

The Supreme Court of South Carolina

Keith R. Myers, #250863, Appellant,

v.

South Carolina Department of Corrections, Respondent.

Appellate Case No. . 2019-000669

Lower Court or Tribunal Case No. 2017SLJ040127AP

RECEIVED

APR 24 2019

SC Court of Appeals

ORDER

By order dated October 31, 2017, the South Carolina Court of Appeals dismissed this appeal based on petitioner's failure to timely serve the administrative law court with a copy of the notice of appeal. When no petition for rehearing or reinstatement was received, the Court of Appeals sent the remittitur on November 16, 2017.¹

Petitioner has now filed a document dated April 10, 2019, seeking review from this Court. Since review of a decision of the Court of Appeals is sought by serving and filing 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. The petition is dismissed for several 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. This Court cannot consider this *ex parte* communication.

Second, 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 or reinstatement has been ruled on by the Court of Appeals in

¹ Before the Court of Appeals, the Appellate Case Number was 2017-001843.

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.



FOR THE COURT C.J.

Columbia, South Carolina
April 23, 2019

cc: Christina Catoe Bigelow, Esquire
Mr. Keith Myers, 250863
The Honorable Jenny Abbott Kitchings