

THE STATE OF South Carolina
IN THE COURT OF APPEALS

APPEAL FROM THE ADMINISTRATIVE LAW COURT
DEBORAH BROOKS AULDEN ADMINISTRATIVE LAW JUDGE

APPELLATE CASE NO. 2020-000582

JEROME McFadden, #136919, APPELLANT

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MAY 22 2020

v.
South Carolina Department of Corrections, Respondent
SC Court of Appeals

Affidavit IN Support for Motion
for EXTENSION of time to file initial
brief AND Designated Matters on
Appeal; AND Motion for the Appointment
of Counsel

THE Appellant JEROME McFadden, #136919, first being
duly sworn AND states the following:

1. That this matter initially derives from his
having filed a SECTION 1983 CIVIL ACTION AGAINST
PRISON OFFICIALS IN 2000. THEREIN, THE COMPLAINT WAS
ESSENTIALLY THAT PRISON AUTHORITIES WAS INDIFFERENT TO HIS
CUSTODY LEVEL AND WELL BEING AND THAT AS A DIRECT RESULT,
APPELLANT GOT INTO A KNIFE BATTLE WITH ANOTHER
INMATE. APPELLANT WAS NOT ONLY CHARGED ADMINISTRATIVELY
BUT ALSO INDICTED AND STOOD TRIAL FOR ASSAULT AND
BATTERY WITH INTENT TO KILL. AFTER A MISTRIAL, -

Appellant had been exonerated.

The District Court, The Honorable Margaret B. Seymour, Judge, dismissed the action without prejudice to allow Appellant to exhaust Administrative Remedies. The case was paid for in full upon its filing.

2. The Matter presently pending before the Court, for retaliatory action against the appellant in his second filing of a section 1983, filed pursuant to section 1915 of the U.S. Code on June 14, 2012, (C/A No. CV-01629-BHH). The District Court dismissed the action in December of 2012, and an appeal was taken to the Fourth Circuit Court of Appeals. The Appeals Court REVERSED (by UNpublished opinion) the judgment of the District Court and remanded the case for further proceedings in April of 2013. Appellant did not receive an order from the Appeals Court for the payment of fees in this first appeal and he did not sign a consent document to pay fees. Thus, Appellant was only charged by the District Court of \$350.00 dollars, the initial filing fee of the second section 1983 civil action. Again the District Court dismissed the action on remand, and a second appeal was taken to the U.S. Court of Appeals. Here, Appellant consented to pay fees of \$505.00 dollars as ordered by the court. No other fees was consented to by Appellant in connection with Appeals in these filings.

IN the Appeal to the Administrative Law Court, the Appellant contends that due to the amount of money he received from family to his prison account, that each time that he received money to his prison account 20 percent was removed (assuming for payment of court fees) which should have satisfied payment for these court cost. The account history of incoming funds and that which Appellant was actually allowed to spend verify Appellant's claim; also Appellant contends that "income" with respect to 28 U.S.C. SECTION 1915 (b) that Congress legislative intent with this term was with respect to prison wages while incarcerated, and the plain language of the statute reads that way; And Appellant has a property interest in his account, and the state officials has erred and therefore violated due process right guaranteed by the 14 Amendment to the U.S. Constitution. The Administrative Law Judge Deborah Brooks Burden, disagreed with Appellant, and this Appeal follows.

3. With regard to Motion for EXTENSION of time to file initial brief and designated MATTERS ON Appeal. IN addition to the COVIDA pandemic's impact of the PERSONNEL for the institution: the law library is operated by security officer Jacobbs, who often times is either NOT AT WORK or due to lack of staff, has to work in some other AREA of the institution.

MORE SPECIFICALLY, ON MAY 5, 2020, I REPAIRED TO THE LAW LIBRARY WITH AN OFFICIAL PASS ISSUED BY LT BLACKBURN DUE TO MY HAVING A DEADLINE AS ORDERED BY THIS COURT, AND SECURITY OFFICER JACOBBS DENIED ME ENTRY AND TOLD ME THAT "SHE DID NOT HAVE TO ALLOW ME TO ENTER THE LAW LIBRARY AT ALL DESPITE A DEADLINE, BECAUSE SHE RUNS THE BUILDING". I'VE SEEN THIS ATTITUDE BEFORE, MANY TIMES, AND WILL NOT BE RETURNING TO THAT BUILDING FOR NO REASON LEGAL OR OTHERWISE. AND THEREFORE, IMPLORER MORE TIME TO PREPARE THE BRIEF.

4. With regard to Motion for appointment of COUNSEL.

THE APPEAL REQUIRE THE ACCOUNT RECORDS IN QUESTION, AS DUE PROCESS, AND FUNDAMENTAL FAIRNESS DEMANDS, SO THAT APPELLANT CAN SHOW THE MERIT AND TRUTH OF HIS CLAIM THAT HE HAS IN FACT SATISFIED THE COURT FEES IN QUESTION; OR THAT 20 PERCENT WAS TAKEN OUT OF THE ACCOUNT OF APPELLANT UPON EACH RECEIPT OF A MONEY ORDER CREDITED TO HIS ACCOUNT BY HIS FAMILY.

