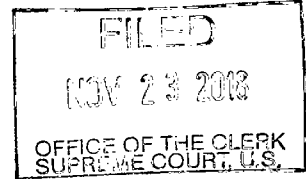


18-0998  
No. \_\_\_\_\_

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**In The  
Supreme Court of the United States**



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George Cleveland, III,  
Petitioner,  
v.  
State of South Carolina, et. al,  
Respondents.

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On Petition For a Writ of Certiorari  
To The Supreme Court of South Carolina

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**PETITION FOR WRIT OF CERTIORARI**

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George Cleveland, III, *pro se*  
400 Hunter Street  
Seneca, S.C. 29678  
864-784-7223  
gcleveland7475@gmail.com

(a)

**Question Presented:**

After the South Carolina Court of Appeals denied Petitioner Cleveland's Motion to *proceed in forma pauperis* under this court's holding under *Bounds v. Smith*, 430 U.S. 817, 97 S.Ct. 1491 (1977) which holds Indigent Appellant Litigants must be allowed to file direct appeals without prepayment of docket fees. The Supreme Court of South Carolina denied to even review this case despite Petitioner Cleveland citation of *Bounds*. *IBID*.

The question presented is:

1. Whether *Bounds v. Smith* 430 U.S. 817 97 S.Ct. 1491 (1977) requires the waiver of the docket fee in a civil on direct appeal to Indigent litigants who cannot afford to pay the docket fee in the South Carolina Court of Appeals?

(b)

**PARTIES TO THE PROCEEDING:**

Petitioner

The following is the party in the court below:

George Cleveland, III, *pro se*

Respondents

The State of South Carolina; Gov. Henry McMaster in his official capacity,  
and Rebecca Schimsa in her official capacity.

(c)

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(d)

## APPENDIX

### Appendix A

Order of the South Carolina Supreme Court, George Cleveland III, v. State of South Carolina, et., al., Appellate Case no. 2018-000487 (June 26, 2018); Order of the South Carolina Supreme Court, George Cleveland, III v. State of South Carolina, et., al., Appellate Case no. 2018-000487 (March 21, 2018) .....App-1

### Appendix B

Order of the South Carolina Court of Appeals, George Cleveland, III, v. State of South Carolina, et., al., Appellate Case no. 2017-001788 (December 28, 2017), South Carolina Court of Appeals, George Cleveland, III, v. State of South Carolina, et., al., Appellate Case no. 2017-001788 (October 09, 2017), Order of the South Carolina Court of Appeals, George Cleveland, III, v. State of South Carolina, et., al., Appellate Case no. 2017-001788 (October 02, 2017); Order South Carolina Court of Appeals, George Cleveland, III v. State of South Carolina, et., al., Appellate Case no. 2017-001788 (September 14, 2017) .....App-3

### Appendix C

Order of the South Carolina Court of Appeals, George Cleveland, III v. State of South Carolina, et., al., Appellate Case no. 2017-001788 (February 20, 2018);

.....App-7

### Appendix D

Petitioner's Notice of Appeal filed in the South Carolina Court of Appeals

(August 28, 2017).....App-8

Appendix E

Bounds v. Smith 430 U.S. 817 (1977); and Ex parte Martin 471 S.E. 2d 134  
(1995) case law .....App-9

Appendix F

A.C.L.U. of South Carolina of prison conditions in South Carolina (August 29, 2018); talk poverty statistics showing the poverty number is South Carolina (2017); The State Newspaper (located in Columbia, S.C.) poverty statistics (September 20, 2014); Rule 201 South Carolina Appellate Court Rules showing State Agencies not required to pay a filing fee in civil cases; Administrative Order of the South Carolina Supreme Court showing the increase in the filing fee from \$100.00 to \$250.00 for all civil cases filed in the South Carolina Court of Appeals, or Supreme Court on direct appeal (October 09, 2018); South Carolina Department of Corrections Inmate population summary as November 15, 2018; South Carolina Department of Corrections prison industries showing the number of South Carolina state inmates that actual work and make a monetary wage; South Carolina Appellate Courts Docket Reports from March – November 2018 showing fifty (50) civil cases of South Carolina Inmates; South Carolina Department of Corrections Inmate William Burnett's December 01, 2018 letter application informing the South Carolina Court of Appeals that he has no money to pay the filing fee, and the

