

The Supreme Court of South Carolina

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OCT 02 2013

SC Court of Appeals

The State, Respondent,

v.

Leroy Bennett, Petitioner.

Appellate Case No. 2013-002042

ORDER

By order dated May 14, 2013, the South Carolina Court of Appeals dismissed the appeal in this matter. The Court of Appeals subsequently denied a petition for rehearing by order dated July 31, 2013, and the remittitur was sent to the circuit court on September-16, 2013.

Petitioner has now filed a notice of appeal seeking review in this matter. This document is dated September 19, 2013, and is accompanied by a proof of service showing that it was served on that date. Since a decision of the Court of Appeals is reviewed by serving and filing a petition for a writ of certiorari under Rule 242 of the South Carolina Appellate Court Rules (SCACR), this notice of appeal has been construed as a petition for a writ of certiorari.

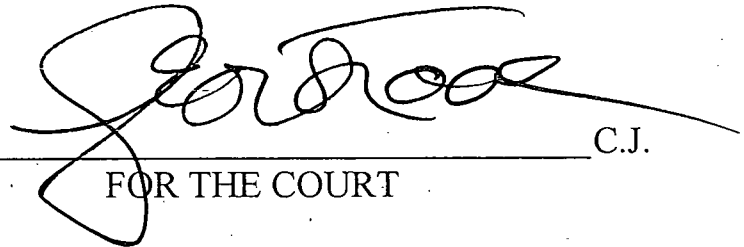
The petition for a writ of certiorari is dismissed for several reasons. First, the petition does not have the content required by Rule 242(d), SCACR.

Second, petitioner has not filed an appendix that complies with Rule 242(e), SCACR.

Third, since the Court of Appeals denied the petition for rehearing on July 31, 2013, any petition for a writ of certiorari had to be served and filed by August 30, 2013. Rule 242(c), SCACR. Therefore, the petition for a writ of certiorari is untimely.

Finally, when no petition for a writ of certiorari had been filed, the Court of Appeals properly sent the remittitur on September 16, 2013. Rule 221(b), SCACR ("Where a petition for rehearing has been denied, the Court of Appeals shall not send the remittitur to the lower court or administrative tribunal until the time to petition for a writ of certiorari under Rule 242(c) has expired.") The sending of the remittitur ended appellate jurisdiction over this case. *Wise v. South Carolina Dept. of Corrections*, 372 S.C. 173, 642 S.E.2d 551 (2007).

Accordingly, petition for a writ of certiorari is dismissed.



C.J.
FOR THE COURT

Columbia, South Carolina

October 1, 2013

cc: Mrs. Leroy-Bennett
Salley W. Elliot, Esquire
The Honorable Jenny Abbott Kitchings