

The Supreme Court of South Carolina

George M. Adams, #181283, Petitioner,

v.

South Carolina Department of Probation, Parole and
Pardon Services, Respondent.

Appellate Case No. 2013-002217

Lower Court or Tribunal Case No. 2013ALJ150005AP

RECEIVED

OCT 28 2013

SC Court of Appeals

ORDER

Petitioner has filed two notices of appeal with the South Carolina Court of Appeals arising out of this Administrative Law Court case.

The first notice of appeal was from an order dated May 22, 2013, and this appeal was assigned Appellate Case No. 2013-001423. This appeal was dismissed by an order dated August 16, 2013, based on petitioner's failure to serve and file his initial brief and designation of matter, and the remittitur was sent in this appeal on September 12, 2013.

The second notice of appeal was from two orders dated June 18, 2013, and this appeal was assigned Appellate Case No. 2013-001561. This appeal was dismissed by an order dated August 16, 2013, based on petitioner's failure to pay the filing fee under Rule 203 of the South Carolina Appellate Court Rules (SCACR). A petition for reinstatement has been filed in that matter, but this petition has not been ruled on by the Court of Appeals.

Petitioner has now filed a notice of appeal indicating that he is appealing the dismissal order of August 16, 2013. Since decisions of the Court of Appeals are reviewed by serving and filing a petition for a writ of certiorari and appendix rather than by serving and filing a notice of appeal under Rule 242, SCACR, this document has been construed as a petition for a writ of certiorari.

While the petition for a writ of certiorari references Appellate Case No. 2013-001561, it includes language about the remittitur being sent, an event that has only

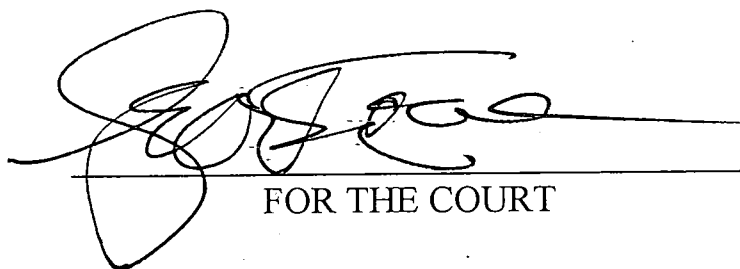
occurred in Appellate Case No. 2013-001423. Further, as outlined above, the orders of dismissal in both appeals were filed on the same day. In short, it is unclear in which appeal appellate review is being sought.

Assuming that review is being sought in Appellate Case No. 2013-001423, this Court will only review a final decision of the Court of Appeals, and a decision is not final for the purposes of review until a petition for rehearing or reinstatement has been acted on by the Court of Appeals. Rule 242(a) and (c), SCACR. Since the Court of Appeals did not rule on a petition for rehearing or reinstatement in that appeal, there is no final decision for this Court to review. Further, the remittitur has been sent in that appeal. The sending of the remittitur ended appellate jurisdiction over that appeal. *Wise v. South Carolina-Dept. of Corrections*, 372 S.C. 173, 642 S.E.2d 551 (2007). Therefore, the petition for a writ of certiorari is dismissed to the extent it seeks review in Appellate Case No. 2013-001423.¹

Assuming that review is being sought in Appellate Case No. 2013-001561, the Court of Appeals has not ruled on the petition for reinstatement filed in that appeal. Therefore, there is no final decision for the purposes of review in Appellate Case No. 2013-001561, and the petition for a writ of certiorari must be dismissed to the extent it seeks review in that appeal. Rules 242(a) and (c), SCACR.

Accordingly, the notice of appeal, which has been construed as a petition for a writ of certiorari, is dismissed.

Columbia, South Carolina
October 24, 2013


C.J.
FOR THE COURT

cc: Mr. George M. Adams, 181283
Tommy Evans, Jr., Esquire
The Honorable Jenny Abbott Kitchings

¹ Further, the appeal in Appellate Case No. 2013-0001423 appears to have been premature since a motion for rehearing was filed with the Administrative Law Court. See Rule 40, Rules of Procedure for the South Carolina Administrative Law Court (a timely motion for rehearing stays the time to appeal). Indeed, any review of the May 22, 2013, order has been rendered moot by the issuance of the amended order of June 18, 2013, which is now the final decision of the Administrative Law Court.