

STATE OF SOUTH CAROLINA
In The Supreme Court of South Carolina

APPEAL FROM SPARTANBURG COUNTY
Court of Common Pleas

The Honorable Roger L. Couch, Circuit Court Judge

Appellate Case No. 2017-000117

Emilio Rabas Edwards,.....Petitioner,

v.

State of South Carolina,Respondent.

RETURN TO PETITION FOR REHEARING

In response to the pro se Petition for Rehearing dated March 13, 2017, Respondent would present the following facts:

1. Petitioner pled guilty to hit and run with a death. On June 18, 2010, the Honorable J. Mark Hayes, II, sentenced him to fifteen (15) years' imprisonment provided that upon the service of ten (10) years the balance would be suspended with probation for five (5) years. Petitioner did not appeal his conviction or sentence.

2. Petitioner filed his first application for post-conviction relief on April 23, 2013 (2013-CP-42-1915). The Honorable R. Keith Kelly dismissed his application in an order filed May 15,

2015. Petitioner did not appeal.

3. Petitioner filed a second application for post-conviction relief on March 17, 2015 (2015-CP-42-1080). The Honorable Roger L. Couch dismissed his application in an order filed December 30, 2016. Petitioner filed a Notice of Appeal on January 23, 2017.

4. Petitioner filed a pro se Brief of Appellant on February 6, 2017. By order dated March 6, 2017, this Court dismissed the matter for failure to provide sufficient explanation for filing an appeal as required by Rule 243(c) of the South Carolina Appellate Court Rules.

4. Petitioner has now filed this pro se petition for rehearing, arguing conclusively that Petitioner “has provided sufficient explanation for filing an appeal as required by Rule 243(c) of the South Carolina Appellate Court [Rules]” in his pro se Brief of Appellant.

5. This Court must deny the pro se petition for rehearing as improper. A petition for rehearing cannot be filed from an order denying a petition for writ of certiorari. Rule 221, SCACR. This Court issued a short order denying Petitioner’s pro se petition. There is nothing in that order for this Court to review. The petition for rehearing merely reasserts the issues raised in Petitioner’s pro se petition.¹

¹ Further, this pro se petition for rehearing cannot be viewed as a necessary precursor to a petition for writ of certiorari to the South Carolina Supreme Court, as such is not allowed. See Missouri v. State, 378 S.C. 594,

WHEREFORE, counsel for Respondent requests this Court deny Petitioner's pro se petition for rehearing.

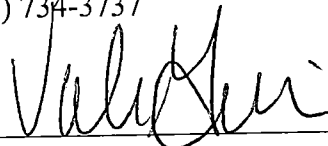
Respectfully submitted,

ALAN WILSON
Attorney General

DONALD J. ZELENKA
Deputy Attorney General

VALERIE GARCIA GIOVANOLI
Senior Assistant Deputy Attorney General
S.C. Bar # 102524

Post Office Box 11549
Columbia, S.C. 29211
(803) 734-3737

By:  _____

ATTORNEYS FOR RESPONDENT

March 16, 2017

STATE OF SOUTH CAROLINA
In The Supreme Court of South Carolina

APPEAL FROM SPARTANBURG COUNTY
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EMILIO R. EDWARDS,

PETITIONER,

v.

THE STATE OF SOUTH CAROLINA,

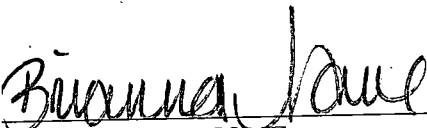
RESPONDENT.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the Return to Petition for Rehearing has been served upon opposing counsel by mailing two (2) copies in the United States mail, postage prepaid:

**Emilio R. Edwards, #329270
Livesay Correctional Institution
104 Broadcast Dr.
Spartanburg, SC 29303**

This 16th day of March, 2017.


BRIANNA ARNONE
LEGAL ASSISTANT