

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

Appeal from the Administrative Law Court  
The Honorable S. Phillip Lenski, Administrative Law Judge  
Docket No. 19-ALJ-18-0047-AP

RECEIVED

JAN 13 2020

SC Court of Appeals

Case No. 2019-001835

Alonzo Jeter, III, . . . . . APPELLANT,  
v  
South Carolina Department of  
Social Services . . . . . RESPONDENT.

MOTION FOR REHEARING

The Appellant, Alonzo Jeter, III, motions this Court pursuant to RULE 240 (i), SCACR, for a rehearing on Appellant's Motion To Proceed In Forma Pauperis which Appellant filed with this Court on October 31, 2019.

This Court denied Appellant's Motion To Proceed In Forma Pauperis on December 20, 2019, pursuant to Ex parte Martin, 321 S.C. 533, 471 S.E.2d 134 (1995). Appellant received this Court's decision on this motion via the Tiger River Correctional Institution mailroom on December 31, 2019.

Appellant files this Motion for Rehearing on the Motion To Proceed In Forma Pauperis as the Order denying Appellant leave to proceed in forma pauperis is functional equivalent of a dismissal of Appellant's Appeal. Rule 240 (i), SCACR, the court will not entertain petitions for rehearing on a motion or petition unless the action of the court on the motion or petition has the effect of dismissing or finally deciding a party's appeal.

Appellant seeks a rehearing and reconsideration on his Motion To Proceed In Forma Pauperis as Appellant seeks to bring to the attention of the Court, the inequity which results from this Court's denial of leave of Appellant to proceed in his appeal in forma pauperis.

Simply put, Appellant would remain without legal remedy if such privilege is not afforded, as he would be barred from the Court by no reason other than his impecuniosity.

Appellant is aware that this Court basis its determination upon the ruling of Ex parte Martin, 321 SC 533, 471 SE2d 134 (1995). Appellant is also aware that, "When indigent litigant[s] files motion to proceed in forma pauperis and complaint does not appear to fit within statutory or constitutional exception to requirement of filing fee, clerk of court must submit motion to Judge for ruling as to whether complaint fits within statutory exception or concerns fundamental right that requires waiver of filing fee. Martin v State, 321 SC 533, 471 SE2d 134 (1995).

However, Appellant is also mindful that, "Courts have inherent power to do all things reasonably necessary to insure that just results are reached to fullest extent possible". Ex parte Dibble, 279 SC 592, 310 SE2d 440 (1983).

Pursuant to Rule 203(d)(2)(B), SCACR, The notice filed with the appellate court shall be accompanied by the following: (iii) - A filing fee as set by order of the Supreme

Court. (By Order dated October 9, 2018, this filing fee was set at two hundred and fifty (\$250.00) dollars for a notice of appeal filed on or after October 15, 2018).

It can be reasonably inferred that this cost is set with the median income of working class citizens in mind, and therefore this fee amount would not seem to be an unreasonable fee amount for the average working citizen. However, Appellant seeks the Court's understanding that he is not an average working citizen as he is an incarcerated prisoner. Appellant would emphasize that he is in fact employed, however he is unable to earn wages for his employment due to South Carolina Laws and the Thirteenth Amendment to the United States Constitution.

Amendment XIII of the United States Constitution states as follows:

Section 1. Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

See also South Carolina Department of Corrections' policy, OP-21.04, "Inmate Classification Plan", which specifically states as follows:

37.10 Refusing to Work / Failure to Work / Refusing to Attend the Compulsory School Program: An inmate will not be allowed to refuse any work or mandatory educational assignment or other mandatory program. Such refusal will subject the inmate to disciplinary action.

In South Carolina courts, income below the federal poverty guidelines creates a presumption of indigency. See Rule 602, SCACR; Baird v City of Beaufort, South Carolina, 312 F.Supp.3d 503 (2018).

See also the proposed regulation drafted by the South Carolina Commission on Indigent Defense, 2019 SC REG TEXT 527006, which states, "A presumption that a person is indigent is created if the person is incarcerated."

Appellant emphasizes that his income is less than the Poverty Guidelines established and revised annually by the United States Department of Health and Human Services and published in the Federal Register under the authority of 42 USC 9902(2). This is because Appellant is in-fact employed but unable to earn wages for his employment due to South Carolina law. Appellant is destitute and his access to the Court is blocked by the imposition of undue hardship.

## CONCLUSION


N.A.A.C.P. v Meese, 615 F.Supp.200 (1985) - One of the basic principles, one of the glories, of the American system of justice is that the courthouse door is open to everyone - the humblest citizen, the indigent, the convicted felon, the illegal alien.

