

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPELLATE CASE No. : 2021-000979

The Honorable Ralph King Anderson, III
Case No. : 2021-ALJ-0400941-IS

Kevin E. Herriott, Appellant,

vs.

South Carolina Department of Corrections, Respondent.

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SC Court of Appeals

PETITION FOR HEARING OR
REHEARING AND SUGGESTION
OF A PARTY FOR REHEARING EN BANC

NOW COMES the Appellant Kevin E. Herriott request for a(n) hearing or rehearing and suggest for rehearing en banc. Pursuant to Rule 221, SCACR and Rule 240, SCACR.

The Appellant Herriott directs the Court to the fact that the Court overlooked his affidavit to proceed in a pauper when deciding to dismiss the appeal due to not paying the Court filing fee. The Appellant submits that he has several pending actions before the Federal Courts and remains on a(n) pauper. However, this Court has decided for the Appellant to pay the Court filing fee up

front without even considering to accept monthly installments of twenty (20) percent (%) at least until the Court fee is paid in full whether the appeal is dismissed. The Appellant asserts that he does not have the funds to pay for the filing fee.

The Appellant demonstrates to the Court that he is currently on a pauper within the federal jurisdiction even while this case is being decided. See General Docket, United States Court of Appeals for the Fourth Circuit, Docket No.: 21-6085. This attached two (2) page document shows the Court of exactly how many cases the Appellant have that are still active and pending within the Federal jurisdiction. (See Appendix A p5) Nevertheless, the Appellant directs the Court attention to Appendix A p.6 Entry 5 that the Federal Court has granted the Appellant PLRA Application which is a(n) application of indigency.

Furthermore, the Appellant has standing that this appeal was decided wrong and should be reinstated. The Appellant asserts that given the knowledge of his indigency

the Court may accept the pauper and rule accordingly.

WHEREFORE UPON, the above legal premises the Appellant ask the Court to grant Petition for a) Hearing or Rehearing And Suggest For Rehearing En Banc.

Done This 22 Day of November, 2021.
Respectfully Submitted,

H. E. Herriott
Hevin E. Herriott, # T97826
Souza-Baranowski Corr. Center
Post Office Box 8000
Shirley, MA 01464

APPENDIX A

General Docket
United States Court of Appeals for the Fourth Circuit

Court of Appeals Docket #: 21-6085	Docketed: 01/15/2021
Nature of Suit: 3550 Prisoner - Civil Rights	Termed: 05/03/2021
Kevin Herriott v. Lieutenant Jackson	
Appeal From: United States District Court for the District of South Carolina at Greenville	
Fee Status: plra	

Case Type Information:

- 1) Prisoner Civil Rights
- 2) state
- 3) null

Originating Court Information:

District: 0420-6 : 6:20-cv-03365-DCN
Presiding Judge: David C. Norton, U. S. District Court Judge
Date Filed: 09/23/2020

Date Order/Judgment: 12/17/2020	Date Order/Judgment EOD: 12/17/2020	Date NOA Filed: 01/14/2021	Date Rec'd COA: 01/14/2021
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Prior Cases:
None

Current Cases:

	Lead	Member	Start	End
Related	<u>19-6630</u>	<u>19-6646</u>	05/02/2019	
	<u>19-6630</u>	<u>19-6878</u>	06/24/2019	
	<u>19-6878</u>	<u>19-335</u>	08/22/2019	
	<u>19-6878</u>	<u>19-7097</u>	07/30/2019	
	<u>19-6878</u>	<u>19-7102</u>	07/30/2019	
	<u>19-7102</u>	<u>20-6345</u>	03/12/2020	
	<u>19-7102</u>	<u>20-7098</u>	07/28/2020	
	<u>20-6345</u>	<u>20-7176</u>	08/11/2020	
	<u>20-6345</u>	<u>21-6006</u>	01/04/2021	
	<u>20-6345</u>	21-6085	01/15/2021	
	<u>20-6345</u>	<u>21-6089</u>	01/19/2021	
	<u>21-7082</u>	<u>20-6345</u>	07/21/2021	

KEVIN HERRIOTT (State Prisoner: T97826) Plaintiff - Appellant	Kevin Herriott [NTC Pro Se] SOUZA-BARANOWSKI CORRECTIONAL CENTER P. O. Box 8000 Shirley, MA 01464-0800
v.	
LIEUTENANT JACKSON	

Defendant - Appellee

KEVIN HERRIOTT

Plaintiff - Appellant

v.

