

THE STATE OF SOUTH CAROLINA
In The Supreme Court

RECEIVED

SEP 14 2016

APPEAL FROM SPARTANBURG COUNTY
Court of General Sessions
R. Lawton McIntosh, Circuit Court Judge

S.C. SUPREME COURT

S.C. Ct. App Orders filed May 4, 2016, & July 7, 2016

Appellate Case No. 2016-001615

The State of South Carolina Respondent,
v.
John Garvin Appellant.

REPLY TO RESPONDENT'S RETURN TO
PETITION FOR A WRIT OF CERTIORARI

John Garvin, Pro-se
990 Wisacky Hwy.
Bishopville, S.C. 29010
A Party Unrepresented
By Counsel

Other Counsel of Record:
Alan Wilson, Attorney General

J. Benjamin Aplin, Sr. Asst. Deputy Att'y. Gen.

South Carolina State Att'y. Gen. Office
1000 Assembly Street
Columbia, S.C. 29211

Barry J. Barnette, Solicitor, Seventh Judicial Circuit
Attorneys for Respondent

INDEX

Index	i
Certiorari	1
Law / Analysis	2
Conclusion	3

CERTIORARI

Here is a case about the facts, concerning the violation of Rule-506, S.C.A.C.R., Staff Attorney and Law Clerk Conduct and the court of appeals abuse of discretion in overlooking questions of facts as it applies to questions of law, as both the finder of fact and finder of Law on the merit of the timely filing and serving of petitioner's Notice of Appeal upon the respondent that was dismissed based on the mere allegations that the respondent was not timely served with the Notice of Appeal.

"The State would disagree and submit that the Court of Appeals properly dismissed petitioner's appeal for the reasons set forth in its order and for the reasons argued in the State's return to Petitioner's Motion to Reinstate." And that "there are no "special and important reasons" for this court to exercise its discretion to grant review of the decision of the Court of Appeals in this matter," pursuant to Rule-242(b), S.C.A.C.R.

The State's contention is nothing more than a straw man's argument that's grasping at loosely strawed contentions about the facts and would suggest that petitioner's case lacks appellate jurisdiction and does not merit further review. Petitioner states that pursuant to Rule 242(b), S.C.A.C.R., that there are several "special and important reasons" for this court to exercise its discretion to grant review of the decision of the Court of Appeals in this matter listed below.

- (1) Petitioner has presented this court with two novel questions of law concerning the matter at hand;
- (2) There is a substantial constitutional issue that is directly involved in this case (petitioner's fourteenth amendment right to appeal);
- (3) The violation of Rule-506, S.C.A.C.R. Staff Attorney and Law Clerk Conduct;
- (4) The overlooked questions of facts by the Court of Appeals;
- (5) The denial of petitioner's right to appeal based off of the mere allegation that his notice of appeal was not timely served upon the respondent.
- (6) The Court of Appeals erroneous decision to construe petitioner's Motion to Reinstate the Appeal as a Petition to Rehear.

This present dispute revolves around the procedural facts and circumstances of the petitioner's timely filing of his notice of appeal upon the respondents. The evidence that petitioner has presented in his appendix on the merits of this Petition for writ of Certiorari will conclude that the petitioner has met his burden of providing by a preponderance of the evidence, that he did actually timely serve his notice of appeal upon the respondent. Therefore, the petitioner respectfully requests that his petition for writ of certiorari be granted and heard in this court for the proper view of what is fair and right in a matter in which the decision-maker has been granted discretion.

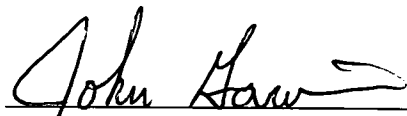
LAW / ANALYSIS

Because this case is being heard in the South Carolina Supreme Court's original jurisdiction, the court sits as both the finder of fact and finder of law. See S.C. Code §14-3-340; Sanford v. S.C. State Ethics Comm'n, 385 S.C 482, 685 S.E.2d 600(2009). Petitioner has the burden of proving his case by a preponderance of the

evidence. See Gorecki v Gorecki, 387 S.C. 626, 693 S.E2d 419 (Ct. App. 2010)(Citation omitted). A preponderance of the evidence is evidence which convinces the fact finder as to its truth. Id. at 422. This court has “the authority to find facts in [it’s] original jurisdiction.” Sanford, 685 S.E.2d at 607, opinion clarified, 688 S.E.2d 120(2009).

CONCLUSION

Based on the foregoing reasons, Petitioner respectfully submits this court should grant the Petition for a Writ of Certiorari and let petitioner bare the burden of proving his case by a preponderance of the evidence, to be fully brief on the issues contained herein.



John Garvin, # 355509, Pro-se
Lee Correction Institution
990 Wisacky Highway
Bishopville, S.C. 29010

**Bishopville, South Carolina
September 12, 2016**

THE STATE OF SOUTH CAROLINA
In The Supreme Court

RECEIVED

SEP 14 2016

APPEAL FROM SPARTANBURG COUNTY
Court of General Sessions
R. Lawton McIntosh, Circuit Court Judge

S.C. SUPREME COURT

S.C. Ct. App Orders filed May 4, 2016, & July 7, 2016

Appellate Case No. 2016-001615

The State of South CarolinaRespondent,
v.
John Garvin Appellant.

PROOF OF SERVICE

I, John Garvin, Certify that I have served a **REPLY TO RESPONDENT'S RETURN TO PETITION FOR A WRIT OF CERIORARI** on the respondent, The State of South Carolina by depositing a copy of it in the Institutional Mailbox to be delivered thru the Inter-Agency Mail on September 12, 2016, addressed to the respondent involved in the appeal. John B. Aplin and Alan Wilson, 1000 Assembly Street, Columbia, South Carolina 29211.

Dated: Sept. 12, 2016



John Garvin, # 355509, Pro-se
Lee Correctional Institution
990 Wisacky Highway
Bishopville, S.C. 29010

RECEIVED

SEP 14 2016

S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM SPARTANBURG COUNTY
Court of General Sessions
R. Lawton McIntosh, Circuit Court Judge

S.C. Ct. App Orders filed May 4, 2016, & July 7, 2016

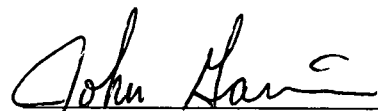
Appellate Case No. 2016-001615

The State of South Carolina Respondent,
v.
John Garvin Appellant.

PROOF OF SERVICE

I, John Garvin, Certify that I have served a **REPLY TO RESPONDENT'S RETURN TO PETITION FOR A WRIT OF CERTIORARI** on the respondent, The State of South Carolina by depositing a copy of it in the United States Mail, postage prepaid on September 12, 2016, addressed to every party involved in the appeal. Daniel E. Shearouse, 1231 Gervais Street, Columbia S.C. 29201; and James E. Hunter, 180 Magnolia Street, Spartanburg, S.C. 29304-3483

Dated: Sept. 12, 2016


John Garvin, # 355509, Pro-se
Lee Correctional Institution
990 Wisacky Highway
Bishopville, S.C. 29010

RECEIVED

SEP 14 2016

S.C. SUPREME COURT