

RECEIVED

Dec 27 2024

SC Court of Appeals

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

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,

/s/ John Martin Foster
SC Bar No. 2086
Post Office Box 106
Rock Hill, S.C.29731-6106
jmfoster340@gmail.com
Attorney for Petitioner/Appellant

December 13, 2024

Rock Hill, South Carolina

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. 2022-000987

Saint Luke Baptist Church,

v.

Respondent,

Rayshawn Terry,

Appellant. _____

CERTIFICATE OF SERVICE

I certify that I have served the Motion to Reconsider and Reinstate, dated December 27, 2024, on the following counsel or persons of record on the date stated below:

by service to the opposing lawyer's primary e-mail address listed in the Attorney Information System (AIS), as authorized by Section d(1) of the Order of the Supreme Court dealing with Electronic Filing and Service amended May 6, 2022.

Kenneth A. Davis
kdavis@boykinlawsc.com
Charles J. Boykin
cjboykin@boykinlawsc.com
Imani Nicole Newborn
innewborn@gmail.com

/s/ John Martin Foster
Attorney for Petitioners/Appellants
SC Bar No. 2086
223 East Main Street, Suite 520
Rock Hill, S.C. 29730
Post Office Box 106
Rock Hill, S.C. 29731
803 324-8100
803 324-8109: Fax
jmfooster340@gmail.com

December 17, 2024

Rock Hill, South Carolina

Subject: St Luke Baptist v Terry 2022-000987 ; 1
From: Martin Foster <jmfoster340@gmail.com>
Date: 12/12/24, 20:54
To: supctfilings@sccourts.org, Court Of Appeals Filings <ctappfilings@sccourts.org>

Clerk of the Supreme Court:
Clerk of the Court of Appeals:

Pursuant to the Order of the Supreme Court dated November 11, 2024, I attach our Petition for *Certiorari* and those documents intended as an Appendix for filing in the matter above.

The filing fee to the Supreme Court, with a hard copy, will follow by mail.

Thank you as always for your attention to these matters.

-- Martin Foster

JMFOSTER@COMPORIUM.NET

THE GUARDIAN BUILDING 223 EAST MAIN STREET SUITE 520 ROCK HILL, SC 29730

P.O. BOX 106 ROCK HILL, SC 29731-6106

803 324-8100 803 324-8109: FAX

PRIVILEGED AND CONFIDENTIAL: This electronic message and any attachments are confidential property of the sender. The information is intended only for the use of the person to whom it was addressed. Any other interception, copying, accessing, or disclosure of this message is prohibited. The sender takes no responsibility for any unauthorized reliance on this message. If you have received this message in error, please immediately notify the sender and purge the message you received. Do not forward this message without permission.

IRS CIRCULAR 230 DISCLOSURE: To ensure compliance with requirements imposed by the IRS, we inform you that any US federal tax advice contained in this document is not intended or written to be used, and cannot be used, for the purpose of (i) avoiding penalties under the Internal Revenue Code Section 6662(d) or (ii) promoting, marketing or recommending to another party any transaction or matter that is contained in this document.

--

Martin Foster

jmfoster340@gmail.com

The Guardian Building 223 East Main Street Suite 520 Rock Hill, SC 29730

P.O. Box 106 Rock Hill, SC 29731-6106

803 324-8100 803 324-8109: Fax

PRIVILEGED AND CONFIDENTIAL: This electronic message and any attachments are confidential property of the sender. The information is intended only for the use of the person to whom it was addressed. Any other interception, copying, accessing, or disclosure of this message is prohibited. The sender takes no responsibility for any unauthorized reliance on this message. If you have received this message in error, please immediately notify the sender and purge the message you received. Do not forward this message without permission.

IRS CIRCULAR 230 DISCLOSURE: To ensure compliance with requirements imposed by the IRS, we inform you that any US federal tax advice contained in this document is not intended or written to be used, and cannot be used, for the purpose of (i) avoiding penalties under the Internal Revenue Code Section 6662(d) or (ii) promoting, marketing or recommending to another party any transaction or matter that is contained in this document.

— Final Brief .pdf - Martin Foster <jmfoster340@gmail.com> - 2024-12-12 2046.eml —

Subject: Final Brief .pdf
From: Martin Foster <jmfoster340@gmail.com>
Date: 12/12/24, 20:46
To: Martin Foster <jmfoster340@gmail.com>

— Attachments: —

BriefTerry.pdf	78.7 KB
Final Brief .pdf - Martin Foster <jmfoster340@gmail.com> - 2024-12-12 2046.eml	529 KB
Final Brief .pdf	391 KB
ReplyBriefTerry.pdf	62.4 KB

Subject: St Luke Baptist v Terry 2022-000987 ; 5
From: Martin Foster <jmfoster340@gmail.com>
Date: 12/12/24, 21:11
To: supctfilings@sccourts.org, Court Of Appeals Filings <ctappfilings@sccourts.org>

Clerk of the Supreme Court:
Clerk of the Court of Appeals:

Pursuant to the Order of the Supreme Court dated November 11, 2024, I attach our Petition for *Certiorari* and those documents intended as an Appendix for filing in the matter above.

The filing fee to the Supreme Court, with a hard copy, will follow by mail.

Thank you as always for your attention to these matters.