LIEUTENANT JACKSON

Defendant - Appellee

- | | | | |
|------------|--------------------------|-----------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 01/15/2021 | <input type="checkbox"/> | <u>1</u> | Case docketed. Originating case number: 6:20-cv-03365-DCN. Case manager: CathyHerb. [21-6085] CT [Entered: 01/15/2021 03:54 PM] |
| | | | 1 pg, 12.19 KB |
| 01/15/2021 | <input type="checkbox"/> | <u>2</u> | PLRA NOTICE issued to [Kevin Herriott]. Fee due to District Court or PLRA application due to Court of Appeals within 15 days.. [21-6085] CT [Entered: 01/15/2021 03:59 PM] |
| | | | 9 pg, 44.71 KB |
| 01/15/2021 | <input type="checkbox"/> | <u>3</u> | INFORMAL BRIEFING ORDER filed. Informal Opening Brief due 02/08/2021. Informal response brief, if any: 14 days after informal opening brief served. [21-6085] CT [Entered: 01/15/2021 04:02 PM] |
| | | | 11 pg, 57.96 KB |
| 01/15/2021 | <input type="checkbox"/> | <u>4</u> | ASSEMBLED ELECTRONIC RECORD docketed. Originating case number: 6:20-cv-03365-DCN. Record in folder? Yes. Record reviewed? Yes. PSR included? N/A. [21-6085] CT [Entered: 01/15/2021 04:15 PM] |
| 02/08/2021 | <input type="checkbox"/> | <u>5</u> | PLRA-APPLICATION (court access only) by Kevin Herriott. Consent to Payment Form: Yes; Trust Account Statement: No. [21-6085] TW [Entered: 02/09/2021 10:55 AM] |
| 02/08/2021 | <input type="checkbox"/> | <u>7</u> | INFORMAL OPENING BRIEF by Kevin Herriott. [21-6085] TW [Entered: 02/09/2021 11:12 AM] |
| | | | 24 pg, 964.47 KB |
| 02/09/2021 | <input type="checkbox"/> | <u>6</u> | ORDER filed granting motion for leave to proceed PLRA [5]. Fee Amount: \$505.00. Name and Prisoner Number: Kevin Herriott, #313862. Copies to all parties. Mailed to: Kevin Herriott & PLRA Custodian. [1000896376] [21-6085] TW [Entered: 02/09/2021 11:10 AM] |
| | | | 3 pg, 12.9 KB |
| 05/03/2021 | <input type="checkbox"/> | <u>8</u> | UNPUBLISHED PER CURIAM OPINION filed. Originating case number: 6:20-cv-03365-DCN. Copies to all parties and the district court/agency. [1000944330]. Mailed to: Kevin Herriott. [21-6085] CT [Entered: 05/03/2021 09:09 AM] |
| | | | 2 pg, 108 KB |
| 05/03/2021 | <input type="checkbox"/> | <u>9</u> | JUDGMENT ORDER filed. Decision: Affirmed. Originating case number: 6:20-cv-03365-DCN. Entered on Docket Date: 05/03/2021. [1000944349] Copies to all parties and the district court/agency. Mailed to: Kevin Herriott. [21-6085] CT [Entered: 05/03/2021 09:15 AM] |
| | | | 4 pg, 167.35 KB |
| 05/25/2021 | <input type="checkbox"/> | <u>10</u> | Mandate issued. Referencing: [9] Judgment Order, [8] unpublished per curiam Opinion. Originating case number: 6:20-cv-03365-DCN. Mailed to: Kevin Herriott. [21-6085] CT [Entered: 05/25/2021 08:35 AM] |
| | | | 1 pg, 73.48 KB |
| 05/28/2021 | <input type="checkbox"/> | <u>11</u> | Letter re: [9] Judgment Order, [8] unpublished per curiam Opinion by Kevin Herriott . [1000963407] [21-6085] CT [Entered: 06/03/2021 04:15 PM] |
| | | | 6 pg, 158.76 KB |

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APPELLATE CASE No.: 2021-000 ~~970~~ SC Court of Appeals

The Honorable Ralph King Anderson, III
Case No.: 2021-ALS-0400941-15

South Carolina Department of Corrections,

Respondent,

v.

Kevin E. Herriott,

Appellant.

PROOF OF SERVICE

I certify that I have served the foregoing instruments on (SCDC) South Carolina Department of Corrections by depositing a copy of it in the internal mailing system at Massachusetts DOC postage pre paid, on November 22, 2021, addressed to attorney of records, Imani D. Byas, Post Office Box 21787 and the Clerk of this Court.

K. E. Herriott
Kevin E. Herriott, Pro Se
Post Office Box 1000
Shirley, MA 01464

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SC Court of Appeals

Kevin E. Herriott
T97826

Souza-Baranowski Correctional Center
Post Office Box 8000
Shirley, MA 01464

November 22, 2021

V. Claire Allen
Deputy Chief Clerk
S.C. Court of Appeals
Post Office Box 11629
Columbia, SC 29211

Dear Clerk:

PLEASE WILL YOU FIND ENCLOSED one (1)
motion for leave to reinstate the appeal, proof of service,
petition for hearing or rehearing and suggestion of a party
for rehearing en banc to file within this office.

Yours Truly,

K. E. Herriott
Kevin E. Herriott, Pro Se.



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SC Court of Appeals

Clerk V. Claire A. [unclear]
Post Office Box 11629
S.C. Court of Appeals
Columbia, SC 29211

Kevin E. Herrdott, # 797826
Souza - Baranowski Carr. Center
Post Office Box 8000
Shirley, MA 01464

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