

The Supreme Court of South Carolina

Stewart Buchanan, #69848, Petitioner,

v.

Robert Brown, in his individual capacity, [First name unknown] Bowie, in her individual capacity, and David Tatarsky, in his individual capacity, Respondents.

Appellate Case No. 2013-001335
Lower Court No. 2010CP4005896

ORDER

By order dated April 10, 2013, the Court of Appeals dismissed the appeal in this matter based on petitioner's failure to pay the filing fee specified by Rule 203 of the South Carolina Appellate Court Rules (SCACR). Petitioner filed a motion to reinstate with the Court of Appeals, but did not include the filing fee for that motion. *See* Rule 240(d), SCACR (specifying the filing fee for a motion).

By letter dated May 14, 2013, the Court of Appeals advised petitioner that he must submit the fee for the motion and that the fee had to be received by the Court of Appeals by May 24, 2013. When petitioner failed to pay the filing fee within the required period, the Court of Appeals sent the remittitur to the circuit court on May 31, 2013. *Buchanan v. Brown*, Appellate Case No. 2012-211917.

Petitioner has now filed a petition for writ of certiorari with this Court. The petition is dismissed for two reasons.

First, while petitioner has included some relevant documents with his petition, he has failed to file and serve an appendix that complies with Rule 242(e), SCACR (when a matter has been dismissed by the Court of Appeals, the appendix shall include any documents relevant to the dismissal and, where documents relating to a dismissal are included, the appendix must be served on opposing counsel).

Second, the Court of Appeals has sent the remittitur. The sending of the remittitur ended appellate jurisdiction over this case. *Wise v. S.C. Dept. of Corr.*, 372 S.C. 173, 642 S.E.2d 551 (2007).¹

Accordingly, the petition for a writ of certiorari is dismissed.



C.J.
FOR THE COURT

Columbia, South Carolina

August 5, 2013

cc: Mr. Stewart Buchanan, 069848
Samuel F. Arthur, III, Esquire
The Honorable Jenny Kitchings

¹ In the petition, petitioner asserts that the remittitur has been prematurely sent. This is not an issue that can be raised for the first time to this Court. *See Wise, supra* (discussing when an appellate court can recall a remittitur).