

The Supreme Court of South Carolina

The State, Respondent,

v.

Darrell Lee Birch, Petitioner.

Appellate Case No. 2015-000391

Lower Court Case No. 2009GS3300106

ORDER

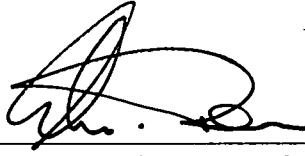
By order dated December 17, 2014, the South Carolina Court of Appeals denied the petition for rehearing in this matter. When no petition for a writ of certiorari was filed with this Court within the time provided by Rule 242 of the South Carolina Appellate Court Rules (SCACR), the Court of Appeals sent the remittitur on February 17, 2015. Rule 221(b), SCACR ("Where a petition for rehearing has been denied, the Court of Appeals shall not send the remittitur to the lower court or administrative tribunal until the time to petition for a writ of certiorari under Rule 242(c) has expired.").¹

Petitioner has now filed a motion to allow the late filing of a petition for a writ of certiorari and appendix. This motion is dismissed since appellate jurisdiction over this case ended with the issuance of the remittitur. *Wise v. S.C. Dept. of Corr.*, 372 S.C. 173, 642 S.E.2d 551 (2007).

If there is any ground to recall the remittitur, that is a matter that will need to be addressed by the Court of Appeals in the motion to recall the remittitur. If the Court of Appeals recalls the remittitur, the petitioner must serve and file any petition for a writ of certiorari and appendix under Rule 242, SCACR, within thirty

¹ Before the Court of Appeals, the Appellate Case Number was 2012-213215.

(30) days of the filing of the order recalling the remittitur.



A C.J.

FOR THE COURT

Columbia, South Carolina
March 5, 2015

Toal, C.J., not participating

cc: Laura Ruth Baer, Esquire
William M. Blich, Jr., Esquire
The Honorable Jenny Abbott Kitchings (with copy of motion to allow late
filing and motion to recall remittitur)
The Honorable Sherry R. Rhodes