

The Supreme Court of South Carolina

Bobby Joe Barton, Petitioner,

v.

Cheryl A. Smith and Taylor Davis Gilliam, Respondents.

Appellate Case No. 2019-000930

ORDER

By order dated May 9, 2019, the South Carolina Court of Appeals dismissed the appeal in this matter. When no petition for rehearing or reinstatement was received, the Court of Appeals sent the remittitur on May 29, 2019.¹

Petitioner has now filed a notice of appeal seeking review of the decision of the Court of Appeals. 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 South Carolina Appellate Court Rules (SCACR), the notice of appeal has been construed as a petition for a writ of certiorari.

Under Rule 242(a), 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 this matter, there is no final decision for this Court to review.

Further, when no petition for rehearing or reinstatement was received by the Court of Appeals, the Court of Appeals properly sent the remittitur to the circuit court. Rule 221, SCACR. The sending of the remittitur ended appellate jurisdiction over

¹ Before the Court of Appeals, the Appellate Case Number was 2018-001812,

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.



Columbia, South Carolina
June 6, 2019



FOR THE COURT C.J.

cc: A. Todd Darwin, Esquire
Mr. Bobby Joe Barton, #163629
The Honorable Jenny Kitchings