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Dec 08 2023

SC Court of Appeals

STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM ORANGEBURG COUNTY
The Honorable Edgar Dickson

Appellate Case No. 2025-000451

Rufus Rivers and Merle Rivers.....Appellants

VS.

James Smith, Jr.....Respondent

**REPLY TO JAMES SMITH JR'S RETURN TO RUFUS AND MERLE RIVERS'
REQUEST FOR MANDATE**

In response to Smith's return to Appellants' request for mandate. Smith's request for re-hearing automatically stayed the opinion. However, when it was denied, that stay was no longer valid without Respondent Smith filing a motion to stay the opinion and possibly post bond pursuant to Rule 41. The writ of certiorari petition does not automatically stay the opinion unless a motion to stay is filed within the specified period of time as outlined in Rule 41. Appellants did abide by Rule 241 and the decision was rendered by the Court of Appeals. Respondent chose to request review after the Court of Appeals decision. Respondent's counsel is unlawfully holding Appellants' escrow money. There was nothing in the Court of Appeals decision remanding the matter back to the magistrate. However, the opinion did affirm that the magistrate lacked subject matter jurisdiction. That means the funds should not have been held in escrow at all. Appellants have requested that the Clerk issue a mandate.(See attached letter).

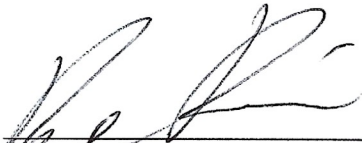
In conclusion, we are asking this court to do its duty and issue a mandate so that appellants can obtain their funds held in escrow without requesting a forensic accounting. Respondents have

recently filed a Summons and Complaint in circuit court regarding this same matter. This is unconscionable. Case no. 2023-CP-38-01749. Appellants have made request to respondent's counsel and the magistrate for the return of the funds. Appellants has also requested that the clerk of the Court of Appeals issue a mandate as the time has expired.

Appellants pray that this court order a mandate so that Appellants can obtain their funds held in escrow. It appears that the return of funds are being delayed for no reason. The Court of Appeals' decision should have been enough.

December 7, 2023

Attorney for Respondent
Kathleen McDaniel, Esq.
P.O. Box 1929
Columbia, South Carolina 29202



Rufus Rivers, pro se



Merle Rivers, pro se

November 1, 2023

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SC Court of Appeals

Clerk of Court
P.O. Box 11629
Columbia, SC 29211

RE: Case No. 2020-000451 Request for Mandate to release funds held in escrow

To: The Clerk

I have recently requested a mandate regarding the above-referenced matter. I received a deficiency letter for failure to pay the motion fee. Is it necessary for me to file a motion and pay a fee for something that should have already been provided? Pursuant to Rule 41, the mandate should have already been sent after time had expired after the opinion was issued except for Respondent's request for rehearing which automatically stayed the opinion. However, the rehearing was denied 07/21/2023. The Respondent has now filed a writ of certiorari with the Supreme Court which required Respondent to file a motion to stay the opinion within the allotted time after the denial if he desired to stay the opinion. Respondent, through his attorney have not taken any steps to stay the opinion and time has expired to do so. It has now been over 120 days since the denial for rehearing was issued. Please advise if the mandate is ready for issuance. If so, could you please accelerate the issuance of the mandate.

Respectfully yours,

Rufus Rivers, pro se

Merle Rivers, pro se

P.S. We apologize for filing the previous request where it appeared to be a motion, however, that was not my intention.

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SC Court of Appeals

IN THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM ORANGEBURG COUNTY
Case No. 2018-CP-38-01339

Rufus Rivers and Merle Rivers, pro se.....Appellants


V.

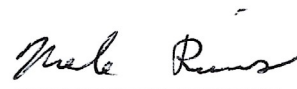
James Smith, Jr.....Respondent

PROOF OF SERVICE

We hereby certify that a copy of Rufus Rivers and Merle Rivers' Reply to James Smith, Jr.'s Return to Rufus Rivers and Merle Rivers' Request for Mandate to Release Funds held in Escrow was served on James Smith, Jr. through his attorney of Record, Kathleen McDaniel, Esq., and emailed to her last known address P. O. Box 1929 Columbia, South Carolina 29202 by depositing same in the U.S. Mail in an envelope with proper postage affixed.

December 7, 2023


Rufus Rivers, pro se


Merle Rivers, pro se