

The Supreme Court of South Carolina

Louise Legare Gardner, Petitioner,

v.

Clifford Paul Benenati, Respondent,

And

Deutsch Bank National Trust Company, as Trustee for
GSAA Home Equity Trust 2006-17, Asset-Backed
Certificates, Series 2006-17, Respondent,

v.

Louise Legare-Gardner; One West Bank, National
Association s/b/m to IndyMac Bank, F.S. B., Defendants,

Of whom Louise Legare-Gardner is the Petitioner.

Appellate Case No. 2021-000002

ORDER

In *Gardner v. Benenati*, Appellate Case Number 2017-002542, the South Carolina Court of Appeals dismissed petitioner's appeal on February 6, 2018. When no petition for rehearing or reinstatement was received, the Court of Appeals sent the remittitur on February 22, 2018.

In *Deutsch Bank National Trust Company v. Gardner*, Appellate Case Number 2017-002286, the South Carolina Court of Appeals issued an opinion affirming the decision of the circuit court on June 3, 2020. When no petition for rehearing was received, the Court of Appeals sent the remittitur on June 23, 2020.

Petitioner has now filed a "Request for a Writ of Certiorari" dated January 4, 2021. The case title in the caption of the petition indicates it is being filed regarding the decision in Appellate Case Number 2017-002286. The caption also refers to Appellate Case Number 2017-002542 and includes the name of the member of the Court of Appeals who signed the order dismissing the appeal in that matter, and the body contains facts relating to Appellate Case Number 2017-002542. This petition has been construed as a petition for a writ of certiorari under Rule 242 of the South Carolina Appellate Court Rules (SCACR), and will, based on the jumbling of the two separate cases in this single petition, be treated as a petition for a writ of certiorari seeking review in both cases.

Under Rule 242, 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 either case, there is no final decision for this Court to review in either case.

Further, when no petition for rehearing or reinstatement was received by the Court of Appeals, the Court of Appeals properly sent the remittitur in each case. Rule 221, SCACR. In each case, the sending of the remittitur ended appellate jurisdiction in that case, and no further motion or petition can be considered. *Stogsdill v. S.C. Dep't of Health & Human Servs.*, 415 S.C. 568, 784 S.E.2d 669 (2016); *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 as it relates to either case. Petitioner's motion to proceed without payment of fees and costs is denied as moot.



FOR THE COURT

C.J.

Columbia, South Carolina
January 25, 2021

cc: Louise Legare Gardner
Clifford Paul Benenati

Suzanne E. Brown, Esquire
William S. Koehler, Esquire
Genevieve Speese Johnson, Esquire
Wesley D. Dail, Esquire
Bradford Meekin Stokes, Esquire
Michael Casin Griffin, Esquire
Jonathan Edward Schulz, Esquire
William Price Stork, Esquire
Benjamin Cullifer Pickens Sapp, Esquire