

The Supreme Court of South Carolina

The State, Respondent,

v.

Jesus V. Martinez, Petitioner.

Appellate Case No. 2018-000462

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SC Court of Appeals

ORDER

The South Carolina Court of Appeals filed its opinion in this matter on December 13, 2017. When no proper petition for rehearing was received,¹ the Court of Appeals sent the remittitur on January 8, 2018.²

¹ The South Carolina Court of Appeals did receive a *pro se* petition for rehearing on December 28, 2017. Since petitioner was represented by counsel before the Court of Appeals, this petition for rehearing was essentially a nullity and the Court of Appeals properly determined that no action could be taken on this *pro se* petition. *Miller v. State*, 388 S.C. 347, 697 S.E.2d 527 (2010) ("Since there is no right to 'hybrid representation' that is partially *pro se* and partially by counsel, substantive documents, with the exception of motions to relieve counsel, filed *pro se* by a person represented by counsel are not to be accepted unless submitted by counsel. [citations omitted]. Because petitioner was represented by counsel, the *pro se* motion was not proper, should not have been accepted, and should not have been ruled upon. The motion was essentially a nullity. . . . We also take this opportunity to remind judges and clerks of court of our directive in *Foster* not to accept substantive documents, with the exception of motions to relieve counsel, filed *pro se* by a party who is represented by counsel."); *Jones v. State*, 348 S.C. 13, 558 S.E.2d 517 (2002); *State v. Stuckey*, 333 S.C. 56, 508 S.E.2d 564 (1998); *Foster v. State*, 298 S.C. 306, 379 S.E.2d 907 (1989).

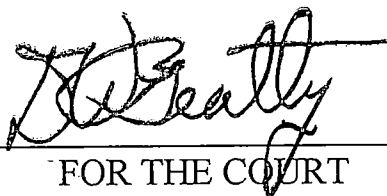
² Before the Court of Appeals, the Appellate Case Number was 2016-000527.

Petitioner has now filed a *pro se* petition for a writ of certiorari, seeking review of the decision of the South Carolina Court of Appeals in this matter. This petition was mailed to this Court on March 14, 2018.

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 has been acted on by the Court of Appeals. Rule 242(c), SCACR. Since no petition for rehearing 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 proper petition for rehearing 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.



C.J.

FOR THE COURT

Columbia, South Carolina
March 21, 2018

cc: Fletcher N. Smith, Jr., Esquire
Alan McCrory Wilson, Esquire
John Benjamin Aplin, Esquire
Jennifer Ellis Roberts, Esquire
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The Honorable Jenny Abbott Kitchings