

The State Of South Carolina
IN the
United State Court of Appeal
Fourth Circuit

RECEIVED

JUN 04 2019

S.C. SUPREME COURT

Keith R. Myers, #250863 } Notice Of Appeal
Appellant } Motion To Appeal
✓ }
South Carolina Department } Case No: 2017-001843
of Correction }
Respondent }

Appellant (Keith R. Myers, #250863) is asking the Honorable United State Court of Appeal Fourth Circuit ("USCA" or "Court") to except the appellant Motion to Appeal the final decision of the Supreme Court of South Carolina judge Beatty final Order under section 1-23-610; Standard of Review of The South Carolina Code (supp. 2015). Sets fourth the standard of review of a decision by the South Carolina Court of Appeal...

On Tuesday 30th of April 2019 the appellant received a letter of Order from the Supreme Court of South Carolina stating that their hold to the decision of the South Carolina of Appeal to dismiss the appellant Appeal base on the following grounds...

By Order dated October 31, 2017 the South Carolina Court of Appeal dismissed this appeal based on petitioner's failure to timely serve the Administrative Law Court with a copy of the Notice To Appeal. When no petition for rehearing or reinstatement was received the Court of Appeals, sent the Remittitur on the 16th of November 2017. Also it states...

First: Petitioner has failed to provide proof of service on opposing Counsel as required by Rule 242(c) SCACR.

Second: Under Rule 242(A) of the South Carolina Appellate Court Rule (SCACR) this Court will only review a final decision of the Court of Appeal.

Finally: When no petition for rehearing or reinstatement was received the Court of Appeals, sent the Remittitur. Rule 231, SCACR.

It then states that, Accordingly, the petition for a writ of Certiorari is dismissed...

See Exhibit (A)

It was said that on the 31st of October 2017, the South Carolina Court of Appeal dismissed this Appeal based on petitioner failure to timely serve the Administrative law Court with a copy of the Notice to Appeal. And when petition for rehearing or reinstatement was received the Court of Appeal sent the Remittitur on the 16th of November 2017.

The appellant never received a letter from the South Carolina Court of Appeal stating that this (appellant) appeal was dismissed on the 31st of October 2017.

On the 30th of October 2017 the appellant received a letter from the South Carolina Court of Appeal stating that their ["SCAC" or "Court"] was returning \$64.01 back into the appellant account for the Fee they told the appellant he would have to paid for filing Fee.

See Exhibit (B)

In October 2017 the appellant filed a Motion of Designation of Matter with the South Carolina Court of Appeals, on the 18th of October 2017 the South Carolina Court of Appeals, sent

the appellant a letter letting him know that he has ten (10) days to file a Motion for Appellant Initial Brief and Designation of Matter outside of the filing deadline set by Rule 208 and 209 of the SCAER.

See Exhibit (c)

In which the appellant comply with the request and mailed out the Initial Brief and Designation of Matter on the 19th, 2017 of October.

Then on the 20th of October 2017, the appellant received a letter from the South Carolina Court of Appeal informing appellant that he has ten (10) days to correct all deficiencies in entirety or his Appeal would be dismissed.

See Exhibit (d)

Once again appellant comply with all the rules and send the South Carolina Court of Appeals, His Motion of Designation with all correction in entirety of all deficiencies and on the 8th of December 2017, the appellant received a letter from the South Carolina Court of Appeals, stating that they would

no longer have jurisdiction on the case because it was Remittitur on the 16th of November 2017,

Accordingly, no action will be on your 22nd of November 2017 filing, It did not state that the Appeal was Dismissed.

See Exhibit (E)

If the Appellant knew that he could have have to filed a Motion for rehearing or reinstatement after receiving that letter he would have, but when the South Carolina Court of Appeals, stated that there no longer has jurisdiction on the case and that no action will be on the appellant 22nd of November 2017 filing the appellant though that he had used up all his remedies/ Resources with the Appeal Court.

So the appellant wrote the Supreme Court of South Carolina when he didn't get a response from the Lower Court after a year and some months since his case was Remittitur to the lower court...

Then on the 8th of March 2019 the appellant received a letter from the Supreme Court of South Carolina stating that the Appeals Court of South Carolina dismissed my appeal and sent the remittitur to the administrative law court ending the final decision in this case...

See Exhibit (F)

The Appellant (Keith R. Myers, #250863) brings this claim pro se litigant before the United State Court of Appeal Fourth Circuit

under: Gordon v LEEKE, 574 F 2d 1147, 1151 (4th cir.) 1978. and

Boag v MacDougall, 434 US 364, 365 (1982)....

Certificate of Service

I, Keith R. Myers, #250863 hereby certify that I have served a copy of this Appeal upon H.W. Funderburk, JR (A.L.C.); Cheron Hess (Office of General Counsel); South Carolina Court of Appeal; The Supreme Court of South Carolina and United State Court of Appeal Fourth Circuit by depositing a copy of it in the United-States mail postage pre-paid addressed to His/Her address as follows.