-- Martin Foster

JMFOSTER@COMPORIUM.NET

THE GUARDIAN BUILDING 223 EAST MAIN STREET SUITE 520 ROCK HILL, SC 29730

P.O. BOX 106 ROCK HILL, SC 29731-6106

803 324-8100 803 324-8109: FAX

PRIVILEGED AND CONFIDENTIAL: This electronic message and any attachments are confidential property of the sender. The information is intended only for the use of the person to whom it was addressed. Any other interception, copying, accessing, or disclosure of this message is prohibited. The sender takes no responsibility for any unauthorized reliance on this message. If you have received this message in error, please immediately notify the sender and purge the message you received. Do not forward this message without permission.

IRS CIRCULAR 230 DISCLOSURE: To ensure compliance with requirements imposed by the IRS, we inform you that any US federal tax advice contained in this document is not intended or written to be used, and cannot be used, for the purpose of (i) avoiding penalties under the Internal Revenue Code Section 6662(d) or (ii) promoting, marketing or recommending to another party any transaction or matter that is contained in this document.

--

Martin Foster

jmfoster340@gmail.com

The Guardian Building 223 East Main Street Suite 520 Rock Hill, SC 29730

P.O. Box 106 Rock Hill, SC 29731-6106

803 324-8100 803 324-8109: Fax

PRIVILEGED AND CONFIDENTIAL: This electronic message and any attachments are confidential property of the sender. The information is intended only for the use of the person to whom it was addressed. Any other interception, copying, accessing, or disclosure of this message is prohibited. The sender takes no responsibility for any unauthorized reliance on this message. If you have received this message in error, please immediately notify the sender and purge the message you received. Do not forward this message without permission.

IRS CIRCULAR 230 DISCLOSURE: To ensure compliance with requirements imposed by the IRS, we inform you that any US federal tax advice contained in this document is not intended or written to be used, and cannot be used, for the purpose of (i) avoiding penalties under the Internal Revenue Code Section 6662(d) or (ii) promoting, marketing or recommending to another party any transaction or matter that is contained in this document.

— Attachments:

SuppRecApp.pdf	7.9 MB
Saint v. Terry - Opinion and Cover Letter.pdf	143 KB
ReconsiderPetTerry.pdf	119 KB

Subject: St Luke Baptist v Terry 2022-000987 : 1 (RESENT)

From: Martin Foster <jmfoster340@gmail.com>

Date: 12/17/24, 18:41

To: supctfilings@sccourts.org, Court Of Appeals Filings <ctappfilings@sccourts.org>

Clerk of the Supreme Court:

Clerk of the Court of Appeals:

Pursuant to the Order of the Supreme Court dated November 11, 2024, I attach our Petition for *Certiorari* and those documents intended as an Appendix for filing in the matter above.

The filing fee to the Supreme Court, with a hard copy, will follow by mail.

Thank you as always for your attention to these matters.

-- Martin Foster

JMFOSTER@COMPORIUM.NET

THE GUARDIAN BUILDING 223 EAST MAIN STREET SUITE 520 ROCK HILL, SC 29730

P.O. BOX 106 ROCK HILL, SC 29731-6106

803 324-8100 803 324-8109: FAX

PRIVILEGED AND CONFIDENTIAL: This electronic message and any attachments are confidential property of the sender. The information is intended only for the use of the person to whom it was addressed. Any other interception, copying, accessing, or disclosure of this message is prohibited. The sender takes no responsibility for any unauthorized reliance on this message. If you have received this message in error, please immediately notify the sender and purge the message you received. Do not forward this message without permission.

IRS CIRCULAR 230 DISCLOSURE: To ensure compliance with requirements imposed by the IRS, we inform you that any US federal tax advice contained in this document is not intended or written to be used, and cannot be used, for the purpose of (i) avoiding penalties under the Internal Revenue Code Section 6662(d) or (ii) promoting, marketing or recommending to another party any transaction or matter that is contained in this document.

--

Martin Foster

jmfoster340@gmail.com

The Guardian Building 223 East Main Street Suite 520 Rock Hill, SC 29730

P.O. Box 106 Rock Hill, SC 29731-6106

803 324-8100 803 324-8109: Fax

PRIVILEGED AND CONFIDENTIAL: This electronic message and any attachments are confidential property of the sender. The information is intended only for the use of the person to whom it was addressed. Any other interception, copying, accessing, or disclosure of this message is prohibited. The sender takes no responsibility for any unauthorized reliance on this message. If you have received this message in error, please immediately notify the sender and purge the message you received. Do not forward this message without permission.

IRS CIRCULAR 230 DISCLOSURE: To ensure compliance with requirements imposed by the IRS, we inform you that any US federal tax advice contained in this document is not intended or written to be used, and cannot be used, for the purpose of (i) avoiding penalties under the Internal Revenue Code Section 6662(d) or (ii) promoting, marketing or recommending to another party any transaction or matter that is contained in this document.

— Final Brief .pdf - Martin Foster <jmfoster340@gmail.com> - 2024-12-12 2046.eml —

Subject: Final Brief .pdf
From: Martin Foster <jmfoster340@gmail.com>
Date: 12/12/24, 20:46
To: Martin Foster <jmfoster340@gmail.com>

— Attachments: —

BriefTerry.pdf	78.7 KB
Final Brief .pdf - Martin Foster <jmfoster340@gmail.com> - 2024-12-12 2046.eml	529 KB
Final Brief .pdf	391 KB
ReplyBriefTerry.pdf	62.4 KB
PetCert.pdf	49.9 KB