IN ADDITION, A LAWYER ALSO HAS ACCESS TO A BETTER LAW LIBRARY AND CAN HELP THE COURT IN THE REVIEW OF THE (OBVIOUSLY) NOVEL ISSUE WITH REGARD TO CONGRESS INTENT ON "INCOME"; AND QUIET FRANKLY JUDGES AND THE COURTS ARE MORE LIKELY TO TAKE A LAWYER SERIOUSLY THAN A PRO SE LITIGANT.

This Appeal, like previous litigation against prison officials, will more than likely result in Appellant being retaliated against which causes his imprisonment to be "atypical to the normal incidents of prison life". So in order to guarantee Appellant's constitutional right to access the courts, an attorney should be appointed by the court (one of its officers), sworn to defend and protect the Constitution. And May the Grand Master of the Universe Guide this Court.

So mote it be! *Jerome McFadden*

JEROME McFADDEN
PERRY Correctional Inst.
430 OAKLAWN Road
Pelzer, SC. 29669

Sworn before me this
18th day of MAY 2020

Jamara Conwell
Notary Public

My Commission Expires
September 25, 2023
My Commission EXPIRES

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MAY 18 2020

P.C.I. MAILROOM

The State of South Carolina
IN THE COURT OF APPEALS

Appeal From The Administrative Law Court
Deborah Brooks Durden Administrative Law Judge

Appellate Case No. 2020-000-582

JEROME MCFADDEN, #136919, Appellant

V.

South Carolina Department of Corrections, Respondent

MOTION FOR EXTENSION OF TIME TO FILE
INITIAL BRIEF AND MATTERS DESIGNATED
ON APPEAL

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MAY 22 2020
SC Court of Appeals

The Appellant JEROME MCFADDEN, #136919, moves the court to extend the time for filing the initial brief of Appellant and MATTERS DESIGNATED ON APPEAL. IN SUPPORT OF THE MOTION, THE APPELLANT SHOWS THE FOLLOWING TO THE COURT:

1. PERSONNEL THAT OPERATES THE LAW LIBRARY HERE WAS OUT MOST OF MARCH AND ALL EXCEPT THE LAST WEEK OF APRIL AND THE LIBRARY WAS CLOSE WHICH DENIED ME ADEQUATE EXCESS NEEDED TO RESEARCH AND DRAFT AN ADEQUATE BRIEF;
2. THE CORONA PANDEMIC WILL IMPACT ON HOW MANY OFFICERS COME TO WORK DAY-TO-DAY WHICH ALSO WILL LIMIT MY HAVING EXCESS TO THE LAW LIBRARY;
3. AS A PRO SE LITIGANT ADDITIONAL TIME IS REQUIRED.

to read and comply with the rules.

With regard to a Memorandum of Law. *IN HENNING V. KAYE* 307 S.C. 436, 415 S.E.2d 794 March 11, 1992, The Supreme Court, HARWELL, C.J., held that "failure to comply with appellate court rules with regard to initial brief did not require dismissal"; that, "Appellate court rules are not mere technicalities but provide the parties and this court with an orderly mechanism through which to guide appeals in this state".

Wherefore, Appellant respectfully submits that good cause exists for the Court to extend the time for filing the brief beyond the order of the Court granting Appellant leave to proceed *in forma pauperis* dated Apr. 29. 2020

So mote it be!

Jerome McFadden

Jerome McFadden #1326919
Pelzer Correctional Institution
430 OAKLAND ROAD
Pelzer, SC 29669

This 18th day of May 2020

The State of South Carolina
IN THE COURT OF APPEALS

Appeal From the Administrative Law Court
Deborah Brooks Darden Administrative Law Judge

Appellate Case No. 2020-000582

JEROME McFadden, #136919, Appellant

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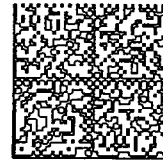
V.
South Carolina Department of Corrections, Respondent

CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT I HAVE SERVED THE FOLLOWING MOTIONS: 1. A MOTION FOR EXTENSION OF TIME TO FILE INITIAL BRIEF AND MATTERS DESIGNATED ON APPEAL; 2. MOTION FOR THE APPOINTMENT OF COUNSEL; 3. AND AN AFFIDAVIT IN SUPPORT OF SAID MOTIONS ON COUNSEL FOR RESPONDENT ANNIE LAURIE RUMLER, ESQUIRE, AT P.O. BOX 21787, 4444 BROAD RIVER ROAD, COLUMBIA, SC 29221, BY DEPOSITING SAME IN THE INSTITUTION MAIL SYSTEM POSTAGE PREPAID.

THIS DAY OF MAY 2020

JEROME McFadden #136919
PENNY CORRECTIONAL INSTITUTION
430 OAKLAND ROAD
PELZER, SC. 29669



U.S. POSTAGE PITNEY BOWES



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SCDC

MAY 22 2020

COMMISSARY

South Carolina Court of Appeals
JENNY Abbott Kitchings, Clerk
Post Office Box 11629
Columbia, South Carolina 29211

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