H.W. Funderburk, JR.
Honorable Judge
Administrative Law Court
Edgar A. Brown Bldg.
1205 Pendleton St., Ste 224
Columbia, SC. 29201

Cheron Hess
Administrative Asst.
Office of General
Counsel
4444 Broad River Rd.
Columbia, SC. 29221

V. Claire Allen
Deputy Clerk
South Carolina Court
of Appeal
P.O. Box 11629
Columbia, SC 29211

Beatty
Chief Justice
The Supreme Court of
South Carolina
P.O. Box 11330
Columbia, SC. 29211

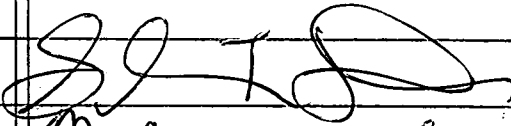
United State Court
of Appeal 4th Cir.
1100 E. Main St., Ste 501
Richmond, Va. 23219

5-29-19

Date

Keith R. Myers

Keith R. MYERS, # 250863



Shamekia T. DASH

My Commission Expires ON 20 April 2028

The State of South Carolina RECEIVED
IN the
United State Court of Appeal JUN 04 2019
Fourth Circuit S.C. SUPREME COURT

Appeal From Charleston County
Court of Common Pleas

Honorable: Macaulay: Presiding Judge

Case No.: 2017-001843

Keith R. MYERS, #250863 Appellant

✓
South Carolina Dept. of Soc... Respondent

Proof of Services

I Certify that I have served a copy of this Notice of Appeal on H. W. Funderburk, JR. (A.L.C.); Cheron Hess (Office of General Counsel); South Carolina Court of Appeal and The South Carolina Supreme Court by depositing a copy of it in the United State mail postage pre-paid addressed to HIS/HER address as follow...

Certificate of Service

I Keith R. Myers, #250863 hereby certify that I have served a copy of this Notice of Appeal upon H.W. Funderburk, JR. (A.L.C.); Cheron Hess (Office of General Counsel); South Carolina Court of Appeal and South Carolina Supreme Court by depositing a copy of it in the United State mail postage pre-paid addressed to HES/HER address as follows...

H.W. Funderburk, JR
Honorable Judge
Administrative Law Court
Edgar A. Brown Bldg.
1205 Pendleton St., Ste. 224
Columbia, SC. 29201

Cheron Hess
Administrative Asst.
Office of General Counsel
P.O. Box 21787
4444 Broad River Rd
Columbia, SC. 29221-1787

V. Claire Allen
Deputy Clerk
South Carolina Court
of Appeal
P.O. Box 11629
Columbia, SC. 29211

Beatty
Chief Justice
the Supreme Court of
South Carolina
P.O. Box 11330
Columbia, SC. 29211

RECEIVED

JUN 04 2019

S.C. SUPREME COURT

United State Court
of Appeal 4th Cir.
1100 E Main St., Ste 501
Richmond, VA. 23219

5-29-19

Date

~~Keith R. Myers~~
Keith R. Myers, #250863

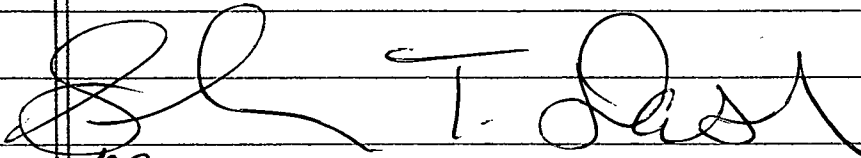
 Shamikia T. DASH
My Commission expires on 20 April 2028

Exhibit A.

The Supreme Court of South Carolina
order.

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

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

Exhibit (B)

Letter from the South Carolina
Court of Appeal

Returning fee



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1220 SENATE STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
www.sccourts.org

October 30, 2017

South Carolina Department of Corrections
Cooper Trust Fund
PO Box 21787
Columbia, SC 29221

Re: Keith Myers #250863 v. SCDC
Appellate Case No. 2017-001843

To Whom It May Concern:

Per the request of Mr. Keith Myers, inmate no. 250863, the enclosed check no. 0835936 in the amount of \$64.01 was sent to us. This fee is no longer needed, therefore we are returning it to you so that it may be deposited back into his account.

Very truly yours,


CLERK

cc: Keith Myers, 250863
Christina Catoe Bigelow, Esquire

Exhibit(C)



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1220 SENATE STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
www.sccourts.org

October 10, 2017

Keith Myers, 250863
Manning Correctional Institution W-7-C1B
502 Beckman Dr.
Columbia SC 29203

Re: Keith Myers #250863 v. SCDC
Appellate Case No. 2017-001843

Dear Mr. Myers:

Our records reflect that the time for serving and filing the appellant's initial brief and designation of matter has expired. Within ten days of the date of this letter, you must serve and file the appellant's initial brief and designation of matter, along with a motion requesting permission to serve and file the appellant's initial brief and designation of matter outside of the filing deadlines set by Rules 208 and 209 of the SCACR. Your appellant's initial brief and designation of matter will not be considered if no motion is made. Failure to comply with the Court's request within ten (10) days of the date of this letter will result in the dismissal of this appeal.

