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Mar 05 2026
S.C. SUPREME COURT

FORM 18

PETITION FOR A WRIT OF CERTIORARI

TO THE

THE STATE OF SOUTH CAROLINA

In The Supreme Court

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APPEAL FROM CHARLESTON

COUNTY

Court of Common Pleas

Milton G. Kimpson, Circuit

Court Judge

_____

Court of Appeals Case No.: 2024-001520

_____

Sean M. Tropea as

Personal Representative

of Centre Pointe

Charleston, LLC,

Respondent,

v.

Avis Johnson,

Petitioner.

PETITION FOR A WRIT OF CERTIORARI

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Petitioner

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Counsel for petitioner certifies that the Petition for Rehearing was made and finally ruled on by the Court of Appeals on March 5, 2026.

I. INTRODUCTION

This case presents a significant issue regarding notice and due process in appellate proceedings. Petitioner's appeal was dismissed after petitioner failed to file an appellate brief. However, petitioner did not receive notice of the briefing deadline because email notifications previously sent by the court stopped and the mailed notice was returned undelivered.

Despite evidence in the record showing that the mailed notice was returned and never received by petitioner, the Court of Appeals denied petitioner's motion to recall the remittitur. Petitioner respectfully requests that this Court review that decision to ensure that litigants are not deprived of appellate review due to a failure of notice.

II. STATEMENT OF FACTS

Petitioner filed a notice of appeal regarding an eviction action.

During the appellate process, petitioner had been receiving case notifications by email, the Court was previously made aware that there were delivery issues with Petitioner's USPS mail. However, those email notifications unexpectedly stopped.

The Court of Appeals mailed notice regarding the deadline to file the appellate

brief. That mailed notice was returned undelivered and never reached petitioner. The court docket later reflected the returned mail.

Because petitioner did not receive notice of the briefing deadline, petitioner did not file a brief.

As a result, the appeal was dismissed.

After learning of the dismissal, petitioner promptly filed a motion to recall the remittitur, along with a supplemental memorandum and affidavit explaining that the notice of the briefing deadline was never received.

Despite the evidence showing returned mail and lack of notice, the Court of Appeals denied the motion.

III. ISSUE PRESENTED

Did the Court of Appeals err in denying petitioner's motion to recall the remittitur where the record reflects that petitioner did not receive notice of the appellate briefing deadline because mailed notice was returned undelivered?

IV. ARGUMENT

Due process requires that litigants receive notice and an opportunity to be heard before losing important rights.

In this case, petitioner did not receive notice of the appellate briefing deadline, The record reflects that the mailed notice was returned undelivered, and the previously received email notifications has stopped.

Denying the motion to recall the remittitur in these circumstances effectively deprived petitioner of the right to appellate review without proper notice, which violates basic principles of due process. The dismissal of the appeal occurred solely because petitioner did not file a brief, but that failure resulted from the lack if notice rather than any intentional disregard of the court's rules.

Where a litigant is deprived of notice through circumstances beyond their control, courts have recognized that relief may be appropriate to preserve fairness in the judicial process. Petitioner respectfully submits that this case presents a serious due process issue warranting review by this Court.

V. CONCLUSION/PRAYER FOR RELIEF

For the foregoing reasons, petitioner respectfully requests that this Court:

1. Grant the petition for writ of certiorari
2. Reverse the denial of the motion to recall the remittitur, and
3. Allow the appeal to proceed so that petitioner may file an appellate brief.

VI. APPENDIX/ATTACHMENTS

Petitioner attaches the following documents in support of this petition

1. Court of Appeals order denying the motion to recall the remittitur
2. Court of Appeals dismissal order
3. Docket showing returned mail
4. Motion to recall the remittitur and supporting affidavit.

VII. CERTIFICATE OF SERVICE

I, hereby certify that on this 6TH day of March 2026, a true and correct copy of the foregoing Petition for Writ of Certiorari in Avis Johnson v. Centre Pointe Charleston, LLC, was served on Sean M. Tropea at Post Office Box 62975 North Charleston, SC 29418via United States Mail, postage prepaid

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