

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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APPEAL FROM RICHLAND COUNTY
COURT OF COMMON PLEAS
JOCELYN NEWMAN, Circuit Court Judge

SC Court of Appeals

Appellate Case No.: 2019-001175

George M. Adams, #181283 Appellant,

v.

Richland County Sheriff's Department . . . Respondent.

FINAL BRIEF OF APPELLANT
PRO SE

Respondent Attorney
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LEGAL MAIL

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TABLE OF AUTHORITY

STATE v. BENNETT, 81 S. CT. 895 (1961)
BOODIE v. CONNECTICUT, 91 S. CT. 780 (1971)
BOND v. SMITH, 97 S. CT. 1491 (1977)
LAKES v. STATE, 510 S. E. 2d 228 (1998)

OTHER AUTHORITY

SOUTH CAROLINA MAGISTRATE COURT RULE 4(A)
SOUTH CAROLINA MAGISTRATE COURT RULE 5(C)
SOUTH CAROLINA CONSTITUTION ARTICLE I, SECTION 3
UNITED STATES CONSTITUTION AMENDMENT 14

STATEMENT OF ISSUES

1. THE LOWER COURT OF COMMON PLEAS ERRORED IN DENYING INCARCERATED INDIGENT PRISONER, (INMATE), VENUE TO PROCEED IN FORMA PAUPERIS FILING, CHALLENGING HIS CONVICTION IN MAGISTRATE COURT.

STATEMENT OF ISSUE ON APPEAL

Did the Lower Court of Common Pleas error in denying indigent prisoner venue to proceed in forma pauperis, challenging his conviction in Magistrate Court?

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STATEMENT OF FACTS

ON April 4, 2019, the Appellant made service through certified mail a summons and Complaint, Affidavit to Proceed in Forma, Notice of Hearing, Request for Hearing, and proposed order to transport to Magistrate Court. (R. p. 1-194).

April 8, 2019, Waverly Magistrate Office Clerk of Court filed stamped inmate's Complaint and Motions. (R. p. 1, 194).

April 18, 2019, inmate's Complaint and Motions were filed in the Court of Common Pleas. (R. p. 1-14).

MAY 28, 2019, Richland County Clerk informed inmate in a he needed to pay the \$150.00 filing fee in order for the Complaint to be filed in the Court, before May 31, 2019, or the case would be dismissed. (R. p. 1, 194).

JUNE 3, 2019, the Judge of Common Pleas Court issued a order dismissing the Complaint for failure to pay the required filing fee. (R. p. 198).

JUNE 18, 2019, inmate's motion for reconsideration was denied. (R. p. 199).

And this Appeal is as follows:

Argument

Appellant Adams Access to File this Action in Magistrate Court, in the County where the most substantial part of the cause of action arose is a fundamental right. South Carolina Magistrate Court Rule 4 (a) establishes jurisdiction, upon Appellant's filing of summons and complaint in Magistrate Court, challenging his conviction. The magistrate judge clerk was required by South Carolina Magistrate Court Rule 5 (c), to submit the motions and affidavit to proceed in forma pauperis to the magistrate judge. Whose ruling was not established, as to whether the complaint, (for the first time), fail within one of the due process exceptions or whether the cause of action concerned a fundamental right that required waiving of the filing fee. (R.P. 198,149). The Appellant would respectfully oppose a question upon the Court. How did the action jurisdiction of filing in the Magistrate Court April 8, 2019, move to the Circuit Court of Common Pleas? South Carolina Magistrate Court Rule 5 (c) gives the Magistrate Judge discretion in this action to make a ruling on the constitutional exception.

Appellant's constitutional right as a prisoner access to the Magistrate Court was denied by the Court of Common Pleas. The Constitution of 1868 has been long since adopted by this Court of Appeals, and is the fundamental law of this state, having as full, force of validity. State v. Bennett, 81 S. Ct. 895 (1961); Boodie v. Connecticut, 91 S. Ct. 780 (1971). The constitutional fundamental principles preserved Appellant's practical right to be heard on the action in Magistrate Court, and limited powers of a higher court, until fully adjudicated in Magistrate Court. The effect of failure to prosecute this action in Magistrate Court, coupled with the Court of Common Pleas order of refusal, was to deny access to the state's Magistrate Court's jurisdiction to prosecute this action. Adams is a prisoner, and for the first time seeking

Access to the Magistrate on this civil action threatening his personal interest of (1) FALSE ARREST (2) FALSE IMPRISONMENT (3) PERJURY AND (4) MALICIOUS PROSECUTION. Bond v. Smith, 97 S. Ct. 491 (1977)!

The Magistrate Court judge remedies on securing Adams access to the court required nine (9) steps of the totality test, the court should have established in determined from the cause of action filed April 8, 2019.

In determination from review without the lower court's appropriate jurisdictional ruling, the court of common pleas judge discretion to deny Adams access to file this action in Magistrate Court was a miscarriage of justice.

Conclusion

For the reasons stated, this court is requested to reverse the judgment of the court of common pleas, and remand to the Magistrate Court this action for filing, processing for final judgment. Preserving the right to appeal if it's necessary to the next court.

Respectfully
George M. Adams
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DATE: FEBRUARY 24, 2020
COLUMBIA, S.C. 29210

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JOCELYN NEWMANO, Circuit Court Judge

Appellate Case No.: 2019-001175

GEORGE M. ADAMS, #181283 Appellant,
v.
RICHLAND COUNTY SHERIFF'S DEPARTMENT Respondent.

CERTIFICATE OF COUNSEL

The undersigned certifies that this Final Brief Complies with
Rule 211 (b), SCACR.

Sl. George M. Adams
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DATE: FEBRUARY 26, 2020
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