

The Supreme Court of South Carolina

Anthony Erving, Petitioner,

v.

South Carolina Department of Corrections, Respondent.

Appellate Case No. 2015-000921

Lower Court/Tribunal No. 2014ALJ40444IJ

ORDER

By order dated March 11, 2015, the South Carolina Court of Appeals dismissed the appeal in this matter. When no petition for rehearing or reinstatement was received after the issuance of the order of dismissal, the Court of Appeals sent the remittitur on April 9, 2015.¹

Petitioner has now filed a notice of appeal with this Court. 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.

Under Rule 242(a), 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 has been acted on by the Court of Appeals. Rule 242(c), SCACR. Since no petition for rehearing or reinstatement has been ruled on by the Court of Appeals following the issuance of the order of dismissal, there is no final decision for this Court to review.

Further, when no petition for rehearing or reinstatement was received by the Court of Appeals, 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.*, 372 S.C. 173, 642 S.E.2d 551 (2007).

¹ Before the Court of Appeals, the Appellate Case Number was 2014-002173.

Accordingly, the petition for a writ of certiorari is dismissed.

 C.J.
FOR THE COURT

Columbia, South Carolina
April 30, 2015

cc: Daniel John Crooks, III, Esquire
Mr. Anthony Erving, 220446
The Honorable Jenny Abbott Kitchings
The Honorable Janna E. Shealy