

The Supreme Court of South Carolina

The State, Respondent,

v.

James B. Curry, Petitioner.

Appellate Case No. 2015-001173
Lower Court Case Nos. 2007GS1200529,
2007GS1200530, 2007GS1200531, and
2007GS120053220.

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SC Court of Appeals

ORDER

By order dated December 4, 2014, the circuit court denied petitioner's motion for a new trial under Rule 29 of the South Carolina Rules of Criminal Procedure, and imposed restrictions on future filings by petitioner. The appeal from that order is currently pending before the South Carolina Court of Appeals.¹

Petitioner has now filed a motion with this Court seeking to compel the Court of Appeals to suspend the appeal. He asserts that this is appropriate so that this Court can rule on an earlier motion seeking a dismissal of the order on appeal and the granting of a new trial (motion to dismiss).

The motion to compel is denied. As to the motion to dismiss, this Court will not rule on this motion since the Court of Appeals has jurisdiction over this appeal, and

¹ Before the Court of Appeals, the Appellate Case Number is 2014-002666.

the Court of Appeals has already denied the relief requested in the motion.²


C.J.
FOR THE COURT

Columbia, South Carolina
June 3, 2015

cc: Mr. James B. Curry, 00186737
Salley W. Elliott, Esquire
The Honorable Jenny Abbott Kitchings
The Honorable Alan Wilson
Douglas A. Barfield, Jr., Esquire

² Petitioner's assertion that the Court of Appeals lacks jurisdiction over the appeal under Rule 243 of the South Carolina Appellate Court Rules is completely without merit. Rule 243 is only applicable to post-conviction relief cases. *See also* S.C. Code Ann. § 14-8-200 (defining the jurisdiction of the Court of Appeals).

Further, if the order on appeal has been erroneously captioned as being in the Court of Common Pleas, this is a mere clerical error that can be corrected by appropriate motion.

The Supreme Court of South Carolina

DANIEL E. SHEAROUSE, CLERK OF COURT

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