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SC Court of Appeals

STATE OF SOUTH CAROLINA
In the Court of Appeals

Appeal from Unknown

App. Case No. 2020-001658

ROBERT WILLIAM WAZNEY, Appellant,

v.

S.C. Dept. of Corr., Respondent.

PETITION FOR REHEARING

I, ROBERT WILLIAM WAZNEY, am in receipt of this Courts ORDER filed 1/6/21 which I received on 1/14/21, the ORDER states the appeal is dismissed for various reason(s) but the ORDER does not reference any paper from which its Appellate case number has manifested, and which ORDER case number could not be ascertained until my receipt of this courts 1/15/21 paper indicating reference LEECI-0340-20 to this case which I received on 1/25/21. Being unable to file papers in argument against--or agree to--such ORDER of 1/6/21 until ascertaining reference to Appellate case number, comes now this Petition for Rehearing within 15 days of this courts not incomplete notice.

I declare under penalty of perjury the foregoing is true and correct.

/s/

ROBERT WILLIAM WAZNEY
990 Wisacky Hwy.
Bishopville, SC. 29010
Appellant, Pro se (forced)

Executed January 29, 2021.

PETITION FOR REHEARING

1. Appellant, who is a United States Citizen and captive of the State of South Carolina, filed a notice of appeal from a Memorandum of the Administrative Law Court (ALC) explaining that Appellant's appeal will not be processed unless it is accompanied by the appropriate filing fee. The Memorandum is a final order because there is no further act which must be done by the court prior to a determination of the rights of the Appellant, and therefore the order is not interlocutory. HOWEVER, South Carolina Court of Appeals (SCCOA) dismissed appellate case 2020-001658 because it believes the Memorandum is not a final order.

2. Judicial review may only be sought from a final decision of the ALC. S.C. Code Ann. § 1-23-610(A)(1)(Supp. 2019). And "if there is some further act which must be done by the court prior to a determination of the rights of the parties, the order is interlocutory." Charlotte-Mecklenburg Hosp. Auth. v. S.C. Dep't of Health & Env'tl. Control, 387 S.C. 265, 267, 692 S.E.2d 894 (2010).

3. Therefore, ALC Memorandum is a final order which gives SCCOA jurisdiction to hear Appellants appeal.

Affidavit or Declaraion
In Support of Petition for Rehearing

4. I am ROBERT WILLIAM WAZNEY, Petitioner, Appellant, in this action Petition For Rehearing, Appellate Case No. 2020-001658.

5. Because an inmate has the right to petition the courts concerning not only his or her conviction, but also the constitutionality of the conditions of his or her confinement, and access to the courts is a fundamental right and all other rights of an inmate are illusory without it, I filed Grievance with South Carolina Department of Corrections, and that Grievance went unresolved. I appealed that decision to ALC, but ALC told me I could not appeal to ALC because I cannot afford to pay them to hear the case, and ALC told me that through Memorandum. I appealed that Memorandum decision to SCCOA, but SCCOA said it lacks jurisdiction and dismissed the case in belief it is not ALC final order.

6. 1/9/21 I filed motion with SCCOA entitled Request For Extra Time, and in that Motion I notified SCCOA the the court has not provided me with a case number. I am in receipt of SCCOA decision filed 1/6/21 which I received on 1/14/21, but the Order--again--did not reference any paper from which its case number has manifested. Being stymied I sent request to SCCOA on 1/19/21 requesting from the court the case number again. On 1/15/21 SCCOA paper gave me reference number of LEECI-0340-20 and which I received on or about 1/25/21. I now file this Petition For Rehearing against the 1/6/21 Order.

7. The Memorandum from ALC is that particular courts' final order and I have no other option to file my appeal with any other court from my unresolved Grievance LEECI-0340-20, so I filed my appeal with SCCOA.

8. I need and request extra time from this Court to provide copy of the Order in which this instant Petition originates due to circumstances beyond my control and due to circumstances of Covid-19. I request an extra 30 days.

9. I declare under penalty of perjury the foregoing is true and correct.

ROBERT WILLIAM WAZNEY

Appellant, Petitioner, pro se (forced)

January 29, 2021.

CONCLUSION

10. PREMISES CONSIDERED, Appellant hereby requests this Courts reconsideration to hear my argument concerning the violation of my United States Constitutional Rights committed by South Carolina Department of Corrections Warden.

11. I declare under penalty of perjury the foregoing is true and correct.

/s/

ROBERT WILLIAM WAZNEY

990 Wisacky Highway Bishopville, SC 29010

Appellant, Petitioner, pro se (forced)

January 29, 2021.

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ROBERT WILLIAM WAZNEY, Appellant,

v.

S.C. Dept. of Corr., Respondent.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that true and correct copies of the foregoing PETITION FOR REHEARING was served upon all parties to this action by placing copy of the same in the U.S. Mail postage pre-paid and addressed to the following addresses on this day:

S.C. Court of Appeals
PO Box 1629
Columbia, SC 29211

Office of General Counsel
at the Department of Corrections
4444 Broad River Road
Box 21787
Columbia, SC 29221-1787

/s/

ROBERT WILLIAM WAZNEY
990 Wisack Hwy.
Bishopville, SC. 29010
Appellant, Pro se (forced)

Executed January 29, 2021.

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

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