

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

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APPEAL FROM RICHLAND COUNTY  
Jocelyn Newman, Circuit Court Judge

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Appellate Case No. 2019-001175  
Case No. 2019-CP-40-2137

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**RECEIVED**  
SEP 17 2019  
SC Court of Appeals

George M. Adams, #181283, ..... Appellant,

v.

Richland County Sheriff's Department, ..... Respondent.

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

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The Appellant George M. Adams is an inmate currently confined within the South Carolina Department of Corrections. The Appellant has filed an appeal from Judge Jocelyn Newman's dismissal of his case for failure to pay the required Circuit Court filing fee.

The Appellant has now filed a motion to proceed in forma pauperis in this Court. The Appellant has not provided any basis for his motion other than to state that he is “indigent” and “own[s] no property . . . to pay the fees for costs of filing the above appeal.” The Respondent Richland County Sheriff's Department opposes that motion.

In the case of *Ex Parte: Martin v. State*, 321 S.C. 533, 471 S.E.2d 134 (1995), the South Carolina Supreme Court addressed the issue of granting motions to proceed in forma pauperis. The Court held that “[i]n 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.” 471 S.E.2d at 134-135.

Later, in *Martin v. South Carolina Department of Corrections*, 350 S.C. 196, 565 S.E.2d 756 (2001), the South Carolina Supreme Court required full payment of appellate filing fees by an indigent prisoner. The Court concluded that the statutes allowing a partial payment of the filing fees when an indigent prisoner brings a civil action do not apply to appellate filing fees incurred at either the Supreme Court or the Court of Appeals.

Thereafter, in *Sullivan v. South Carolina Department of Corrections*, 355 S.C. 437, 586 S.E.2d 124 (2003), the Supreme Court held that a prisoner is not

entitled to proceed in forma pauperis in *Al-Shabazz* appeals from the Administrative Law Judge Division. The Court further explained:

The General Assembly is the body charged with the power to waive filing fees, and they have not created a waiver for this set of cases. Further, this is not a case involving "fundamental rights," so access to the courts is not constitutionally required in this case. Therefore, Sullivan is not entitled to proceed in forma pauperis on his appeal from the ALJ's dismissal.

586 S.E.2d at 128.

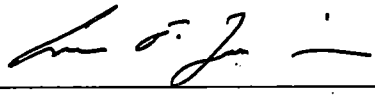
In the present case, there is no statutory provision allowing this Court to waive the payment of a \$250 filing fee as required pursuant to Rule 203(d), SCACR, under the circumstances presented by the Appellant. Rule 203(d), SCACR, provides only two exceptions: (1) for a criminal appeal, and (2) for an appeal by the State of South Carolina or its departments or agencies. Neither exception is applicable here. Moreover, the Appellant does not enjoy a constitutional right to an appeal in this type of litigation. The Appellant's lawsuit alleges claims for false arrest and malicious prosecution against the Sheriff's Department based on an arrest and prosecution occurring in the 1992-1994 time frame. The lawsuit does not raise any constitutional claims. Furthermore, it is abundantly clear from the face of the Complaint that the claims are time-barred. In short, this action does not require or merit the waiver of filing fees, including appellate filing fees.

Based on the foregoing discussion, the Respondent Richland County Sheriff's

Department opposes the Appellant's motion to proceed in forma pauperis and requests that this Court dismiss the Appellant's appeal for failure to pay the filing fee required by law unless the Appellant immediately pays the required fee to perfect this appeal.

Respectfully submitted,

LINDEMANN, DAVIS & HUGHES, P.A.

BY:   
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*Counsel for Respondent  
Richland County Sheriff's Department*

September 16, 2019

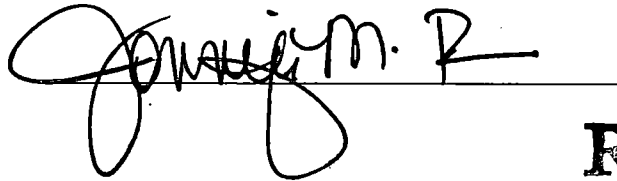
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**CERTIFICATE OF SERVICE**

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The undersigned employee of Lindemann, Davis & Hughes, P.A., counsel for the Respondent, does hereby certify that service of **Respondent's Return To Appellant's Motion to Proceed In Forma Pauperis** was made upon the *pro se* Appellant by placing a copy in the United States Mail, first class postage prepaid, at the below listed address clearly indicated on said envelope this the 16th day of September 2019:

George M. Adams, #181283  
Broad River Correctional Institution  
4460 Broad River Road  
Columbia, South Carolina 29210



A handwritten signature in black ink, appearing to read "George M. Adams", is written over a horizontal line.

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SEP 17 2019

SC Court of Appeals



Telephone (803) 881-8920  
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5 Calendar Court, Suite 202 (29206)  
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September 16, 2019

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*Of Counsel*

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The Honorable Jenny Abbott Kitchings  
Clerk of Court  
South Carolina Court of Appeals  
Post Office Box 11629  
Columbia, South Carolina 29211

RE: George M. Adams, #181283 v. Richland County Sheriff's Department  
Court of Appeals Case Number: 2019-001175  
Civil Action Number: 2019-CP-40-2137  
Claim Number: Risk Management  
Our File Number: 314.20191

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Dear Ms. Kitchings:

Please find enclosed for filing the original and even copies of **Respondent's Return to Appellant's Motion to Proceed In Forma Pauperis** in the above referenced matter. Please file the original and return a clocked-in copy to me in the enclosed envelope. By copy of this letter, I am serving a copy on the *pro se* Appellant.

Thank you for your assistance. If you have any questions, please advise.

Sincerely,

LINDEMANN, DAVIS & HUGHES, P.A.

Andrew F. Lindemann

AFL/jmb  
Enclosures

cc: (w/ Enclosure)

George M. Adams, #181283  
Broad River Correctional Institution  
4460 Broad River Road  
Columbia, South Carolina 29210



**LDH** LINDENMANN  
DAVIS &  
HUGHES  
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The Honorable Jenny Abbott Kitchings  
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South Carolina Court of Appeals  
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