columbia SC 29202

cc: Samuel F. Arthur III Esquire

RECEIVED
MAR 07 2019
SC Court of Appeals

LEGAL MAIL

Alton Brooks 313000
BRCS
44400 Broadview Rd
Columbia SC 29810



RECEIVED

MAR 07 2019

SC Court of Appeals

Jenny Abbot Ketchings
SOUTH CAROLINA COURT OF APPEALS
PO Box 11629
Columbia SC 29211