

# The South Carolina Court of Appeals

Benjamin L. Anderson, Appellant,

v.

Davita Upstate Dialysis Center, Respondent.

Appellate Case No. 2015-001932

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## ORDER

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This appeal was dismissed on May 4, 2016, due to Appellant's failure to provide proof of having ordered the transcript from the August 4, 2015 hearing before Judge Miller in Greenville County as required by this court's order. Appellant filed another copy of the transcript from a January 26, 2015 hearing before Judge Barber; however, Appellant failed to provide proof of having ordered the transcript of the August 4, 2015 hearing and failed to file a petition for reinstatement. No petition for rehearing or reinstatement was filed as of May 24, 2016, and this court sent down the remittitur on that day. Appellant has now filed a motion requesting that this court recall the remittitur and reinstate the appeal. A remittitur cannot be recalled except upon "a very strong showing . . . that 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 (1893). Appellant has failed to make such a showing. Because Appellant failed to timely file a petition for reinstatement or rehearing with this court and because Appellant failed to order the correct transcript, the remittitur was properly sent and this court no longer has jurisdiction over the case. Appellant's motion, therefore, is denied.

  
FOR THE COURT

**FILED**

December 2, 2016

Columbia, South Carolina

cc:

Benjamin L. Anderson

Martin S. Driggers, Jr., Esquire

Richard Edward Mclawhorn, Jr., Esquire