

The Supreme Court of South Carolina

Alfonso Ware, Jr. Petitioner,

v.

The State, Respondent.

Appellate Case No. 2017-000539

RECEIVED

APR 13 2017

SC Court of Appeals

ORDER

The Court of Appeals denied the petition for rehearing in this matter on January 23, 2017. Petitioner had thirty days thereafter to file a petition for a writ of certiorari to the Court of Appeals pursuant to Rule 242(c), SCACR, or the Court of Appeals would send the remittitur to the lower court pursuant to Rule 221(b), SCACR.

On February 27, 2017, after the time period set forth in Rule 242(c) had expired, petitioner filed a petition for a writ of certiorari. The petition was received by this Court on March 3, 2017, along with a letter from petitioner explaining that due to a lockdown at the prison, he had not been able to complete his petition for a writ of certiorari in a timely manner. Petitioner did not send a copy of the petition to the Court of Appeals. *See* Rule 242(c), SCACR ("A petition for a writ of certiorari shall be served on opposing counsel and *filed with proof of service with the Clerk of the Court of Appeals* and the Clerk of the Supreme Court within thirty (30) days after the petition for rehearing or reinstatement is finally decided by the Court of Appeals.")(Emphasis added).

Having been provided no notice that a petition for a writ of certiorari had been filed, the Court of Appeals properly sent the remittitur on March 3, 2017. When the remittitur has been properly sent, the appellate court no longer has jurisdiction over the matter and no motion can be heard thereafter. *Wise v. S.C. Dept. of Corr.*, 372 S.C. 173, 642 S.E.2d 551 (2007). Because the remittitur was not sent to the lower court by mistake, error, or inadvertence on the part of the Court of Appeals,

this Court lacks jurisdiction to entertain the petition for a writ of certiorari. *Id.*
Accordingly, the petition for a writ of certiorari is hereby dismissed.



FOR THE COURT

C.J.

Columbia, South Carolina

April 12, 2017

cc:

Alan McCrory Wilson, Esquire

Donald J. Zelenka, Esquire

Alfonso Ware, Jr., 168464

The Honorable Jenny Kitchings

The Honorable Lisa M. Comer