United States v Philip Morris USA Inc., 840 F3d 844, 426 U.S.App.D.C. 269 (2016) - "Extraordinary circumstances" is a high bar.

This 8<sup>th</sup> day of January, 2020  
at Enore, South Carolina

Alexz C. Setel, III  
APPELLANT/Prose  
Tyger River Correctional Inst.  
200 Prison Road  
Enore, SC 29335

Respectfully submitted,

  
Appellant does meet this high bar and it is equitable that this Court would rehear and reconsider and thereby grant Appellant's Motion to Proceed In Forma Pauperis to assure that Appellant, although destitute, has equal access and equitable opportunity to the judicial system. Appellant is impoverished and therefore a pauper not by his own free will and it is totally impossible that he would have access to pay any costs which are associated with the filing fee required for filing his appeal. The Motion to Proceed In Forma Pauperis should be granted by this Court in the interest of justice and equity.



South Carolina Court of Appeals

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

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12/20/2019

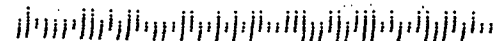
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DEC 30 2019  
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ALONZO C. JETER, III, 282902  
TYGER RIVER CORRECTIONAL INSTITUTION  
UPPER YARD  
200 PRISON ROAD  
ENOREE SC 29335-9308

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South Carolina Department of  
Social Services . . . . . RESPONDENT.

January 8, 2020

AFFIDAVIT OF GOOD FAITH

Appellant, Alonzo Jeter, III, files this Affidavit of Good Faith pursuant to Richardson v Stewart, 386 SC 282, 688 SE2d 124 (2010) and states as follows:

1. Appellant, in good faith, believes the appeal in which he files, motion to proceed in forma pauperis, and other filings which he file in association with this case and appeal are nonfrivolous and proper for the Court to consider.
2. Appellant, in good faith, believes that it is equitable that he as a pauper not by his own will would be afforded equal access to the judicial system by leave of this Court that he proceed in this action in forma pauperis as Appellant would remain without legal remedy if such privilege is not afforded.

Sworn and Subscribed before me  
this 8 day of JANUARY, 2020  
Pal Chen Chen

S/ [Signature]  
Alonzo C. Jeter, III  
APPELLANT / Prose  
Tyger River Correctional Institution  
200 Prison Road  
Enoree, SC 29335

Notary Public for South Carolina  
My Commission Expires: Dec. 10, 2020

STATE OF SOUTH CAROLINA  
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APPELLANT,

Alonzo Jeter, III, .....

South Carolina Department of  
Social Services, .....

RESPONDENT.

CERTIFICATE OF SERVICE

I, Alonzo C. Jeter, III, hereby certify that I have served the MOTION FOR REHEARING, and AFFIDAVIT OF GOOD FAITH, on Respondent by depositing the same in the United States Mail, postage prepaid, by and through the interagency mailroom at Tiger River Correctional Institution by placing the same in the hands of Tiger River Correctional Institution mailroom personnel on this 8th day of January, 2020, addressed as follows: Chad A. Mitchell, Esquire, SCDSS Office of General Counsel, PO Box 1520, 1535 Confederate Avenue, Columbia, SC 29202.

SWORN and Subscribed before me  
this 8th day of JANUARY 2020

*Paul Jern Creal*

Notary Public for South Carolina

My Commission Expires: Dec. 10, 2024

s/ *[Signature]*

Alonzo C. Jeter, III  
APPELLANT/PRO SE

Tiger River Correctional Inst.  
200 Prison Road  
Enoree, SC 29335

January 8, 2020

Alonzo C. Jeter, III  
Tyger River Correctional Institution  
U-7-101/#282902  
200 Prison Road  
Enoree, SC 29335

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

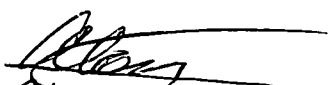
RE: Alonzo C. Jeter, III, v South Carolina Department of Social  
Services; Appellate Case No. 2019-001835

Dear Honorable Clerk:

Enclosed please find for filing, the MOTION FOR REHEARING,  
AFFIDAVIT OF GOOD FAITH, and CERTIFICATE OF SERVICE  
for the same.

Please also find enclosed, one (1) additional copy of the same  
along with a self-addressed stamped envelope. Please return  
to me by way of this SASE, filed-stamped copies of these  
said documents.

Thank you for your assistance in this matter.

Sincerely,   
Alonzo C. Jeter, III  
APPELLANT/Prose

cc: Chad A. Mitchell, Esquire  
FILE

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