

The Supreme Court of South Carolina

The State, Respondent,

v.

Robert Len Gainey, Appellant.

Appellate Case No. 2020-000634

ORDER

By opinion dated March 25, 2020, the South Carolina Court of Appeals dismissed this appeal after conducting a review pursuant to *Anders v. California*, 386 U.S. 739 (1967). While petitioner has filed a petition for rehearing, the petition has not been ruled on by the Court of Appeals.¹

Petitioner has now filed a notice of appeal seeking review of the decision of the Court of Appeals. This document has been construed as a petition for a writ of certiorari under Rule 242 of the South Carolina Appellate Court Rules (SCACR).

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 the petition for rehearing has not been ruled on, there is no final decision for this Court to review. Accordingly, the petition for a writ of certiorari is dismissed without prejudice to whatever right petitioner may have to seek review in the manner specified by Rule 242, SCACR, if the Court of Appeals denies the petition for rehearing.²

¹ Before the Court of Appeals, the Appellate Case Number is 2019-002023.

² Petitioner's attention is directed to the case of *State v. Lyles*, 381 S.C. 442, 673 S.E.2d 811 (2009) ("This Court will no longer entertain petitions for writs of certiorari where the Court of Appeals has dismissed an appeal after conducting an *Anders* review.").

FOR THE COURT

BY  _____
CLERK

Columbia, South Carolina
April 24, 2020

cc: Donald J. Zelenka, Esquire
The Honorable Jenny Abbott Kitchings
Mr. Robert Len Gainey, 00377140