

The South Carolina Court of Appeals

South Carolina Public Interest Foundation and Waring S. Howe, Jr., individually, and on behalf of all others similarly situated, Appellants,

v.

James H. "Jay" Lucas, in his official capacity as Speaker of the South Carolina House of Representatives, Hugh K. Leatherman, Sr., in his official capacity as President of the South Carolina Senate, Representative Peter M. McCoy, Jr., Senator George Campsen, and the State of South Carolina, Respondents.

Appellate Case No. 2013-001273

ORDER

On June 17, 2015, this court filed an order granting Respondents' motion to dismiss the appeal to which Appellants consented. In the same order, this court also denied Appellants' motion for attorneys' fees. On July 17, 2015, this court denied Appellants' petition for rehearing. On August 20, 2015, Appellants filed a motion to recall the remittitur in this case, which was sent to the lower court on August 18, 2015. On August 21, 2015, Appellants filed a motion with our Supreme Court, requesting the court stay its consideration of Appellants petition for writ of certiorari pending this court's ruling on their motion to recall the remittitur. The same day, our Supreme Court mailed Appellants a letter declining to take action on their petition for a stay because the sending of the remittitur ended appellate jurisdiction over this case.

"In order to justify this court in exercising the unusual power of recalling the remittitur after it has been sent down, a very strong showing would be required that the remittitur was sent down through some mistake or inadvertence on the part of this court or its officer." *State v. Keels*, 39 S.C. 553, 17 S.E. 802, 802 (1893). Here,

there was no mistake on the part of this court, and Appellants do not argue such. Furthermore, even if this court recalled the remittitur, it would have no impact on Appellants' intention to seek review of the denial of their motion for attorneys' fees because Appellants cannot seek certiorari review from the denial of a motion that did not dismiss the appeal before this court. Rule 221(c), SCACR, provides "[t]he appellate court will not entertain petitions for rehearing on a motion or petition unless the action of the court on the motion or petition has the effect of dismissing or finally deciding a party's appeal." Accordingly, Appellants' motion to recall the remittitur is denied.

Thomas C. Huff J.
Paul E. Short, Jr. J.
James E. Lockery J.

Columbia, South Carolina

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FILED
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