

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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MAY 23 2017

S.C. SUPREME COURT

Appeal from Horry County
Edward B. Cottingham, Circuit Court Judge

THE STATE,

Respondent,

vs.

RICKEY MAZIQUE,

Appellant.

Appellate Case No. 2017-001102

**MOTION TO STRIKE PLEADING AS IMPERMISSIBLE
HYBRID REPRESENTATION/MOTION TO DISMISS
FOR FAILURE TO SERVE PETITION**

The Respondent now makes this motion to strike Petitioner's pro se petition for writ of certiorari which amounts to hybrid representation. Petitioner remains represented by counsel, J. Falkner Wilkes, Esquire. See Rule 264, SCACR. No motion was filed for counsel to be relieved. Accordingly, this Court should not accept the petition for writ of certiorari filed on May 8, 2017.

An appellant does not have a right to hybrid representation on appeal. Jones v. State, 348 S.C. 13, 558 S.E.2d 517 (2002). Accordingly, this Court established the procedure that substantive documents submitted by an appellant represented by counsel should be returned. Foster v. State, 298 S.C. 306, 379 S.E.2d 907 (1989).

Further, the petition should be dismissed because it was not served on Respondent as required under Rule 242(C), SCACR. Undersigned counsel's mail logs does not show that it received the pro se petition for writ of certiorari from petitioner. Further, Petitioner's certificate of service as shown on C-Track is insufficient as it only indicates service on this Court and not Respondent. Accordingly, the petition for writ of certiorari should be dismissed.

Accordingly, the State respectfully requests the petition for certiorari be dismissed for insufficient service and impermissible hybrid representation.

Respectfully Submitted,

ALAN WILSON
Attorney General

DAVID SPENCER
Senior Assistant Attorney General
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BY:



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ATTORNEYS FOR RESPONDENT

May 23, 2017

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PROOF OF SERVICE

I, Anne Mueller, certify that I have served the Motion to Strike Pleading as Impermissible Hybrid Representation/Motion to Dismiss for Failure to Serve Petition on Appellant by depositing two copies of the same in the United States mail, postage prepaid, addressed to his attorney of record J. Falkner Wilkes, Jr., Esquire, 114 Whitsett St., Greenville, SC 29501-3139.

I further certify that all parties required by Rule to be served have been served.

, This 23rd day of May, 2017.



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