

121

No. 25-6744

IN THE
SUPREME COURT OF THE UNITED STATES

C. Holmes,

Petitioner,

v.

J.K. Holmes

Respondent.

MOTION FOR RECONSIDERATION OF DISMISSAL
AND REVISION OF THE MARCH 30, 2026, ORDER

C. Holmes
P.O. Box 187
Sullivans Island, SC 29482
843.883.3010

RECEIVED
APR 24 2026
OFFICE OF THE CLERK
SUPREME COURT, U.S.

It is respectfully requested that this motion be forwarded to The Honorable Ketanji Brown-Jackson for kind reconsideration. The petitioner respectfully moves for reconsideration of dismissal and revision of the March 30, 2026, order, copy attached as Exhibit A. As set forth more fully below, it is respectfully submitted that the dismissal of the petition under Rule 39.8 constitutes a manifest injustice and a departure from the "Law of the Case" as established in the lower state courts. Accordingly, reversal of dismissal with revision of the March 30, 2026, order and an opportunity to comply with Rules 38(a) (fees) and 33.1 (booklet format) is respectfully requested.

I. Introduction

Rule 39 of the Supreme Court Rules was amended to include Rule 39.8 in 1991. At that time, Justice Marshall, Justice Stevens, and Justice Blackmun dissented as follows:

IN RE AMENDMENT TO RULE 39, 500 U.S. 13 (1991)

JUSTICE MARSHALL, dissenting.

This Court's rules now embrace an invidious distinction. Under the amendment adopted today, an indigent litigant may be denied a disposition on the merits of a petition for certiorari, jurisdictional statement, or petition for an extraordinary writ following a determination that the filing "is frivolous or malicious." Strikingly absent from this Court's rules is any similar provision permitting dismissal of "frivolous or malicious" filings by paying litigants, even though paying litigants are a substantial source of these filings.

This Court once had a great tradition: "All men and women are entitled to their day in Court." * That guarantee has now been conditioned on monetary worth. It now will read: "All men and women are entitled to their day in Court only if they have the means and the money."

I dissent.

JUSTICE STEVENS, with whom JUSTICE BLACKMUN joins, dissenting.

In my opinion it is neither necessary nor advisable to promulgate the foregoing amendment to Rule 39. During my years of service on the Court, I have not detected any significant burden on the Court, or threat to the integrity of its processes, caused by the filing of frivolous petitions. It is usually much easier to decide that a petition should be denied

than to decide whether or not it is frivolous. Moreover, the cost of administering the amended Rule will probably exceed any tangible administrative saving. Transcending the clerical interest that supports the Rule is the symbolic interest in preserving equal access to the Court for both the rich and the poor. I believe the Court makes a serious mistake when it discounts the importance of that interest. I respectfully dissent.

*Our inviolable obligation to treat rich and poor alike is echoed in the oath taken by each Justice prior to assuming office. See, e. g., 389 U. S. ix: "I ... do solemnly swear that I will administer justice without respect to persons, and do equal right to the poor and to the rich, and that I will faithfully and impartially discharge and perform all the duties incumbent upon me as Associate Justice of the Supreme Court of the United States according to the best of my abilities and understanding, agreeably to the Constitution and laws of the United States." (Emphasis added.)

Without being disagreeable, recent change or amendment to Rule 39.8 of the Supreme Court Rules is unknown. The instant application of Rule 39.8 is inconsistent with the plain language of Rule 39.8 and its precedent in *Martin v. District of Columbia Court of Appeals*, 506 U.S. 1 (1992) as well as its prior interpretation and application. It is respectfully submitted the March 30, 2026, order is disagreeable to the Constitution and laws of the United States.

In his 1991 dissent, Justice Stevens opined, "It is usually much easier to decide that a petition should be denied than to decide whether or not it is frivolous." See *Neitzke v. Williams*, 490 U.S. 319, 328 (1989) ("When a complaint raises an arguable question of law, which the court ultimately finds is correctly resolved against the plaintiff," the complaint fails to state a claim but is not frivolous.). See *Cooter & Gell v. Hartmarx Corp.*, 496 U.S. 384, 402, 110 S.Ct. 2447, 110 L.Ed.2d 359, 58 USLW 4763 (1990) (the lack of any legal requirement other than the talismanic recitation of "'frivolous' will foreclose meaningful review." (emphasis supplied)). Important Constitutional issues are raised in the petition and supported by citations to binding precedent and case law. The petition is not frivolous, i.e., meritless on its face, and is supported by the attached affidavit in Exhibit C. Accordingly, dismissal should be vacated with opportunity to comply with Rules 38(a) and 33.1.

