

The Supreme Court of South Carolina

The State, Respondent,

v.

Robert L. Garrett, Jr., Petitioner.

Appellate Case No. 2015-000923

Lower Court Case No. 1997-GS-43-01092

ORDER

By order dated March 10, 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 March 26, 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 since 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 2014-001712.

Accordingly, the petition for a writ of certiorari is dismissed. The motion to appoint counsel is denied a moot.


C.J.
FOR THE COURT

Columbia, South Carolina
May 6, 2015

cc: Alan McCrory Wilson, Esquire
Salley W. Elliott, Esquire
Mr. Robert L. Garrett, #291096