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S.C. SUPREME COURT

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

On Petition for Writ of Certiorari to the Court of Appeals
Appeal from Horry County
Honorable David P. Caraker, Jr., Circuit Court Judge
Appellate Case No. 2026-000800

THE STATE,

Respondent,

vs.

KENNETH BRIAN MOOREHEAD,

Petitioner.

RETURN TO PETITION FOR WRIT OF CERTIORARI

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PETITIONER'S STATEMENT OF ISSUES ON CERTIORARI

- I. “Does a person or defendant have a right to a fair, impartial jury trial before being held for twenty-six months without release?”
- II. “Is this prejudice to the defendant US constitution Amendment six, the Speedy trial act, South Carolina Constitution Article 1 section 3 # 6, # 9 # 14 speedy trial # 16 libel # # 20 right to bear arms, # 22 property # 24 victims bill of rights.”
- III. “Does a person have a right to have a trial or due process before they lose everything they have?”
- IV. “Does a person have a right to have a trial or do process before they lose their reputation or character or standing in the community?”
- V. “[I]s it not Cruel and unusual punishment to hold a person without release incarcerated or in jail without a right to fair, impartial jury trial or without a trial?”
- VI. “Is it not unfair to not have a trial or due process when pleaded not guilty for 26 months including days before the trial? US constitution amendment 5, 8, 6,14.”
- VII. “[I]s it not unfair, cruel, unusual to tell a defendant after being held for twenty-six months without process, due process or trial they will have to wait at least another year for trial this been 3 years of being held?”
- VIII. “[I]s it not unfair for anyone or a defendant to know choice or forced to take a plea without any way to be released, or have a trial or being taken to trial?”
- IX. “Does the forced plea also not violate the law of self-incrimination?”
- X. “Does not violate the law of a freely given confession or admission even if an Alford plea?”
- XI. “[S]hould a person who has been held for twenty-six months told be another year to trial still be entitled to RELIEF AND MERCY still be entitled to a trial, due process of law, to confront witnesses, examine, cross examine, determine truth, lies and have a fair, impartial jury trial?”
- XII. “Should a person not be allowed to stay on plea bargain without going back to jail or incarceration be allowed to ask for trial, due process, without further Cruel and unusual punishment? US constitution amendment one,5,6, 8,14 and SC constitution[.]”
- XIII. “[L]ater question if person wins a trial should they not be entitled to full freedom privileges, just compensation, personal injury, and damages, and financial loses?”

XIV. “[L]ater should they not be entitled to compensation for the cruel, unusual punishment, including assaults, lose of bottom of teeth including damages done to their reputation, character, or standing in the United States, The states local and the community?”

RESPONDENT'S COUNTER-STATEMENT OF ISSUE ON CERTIORARI

Can Moorehead's current appeal of his third-degree criminal sexual conduct with a minor conviction possibly be successful when Moorehead did not challenge through his petition for a writ of certiorari the ruling of the Court of Appeals dismissing his appeal based on his failure to timely serve his notice of appeal, which means that unchallenged ruling has now become the law of the case regardless of whether it was right or wrong?

STATEMENT OF THE CASE

Procedural History

In July of 2023, Petitioner Kenneth Brian Moorehead was arrested following an investigation into an allegation he inappropriately touched a ten-year-old boy at the beach. In October of 2023, the Horry County Grand Jury indicted Moorehead for one count of third-degree criminal sexual conduct with a minor and one count of kidnapping. On August 11, 2025, Moorehead—who was represented by defense counsel at the time—appeared in the Horry County Court of General Sessions before the Honorable David P. Caraker, Jr., circuit court judge, and entered a negotiated guilty plea pursuant to North Carolina v. Alford, 400 U.S. 25 (1970), solely to third-degree criminal sexual conduct with a minor.¹ At the conclusion of the plea hearing, the plea judge accepted Moorehead’s guilty plea and sentenced him to a ninety-day term of imprisonment with credit for 758 days of time already served.

Subsequent to his conviction, Moorehead began sending ex parte communications to the Court of Appeals, including by mailing what appeared to be his resumé at some point toward the beginning of September of 2025.² In November of 2025, Moorehead—via email—sent numerous ex parte messages to the Court of Appeals, including several that appeared to be an attempt to initiate an appeal of his August 2025 conviction. On December 3, 2025, Moorehead—via email—sent another ex parte message to the Court of Appeals, which was construed as a pro se notice of appeal. On January 5, 2026, the Court of Appeals issued an order

¹ Pursuant to the plea agreement he reached with the State, Moorehead’s kidnapping charge was subsequently dismissed. Records for Kenneth Brian Moorehead, Horry County Fifteenth Judicial Circuit Public Index, <https://publicindex.sccourts.org/horry/publicindex>.

² The records from the appellate proceedings in the Court of Appeals are presently available through the South Carolina Appellate Court Public Index. Appellate Records for State v. Kenneth Brian Moorehead, South Carolina Appellate Court Public Index, <https://ctrack.sccourts.org/public/caseView.do?csIID=85092>.

dismissing Moorehead’s appeal based on his failure to timely serve the notice of appeal. A few days later, Moorehead—via email—sent an ex parte message to the Court of Appeals that was construed as a petition for rehearing. Ultimately, on March 26, 2026, the Court of Appeals denied that petition.

