

Jenny Abbott Kitchings, Clerk
Court of Appeals
1220 Senate Street
Columbia, South Carolina 29201

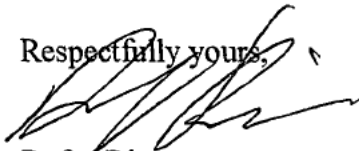
RE: 2020-000451

RECEIVED
MAY 28 2024
SC Court of Appeals

Dear Ms. Kitchings;

I hope this communication finds you in good health. The purpose of this communication is to inquire about the issuance of the mandate in the above referenced matter. Rule 41 indicates that the Clerk is responsible for issuing the mandate once the Court of Appeals decision is entered and the required time has expired provided Respondent does not request a motion to stay. Respondent filed for rehearing and was denied, and since filed a Petition for Writ of Certiorari. I am asking that you expedite the mandate without me having to Petition for Writ of Mandamus. On December 11, 2023 a motion for mandate was denied(see attached order). On March 28, 2024 a motion to enforce judgment was denied(see attached) Since all of the requirements have been met or not met, an expedited issuance is appropriate at this time.

Respectfully yours,



Rufus Rivers
803-218-9573

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Nov 27 2023

SC Court of Appeals

IN THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM ORANGEBURG COUNTY
The Honorable Edgar W. Dickson, Circuit Judge

Case No. 2018-CP-38-01339
Appellate Case No. 2020-000451

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

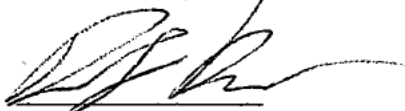
V.

James Smith, Jr.....Respondent

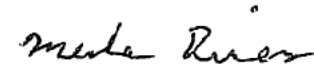
REQUEST FOR MANDATE TO RELEASE FUNDS IN ESCROW

On June 21, 2023, the Court of Appeals issued its Opinion in this matter. Respondent's Request for rehearing was denied July 21, 2023. Respondent never moved the court for stay of the decision. Respondent has since filed a Petition for Writ of Certiorari without making a motion for stay. Pursuant to Rule 41, Writ of Certiorari does not automatically stay the Opinion. Please issue an order releasing funds.

November 22, 2022,


Rufus Rivers, pro se

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


Merle Rivers, pro se

The South Carolina Court of Appeals

Rufus Rivers and Merle Rivers, Appellants,

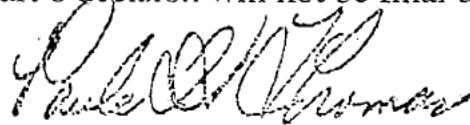
v.

James Smith, Jr., Respondent.

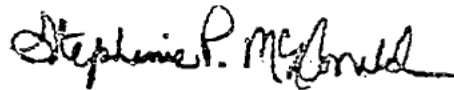
Appellate Case No. 2020-000451

ORDER

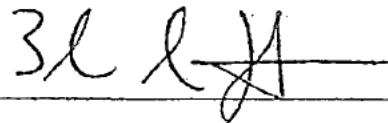
The appellants filed a motion titled "request for mandate to release funds in escrow." The motion is denied as this court's decision will not be final until the remittitur is issued.



J.



J.



J.

Columbia, South Carolina

cc:

Rufus Rivers

Merle Rivers

Kathleen McColl McDaniel, Esquire

Sarah Jean Michaelis Cox, Esquire

The Honorable Edgar W. Dickson

The Honorable Patricia A. Howard

FILED

Feb 07 2024

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Mar 28 2024

SC Court of Appeals

IN THE STATE OF SOUTH CAROLINA
In The Court Of Appeals

APPEAL FROM ORANGEBURG COUNTY
The Honorable Edgar Dickson

Appellate Case No. 2020-000451

Rufus Rivers and Merle Rivers, pro se

Appellants

VS.

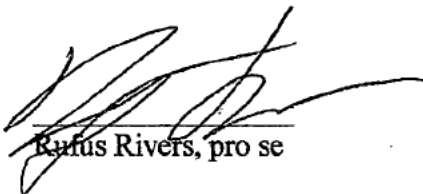
James Smith, Jr.

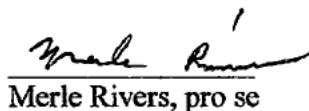
Respondent

PROOF OF SERVICE

Rufus Rivers and Merle Rivers hereby certify service of their motion to enforce judgment made to defendant James Smith, Jr. by depositing same in the U.S. Mail, in an envelope with proper postage affixed and addressed to his attorney of record at P.O. Box 1929, Columbia, South Carolina, 29202.

