

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM FAIRFIELD COUNTY
In The Circuit Court

Brian M. Gibbons, Circuit Court Judge

Case No. 2024-002121

RECEIVED

Dec 27 2024

S.C. SUPREME COURT

Saint Luke Baptist Church,

Respondent,

v.

Rayshawn Terry,

Appellant.

MOTION TO RECONSIDER AND REINSTATE

On December 20, 2024, the Clerk of the Supreme Court issued its Order dismissing the Appellant's Petition for *Certiorari* as untimely filed and incorrect in form. The Appellant contends that no facts prevent the full consideration of his Petition.

On December 12, 2024, counsel timely filed the documents relevant to the Petition for *Certiorari*, which Petition had been prepared as of that time. In the first e-mail he recited the inclusion of the Petition (EMail1.pdf), together with the lengthy Petition for Reconsideration to the Court of Appeals (EMail5.pdf) which later document is referenced in the Petition for *Certiorari* as stating the grounds for that relief in full.

Through inadvertence, counsel forgot to attach the actual Petition for *Certiorari* in EMail1.pdf. Upon notice of this oversight, he e-mailed the Petition for *Certiorari* to the Clerk of the Supreme Court on December 17th, 2024 (EMail1a.pdf)

The Supreme Court has long recognized inadvertence as a ground to excuse omissions and allow it to reach the issue in question. Rule 60(a), S.C.R.C.P, to the extent applicable here, states in relevant part:

(a) Clerical Mistakes. Clerical mistakes in judgments, orders or other parts of the record and errors therein arising from oversight or omission may be corrected by the court at any time of its own initiative or on the motion of any party and after such notice, if any, as the court orders. During the pendency of an appeal, leave to correct the mistake must be obtained from the appellate court. . . .

Rule 60(b), S.C.R.C.P., again to the extent applicable, provides in relevant part:

(b) Mistakes; Inadvertence; Excusable Neglect; Newly Discovered Evidence; Fraud, etc. On motion and upon such terms as are just, the court may relieve a party or his legal representative from a final judgment, order, or proceeding for the following reasons:

(1) mistake, inadvertence, surprise, or excusable neglect; . . .

Relief in this matter is timely sought. The Appellant maintains, as stated in his Petition to the Court of Appeals and in that for *Certiorari*, that good grounds exist for the relief sought. No appreciable prejudice is worked to the opposing party by a grant of the relief sought. Both Rule 60(a) and 60(b) state adequate bases for the relief sought.

The basis for a grant of *certiorari* is more than adequately set out in the Appellant's incorporated Petition for Reconsideration to the Court of Appeals (EMail5.pdf)

With all respect to the Clerk, the Movant contends this is a decision for the Court as an whole.

Respectfully submitted,

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December 13, 2024

Rock Hill, South Carolina