

# The Supreme Court of South Carolina

Clifton Lyles #294075, Petitioner,

v.

South Carolina Department of Corrections, Respondent.

Appellate Case No. 2017-001588

Lower Court or Tribunal No. 2016ALJ150667AP

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## ORDER

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The appeal in this matter is pending before the South Carolina Court of Appeals. While the Court of Appeals has denied petitioner's motion to proceed *in forma pauperis*, the time provided for the petitioner to pay the filing fee has not expired.<sup>1</sup>

Petitioner has now filed a notice of appeal with this Court challenging the denial of his motion. Since decisions of the Court of Appeals are reviewed 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.

The petition is dismissed for two reasons. First, petitioner has failed to provide a proof of service showing that a copy of the petition has been served on opposing counsel as required by Rule 242(c), SCACR.

Second, 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. In this case, the Court of Appeals has not issued an order of dismissal or opinion resolving the appeal, and it has not ruled on any petition for rehearing or

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<sup>1</sup> Before the Court of Appeals, the Appellate Case Number is 2017-001255.

reinstatement.<sup>2</sup> Accordingly, the petition for a writ of certiorari is dismissed without prejudice to petitioner's ability to seek review once the Court of Appeals has issued a final decision as defined by Rule 242(a), SCACR.

  
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FOR THE COURT C.J.

Columbia, South Carolina  
July 27, 2017

cc: Christina Catoe Bigelow, Esquire  
Mr. Clifton Lyles #294075

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<sup>2</sup> Indeed, a petition for rehearing cannot be filed regarding the denial of the motion to proceed *in forma pauperis*. Rule 240(i), SCACR ("The court will not entertain petitions for rehearing on a motion or petition unless the action of the court on the motion or petition has the effect of dismissing or finally deciding a party's appeal.").