

# The Supreme Court of South Carolina

The State, Respondent,

v.

Tyrone L. Robinson, Petitioner.

Appellate Case No. 2015-002007

Lower Court Case No. 2012GS071935

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## ORDER

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By order dated May 28, 2015, the South Carolina Court of Appeals dismissed the appeal in this matter without prejudice. This was done at the request of petitioner's counsel.<sup>1</sup> When no petition for rehearing or reinstatement was received from the counsel on either side, the Court of Appeals sent the remittitur on June 22, 2015.<sup>2</sup>

Petitioner has now filed a *pro se* petition for a writ of certiorari and asks that he be allowed to seek a belated review of the decision of the South Carolina Court of Appeals. He has also filed a motion for the appointment of counsel and a motion to proceed *in forma pauperis*. These documents were received by this Court on September 24, 2015.

This petition must be dismissed for several reasons. First, since the decision of the Court of Appeals was entered at the request of petitioner's counsel, petitioner cannot seek appellate review of this decision. *Cf. Hooper v. Rockwell*, 334 S.C. 281, 513 S.E.2d 358 (1999); *American Publishing and Engraving Co. v. Gibbes & Co.*, 59 S.C. 215, 37 S.E. 753 (1901); *Smith v. Lowery*, 56 S.C. 493, 35 S.E. 129

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<sup>1</sup> Contrary to petitioner's argument in his petition, Arie David Bax, Esquire, petitioner's counsel before the court of general sessions, remained his counsel of record before the Court of Appeals. Rule 264(a) of the South Carolina Appellate Court Rules.

<sup>2</sup> Before the Court of Appeals, the Appellate Case Number was 2014-002138.

(1900); *Varn v. Varn*, 32 S.C. 77, 10 S.E. 829 (1890); *Calcutt v. Calcutt*, 282 S.C. 565, 320 S.E.2d 55 (Ct. App. 1984).

Second, under Rule 242(a) of the South Carolina Appellate Court Rules (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.

Finally, 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).

Accordingly, the petition for a writ of certiorari is dismissed. The motion for the appointment of counsel and the motion to proceed *in forma pauperis* are denied as moot.

  
C.J.  
FOR THE COURT

Columbia, South Carolina  
September 29, 2015

cc: Robert Michael Dudek, Esquire  
Arie David Bax, Esquire  
Alan McCrory Wilson, Esquire  
Donald J. Zelenka, Esquire  
Mr. Tyrone L. Robinson  
The Honorable Jenny Abbott Kitchings