

THE SOUTH CAROLINA
In The Court Of Appeals

RECEIVED
Dec 06 2022
SC Court of Appeals

Case No. 2022-001598

Johnathan Daniels, Appellant.

v.

The City of Cayce Respondent,

Petition For Rehearing

For good cause, pursuant to South Carolina Appellate Court Rules 221(b), Appellant requests that this appeal NOT be dismissed, but rather that it be transferred back to the South Carolina Supreme Court so that the appeal can be heard by the court of proper statutory jurisdiction, and that no remittitur to the lower court shall issue from this court.

Due to inadvertence or mistake, this appeal was transferred to the S.C. Court Of Appeals and subsequently dismissed by this court's clerk due to this court having no jurisdiction. However, this appeal was made to the South Carolina Supreme Court, under that Court's appellate authority given at S.C. Code 14-3-330 (2)(a), to review orders affecting substantial rights, and this appeal meets all of the additional requirements of that statute.

The S.C. Court of Appeals would not and could not ever have jurisdiction over appeals made under S.C. Code 14-3-330 (2)(a), and the S.C. Supreme Court Clerk's transfer of this appeal to the S.C. Court Of Appeals effectively amounts to a dismissal of the appeal. Such a "dismissal" violates Appellant's right to due process of law, and will undoubtedly result in another appeal and further litigation. Any dismissal of this appeal should come by order of the S.C. Supreme Court, not by way of a dismissal by the S.C. Court Of Appeals after the case was inadvertently or mistakenly transferred to this court.

Additionally, the court please note that Appellant never received notice of the order transferring the appeal to this court, but rather, was first alerted to the transfer by receipt of this court's order of dismissal.

For the above reasons, Appellant respectfully requests that this appeal NOT be dismissed, but rather that it be transferred back to the S.C. Supreme Court to be reviewed as is statutorily proper, and that no remittitur should issue to the trial court from this court.

December 6, 2022



Johnathan M. Daniels, Appellant, Pro Se
P.O. Box 30651
Columbia, South Carolina 29230
Phone: (803) 770-8863
Email: chesssetbyj@yahoo.com

Other Counsel of Record:
Daniel E. Peagler
Prosecutor, City of Cayce
3975 Southeastern Way
West Columbia, SC 29169
Phone: (803) 814-0550
Email: epeagler@johnsonsclaw.com
Attorney for Respondent

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PROOF OF SERVICE

I certify that I have served the Petition For Rehearing on Respondent by depositing a copy of it in the United States Mail, postage prepaid, on December 6th, 2022, addressed to Respondent's attorney of record, Daniel E. Peagler, 3975 South Eastern Way, West Columbia, SC 29169.

December 6, 2022



Johnathan M. Daniels, Appellant, Pro Se
P.O. Box 30651
Columbia, South Carolina 29230
Phone: (803) 770-8863
Email: chesssetbyj@yahoo.com

Other Counsel of Record:
Daniel E. Peagler
Prosecutor, City of Cayce
3975 Southeastern Way
West Columbia, SC 29169
Phone: (803) 814-0550
Email: epeagler@johnsonsclaw.com
Attorney for Respondent