

The Supreme Court of South Carolina

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APR 30 2014

James A. Primus, Petitioner,

SC Court of Appeals

v.

South Carolina Department of Corrections, Respondent.

Appellate Case No. 2014-000900

Lower Court Case No. 2011CP1802455

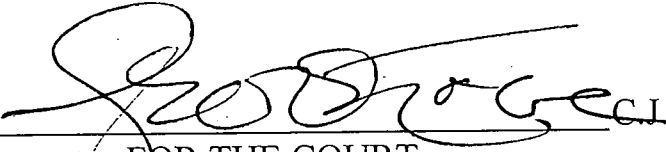
ORDER

By order dated April 18, 2014, the South Carolina Court of Appeals denied petitioner's motion to proceed *in forma pauperis* and to have counsel appointed. The appeal is currently pending before the Court of Appeals, and no dismissal or other disposition of the appeal has been made. *Primus v. SC Depart of Corrections*, Appellate Case No. 2013-002447.

Petitioner has now filed a notice of appeal with this Court seeking review of the April 18th order. Since a decision of the Court of Appeals is reviewed by serving and filing a petition for a writ of certiorari under Rule 242 of the South Carolina Appellate Court Rules (SCACR), the notice of appeal has been construed as a petition for a writ of certiorari.

Since no final decision has been issued by the Court of Appeals, the petition for a writ of certiorari is dismissed. Rule 242 (a) and (c), SCACR (only a final decision is reviewable and defining what is a final decision); *Aiken Speir, Inc. v. Henry*, 326 S.C. 268, 486 S.E.2d 492 (1997) (this Court will only review final decisions of the Court of Appeals). This dismissal is without prejudice to petitioner's ability to timely seek review once the Court of Appeals issues a final decision in the appeal. Further, since this case is not properly before this Court under Rule 242, SCACR, the motions asking this Court to waive the filing fees and to appoint counsel are

denied as moot.



FOR THE COURT

Columbia, South Carolina
April 29, 2014

cc: James A. Stuckey, Jr., Esquire
Alissa Robyn Collins, Esquire
James A. Primus, 252315
The Honorable Jenny Abbott Kitchings
The Honorable Cheryl L. Graham