

The Supreme Court of South Carolina

Altony Brooks, Appellant,

v.

South Carolina Department of Corrections, Respondent.

Appellate Case No. 2017-001806

Lower Court Case No. 2017CP2301460

ORDER

By order dated July 10, 2017, the South Carolina Court of Appeals dismissed the appeal in this matter. When no petition for rehearing or reinstatement was received within the time specified by Rule 221 of the South Carolina Appellate Court Rules (SCACR), the Court of Appeals sent the remittitur on July 26, 2017.¹

Petitioner has now filed a notice of appeal seeking review of the decision of the Court of Appeals. This document is dated August 23, 2017. Since a decision of the Court of Appeals is reviewed by serving and filing a petition for a writ of certiorari under Rule 242 of the South Carolina Appellate Court Rules, the notice of appeal has been construed as a petition for a writ of certiorari.

Petitioner has failed to (1) file a petition for a writ of certiorari which has the content specified by in Rule 242(d), SCACR; (2) file a proof of service showing that a copy of the petition has been served opposing counsel as required by Rule 242(c), SCACR; (3) pay the filing fee required by Rule 242(c), SCACR, or file a motion seeking a waiver of that fee; and (4) serve and file an appendix as required by Rule 242(e), SCACR.

Further, under Rule 242(a) of the South Carolina Appellate Court Rules (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

¹ Before the Court of Appeals, the Appellate Case Number was 2017-001378.

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.

Finally, when no petition for rehearing or reinstatement was received by the Court of Appeals, the Court of Appeals 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.


Columbia, South Carolina
September 13, 2017



FOR THE COURT

C.J.

cc: A. Todd Darwin, Esquire
Mr. Altony Brooks, #313000
The Honorable Jenny Kitchings
The Honorable Paul B. Wickensimer