

The Supreme Court of South Carolina

Kevin Smith, Petitioner,

v.

State of South Carolina, Respondent.

Appellate Case No. 2024-001289

ORDER

By order dated September 13, 2024, this Court dismissed Petitioner's notice of appeal for failing to provide an explanation pursuant to Rule 243(c), SCACR. Thereafter, Petitioner submitted an explanation pursuant to Rule 243(c), SCACR. By order dated September 23, 2024, this Court reinstated the case and dismissed Petitioner's notice of appeal because the order was not appealable as Petitioner failed to timely file a response to the conditional order of dismissal. *See Edith v. State*, 369 S.C. 408, 632 S.E.2d 844 (2006).

On September 26, 2024, this Court received a petition for rehearing, dated September 23, 2024, requesting reconsideration of the order of dismissal. Because the petition was dated and served the same day this Court issued the September 23, 2024, order, we have construed it as seeking rehearing of the September 13, 2024, order. Because this Court reinstated Petitioner's case in the September 23, 2024, order, the petition for rehearing of the September 13, 2024, order is denied as moot.

Petitioner has also filed an amended petition for rehearing, requesting reconsideration of the Court's September 23, 2024, order reinstating the case and dismissing Petitioner's notice of appeal. Because Petitioner did timely file his response to the conditional order of dismissal, we grant the petition for rehearing and reinstate the notice of appeal. We further vacate the final order of dismissal of the post-conviction relief (PCR) court and remand the case back to the PCR court for consideration of Petitioner's response to the conditional order of dismissal.

John K. Kitzinger C.J.
John Cannon Jew J.
[Signature] J.
D. Kim Kim J.
Debra H. Verdini J.

Columbia, South Carolina
October 31, 2024

cc:
D. Russell Barlow, II
Kevin Smith, 164920
The Honorable Jeanette W. McBride
The Honorable Jocelyn Newman

The Supreme Court of South Carolina

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