

The Supreme Court of South Carolina

David D. Smith, Petitioner,

v.

State of South Carolina, Respondent.

Appellate Case No. 2015-001058

Lower Court/Tribunal Case No. 2014ALJ040669AP

RECEIVED

MAY 19 2015

SC Court of Appeals

ORDER

By order dated April 13, 2015, the South Carolina Court of Appeals dismissed the appeal in this matter. When no petition for rehearing or reinstatement was received, the Court of Appeals sent the remittitur on April 29, 2015.¹

Petitioner has now filed a notice of appeal dated May 13, 2015, seeking review of the decision of the South Carolina Court of Appeals in this matter. This notice of appeal was received by this Court on May 18, 2015. Since decisions of the Court of Appeals are 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 in this matter, 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.*

¹ Before the Court of Appeals, the Appellate Case Number was 2015-000554.

S.C. Dept. of Corr., 372 S.C. 173, 642 S.E.2d 551 (2007).

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


FOR THE COURT C.J.

Columbia, South Carolina
May 19, 2015

cc: Daniel John Crooks, III, Esquire
Mr. David D. Smith, #245760
The Honorable Jenny Abbott Kitchings
The Honorable Jana E. Shealy