

STATE OF SOUTH CAROLINA ) IN THE SUPREME  
COUNTY OF SPARTANBURG ) COURT OF SOUTH  
BARRY J. BARNETTE, AS THE ) CAROLINA  
ACTING SOLICITOR FOR ) 2011-CP-42-00753  
THE SEVENTH JUDICIAL )  
CIRCUIT ) PETITIONER'S  
v ) CERTIFICATE  
DERRICK L. CHEEKS ) OF SERVICE  
PETITIONER )

**RECEIVED**  
NOV 02 2015  
SC SUPREME COURT

I certify that I have served the writ of Mandamus compelling The Honorable Daniel E. Shearouse to file petitioner's writ of Certiorari on clerk by depositing a copy of it in the United States Mail, postage Prepaid, on October 29, 2015.

RECEIVED

NOV 02 2015

STATE OF SOUTH CAROLINA	)	SC SUPREME COURT
COUNTY OF SPARTANBURG	)	IN THE SUPREME
BARRY J. BARNETTE, AS THE	)	COURT OF SOUTH
ACTING SOLICITOR FOR	)	CAROLINA
THE SEVENTH JUDICIAL	)	2011-CP-42-00753
CIRCUIT	)	PETITIONER'S
V	)	WRIT OF MANDAMUS
DERRICK L. CHEEKS	)	COMPELLING CLERK
PETITIONER	)	TO FILE WRIT OF
	)	CERTIORARI

Now comes the Petitioner, who moves pursuant to authority of writ of Mandamus, for an order compelling The Honorable Daniel E. Shearouse, to file petitioner's writ of Certiorari.

On October 8, 2015, petitioner filed a writ

of Certiorari along with a Certificate of the Service and Appendix. Petitioner postage pre paid mailed copies The Honorable M. Hope Blackley; The Honorable Jenny Abbott Kitchings; The Honorable Daniel E. Shearouse; and Robin C. File, Esquire.

On October 23, 2015, Petitioner received an order from The Honorable Daniel E. Shearouse, asserting petitioner's writ of Certiorari and Appendix were dismissed for failure to pay the filing fee, and to provide a proof of service as required by (S.C.A.C.R.) Rules 242(c)(e) and 240(c). (Sec Order).

Rule 240(c) States In Part:

(1) A certificate or affidavit of service reflecting the date of service upon all parties. The original certificate or affidavit of service must be filed with the original motion or petition.

Rule 242(c)(e) States In Part:

The copies filed with the Supreme Court shall be accompanied by the filing fee set by order of the Supreme Court. No filing fee shall be required in criminal cases or petitions filed by the State of South Carolina or its agencies departments.

At the same time the petition is filed, the petitioner shall also file two(2) copies of the Appendix with the clerk of the Supreme Court.

In the present case, the record unequivocally reveal the petitioner postage prepaid mailed copies upon all parties. The original petition for Writ of Certiorari along with the Certificate of Service and Appendix's were mailed to The Honorable Daniel E. Shearouse. Copies of the original were mailed to The Honorable Mittie Blackley; The Honorable Jenny Abbott Kitchings; and Robin C. File, Esquire.

(See Copy of Certification of Service Filed  
And Clock Stamped By M. Hope Blackley).

In addition petitioner never received an order  
asserting the amount of a filing fee petitioner  
had to pay as required by Rule 242(c) of  
(SCACR); and the petitioner's writ of

Certiorari is the fruit of criminal cases  
in which Rule 242(c) unequivocally assert  
a filing fee shall not be required.

The failure to file petitioner's writ of  
Certiorari would result in a violation of his  
5<sup>th</sup>, 6<sup>th</sup>, 14<sup>th</sup> Amendments of The United States  
Constitution, as well as Article 7§3 of The  
South Carolina Constitution.



# The Supreme Court of South Carolina

Barry J. Barnette, as Solicitor for the Seventh Judicial  
Circuit, Respondent,

v.

Derrick L. Cheeks and Tracy Markley, Defendants,

Of Whom Derrick L. Cheeks is Petitioner.

IN REM:

\$1,890.00 in U.S. Currency; and \$7,206.00 in US Currency

Appellate Case No. 2015-002110

Lower Court Case No. 2011CP4200753<sup>1</sup>

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## ORDER

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Based on the failure of the petitioner to pay the filing fee required by Rule 242(c) of the South Carolina Appellate Court Rules (SCACR), and to provide a proof of service showing that a copy of the petition for a writ of certiorari and appendix have been served on the opposing party or his counsel as required by Rules 242(c), Rule 242(e) and 240(c), SCACR, the petition for a writ of certiorari and appendix are dismissed.

FOR THE COURT

BY



CLERK

Columbia, South Carolina

October 21, 2015

cc: Barry Joe Barnette, Esquire  
Robin Clark File, Esquire  
Mr. Derrick L. Cheeks, 343108  
The Honorable Jenny Abbott Kitchings  
**The Honorable M. Hope Blackley**

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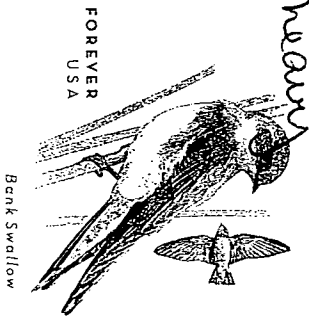
<sup>1</sup> Before the Court of Appeals, the Appellate Case Number was 2014-002647, and this case was consolidated with Appellate Case Number 2015-000238.

Derrick Checks 343108  
Lee CI FGA 11410  
990 Wiscacky Highway  
Bishopville SC 29010

"Inter Agency Mail"

Interagency

500 heavy



The Supreme Court of South Carolina  
Daniel E. Shearouse, Clerk of Court  
Post Office Box 11330  
Columbia, South Carolina 29211