



The Supreme Court of South Carolina

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October 08, 2019

The Honorable Scott B. Suggs
1 Public Sq Rm B4
Darlington SC 29532-3213

REMITTITUR

Re: Leroy Bennett, 153421, v. State of South Carolina
Lower Court Case No. 2018CP1600422
Appellate Case No. 2019-001225

Dear Clerk of Court:

The above referenced matter is hereby remitted to the lower court or tribunal. A copy of the judgment of this Court along with the earlier decision of the South Carolina Court of Appeals is enclosed.

Very truly yours,

CLERK

cc:
Harley Littleton Kirkland, Esquire
Leroy Bennett 153421

The Supreme Court of South Carolina

Leroy Bennett, 153421, Petitioner,

v.

State of South Carolina, Respondent.

Appellate Case No. 2019-001225

Lower Court Case No. 2018CP160422

ORDER

By order dated July 16, 2019, the South Carolina Court of Appeals dismissed the appeal in this matter. When no petition for rehearing or reinstatement was received regarding this dismissal order, the Court of Appeals sent the remittitur on August 2, 2019.¹

Petitioner has filed a petition for a writ of certiorari seeking review of this dismissal order by the Court of Appeals.² This petition is dismissed for several reasons.

First, petitioner has not paid the \$250 filing fee required by Rule 242(c) of the South Carolina Appellate Court Rules (SCACR), or served and filed a motion with this Court seeking a waiver of that fee.

¹ The appellate case number before the Court of Appeals is 2019-000392.

² This petition was received by this Court on July 24, 2019. While Rule 242(c) of the South Carolina Appellate Court Rules requires petitioner to provide a proof of service showing that a copy of the petition was served on the Court of Appeals, this proof of service has not been provided. Further, the Appellate Case Management System fails to show that the Court of Appeals received a copy of the petition for a writ of certiorari before sending the remittitur.

Second, petitioner has failed to file an appendix having the content specified by Rule 242(e), SCACR, or to provide a proof of service showing that a copy of the appendix has been served on opposing counsel as required by Rule 242(e), SCACR.

Third, 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 regarding the dismissal order,³ there is no final decision for this Court to review.

Fourth, when no petition for rehearing or reinstatement was received by the Court of Appeals regarding the dismissal order, the Court of Appeals properly 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
September 19, 2019

cc: Harley Littleton Kirkland, Esquire
Mr. Leroy Bennett, #153421

³ Petitioner did attempt to file a petition for rehearing regarding the order denying his request to proceed *in forma pauperis*. The Court of Appeals properly advised him that no action would be taken on this petition under Rule 240(i), SCACR ("The court will not entertain petitions for rehearing on a motion or petition unless the action of the court on the motion or petition has the effect of dismissing or finally deciding a party's appeal.").

The South Carolina Court of Appeals

Leroy Bennett, 153421, Appellant,

v.

State of South Carolina, Respondent.

Appellate Case No. 2019-000392

The Honorable Brooks P. Goldsmith
Darlington County
Trial Court Case No. 2018CP1600422

ORDER

Appellant has failed to pay the required filing fee for the notice of appeal, as required by Rule 203(d)(1)(B)(iii) of the South Carolina Appellate Court Rules, this Court's order dated June 6, 2019 and letter dated June 25, 2019. Accordingly, this matter is dismissed. The remittitur will be sent as provided by Rule 221(b), SCACR.

FOR THE COURT

BY V. Claire Allen, Deputy
CLERK

Columbia, South Carolina

cc:

Leroy Bennett 153421

Harley Littleton Kirkland, Esquire

FILED

July 16, 2019