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MAY 14 2020

SCAC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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

Case No. 2019-001835

Alonzo Jeter, III, APPELLANT,

South Carolina Department of
Social Services, RESPONDENT.

MOTION FOR REHEARING

The Appellant, Alonzo Jeter, III, motions this Court pursuant to RULE 240(d), 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 issued its Order dated December 20, 2019, whereby Appellant's motion was denied.

As it was clear to Appellant that he would be unable to earn any money or gain any assistance in acquiring the necessary funds to satisfy the costs of the filing fee, Appellant sought to explain the circumstances to this Court and did so by filing a Motion For Judicial Notice of Indigence on April 28, 2020.

This Court, without making any response or any action on

Appellant's Motion For Judicial Notice, issued its Order dated April 29, 2020, dismissing the Appeal due to Appellant's inability and thus failure to pay the notice of appeal filing fee. Appellant received notice of this Order by and through the Tiger River Correctional Institution's Legal Mail System on May 6, 2020.

REHEARING

Appellant files this Motion for Rehearing on the Motion To Proceed In Forma Pauperis as Appellant seeks to bring to the attention of this Court, the inequity which results from this Court's denial of leave that Appellant proceed in the appeal in forma pauperis, as well as the inequity which results as this Court dismisses the appeal based solely on Appellant's impecuniosity and inability to pay.

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 and discretion upon the ruling of Ex parte Martin, 321 S.C. 533, 471 SE2d 134 (1995). Appellant is also aware that, "When indigent litigants] 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).

Appellant would submit that this Court treads on and denies/violates the 5th, 8th, 9th, and 14th Amendments of the United States Constitution as this Court would close the doors to the Court based on Appellant's destitution, especially and importantly when it is the State's laws and regulations which bars Appellant from pay for his employment as an inmate in prison, which pay would allow Appellant income and income which would be more than the Poverty Guidelines.

Appellant is aware that this Court, in its discretion could allow Appellant to proceed in his appeal in forma pauperis. Ex parte Dibble, 279 SC 592, 310 SE2d 440 (1983) - "Courts have inherent power to do all things reasonably necessary to insure that just results are reached to fullest extent possible".

It can be reasonably inferred that the costs, (\$250.00) of the filing fee, which was set by Order dated October 9, 2018 (Rule 203(d)(2)(B), SCACR), was 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 who is in fact employed within the prison but is unable to earn wages for his employment due to South Carolina Laws and Regulations.

The "work without pay" scheme is allowed to exist and function due to the Thirteenth Amendment of the United States Constitution which 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.

Therefore this allowance of the Thirteenth Amendment is embraced and entailed within the policy of the South Carolina Department of Corrections (Policy OP-21.04), titled, "Inmate Classification Plan" as this policy which governs Appellant 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.

Appellant would show the Court that, In South Carolina Courts, income below the federal poverty guidelines

Creates a presumption of indigency. See Rule 602; SCACR; Bairefoot 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 U.S.C. 9902(a). 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., 840F3d 844, 426 U.S. App. D.C. 269 (2016) - "Extraordinary Circumstances" is a high bar.

Appellant does meet this high bar in circumstance and it is equitable that this Court would rehear and would 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 so due to South Carolina laws and regulations and the Thirteenth Amendment of the United States Constitution. It is totally unreasonable and impossible that Appellant would have access to the means at this time to pay any costs which are associated with the filing fee, etc required for the filing of his appeal. The motion To Proceed In Forma Pauperis should be granted by this Court as the Appellant prays this Court do so in the interest of Justice and equity.

Respectfully submitted, 

Alanzo C. Jeter, III
APPELLANT/Pro se
Tyger River Correctional Inst.
200 Prison Road
Enoree, South Carolina 29335

This 1 day of May, 2020.

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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The Honorable S. Phillip Lenksi, Administrative Law Judge
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MAY 14 2020
SC Court of Appeals

Case No. 2019-001835

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

AFFIDAVIT OF GOOD FAITH

Appellant, Alonso 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 files in association with this case and appeal are not frivolous and proper for the Court to consider as the issues presented are novel and no South Carolina case law exists which explores the matters therein.
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.

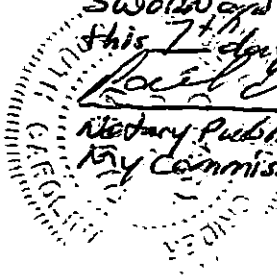
Sworn and Subscribed before me
this 7th day of MAY, 2020

Robert Dennis Cree

Notary Public for South Carolina
My Commission Expires: DEC 10, 2024

s/ [Signature]

Alonso C. Jeter, III
APPELLANT/Pro se
Tyger River Correctional Institution
200 Prison Road
Emeric, South Carolina 29335



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The Honorable S. Phillip Lenksi, Administrative Law Judge
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Case No. 2019-001835

Alonso Jeter, III, APPELLANT,

South Carolina Department of
Social Services, RESPONDENT.

CERTIFICATE OF SERVICE

I, Alonso C. Jeter, III, hereby certify that I have served the Motion
For Retaining and Affidavit of Good Faith, on Respondent by
depositing a copy of the same inside of a postage prepaid envelope
and placing said envelope in the hands of Tyger River Correctional
Institution's mail room personnel on this 7 day of May,
2020, for mailing via the United States mail, 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 7th day of MAY, 2020
[Signature]
Notary Public for South Carolina
My Commission Expires: Dec. 10, 2021

[Signature]
Alonso C. Jeter, III
APPELLANT / Pro se
Tyger River Correctional Institution
200 Prison Road
Enoree, South Carolina 29335

May 7, 2020

Alonzo C. Jeter, III
Tyger River Correctional Institution
200 Prison Road
Enderlee, SC 29333

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

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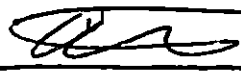
RE: Alonzo C. Jeter, III, v South Carolina Department of Social
Services; Appellate Case No. 2019-001835

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/Pro se

cc: Chad A. Mitchell, Esquire
FILE

Alonzo C. Jeter, III
Tyger River Correctional Institution
200 Prison Road
Enoree, South Carolina 29335



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MAY 07 2020
TYRGI MAILROOM

The Honorable Jenny A. Kitchings
Clerk, South Carolina Court of Appeals
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