

The Supreme Court of South Carolina

Parnell Riley, Petitioner,

v.

State of South Carolina, Respondent.

Appellate Case No. 2013-002271

Lower Court Case No. 2012CP4007930

ORDER

In the explanation required by Rule 243(c) of South Carolina Appellate Court Rules (SCACR), petitioner has failed to show that there is an arguable basis for asserting that the determination by the lower court was improper.¹ Accordingly, this matter is dismissed. The remittitur will be sent as provided by Rule 221(b),

¹ As to petitioner's assertion that he is entitled to review pursuant to *Austin v. State*, 305 S.C. 453, 409 S.E.2d 395 (1991) in his 2006 post-conviction relief action (2006-CP-40-07502), *Austin* is simply inapplicable since petitioner represented himself *pro se* in that action. Assuming that a notice of appeal was timely served on the opposing counsel in the 2006 action, no opinion is expressed as to whether this Court would now allow the late filing of that notice of appeal with this Court. See Rule 263(b), SCACR ("The time prescribed by these Rules for performing any act except the time for serving the notice of appeal under Rules 203 and 243 may be extended . . .").

If any motion to allow the late filing of the notice of appeal in the 2006 action is to be made, it shall be served and filed within twenty (20) days of the date of this order. If made, the motion shall be accompanied by (1) a copy of the notice of appeal; (2) a proof of service showing that the notice of appeal was timely served on opposing counsel; and (3) the explanation required by Rule 243(c), SCACR, since the 2006 action was dismissed as being barred as successive and being barred by the statute of limitations.

SCACR.


C.J.
FOR THE COURT

Columbia, South Carolina

December 18, 2013

cc: Megan E. Harrigan, Esquire
Mr. Pernell Riley, 164169