

The Supreme Court of South Carolina

Harold Simmons, Jr., Petitioner,

v.

Charleston County Family Court, Paul W. Garfinkel and
South Carolina Department of Social Services, Pamela
Brown, Respondents.

Appellate Case No. 2013-002710
Lower Court Case No. 2009-CP-10-04264

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SC Court of Appeals

ORDER

By opinion filed November 6, 2013, the South Carolina Court of Appeals affirmed the judgment of the circuit court in this matter.¹ Therefore, any petition for rehearing regarding that opinion had to be actually received by the Court of Appeals on or before November 21, 2013. Rule 221 of the South Carolina Appellate Court Rules.

When no petition for rehearing was received, the Court of Appeals sent the remittitur to the circuit court on November 22, 2013. Since the remittitur had been sent, the Court of Appeals subsequently declined to consider a petition for rehearing that it received on November 25, 2013. *Wise v. S.C. Dept. of Corr.*, 372 S.C. 173, 642 S.E.2d 551 (2007) (when the remittitur has been properly sent, appellate jurisdiction ends and no further motion or petition may be considered).

Petitioner has now filed a petition for a writ of certiorari seeking review of the decision of the South Carolina Court of Appeals.

Under Rule 242(a) of the South Carolina Appellate Court Rules (SCACR), 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

¹ Before the Court of Appeals, the Appellate Case Number was 2013-002710.

has been acted on by the Court of Appeals. Rule 242(c), SCACR. Since no petition for rehearing has been ruled on by the Court of Appeals regarding its opinion, there is no final decision for this Court to review.

Further, when no petition for rehearing was actually received by the Court of Appeals within the time specified by Rule 221, SCACR, the Court of Appeals properly sent the remittitur. Rule 221, SCACR. The sending of the remittitur ended appellate jurisdiction over this case. *Wise v. S.C. Dept. of Corr., supra.*

Accordingly, the petition for a writ of certiorari is dismissed. The motion to proceed *in forma pauperis* is denied as moot.


C.J.
FOR THE COURT

Columbia, South Carolina
January 3, 2014

cc: James A. Stuckey, Jr., Esquire
Alissa Robyn Collins, Esquire
Mr. Harold Simmons, Jr.
The Honorable Jenny Kitchings