January 11, 2018 South Carolina Court of Appeals Order dismissing his appeal; Petitioner Cleveland's Motion to Proceed in forma pauperis invoking a federal right in George Cleveland, III, v. Bryan Stirling, et., al., South Carolina Court of Appeals; Appellate Case no. 2016-002453; Inmate trust fund account statement; and order of the South Carolina Court of Appeals (June 07, 2017); Petitioner Cleveland's Motion to Proceed in forma pauperis invoking a federal right in George Cleveland, III v. Bryan Stirling, et., al., South Carolina Court of Appeals; Appellate Case no. 2016-001033; Inmate trust fund account statement, and the docket report showing the South Carolina Court of Appeals never even rule on the in forma pauperis Motion; page 3-7 of the April 25, 2018 filed certiorari petition filed by Petitioner Cleveland in the South Carolina Supreme Court arguing a federal right .....App-12

**Table of Authorities:**

Page (s) no.

Cases:

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(e)

**Jurisdictional Statement**

(i)

The South Carolina Supreme Court filed its' decision denying Petitioner Cleveland's Petition for a Writ of Certiorari to the South Carolina Court of Appeals on June 26, 2018. App. 1.

(ii)

The South Carolina Court of Appeals denied Petitioner Cleveland's Motion to Rehear on February 20, 2018. App.7. The South Carolina Supreme Court extended the time to file Petitioner Cleveland's Certiorari Petition to the South Carolina Court of Appeals until April 25, 2018. App. 2. The United States Supreme Court extended the time to file Petitioner Cleveland's Certiorari Petition to the South Carolina Supreme Court until, and including November 23, 2018. *IBID*.

(iii)

There is no cross petition for a writ of certiorari at this time.

(iv)

The jurisdiction of this court is invoked under 28 U.S.C. § 1257 (a).

(f)

**Constitutional and Statutory Provisions Involved:**

(g)

**STATEMENT OF THE CASE:**

On August 28, 2017, Petitioner Cleveland filed his Notice of Appeal along with his Motion for leave to proceed in forma pauperis under *Bounds v. Smith* 430 U.S. 817, 97 S. Ct. 1491 (1977) was filed in the South Carolina Court of Appeals. App. 39.

On September 14, 2017, the South Carolina Court of Appeals denied the Motion, *id* pursuant to *Ex parte Martin*, 321 S.C. 533, 471 S.E. 2d 134 (1995). App. 39.

On January 12, 2018, Petitioner Cleveland filed his Petition to rehear the denial, *id*. App. 40.

On February 20, 2018, the South Carolina Court of Appeals denied the Petition to rehear, *id*.

On March 21, 2018, the South Carolina Supreme Court extended the deadline to file the certiorari petition until April 25, 2018. App. 40.

On June 26, 2018, the South Carolina Supreme Court denied Petitioner Cleveland's petition for a writ of certiorari to the South Carolina Court of Appeals. App. 1.

On October 01, 2018, Chief Justice Roberts extended the time to file the writ of certiorari until, and including November 23, 2018. *IBID*.

This petition for a writ of certiorari to the South Carolina Supreme Court follows respectively.

(h)

## ARGUMENT

**This Court held in *Bounds v. Smith* that States Must Waive Prepayment of Filing Fees For Indigent Appellants Who Cannot Afford The Fees:**

This Court held over 40 years ago under *Bounds v. Smith* 430 U.S. 817, 97 S.Ct. 1491 (1977): “in order to prevent ‘effective foreclosed access’ indigent [Appellant] must be allowed to file appeals... without payment of the docket fees” *id.*, at 822, at 1495. App. 9-10. The South Carolina Supreme Court held under *Ex parte Martin* 321 S.C. 533, 471 S.E. 2d. 134 (1995): “[a] motion to *proceed in forma pauperis* may only be granted... by constitutional provisions”... *Id.*, at 535, at 134-35. App. 12.

The South Carolina Supreme Court was presented with two (2) specific “constitutional provisions” *id.*, by, and through *Bounds v. Smith* 430 U.S. 817, 97 S.Ct. 1491 (1977), and they were the *first*, and *fourteenth amendment* of the U.S. Const. App. 37, 41.

In *Ex parte Martin, id.*, the South Carolina Supreme Court cited several cases from this court’s other relevant holdings: “*Boddie v. Connecticut* 401 U.S. 371, 91 S.Ct. 780, 28 L.Ed. 2d 113 (1971) (an indigent must be given access to courts in divorce action), and *Smith v. Bennett* 365 U.S. 708, 81 S.Ct. 895, 6 L.Ed.2d 39 (1961) (an indigent prisoner may not be required to pay a filing fee for petitioning for a writ of habeas corpus)”. App. 12.

