

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
AIKEN DIVISION

James D. Prather,

Plaintiff,

vs.

Leroy Cartledge,

Defendant.

C/A No.: 1:11-3176-RMG-SVH

ORDER

This is an action seeking habeas corpus relief under 28 U.S.C. § 2254. Petitioner is a prisoner. Therefore, in the event that a limitations issue arises, Petitioner shall have the benefit of the holding in *Houston v. Lack*, 487 U.S. 266 (1988) (prisoner's pleading was filed at the moment of delivery to prison authorities for forwarding to District Court). Under Local Civil Rule 73.02(B)(2) (D.S.C.), pretrial proceedings in this action have been referred to the assigned United States Magistrate Judge.

By order issued on December 27, 2011, Petitioner was given a specific time frame in which to bring this case into proper form. Petitioner has complied with the court's order, and this case is now in proper form.

Petitioner has requested to proceed without prepaying the filing fee by filing an Application to Proceed without Prepayment of Fees and Affidavit (Form AO-240), which is construed as a Motion to Proceed *in forma pauperis*. Based on a review of the motion, Petitioner's request to proceed *in forma pauperis* is **granted**.

TO THE CLERK OF COURT:

The Clerk of Court shall not serve the § 2254 petition upon Respondent because the petition is subject to dismissal.

IT IS SO ORDERED.



February 6, 2012
Columbia, South Carolina

Shiva V. Hodges
United States Magistrate Judge