II. The Distinction Between Denial of IFP and Case Dismissal

Rule 39 speaks to *in forma pauperis* (IFP) proceedings. Rule 39.8 provides the Court may deny leave to proceed *in forma pauperis* (IFP): The plain language does not provide for case dismissal. Rule 39.8 provides that the Court may deny leave to proceed *in forma pauperis* (IFP) if it determines a filing is frivolous. However, as noted in the dissenting opinions of Justices Marshall, Stevens, and Blackmun in *In re Amendment to Rule 39*, 500 U.S. 13 (1991), applying this rule to bar access to the Court entirely creates an "invidious distinction" including impermissibly infringing First Amendment guarantees. Petitioner respectfully contends that while the Court may deny indigent status, the outright *dismissal* of the petition without an opportunity to comply with Rule 38(a) (fees) and Rule 33.1 (booklet format) violates the symbolic and legal interest in preserving the Constitution and laws of the United States. Given the hourly rates routinely sought for representation before this Court, meritorious claims by individuals may be unintentionally stymied. An abundant and rich body of law establishes our democracy depends on faithful resolve to give voice to its citizens and to provide equal protection. Accordingly, it is respectfully requested that dismissal be vacated with opportunity to comply with Rules 38(a) and 33.1.

III. The "Law of the Case" Negates a Finding of Frivolity

As noted above, in his 1991 dissent, Justice Stevens observed, "It is usually much easier to decide that a petition should be denied than to decide whether or not it is frivolous." A finding of frivolity requires a determination that a claim is "meritless on its face." Exhibit D contains the attached copy of law of this case on prior appeal: Chief Judge Bruce Williams' lower appellate court decision in the instant case ruled that after disposition of the then pending trial court Rule 59(e), SCRCF, motion, the petitioner is permitted a second appeal without an additional case initiation fee. *See Hudson v. Hudson*, 290 S.C. 215, 349 S.E.2d 341 (1986). Chief Judge Bruce Williams' December 9, 2022, opinion in SC COA App. Case No. 22-1146 herein does not find the case frivolous. Further, on appeal, including jurisdictional and Family Court privacy issues, the civil trial court issued the attached copy, Exhibit B, of notice of effective stay pending appeal which negates frivolity and/or is part of petitioner's good faith argument for extending, modifying, or reversing existing law or for establishing

new law. Exhibit C. To the extent there is ambiguity, the rule of lenity supports the petitioner's position. Accordingly, under the doctrine of the **Law of the Case**, the prior judicial determinations that these claims possess arguable legal merit should preclude a summary dismissal under Rule 39.8.

IV. Distinguishing Inapposite Precedent

To the extent the Court relies on *Martin v. District of Columbia Court of Appeals*, 506 U.S. 1 (1992), that reliance is misplaced. The *Martin* petitioner uniquely filed 45 petitions relating to his incarceration for an unrelated offense in the prior 10 years and 15 in the preceding 2 years alone. *Id.* Petitioner herein has no such history and there is no such evidence in the record or otherwise. Dismissal without notice or the opportunity to defend against an unspecified accusation is fundamentally unfair, internally inconsistent with the law of the case, arbitrary, abusive of discretion, fails to provide "meaningful review" as cited in *Cooter & Gell*, and/or fails to pass constitutional muster under the Due Process Clause of the Fifth Amendment. *Cooter & Gell v. Hartmarx Corp.*, 496 U.S. 384, 402, 110 S.Ct. 2447, 110 L.Ed.2d 359, 58 USLW 4763 (1990). Accordingly, the *Martin* case is distinguished. *Martin v. District of Columbia Court of Appeals*, 506 U.S. 1 (1992).

PRAYER FOR RELIEF

For substantial justice affecting substantial rights and for the reasons stated, petitioner respectfully requests that this Honorable Court:

1. **Vacate** the dismissal and order entered on March 30, 2026; and
2. **Grant** petitioner leave to comply with Rules 38(a) (fees) and 33.1 (booklet format);
3. **In the alternative, provide** a specific explanation to allow for meaningful opportunity to respond and defend at a meaningful time.

Respectfully submitted,

Dated 4/12/26


C. Holmes, MD, Esq.
PO Box 187
Sullivans Island, SC 29482
843.883.3010

**Supreme Court of the United States
Office of the Clerk
Washington, DC 20543-0001**

Scott S. Harris
Clerk of the Court
(202) 479-3011

March 30, 2026

Ms. C. Holmes
PO Box 187
Sullivans Island, SC 29482

Ex A

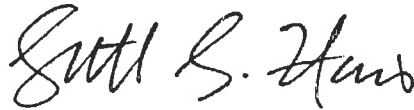
Re: C. Holmes, aka Cynthia Elaine Collie
v. James Kevin Holmes
No. 25-6744

Dear Ms. Holmes:

The Court today entered the following order in the above-entitled case:

The motion of petitioner for leave to proceed *in forma pauperis* is denied, and the petition for a writ of certiorari is dismissed. See Rule 39.8.

