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STATE OF SOUTH CAROLINA
COURT OF APPEALS

DEC 23 2020

SC Court of Appeals

~~Appeal from final Agency Decisions~~
Denying Grievance LEECI-0251-20,
LEECI-0338-20
LEECI-0339-20

Appellate Case No. 2020-001555

ROBERT WILLIAM WAZNEY, Appellant,

v.

S.C. Dept. of Corrections, Respondent.

~~THE APPELLANT'S MOTION FOR REHEARING~~

The appellant, ROBERT WILLIAM WAZNEY, pursuant to rule 221, SCACR, moves the court to reconsider, and modify, its December 8, 2020 opinion. In support of the motion, the appellant shows the following the court:

Affidavit or Declaration

~~COMES NOW, ROBERT WILLIAM WAZNEY, Appellant, in the above-titled action,~~
~~who after being duly sworn deposes and states:~~

I, ROBERT WILLIAM WAZNEY, am the Appellant in this action, and this is my affidavit or declaration in support of THE APPELLANT'S MOTION FOR REHEARING. I have personal knowledge of the subject matter and basis for that knowledge in this action. I have filed a notice of appeal from a decision of the South Carolina Department of Corrections (Decision) with the South Carolina Court of Appeals. However, the S.C. Court of Appeals has dismissed the action due to its "lack[] [of] jurisdiction". I originally filed a Notice of Appeal against Decision with Administrative Law Court (ALC) but ALC would not entertain my Notice of Appeal due to its policy where it will not entertain more than three (3) appeals per year, unless filing fees are paid. I have filed over three appeals in a calendar year and I am indigent. I cannot afford to pay filing fees with the ALC, and the ALC will not waive the filing fee, nor will ALC entertain my papers because I have filed more than three appeals with ALC, and for these reasons is why I filed Notice of Appeal with S.C. Court of Appeals; to resolve my grievances. I am an indigent prisoner of the State and cannot afford filing fees, and the issues I have grieved involve federal law where South Carolina Department of Corrections (SCDC) has violated my Constitutional rights as a United States Citizen. But the ALC will not hear my complaints, and now, South Carolina Court of Appeals will not hear my complaints either. The Courts not hearing my complaints violates my rights as a Citizen of the United States.

Also, I requested this case to be severed by the S.C. Court of Appeals on 12/12/20, however, the Court made its decision before it heard my Motion to Sever, crossing in the U.S. Mail and service of it's 12/8/20 Order being made 12/17/20. The issues are, and will be, very confusing concerning the many violations of Constitutional law committed by SCDC upon me, ROBERT WILLIAM WAZNEY. The Court should not have consolidated the three appeals upon the Courts own Motion, it makes the issues confusing for everyone, and will result in misunderstanding of the claims of my complaints. The issues invovled are a taking of my private property and other circumstances surrounding such taking. And the other issues are where Warden has held my legal-mail for durations of time past Court-deadlines and thwarting the cases related to those deadlines and causing me harm.

In support of my claims I declare under penalty of perjury the foregoing is true and correct.

December 20, 2020.

/s/

ROBERT WILLIAM WAZNEY, Appellant

1. This court overlooked a material fact in the record and has erroneously misapplied a provision of law and a controlling authority in the following respects:

a. Appellant, an indigent prisoner, has petitioned SCDC by Grievance through State Agency grievance process and which Grievance has gone unresolved. Appellant has appealed State Agency adverse decision by Notice of Appeal to ALC, ALC will not hear Appellant's claim unless Appellant pays ALC fees, Appellant cannot afford ALC fees and ALC will not provide exception. Appellant grievances have gone unresolved, which leaves South Carolina Court of Appeals to hear Appellant's claims of violations of Constitutional law committed by SCDC. Appellant has filed Notice of Appeal with S.C. Court of Appeals Pursuant SCACR 202(b)(2); 203(b)(6),(d)(2); 203(d)(3) and 260, and S.C. Court of Appeals has dismissed Appellants Appeal for lack of jurisdiction. United States Constitution Amendment 1 reads: "Congress shall make no law ... abridging ... the right of the people peaceably to assemble, and to petition the Government for a redress of grievances." State Government is not providing Appellant with means to petition the Government for a redress of grievances, Appellant is being deprived his fundamental right to petition the Government where strict application of State Court Rules and policy is without procedural due process and in violation of United States Constitution Amendment 14. The filing of a lawsuit carries significant constitutional protections, implicating the First Amendment right to petition the Government for redress of grievances and the right of access to the courts. Hoerber For and on Behalf of N.L.R.B. v. Local 30, United Slate, Tile & Composition Roofers, Damp and Waterproof Workers Ass'n, AFL-CIO, C.A.3 (Pa.) 1991, 939 F.2d 118. Appellants exclusion from forum infringes upon Appellants First and Fourteenth Amendment rights. Seum v. Osborne, 348 F.Supp.3d 616; U.S.Const.Amends. 1, 14.

2. The material fact overlooked requires a different decision from that rendered by the South Carolina Court of Appeals.

3. The decision that should have been rendered is for the Court to obtain jurisdiction and to hear ROBERT WILLIAM WAZNEY's claims of violations of United States Constitution made against ROBERT WILLIAM WAZNEY by SCDC. And, the Court should hear and grant ROBERT WILLIAM WAZNEY's Motion to Sever.

WHEREFORE, the appellant respectfully requests the Court to reconsider its December 8, 2020 opinion and rule in favor of the appellant to obtain jurisdiction in this matter and to consider, hear, and grant appellants Motion to Sever, and any other relief as this Court deems just and equitable.

December 20, 2020.

/s/

ROBERT WILLIAM WAZNEY
990 Wisacky Highway
Bishopville, SC 29010
Appellant

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CERTIFICATE OF SERVICE

I did this date serve THE APPELLANT'S MOTION FOR REHEARING, by placing the same in the United States Postal Service mail, postage paid, and addressed as follows:

S.C. Court of Appeals
PO Box 11629
Columbia, SC 29211

Christina Catoe Bigelow
c/o S.C. Dept. of Corr.
PO Box 21787
Columbia, SC 29221-1787

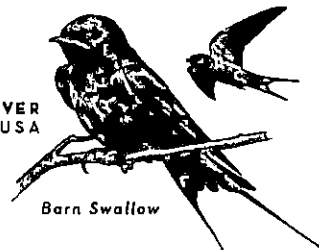
This 20 day of December, 2020.

/s/

ROBERT WILLIAM WAZNEY

ROBERT WILLIAM WAZNEY
c/o Lee Correctional Institution
F32214 363679
990 Wisacky Highway
Bishopville, SC 29010

FOREVER
USA



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PO Box 11629
Columbia, SC 29211

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