A few days later, Moorehead sent—via email—several ex parte messages to the Supreme Court that appeared to constitute an attempt to file a petition for a writ of certiorari.³ Thereafter, on April 22, 2026, Moorehead—again via email—sent an ex parte message to the Supreme Court, and that message, which is entitled “Attempt at Writ of Certiorari,” now appears to have been construed as a petition for a writ of certiorari.

³ The records from the appellate proceedings in the Supreme Court are presently available through the South Carolina Appellate Court Public Index. Appellate Records for State v. Kenneth Brian Moorehead, South Carolina Appellate Court Public Index, <https://ctrack.sccourts.org/public/caseView.do?csIID=86139>.

STANDARD OF REVIEW

In criminal cases, appellate courts sit to review errors of law only. State v. Wilson, 345 S.C. 1, 5, 545 S.E.2d 827, 829 (2001); see State v. Branham, 392 S.C. 225, 228, 708 S.E.2d 806, 808 (Ct. App. 2011) (“The appellate court’s review in criminal cases is limited to correcting the order of the circuit court for errors of law.”).

ARGUMENT

Pursuant to the law-of-the-case doctrine, Moorehead’s current appeal of his third-degree criminal sexual conduct with a minor conviction cannot be successful as a matter of law because Moorehead did not challenge through his petition for a writ of certiorari the ruling of the Court of Appeals dismissing his appeal based on his failure to timely serve his notice of appeal, which means that unchallenged ruling has now become the law of the case regardless of whether it was right or wrong.

Through his pro se filing that appears to have been construed as a petition for a writ of certiorari, Moorehead has identified *fourteen* separate and distinct issues he seems to want this Court to review and address in his case. However, in that self-described “[a]ttempt at” a petition for a writ of certiorari, Moorehead has *not* contended the Court of Appeals erred by dismissing his appeal based on his failure to timely serve his notice of appeal as required, and he has likewise not personally contended or provided any other proof to establish he timely served a notice of appeal on the State following his conviction for third-degree criminal sexual conduct with a minor. In fact, Moorehead has not raised a single issue challenging any rulings made by the Court of Appeals, including its dispositive one. Notwithstanding the numerous other problems with Moorehead’s latest ex parte submission, his failure to challenge the ruling of the Court of Appeals through his petition for a writ of certiorari is singularly fatal to his pro se attempt to appeal his third-degree criminal sexual conduct with a minor conviction.

Pursuant to the law-of-the-case doctrine, a lower court’s ruling—right or wrong—becomes the law of the case if not appealed. State v. Black, 400 S.C. 10, 28, 732 S.E.2d 880, 890 (2012); see State v. Childers, 373 S.C. 367, 377 n. 5, 645 S.E.2d 233, 238 n. 5 (2007) (“An unchallenged ruling *by the Court of Appeals*, even if erroneous, is the law of the case on certiorari.” (emphasis added)). Significantly, “should the appealing party fail to raise all of the grounds upon which a lower court’s decision was based, those unappealed findings—whether

correct or not—become the law of the case.” Dreher v. S.C. Dep’t of Health & Env’t Control, 412 S.C. 244, 250, 772 S.E.2d 505, 508 (2015).

Here, as previously explained, Moorehead has raised more than a dozen issues to this Court through his petition for a writ of certiorari but elected *not* to challenge the ruling of the Court of Appeals dismissing his appeal based on his failure to timely serve his notice of appeal. Critically, because Moorehead did not challenge the only basis upon which the Court of Appeals actually ruled in his case, that unappealed ruling—regardless of whether it was right or wrong—has now become the law of the case. See S.C. Dep’t of Soc. Servs. v. M.R.C.L., 393 S.C. 387, 393, 712 S.E.2d 452, 456 (2011) (recognizing rulings of the Court of Appeals that are not challenged on certiorari are the law of the case regardless of whether they are right or wrong). Therefore, to the extent the Court of Appeals found dismissal was warranted in Moorehead’s case based on his failure to timely serve the notice of appeal as required, its ruling in that regard must—notwithstanding the fact that it was, in fact, correct—be treated as correct due to Moorehead’s failure to seek certiorari on that issue. Cf. Moseley v. All Things Possible, Inc., 395 S.C. 492, 495 n. 4, 719 S.E.2d 656, 658 n. 4 (2011) (“In its opinion, the court of appeals found the facts did not warrant relief against Hampton. That finding is the law of the case, for the Moseleys did not seek certiorari on that issue.”). As a result, the merits of the *many* issues Moorehead has now raised cannot properly be reached on appeal since the Court of Appeals has already correctly determined appellate jurisdiction is lacking under the circumstances involved. See White v. State, 263 S.C. 110, 119, 208 S.E.2d 35, 39 (1974) (“[I]t is well settled that in the absence of a notice of appeal having been given and *timely served* [the appellate court] has no jurisdiction over such an appeal.” (emphasis added)); cf. Sheppard v. State, 357 S.C. 646, 662, 594 S.E.2d 462, 471 (2004) (“[T]he trial court ruled the statement was admissible under Rule

803(3), SCRE. Because [Sheppard] does not appeal the trial court's ruling that the statement is a Rule 803(3) exception to the hearsay rule, that ruling is the law of the case. Accordingly, the trial court did not err by admitting Lynch's testimony." (citation and footnote omitted).

Moorehead's petition for a writ of certiorari should be denied.

CONCLUSION


For all the foregoing reasons, it is respectfully submitted Petitioner’s petition for a writ of certiorari should be denied.

Respectfully submitted,

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