The South Carolina Supreme Court will not enforce its' own holding under *Ex parte Martin, id.*, despite Petitioner Cleveland explicitly arguing that very case in his certiorari petition. App. 37, 41. The sole response from the South Carolina Supreme Court was: "Petitioner has filed a petition for a writ of certiorari to review the court of appeals' dismissal of his appeal... the petition... [is] denied". App.1.

The South Carolina Court of Appeals, and Supreme Court (collectively known as the South Carolina Appellate Courts. App.18 ) has a pattern of denying Petitioner Cleveland's in forma pauperis motions; along with other indigent Petitioners in South Carolina:

George Cleveland, III v. Bryan Stirling, et., al., South Carolina Court of Appeals; Appellate Case no. 2016-002453; federal right invoked under *Bounds v. Smith 430 U.S. 817, 97 S.Ct. 1491 (1977)*, provided to that court with a prison<sup>1</sup> trust fund account statement showing a \$0 balance. App. 27-30.

George Cleveland, III v. South Carolina Department of Corrections (SCDC); South Carolina Court of Appeals; Appellate Case no. 2016-001033; federal right invoked under *Bounds v. Smith 430 U.S. 817, 97 S.Ct. 1491 (1977)*, provided to that court with a prison trust fund account statement a \$0 balance. App. 31-36.

South Carolina Department of Corrections (SCDC) Inmate William Burnett # 352646 wrote to the South Carolina Court of Appeals on December 01, 2017; an

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<sup>1</sup> At that time, Petitioner Cleveland was in the custody of the South Carolina Department of Corrections (SCDC) as an inmate.

application to proceed *in forma pauperis*. App. 24. He attached a copy of his prison trust fund statement which showed he had \$2.46 to his name; therefore, he could not pay the \$100.00 filing fee. App. But a three (3) judge panel of the South Carolina Court of Appeals refuse to decide his case in forma pauperis status, the panel instead denied his application on procedural grounds because he had not provided a copy of the order to be reviewed on direct appeal, nor did the panel allow him additional time to comply. App. 24-26.

Over fifty (50) more SCDC Inmates have or will soon suffer the same fate as the aforementioned, *id.*, which is a requirement that is impossible to provide, and that's money to pay the filing fee. App. 21-23.

According to SCDC's own statistics "currently [there are] 2, 233 inmates working in prison industries..." App. 19.

As of November 15, 2018, there are 24, 249 Inmate (men and women combined) in South Carolina prisons with only 2,233 of those Inmates that earn money to pay the filing fee. App. That means 22, 016 Inmates are indigent; therefore, cannot pay the \$100.00<sup>2</sup> filing fee.

The State newspaper headquartered in Columbia, S.C. published on September 20, 2017 that South Carolina's poverty rate is ninth highest in the entire

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<sup>2</sup> However, the South Carolina Supreme Court ordered on October 09, 2018 that the \$100.00 filing fee be increased to \$250.00 effective October 15, 2018. App. The increase, or any filing fee does not apply to the State of South Carolina, nor does it apply to any South Carolina state agencies despite the agencies being able to afford the filing fee. App. 17.

United States of America citing the U.S. Census Bureau's Annual Community Survey. App. 15-16. "Nearly a third are both African Americans and Hispanics." *IBID*. Even in 2017, talk poverty.org reports that over 735,960 South Carolinians live below poverty. App. 14. The A.C.L.U. of South Carolina reported on August 29, 2018 that "Inmates in South Carolina have long complained of inadequate Rehabilitation resources, bad food and poor medical and mental health care." App.13. Any South Carolinian that lacks the funds to pay the now \$250.00 filing fee will be forever foreclosed for directly appealing their civil case to the South Carolina Court of Appeals for errors in the lower court. The Supreme Court has rejected the requirement from this court under *Bounds v. Smith* 430 U.S. 817, 97 S.Ct. 1491 (1977) that requires the waiver of the filing fee in civil direct appeals. Poor Americans like Petitioner Cleveland herein cannot appeal the lower court's decision in no civil cases because of the requirement to provide money to do so which amounts to a Poll Tax. And provides no check on the decisions of the lower courts; accordingly, the Petition for a Writ of Certiorari to the South Carolina Supreme Court should be **Granted**.

Respectfully Submitted,

s/

George Cleveland, III, *pro se*

400 Hunter Street

Seneca, S.C. 29678

864-784-7223

**Dated: November 23, 2018**

gcleveland7475@gmail.com