

The Supreme Court of South Carolina

Bobby Joe Barton, Petitioner,

v.

State of South Carolina, Respondent.

Appellate Case No. 2016-000995

ORDER

This case was initiated in this Court by a notice of appeal from the denial of petitioner's application for post-conviction relief (PCR). By order dated September 19, 2016, petitioner's request to proceed *pro se* was granted. On November 9, 2016, we remanded the case to the circuit court to determine the accuracy of the transcript of the PCR hearing. Following the issuance of an order on remand, petitioner filed a notice of appeal of that order. Shortly thereafter, petitioner filed a petition for a writ of certiorari addressing the denial of his PCR application. Petitioner has also filed a multitude of motions. Petitioner's "Motion Requesting Hearing on Motions Filed" is denied.

As an initial matter, we dismiss the notice of appeal of the order on remand finding the transcript of the PCR hearing is accurate. The order is dated January 5, 2017 and was entered or filed on January 10, 2017.¹ Petitioner's notice of appeal is dated January 4, 2017, and the envelope in which it was sent is stamped by the prison mailroom with the same date,² prior to the date the order was signed, the date the signed order was sent to petitioner by Judge Hall, or the date it was entered. Petitioner failed to include a copy of the order from which he was appealing or indicate when he received notice of the signed order with the notice of appeal as required by Rule 203, SCACR. Because the notice of appeal was served and filed prior to the date on the order, it was premature and not a notice of appeal

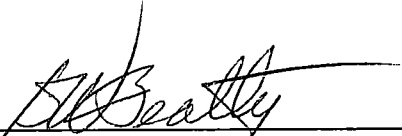
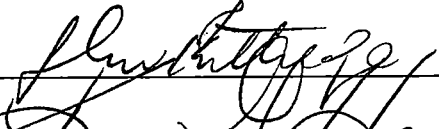



¹ Judge Hall's letter sending the order to petitioner is dated January 5, 2017.

² The date stamped on the envelope is actually January 4, 2016. We assume the mailroom neglected to change the year on the stamp to 2017.

of a *final* order as required by Rule 203, SCACR. The notice of appeal is therefore dismissed.³

Petitioner has filed numerous motions related to the remand hearing or the appeal from the order issued following the hearing. Petitioner's "Order to Show Cause for an Emergency Preliminary Injunction and a Temporary Restraining Order" is denied as moot. Petitioner's "Motion to Challenge the Accuracy of the Transcript and to Preserve the Tape for Examination and to Listen to it if Necessary" is denied. Petitioner's "Motion to Place Appeal in Abeyance" and his "Motion to Transfer PCR Transcript Hearing Ruling to South Carolina Court of Appeals" are denied as moot. We deny petitioner's "Motion for Leave to Amend the Record for Appellate Review" because the documents related to the petition for a writ of certiorari are already before this Court and those related to the appeal of the remand order are no longer necessary in light of our dismissal of the notice of appeal.

As to the petition for a writ of certiorari, we grant petitioner's "Motion to Supplement the Record Pursuant to Rule 212, SCACR and to Take Judicial Notice of Adjudicative Evidence, Pursuant to Rule 201(e), SCRE." We deny petitioner's "Motion for Default" and his petition against "inordinate delays." After a thorough review of all documents before this Court, we deny the petition for a writ of certiorari. Several other motions related to the petition have also been filed. The State's "Motion to Compel Filing of Corrected Appendix and to Supplement Appendix" and petitioner's "Motion to Deny Respondent's Motion" and his "Waiver Motion" are all denied.

	_____	C.J.
	_____	J.
	_____	J.
	_____	J.
	_____	J.

³ Petitioner did not serve and file a notice of appeal after January 5, 2017.

Columbia, South Carolina

February 15, 2018

cc:

DeShawn Herman Mitchell, Esquire

Bobby Joe Barton, #163629

SC Appellate Defense

Paul B. Wickensimer

The Honorable Daniel Dewitt Hall