Sincerely,



Scott S. Harris, Clerk

COURT OF COMMON PLEAS
AND GENERAL SESSIONS
100 BROAD STREET, SUITE 106
CHARLESTON, S.C. 29401-2258
(843) 958-5000
(843) 958-5020 FAX
clerkofcourt.charlestoncounty.org



FAMILY COURT OF THE
NINTH JUDICIAL CIRCUIT
CHARLESTON COUNTY
100 BROAD STREET, SUITE 141
CHARLESTON, S.C. 29401-2265
(843) 958-4400
(843) 958-4414 FAX
clerkofcourt.charlestoncounty.org

JULIE J. ARMSTRONG
CLERK OF COURT
CHARLESTON COUNTY

Ex. B

September 1, 2022

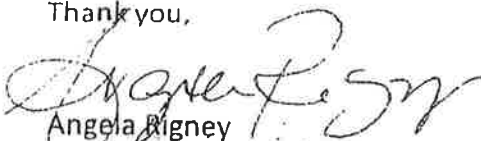
Cynthia Collie
Post Office Box 187
Sullivan's Island, SC 29482

RE: 2021CP1005478
James Kevin Holmes VS Cynthia Elaine Collie

Dear Ms. Collie:

On August 19, 2022, the Clerk of Court's office sent notices of motion scheduling on the above referenced case. In total, seven motions were scheduled to be heard by Judge Jennifer McCoy during the week of September 19, 2022. A notice of appeal to the Court of Appeals has been filed placing this case into an appeal status. Due to the change in status of this case Judge McCoy has continued all scheduled motion hearings. These motions will be rescheduled when this case is no longer in an appeal status.

Thank you,


Angela Rigney
Common Pleas Docket Manager

No. 25-6744

Ex. C
(3 pl.)

IN THE
SUPREME COURT OF THE UNITED STATES

C. Holmes,

Petitioner,

v.

J.K. Holmes

Respondent.

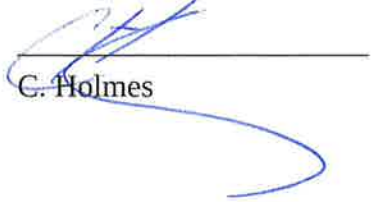
AFFIDAVIT

C. Holmes
P.O. Box 187
Sullivans Island, SC 29482
843.883.3010

AFFIDAVIT

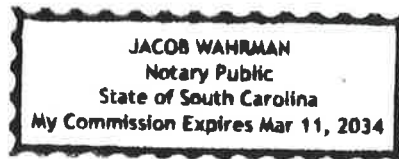
1. I am the petitioner, of legal age, and competent to state the matters herein.
2. This affidavit is submitted in support of Supreme Court of the United States Case No. 25-6744.
3. This matter is not being presented for any improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation.
4. The claims, defenses, and other legal contentions are submitted in good faith.
5. The claims, defenses, and other legal contentions are warranted by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law or for establishing new law.
6. The factual contentions have evidentiary support or, as specifically identified herein including but not limited to, secreted or hidden wrongdoing, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery.
7. The denials of factual contentions are warranted on the evidence or are reasonably based on belief or lack of information.
8. Continued on the following page.

FURTHER THE AFFIANT SAITH NOT.


C. Holmes

Subscribed and sworn to before me,
Notary Public, this 9 day

of Apr. 1, 2025 ~~2025~~ 2026




NOTARY PUBLIC

My commission expires: 3.11.2034

The South Carolina Court of Appeals

Ex. D

James Kevin Holmes, Respondent,

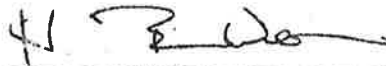
v.

Cynthia Elaine Collie, Appellant.

Appellate Case No. 2022-001146

ORDER

This appeal arises out of a notice of entry of judgment entered July 14, 2022. A review of the public index reveals this case was referred to the master-in-equity on that date. Referral of a case to the master-in-equity is not immediately appealable unless the appellant is deprived of a mode of trial. *See N. Carolina Fed. Sav. & Loan Ass'n v. Twin States Dev. Corp.*, 289 S.C. 480, 347 S.E.2d 97 (1986); *Williford v. Downs*, 265 S.C. 319, 218 S.E.2d 242 (1975); *Collier v. Green*, 244 S.C. 367, 137 S.E.2d 277 (1964). To the extent the appellant is appealing from the order of Judge R. Markley Dennis, Jr. dated June 9, 2022, the public index shows a pending Rule 59(e), SCRCF motion. *See Hudson v. Hudson*, 290 S.C. 215, 216, 349 S.E.2d 341, 341-42 (1986) (directing dismissal of an appeal in which a timely post-trial motion is pending and permitting a second appeal without an additional case initiation fee). Accordingly, this appeal is dismissed. The remittitur will be sent as provided by Rule 221(b), SCACR.



, C.J.

FOR THE COURT

Columbia, South Carolina

cc: Cynthia Holmes
Barry I. Baker, Esquire
Kyle T Varner, Esquire
The Honorable R. Markley Dennis, Jr.

FILED
Dec 09 2022

No. 25-6744

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C. Holmes,

Petitioner,

v.

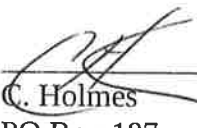
J.K. Holmes

Respondent.

PROOF OF SERVICE

I hereby certify that a copy of the above document was served upon the attorney of record for the respondent by regular first class mail postage pre-paid on this date at this address: 1 Carriage Ln., Bldg. H, West Ashley, SC 29407.

Dated 4/13/20


C. Holmes
PO Box 187
Sullivans Island, SC 29482
843.883.3010

**Additional material
from this filing is
available in the
Clerk's Office.**