

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS
APPEAL FROM SPARTANBURG COUNTY
COURT OF COMMON PLEAS

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APR 06 2022

SC Court of Appeals

Honorable TMD

Case No. 2020-CP-42-01021

Appellate Case No. 2020-000679

John Douglas Alexander,

Appellant,

vs.

Alan M. Wilson; and State,

Respondent.

RULE 59(e), SCRPC MOTION TO ALTER OR AMEND JUDGMENT

John Douglas Alexander, pro se
Tyger River Correctional Institution
200 Prison Road, U6-17B
Enoree, South Carolina 29335

Other counsel of Record:
Alan M. Wilson, Esquire
Office of the Attorney General
Post Office Box 11549
Columbia, South Carolina 29211

COMES, John Douglas Alexander, Appellant above pursuant to Rule 59 (e), SCRCF with a Motion To Alter or Amend the Judgment of Honorable Williams, C.J., and Konduros and Vinson, JJ., dated March 23, 2022, and received March 29, 2022. And will show:

The Court Of Appeals can and should Reverse its Opinion because the Respondent, Alan M. Wilson never submitted any Brief arguing: "Because a cause of action for gross negligence does not concern a fundamental right or fit within one of the statutory or constitutional exceptions that entitle an individual to proceed without cost." The Record On Appeal and Briefs clearly establishes the Respondent declined to oppose the Appellant's Statement Of Issues On Appeal, Statement Of The Facts, Argument or Demand for Relief.

The Appellant asserts that it is not incumbent upon a Judge /s to manufacture and craft arguments and defenses on behalf of the Respondent. See Rule 208 (b)(1)(B), SCACR, ("No point will be considered which is not set forth in the Statement of the Issues On Appeal."); also see Medlin v. State, 276 S.C. 540, 280 S.E. 2d 648 (1981), "The Judge is never an adversary." "He must remain neutral." Safar v. Espy, 70 F.3d 1263 (4th Cir. 1995)

The Court Of Appeals erred by overreaching its authority where it strayed from the actual and only Statement of the Issues On Appeal put forth.

Second, the Court Of Appeals failed to address the Appellant's Statement On Appeal that: "A cause of action does concern a denial and deprivation of a fundamental right of due process of an indigent to

access to the courts by way and through denying Appellant waiver of the filing fee." It is well settled law the Fourteenth Amendment of the United States Constitution incorporates a Constitutional right of indigents to "meaningful" access to the courts including the right to be heard by proceeding without costs where a fundamental right is present and entitles him such. 14th Amend.; Art. 1 Sec 3 S.C. Const.; and State v. Martin, 321 S.C. 533, 471 S.E.2d 134 (1995); State v. Brown, 178 S.C. 294, 300 S.E.2d 838 (1935)

Wherefore, it is prayed the Court of Appeals Reverse its Opinion. Find a fundamental right do exists which warrants a Constitutional exception that entitles Appellant to proceed without payment. Reverse the lower Court's decision. And, Remand the case for further proceedings consistent with its findings.

Dated March 30, 2022.

Respectfully Submitted,
John D. Alexander

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PROOF OF SERVICE

I, John D. Alexander, certify today this 30 day of March, 2022, I sent the Rule 59(e), SCRCP Motion To Alter or Amend Judgment United State Postal Services, prepaid, to Alan M. Wilson Esquire, Office of the Attorney General, Post Office Box 11549, Columbia, South Carolina 29211.

Respectfully Submitted,

John D. Alexander

Sworn and Subscribed

this 30 day of MARCH, 2022

Paul Leroy Cook

Notary Public For South Carolina

My Commission Expires Oct. 19, 2024

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