March 27, 2024


Rufus Rivers, pro se


Merle Rivers, pro se

STATE OF SOUTH CAROLINA
In The Court Of Appeals

RECEIVED

Mar 28 2024

SC Court of Appeals

APPEAL FROM ORANGEBURG COUNTY
The Honorable Edgar Dickson

Appellate Case No. 2020-000451

Rufus Rivers and Merle Rivers _____ Appellants

VS.


James Smith, Jr. _____ Respondent

MOTION TO ENFORCE JUDGMENT

On June 21, 2023, this court rendered its decision by reversing the lower court's decision in the above-referenced matter(OP. 05992). No remittitur has been issued and respondent has not filed a motion to stay the decision. Respondent filed for rehearing and was denied and has since filed a petition for review of that decision, which is still pending. Time has now expired and the respondent has initiated a new case in the circuit court regarding the same issues. Appellants now moves this court to enforce its judgment. **Appellants invoked res judicata** in the circuit court. However, appellants does not know the outcome, appellants may be tasked with filing an appeal that places them at a disadvantage for lack of funds. This is not justice when the plaintiff's attorney and the magistrate are withholding the appellants' funds in escrow while a new case is being re-litigated in the circuit court. For the sake of **due process**, appellants ask this court to issue an order enforcing its decision which would allow appellants to move forward in prosecuting their case. Respondent is using the writ of certiorari as the reason for withholding appellants' funds while not filing a motion to stay enforcement

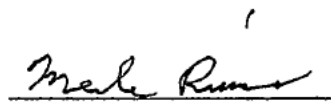
of the Court of Appeals decision, which should raise some ethical concerns. Even though, appellants does not have a crystal ball, it will serve them well to resolve this issue before having to re-litigate the present matter that is looming. Appellants have asked the ODC to intervene, and has received a response that the matter was dismissed by them and therefore will not be re-visited which is not clear to appellants.

March 27, 2024



Rufus Rivers, pro se

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



Merle Rivers, pro se

The South Carolina Court of Appeals

Rufus Rivers and Merle Rivers, Appellants,

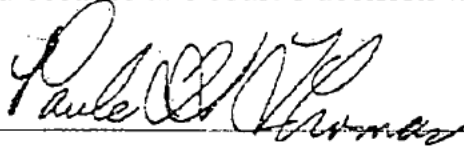
v.

James Smith, Jr., Respondent.

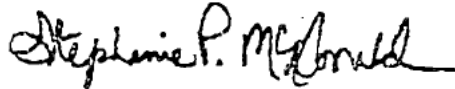
Appellate Case No. 2020-000451

ORDER

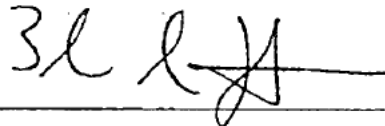
The appellants filed a second motion seeking an order releasing the funds in escrow. As before, the motion is denied because this court's decision will not be final until the remittitur is issued.



J.



J.



J.

Columbia, South Carolina

cc:

Rufus Rivers

Merle Rivers

Kathleen McColl McDaniel, Esquire

Sarah Jean Michaelis Cox, Esquire

The Honorable Edgar W. Dickson

The Honorable Patricia A. Howard

FILED
Apr 16 2024

RECEIVED

Nov 27 2023

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

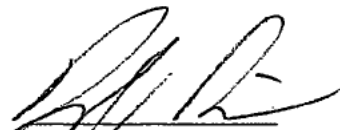
V.

James Smith, Jr.....Respondent

PROOF OF SERVICE

We hereby certify that a copy of Rufus Rivers and Merle Rivers' Request for Mandate to Release Funds held in Escrow was served on James Smith, Jr. through his attorney of Record, Kathleen McDaniel, Esq., email and 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.

November 22, 2023

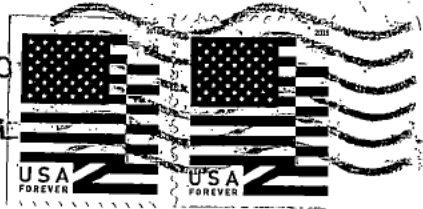

Rufus Rivers, pro se


Merle Rivers, pro se

1429 Legrand Swoak Street
Columbia, South Carolina 29201

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MAY 28 2024

SC Court of Appeals

Jenny Abbott Kitchings
1220 Senate Street
Columbia, South Carolina 29201

29201-376999

