

THE STATE OF SOUTH CAROLINA
In The Supreme Court

Appellate Case No. 2022-001413

Richie D. Barnes,..... Respondent,

v.

James Reese,..... Appellant.

MOTION TO DISMISS APPEAL

Respondent, Richie D. Barnes, hereby moves, again, to dismiss this appeal, which has been pending for four years. This Motion is as a consequence of the failure of Appellant, James Reese, to comply with an Order of this Court as well as the requirements of Rule 242, SCACR.

By Order dated November 17, 2022, the Court once again afforded Appellant additional time to comply with Rule 242 and directed that the petition for writ of certiorari and appendix “shall be **served** and filed in accordance with Rule 242(c), SCACR, **within ten days of the date of this order.**” (emphasis added) As established by said Order, Appellant’s deadline to **serve** and file the petition and appendix was **Monday, November 28, 2022.**

It appears, according to the Case Management System, that the petition (“Prerogative Writ of Certiorari”) was filed timely. However, Appellant did not serve said petition “in accordance with Rule 242(c), SCACR.”

Attached to the filed petition was a Proof of Service whereby Appellant declared that, on November 15, 2022, he mailed the “Prerogative Writ of Certiorari” to “respondent Richie D.

Barnes.” Respondent (himself) never received anything served by Appellant.

Appellant did not serve (and did not certify that he served) said petition “on opposing counsel” in accordance with Rule 242(c).

By a Certified Mail envelope postmarked on **November 30, 2022**, which was received on December 5, 2022, Appellant mailed said petition to the undersigned. Said envelope (a copy of which is attached hereto) was mailed beyond the deadline for service imposed by the said Order.

Based upon the lack of timely service, Appellant’s petition fails to comply with the said Order of this Court. In addition, the petition filed by Appellant fails to submit to the Court a reason to review this matter in accordance with Rule 242(b).

For these reasons, this appeal should be dismissed.

Respectfully submitted,



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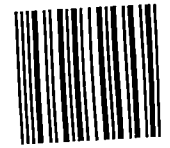
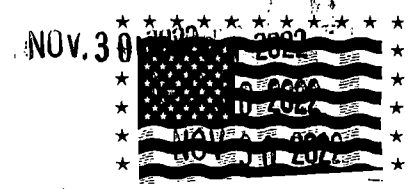
Columbia, South Carolina
December 6, 2022

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S.C. SUPREME COURT

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