

The South Carolina Court of Appeals

The State, Respondent,

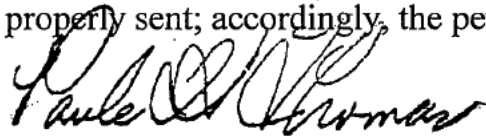
v.

Maurice Durell Wigfall, Appellant.

Appellate Case No. 2023-000178

ORDER

This appeal was dismissed on November 9, 2023, after Appellant's prior counsel failed to serve and file Appellant's initial brief and designation of matter. The remittitur was properly sent on December 5, 2023. Appellant, through new counsel, has now filed a motion to reinstate the appeal and hold the appeal in abeyance until all transcripts are obtained. We construe the motion as a petition to rehear the dismissal. After careful consideration, the court is unable to discover that any material fact or principle of law has been either overlooked or disregarded, and hence, there is no basis for granting a rehearing. A remittitur cannot be recalled except upon "a very strong showing . . . that the remittitur was sent down through some mistake or inadvertence on the part of this Court or its officer." *State v. Keels*, 39 S.C. 553, 17 S.E. 802 (1893). Appellant has failed to make such a showing. The remittitur was properly sent more than fifteen days after the order of dismissal was issued. *See* Rule 221(b), SCACR ("The remittitur . . . shall not be sent to the lower court or administrative tribunal until fifteen (15) days have elapsed (the day of filing being excluded) since the filing of the opinion, order, judgment, or decree of the court finally disposing of the appeal."). This appeal cannot be reinstated where remittitur was properly sent; accordingly, the petition for rehearing is denied.¹



J.

¹ Because we deny the petition for rehearing, we decline to rule upon Appellant's motion to hold the appeal in abeyance.

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J.



J.

Columbia, South Carolina

cc:

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FILED
Aug 12 2024