Very truly yours,

V. Claire Allen, Deputy

CLERK

cc: Christina Catoe Bigelow, Esquire

Exhibit(D)



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1220 SENATE STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
www.sccourts.org

October 20, 2017

Keith Myers, 250863
Manning Correctional Institution W-7-C1B
502 Beckman Dr.
Columbia SC 29203

Re: Keith Myers #250863 v. SCDC
Appellate Case No. 2017-001843

Dear Mr. Myers:

Upon reviewing your designation of matter, the following deficiency or deficiencies have been noted under the South Carolina Appellate Court Rules (SCACR), and each deficiency must be corrected in its entirety within ten (10) days of the date of this letter or this appeal will be dismissed:

- According to Rule 209, SCACR, the designation of matter only requires that you list the information you wish to include in the Record on Appeal. Therefore, we are returning these documents to you. A correct designation of matter, pursuant to Rule 209, SCACR, must be filed.

Very truly yours,

V. Claire Allen, Deputy
CLERK

cc: Christina Catoe Bigelow, Esquire

Exhibit (E)



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1220 SENATE STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
www.sccourts.org

December 08, 2017

Keith Myers, 250863
Manning Correctional Institution W-7-C1B
502 Beckman Dr.
Columbia SC 29203

Re: Keith Myers #250863 v. SCDC
Appellate Case No. 2017-001843

Dear Mr. Myers:

The Court received your letter on November 22, 2017. The remittitur was filed on November 16, 2017. This Court no longer has jurisdiction for this case. Accordingly, no action will be on your November 22, 2017 filing.

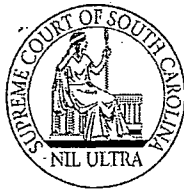
Very truly yours,

V. Claire Allen, Deputy

CLERK

cc: Christina Catoe Bigelow, Esquire

Exhibit (F)



The Supreme Court of South Carolina

DANIEL E. SHEAROUSE
CLERK OF COURT

BRENDA F. SHEALY
CHIEF DEPUTY CLERK

POST OFFICE BOX 11330
COLUMBIA, SOUTH CAROLINA 29211
TELEPHONE: (803) 734-1080
FAX: (803) 734-1499

March 8, 2019

Mr. Keith Myers, #250863
Manning Correctional Institution
502 Beckman Drive
Columbia, SC 29203

Re: Keith Myers #250863 v. SCDC
Appellate Case No. 2017-001843

Dear Mr. Myers:

This responds to your letter to Chief Justice Beatty dated February 26, 2019.

As you know, the administrative law court affirmed the decision of the South Carolina Department of Corrections and you appealed to the South Carolina Court of Appeals. That Court dismissed the appeal by order dated October 31, 2017. When you failed to make a timely petition for rehearing, the Court of Appeals sent the remittitur to the administrative law court ending appellate jurisdiction over the case. *Wise v. S.C. Dept. of Corr.*, 372 S.C. 173, 642 S.E.2d 551 (2007).

In short, the decision of the administrative law court is the final decision in this matter, and do not understand what further action you are expecting to occur.

Very truly yours,

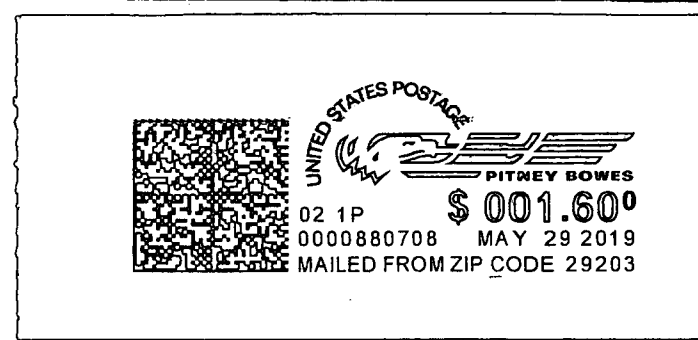


CLERK

cc:

Christina Catoe Bigelow, Esquire (with copy of letter)
The Honorable Jenny Abbott Kitchings (with copy of letter)

Meith K MYERS, #250863
Manning ReEntry / Work Release Ctr.
502 Beckman Dr, Ward 9-5B
Columbia, SC 29203



Beatty
Chief Justice
The Supreme Court
of South Carolina
P.O. Box 11330
Columbia, SC.
29211

LEGAL
MAIL

SCDC

MAY 29 2019

MAIL ROOM

THE DEPARTMENT OF CORRECTIONS
HAS NEITHER CENSORED NOR IN-
SPECTED THIS ITEM. THEREFORE,
THE DEPARTMENT DOES NOT ASSUME
RESPONSIBILITY FOR ITS CONTENTS.

MANNING CORRECTIONAL INSTITUTION
S.C. DEPARTMENT OF CORRECTIONS

