

STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM ORANGEBURG COUNTY
Edgar W. Dickson, Circuit Court Judge

Appellate Case No. 2020-000451

Rufus Rivers and Merle Rivers, pro se Appellant,

v.

James Smith, Jr.. Respondent.

RETURN OF JAMES SMITH, JR. TO RIVERS' REQUEST FOR MANDATE

On July 21, 2023, this Court issued is Order denying Smith’s petition for rehearing. Smith, through his undersigned counsel, timely filed a Petition for Certiorari with the South Carolina Supreme Court. The Rivers did not file a Return to the Petition for Certiorari. The Petition for Certiorari is currently pending before the Supreme Court, bearing Appellate Case No. 2023-001318.

Rule 241, SCACR, states:

As a general rule, the service of a notice of appeal in a civil matter acts to automatically stay matters decided in the order, judgment, decree or decision on appeal, and to automatically stay the relief ordered in the appealed order, judgment, or decree or decision. This automatic stay continues in effect for the duration of the appeal unless lifted by order of the lower court, the administrative tribunal, appellate court, or judge or justice of the appellate court. The lower court or administrative tribunal retains jurisdiction over matters not affected by the appeal including the authority to enforce any matters not stayed by the appeal.

The “duration of the appeal” includes the filing of Petition for Certiorari and any further action on the appeal by the Supreme Court. Pursuant to Rule 241, the stay on appeal

remains in effect until the appeal is concluded. The appeal is not concluded. Therefore, any decision of the Court of Appeals remains stayed until a decision from the Supreme Court remitting the case back to the Magistrate Court. Accordingly, there is no basis for the Rivers to request release of any funds at this time.

Respectfully submitted,



Kathleen McDaniel (SC Bar No. 74826)
Sarah J.M. Cox (SC Bar No. 104316)
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ATTORNEYS FOR JAMES SMITH, JR.

Columbia, South Carolina

December 7, 2023

RECEIVED

Dec 07 2023

SC Court of Appeals

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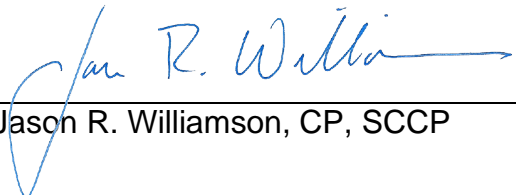
v.

James Smith, Jr.. Respondent.

PROOF OF SERVICE

I certify that the **RETURN OF JAMES SMITH, JR. TO RIVERS' REQUEST FOR MANDATE** was served on the following counsel and/or pro se parties on December 7, 2023, via electronic mail under Paragraph (d)(1) of Order re: Methods of Electronic Filing and Service under Rule 262 of the South Carolina Appellate Court Rules (as Amended May 6, 2022), Appellate Case No. 2020-000447.

Rufus Rivers
Merle Rivers
rrivers788@gmail.com



Jason R. Williamson, CP, SCCP

December 7, 2023
Columbia, South Carolina

Archived: Thursday, December 7, 2023 2:51:25 PM

From: Jason R. Williamson, CP, SCCP

To: rrivers788@gmail.com

Cc: Kathleen M. McDaniel (she/her); Sarah J.M. Cox (she/her)

Subject: Rufus Rivers v. James Smith, Jr. // 2020-000451 - Return to Motion for Mandate

Importance: Normal

Attachments:

[Respondent Smith's Return to Rivers Motion for Mandate \(12-07-2023\).pdf](#) 

Good afternoon,

Attached please find, for service upon you, Respondent's Return to Appellants' Motion for Mandate, for the above-referenced matter.

My best,

Jason R. Williamson