

THE STATE OF SOUTH CAROLINA
In the Supreme Court

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S.C. SUPREME COURT

APPEAL FROM FAIRFIELD COUNTY

Court Of Common Pleas

The Honorable Brian M. Gibbons, Circuit Court Judge

Case No.: 2021-CP-20-00024, Circuit Court
Appeals Court Docket No.: 2022-000987

Saint Luke Baptist Church, Respondent,

v.

Rayshawn Terry.....Petitioner.

**RESPONSE TO PETITIONER’S MOTION
TO RECONSIDER AND REINSTATE**

COMES NOW, Respondent Saint Luke Baptist Church, (hereinafter, “Respondent”) by and through its undersigned counsel, hereby files this Response in Opposition to Petitioner Rayshawn Terry’s Motion to Reconsider and Reinstate.

By way of background, Rayshawn Terry (“Petitioner”) filed a Notice of Appeal in the South Carolina Court of Appeals on July 14, 2022. After the parties filed their respective briefs, the Court of Appeals issued an opinion, without oral argument, affirming the lower court’s decision in favor of the Respondent on September 11, 2024. On September 26, 2024, Petitioner filed a Petition for Rehearing. The Court of Appeals denied the Petition for Rehearing on November 14, 2024. Subsequently, Petitioner untimely filed his Petition for Writ Certiorari with the Court of Appeals and Supreme Court on December 17, 2024, and also failed to serve

Respondent.¹ In an order dated December 20, 2024, the Clerk for the Supreme Court dismissed Petitioner's Petition for Writ of Certiorari on the basis that the Petition was not timely served and filed under Rule 242(c), SCACR, and the Petition did not comply with the content requirements of Rule 242(d), SCACR. In response, Petitioner filed a Motion to Reconsider and Reinstate on December 27, 2024.

This Court should deny Petitioner's Motion to Reconsider and Reinstate because Petitioner failed to properly serve Respondent with his Petition for Writ of Certiorari, as required by the Appellate Court Rules. Rules 242(c) and 262(b), SCACR, require the Petitioner to serve a copy of the Petition for Writ of Certiorari upon each party. Although Petitioner's counsel filed a Proof of Service indicating that he served Respondent's counsel on December 17, 2024, Petitioner's counsel, in fact, failed to do so. Petitioner's counsel failed to include Respondent's counsel in his email to the Court filing the Petition for Certiorari, and Petitioner's counsel also failed to serve Respondent's counsel with the Petition by email, U.S. mail or through any other means as required by Rule 262(c), SCACR, thereby prejudicing Respondent's ability to protect its interests, and timely respond to the Petition.

Petitioner's counsel has offered no explanation for his failure to properly serve Respondent with his Petition for Writ of Certiorari, and therefore, no good cause has been shown to warrant the Court's reinstatement of this appeal. *See* Rule 260, SCACR. Therefore, the Court should deny Petitioner's Motion to Reconsider and Reinstate, as the Court correctly dismissed Petitioner's Petition for Writ of Certiorari for failure to comply with the Appellate Court Rules. *See id.*

¹ Petitioner's email to the Court dated 12/12/24 excludes all of the Respondent's attorneys in "To" line. Similarly, Petitioner's email dated 12/17/2024 also excludes all of the Respondent's attorneys. None of Respondent's attorneys have a record of receiving email or mailed correspondence from Petitioner. See Affidavit of Kenneth A. Davis, Esquire.

Additionally, the Court should deny Petitioner's Motion to Reconsider and Reinstate because Petitioner failed to timely file his Petition for Writ of Certiorari, as required by Appellate Court Rule 242(c). Rule 242(c), provides that:

“[a] petition for writ of certiorari shall be served on opposing counsel and filed with proof of service with the Clerk of the Court of Appeals and the Clerk of the Supreme Court within thirty (30) days after the petition for rehearing or reinstatement is finally decided by the Court of Appeals.”

Rule 242(c), SCACR. As the Court of Appeal's Order denying the Petition for Rehearing was rendered on November 14, 2024, Petitioner was required to file and serve the Petition for Writ of Certiorari by December 16, 2024. However, Petitioner untimely filed the Petition for Writ of Certiorari on December 17, 2024. Petitioner's counsel indicates that he inadvertently failed to include the Petition as an attachment to his email to the Court of Appeals and Supreme Court dated December 12, 2024. However, Petitioner has not established that his purported inadvertence in filing the Petition satisfies the good cause standard articulated in Rule 260(a), SCACR.

In fact, on the morning of December 16, 2024, the Clerk for the Supreme Court promptly notified Petitioner's counsel of his failure to include the Petition for Writ of Certiorari in his December 12, 2024, email, and requested that Petitioner's counsel electronically file the Petition. *See Exhibit A: Thompson Email to Foster Dated December 16, 2024.* However, Petitioner's counsel filed the Petition on the following day, on December 17, 2024, which was beyond the deadline to file the Petition. Accordingly, the Court should deny Petitioner's Motion to Reconsider and Reinstate, as the Court correctly dismissed the Petition for Writ of Certiorari for Petitioner's failure to timely file the Petition in accordance with Rule 242(c), SCACR.

Finally, Petitioner's Motion to Reconsider and Reinstate should be denied because Petitioner's Petition for Writ of Certiorari fails to comply with the content requirements of Rule 242(d). Rule 242(d) mandates that a Petition for Writ of Certiorari include the following:

“(1)[t]he questions presented for review, expressed in the terms and circumstances of the case but without unnecessary detail... (2) [a] concise statement of the case, containing the facts material to the consideration of questions presented; (3) [a] direct and concise argument in support of the petition....Failure of a petitioner to present with accuracy, brevity, and clarity the information and arguments that are essential to a ready and adequate understanding of the points requiring consideration will be a sufficient reason for denying the petition.”

Rule 242(d), SCACR. The Petition for Certiorari fails to comply with the aforementioned requirements. Instead of presenting the required questions for review, the statement of the case, or concise arguments, the Petition includes a sweeping assertion that “the decision of the Court of Appeal[sic] is in conflict with past decision of the Supreme Court,” and references the Appellant’s Petition for Rehearing. As such, the Petition for Writ of Certiorari fails to satisfy the requirements of the Rule 242(d), thereby warranting dismissal of the Petition.

In conclusion, Petitioner has failed to show good cause to reinstate his case or his Petition for Writ of Certiorari. Accordingly, and based on the reasons set forth herein, Respondent respectfully requests that this Court deny Petitioner’s Motion to Reconsider and Reinstate.

Respectfully Submitted,

BOYKIN & DAVIS, LLC

By: 

Charles J. Boykin (SC Bar No. 65149)
Kenneth A. Davis (SC Bar No. 66416)
Imani N. Newborn (SC Bar No. 101820)

P.O. Box 11844
Columbia, SC 29211
Telephone: (803) 254-0707
Facsimile: (803) 254-5609

cjboykin@boykinlawsc.com
kdavis@boykinlawsc.com
inewborn@boykinlawsc.com

Attorneys for Respondent Saint Luke Baptist Church

January 6, 2025
Columbia, South Carolina