

# The Supreme Court of South Carolina

David D. Smith, Petitioner,

v.

Willie Eagleton, et al., Respondents.

Appellate Case No. 2012-213487

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## ORDER

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By order dated October 11, 2012, the South Carolina Court of Appeals dismissed the appeal in this matter. When no petition for rehearing or reinstatement was received, the Court of Appeals sent the remittitur on November 6, 2012.

Petitioner has now filed a notice of appeal seeking review of the actions taken by the Court of Appeals. Since review of a decision of the Court of Appeals is sought by serving and filing a petition for a writ of certiorari under Rule 242 of the South Carolina Appellate Court Rules (SCACR), the notice of appeal has been construed as a petition for a writ of certiorari.

Under Rule 242(a), SCACR, this Court will only review a final decision of the Court of Appeals, and a decision is not final for the purposes of review until a petition for rehearing or reinstatement has been acted on by the Court of Appeals. Rule 242(c), SCACR. Since no petition for rehearing or reinstatement has been ruled on by the Court of Appeals in this matter, there is no final decision for this Court to review.

Further, when no petition for rehearing or reinstatement was received by the Court of Appeals, the Court of Appeals properly sent the remittitur. Rule 221, SCACR. The sending of the remittitur ended appellate jurisdiction over this case. *Wise v.*

*S.C. Dept. of Corr.*, 372 S.C. 173, 642 S.E.2d 551 (2007).

Accordingly, the petition for a writ of certiorari is dismissed. The request to proceed without paying the filing fee is denied as moot.

  
C.I.  
FOR THE COURT

Columbia, South Carolina  
December 3, 2012

cc: Mr. David Dwight Smith  
Christopher D. Florian, Esquire  
The Honorable Jenny Abbott Kitchings