

The Supreme Court of South Carolina

Eddie Dean Dogan, Jr., Petitioner,

v.

The State, Respondent.

Appellate Case No. 2017-002351

ORDER

By order dated June 7, 2017, the South Carolina Court of Appeals dismissed the appeal in this case, and subsequently denied a petition for rehearing on September 14, 2017. The Court of Appeals sent the remittitur to the clerk of the circuit court on October 20, 2017.¹

Petitioner has now filed a notice of appeal dated November 3, 2017. Since a decision of the Court of Appeals is reviewed by a petition for a writ of certiorari under Rule 242 of the South Carolina Appellate Court Rules (SCACR), this document has been construed as a petition for a writ of certiorari.²

Under Rule 242(c), SCACR,³ any petition for a writ of certiorari had to be served

¹ Before the Court of Appeals, the Appellate Case Number was 2017-001164.

² In this notice of appeal, petitioner states that he is appealing an order of Judge Mark Hayes, II, dated October 20, 2017. This is apparently a reference to the remittitur. As indicated by Rule 221(b), SCACR, a remittitur is a document issued by the appellate court and this document is not an order.

³ In relevant part, this rule states:

A petition for 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.

and filed by October 16, 2017. Therefore, the petition for a writ of certiorari is untimely.

Further, when no timely petition for a writ of certiorari was filed with this Court, 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.



C.J.

FOR THE COURT

Columbia, South Carolina
November 22, 2017

cc: John Benjamin Aplin, Esquire
Alan McCrory Wilson, Esquire
Derrick Bruce Balsa, Esquire
Mr. Eddie D. Dogan, Jr., #256596
Office of Indigent Defense

In the notice of appeal, petitioner appears to believe that his time to seek review is based on when he received written notice of the entry of the remittitur. As indicated by the above language of the rule, this is incorrect.