

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

APPEAL FROM CHARLESTON COUNTY

COURT OF COMMON PLEAS

J.C. NICHOLSON, CIRCUIT COURT JUDGE

2014-CP-10-305

**RECEIVED**

FEB 19 2015

**S.C. Supreme Court**

THE STATE OF SOUTH CAROLINA

RESPONDENT.

V.

SIDNEY FIELDS # 254392

PETITIONER.

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MOTION TO BE RELIEVED FROM PAYING FILING FEE  
PURSUANT TO RULE 240(d) SCACR

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Sidney Fields # 254392  
B.R.C.I. 4460 Broad River Rd.  
Monticello # 234  
Columbia, S.C. 29210

Other Counsel Of Record:

Karen C. Ratigan Esq.

Office Of The Attorney General

P.O. Box 11549

Columbia, S.C. 29210

To The Court:

On October 8, 2014 petitioner filed his notice of appeal to the S.C. Court Of Appeals to appeal the denial of his petition for writ of mandamus in circuit court. **App.3 / App.4-7**

On October 22, 2014 petitioner submitted a motion pursuant to Rule 240(d) SCACR, in which Rule 240(d) states that parties may be relieved from paying a filing fee in extraordinary cases. **Rule 240(d) SCACR** Petitioner asserted in his Rule 240(d) motion that the appeal is based on an extraordinary case. **App.8-10**

In response to the Rule 240(d) motion, the Court Of Appeals in it's December 2, 2014 Order not only failed to rule on petitioner's Rule 240(d) motion, the court construed the appeal under Rule 203(d)(1)(B)(vi) SCACR and Ordered petitioner to submit within (20) days an explanation to why the lower court's determination was not proper. **App.11**

Petitioner asserts that the court based it's December 2, 2014 Order on an inapplicable appellate court Rule. The Rule in question states:

[If a notice of appeal is from a habeas corpus proceeding, and the lower court has determined that habeas corpus relief was improper because the issues could have been raised in a timely application under the Post Conviction Relief Act, appellant shall submit an explanation to show why the lower court's determination was improper]. **Rule 203(d)(1)(B)(vi) SCACR**

This Rule clearly stipulates that it pertains to parties appealing matters derived from a habeas corpus proceeding in the lower court. When in fact, petitioner's appeal derived from a mandamus proceeding in the lower court. **App.4-7**

And since this appeal derive from a mandamus proceeding, no where under Rule 203(d)(1)(B)(vi) SCACR does it state or infer that parties appealing a mandamus denial must submit an explanation as to why the lower court's determination is improper. In other words, this Rule does not apply to parties appealing from a mandamus proceeding.

Petitioner subsequently submitted a petition for rehearing, and a petition for rehearing en banc to vacate the December 2, 2014 Order, and to give the court another opportunity to rule on his Rule 240(d) motion.  
**App.12-20 / App.21-24**

In response to the rehearing petitions, the Court Of Appeals in it's February 9, 2015 Order not only failed to rule on petitioner's Rule 240(d) motion for a second time, the court construed petitioner's petition for rehearing and his petition for rehearing en banc as explanations under Rule 203(d)(1)(B)(vi) SCACR.

The court concluded in it's Order that petitioner failed to provide a sufficient explanation as required by Rule 203(d)(1)(B)(vi) SCACR. Thus the Court Of Appeals dismissed the appeal accordingly. **App.25**

Petitioner finally asserts that the record clearly shows that the Court Of Appeals repeatedly refused to rule on his Rule 240(d) motion along with the fact that the court applied an inapplicable appellate court Rule to dismiss petitioner's appeal.

Furthermore, the court deliberately construed petitioner's petitions for rehearing as being explanation under Rule 203(d)(1)(B)(vi) SCACR, a Rule that does not apply to the appeal. **App.25**

Petitioner asserts that his petitions for rehearing was proper before the Court Of Appeals because the December 2, 2014 Order had the effect of dismissing or finally deciding petitioner's appeal. **Rule 221(c) SCACR**

Also, because the December 2, 2014 Order was issued by a single Justice, appellate Rules allow for the Order to be reviewed by a petition for rehearing. **Rule 240(J) SCACR** Therefore, not only does the rehearing petitions gives this court jurisdiction over this matter, the record shows that this matter is ripe for review (via) petition for certiorari.

**wherefore,** petitioner Sidney Fields now pray that this court grant this rule 240(d) motion to proceed without cost to petition the court for a Writ Of Certiorari to address the Court Of Appeals handling of this matter.

