

# The South Carolina Court of Appeals

Williams Carpet Contractors, Inc., Appellant,

v.

Mark Skelly, Respondent.

Appellate Case No. 2010-176606

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## ORDER

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Counsel for Respondent filed a motion to recall remittitur, claiming the filing of a motion to be relieved as counsel stayed the appeal pursuant to Rule 240 of the South Carolina Appellate Court Rules (SCACR). However, the motion to be relieved as counsel was not received by the Court until after remittitur had been sent.

"When the remittitur has been properly sent, the appellate court no longer has jurisdiction over the matter and no motion can be heard thereafter." *Wise v. S.C. Dep't of Corr.*, 372 S.C. 173, 174, 642 S.E.2d 551, 551 (2007). "The only exception to this rule is when the remittitur is sent down by mistake, error or inadvertence of the Court." *Id.* Remittitur in this case was sent on November 9, 2012, sixteen days after the filing of the opinion on October 24, 2012. *See* Rule 221(b), SCACR ("The remittitur . . . shall not be sent to the lower court . . . until fifteen (15) days have elapsed (the day of filing excluded) since the filing of the opinion . . ."). The Court did not receive any filings in this case prior to the sending of remittitur. *See* Rule 221(b), SCACR ("If a petition for rehearing is received before the remittitur is sent, the remittitur shall not be sent . . ."). Respondent's motion and petition to be relieved as counsel was not actually received by this Court until November 13, 2012. Accordingly, remittitur was not sent down in this case by mistake, error, or inadvertence. Furthermore, this Court no longer has jurisdiction to decide the motion filed after remittitur was properly sent. Respondent's motion to recall remittitur is denied.

U. Ke

, J.

FOR THE COURT

Columbia, South Carolina

cc:

Mark Skelly

Henrietta U. Golding

James Keith Gilliam

**FILED**

June 21, 2013