Respectfully Submitted,



Sidney Fields # 254392

B.R.C.I. 4460 Broad River Rd.

Monticello # 234

Columba, S.C. 29210

Date: *February 17, 2015*

STATE OF SOUTH CAROLINA  
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APPEAL FROM CHARLESTON COUNTY

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PROOF OF SERVICE

Petitioner certify that he has served one copy of his petition for Writ Of Certiorari and Rule 240(d) motion on Karen C. Ratigan Esq, Office Of The Attorney General (attorney for the respondent) P.O. Box 11549 Columbia, S.C. 29211, and to The Hon. Jenny A. Kitchings (clerk, S.C. Court Of Appeals) P.O. Box 11629 Columbia, S.C. 29211 by depositing one copy each in the United States mail, postage prepaid to the addressees above.

Date: *February 17, 2015*

*Sidney Fields*

Sidney Fields # 254392

B.R.C.I. 4460 Broad River Rd.

Monticello # 234

Columbia, S.C. 29210

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FEB 19 2015

S.C. Supreme Court

Date February 17, 2015

Date: \_\_\_\_\_

The Hon. Daniel E. Shearouse  
Clerk, S.C. Supreme Court  
P.O. Box 11330  
Columbia, S.C. 29211

RE:                   Petitioning Supreme Court For Writ Of Certiorari  
                          Under Rule 240(d) SCACR  
                          Case # 2014-CP-10-305

Dear Mr. Shearouse;

On October 8, 2014 I submitted a notice of appeal to the S.C. Court Of Appeals to appeal the Order denying my petition for writ of mandamus from the lower court. I also submitted a motion pursuant to Rule 240(d) SCACR. This Rule states that parties may be relieved from paying a filing fee in extraordinary cases.

In response to my Rule 240(d) motion, the Court of Appeals in it's December 2, 2014 Order not only failed to rule on my Rule 240(d) motion, the court construed the appeal under Rule 203(d)(1)(B)(vi) SCACR, and Ordered that I submit an explanation within (20) days to show why the lower court's determination was improper.

Since Rule 203(d)(1)(B)(vi) SCACR pertains to parties appealing a habeas corpus proceeding from the lower court, and that this Order had the effect of dismissing or finally deciding the appeal, I submitted a petition for rehearing and a petition for rehearing Enbanc to vacate the invalid December 2, 2014 Order, and to give the court another opportunity to rule on my Rule 240(d) motion.

I needed the Rule 240(d) motion to be addressed and granted by the court in order to proceed with the appeal. Because I was unable to pay the filing fee and was unable to meet the requirements regarding the amount of copies needed for the appeal.

In response to my petitions for rehearing, the Court Of Appeals in it's February 9, 2015 Order, not only failed to rule on my Rule 240(d) motion for a second time, the court added insult to injury by construing both petitions for rehearing as explanations under Rule 203(d)(1)(B)(vi) SCACR, and concluded that I failed to give a sufficient explanation pursuant to Rule 203(d)(1)(B)(vi) SCACR and dismissed the appeal.

I am now before this court to proceed under Rule 240(d) to seek a writ of certiorari to vacate the Court Of Appeals Order. I have to proceed under Rule 240(d) before this court because not only is this matter extraordinary, the case that initiated the appeal from the lower court to the Court Of Appeals is extraordinary also. That's why I initially submitted a Rule 240(d) motion in the Court Of Appeals.

However, not only did the Court Of Appeals refuse to rule on my 240(d) motion, the court deliberately construed my appeal under an appellate court Rule that does not apply to my appeal. The court then had the audacity to dismiss the appeal because I did not meet the requirements of this inapplicable Rule.

Furthermore, I am proceeding under Rule 240(d) SCACR before this court because I am unable to meet the requirement under Rule 242 SCACR regarding filing fees and the amount of copies needed to perfect this appeal.

Therefore enclosed is my petition for writ of certiorari and my Rule 240(d) motion with proof of service. Also enclosed is an appendix that supports the petition for certiorari. The appendix also supports the 240(d) motion. Please submit the materials to the court for their consideration.

lasty, enclosed is an extra cover page of my petition for certiorari and 240(d) motion. please file stamp and return in the self addressed stamped envelope provided.

pg 2

Sincerely,

  
Sidney Fields # 254392

CC: Jenny A. Kitchings  
Clerk, S.C. Court Of Appeals  
CC: Karen C. Ratigan Esq.  
Office Of The Attorney General  
(attorney for the respondent)