

THE STATE OF SOUTH CAROLINA
In The Supreme Court

RECEIVED

Sep 27 2021

APPEAL FROM GREENVILLE COUNTY
Court of Appeals

S.C. SUPREME COURT

The Honorable Judges: Williams, Thomas, and Hill

Appellate Case No. 2021-000665
Court of Appeals Case No. 2018-001209
Case No. 2017-CP-23-06301

Raymond A. Wedlake, individually and derivatively, on behalf of all Members of the
Woodington Homeowners' Association, Inc., Appellant,

v.

Benjamin Acord, William Craigo, Denis Esteve, and Brian James in their capacity as the
current Board of Directors of the Woodington Homeowners' Association, Inc., Respondents.

PETITION FOR REHEARING OF ORDER FILED SEPTEMBER 21, 2021

Pursuant to Rule 240, SCACR, Raymond A. Wedlake submits this “Petition for Rehearing of Order ...” as follows, objecting to **Error of Fact** contained in the Order (O921, Exhibit PRO.1) filed 09/21/2021, and signed by Chief Justice Donald W. Beatty, and four Associate Justices: Kittredge, Hearn, Few, and James, Jr. .

ADMINISTRATIVE HISTORY

As dated 06/15/2021, the Court of Appeals finally decided and issued its Order (Exhibit PRO.2) that denied Appellant’s “Petition for Rehearing With a New Panel of Judges; or, Alternately *En Banc*”. On 06/24/2021 as stamped by the Supreme Court, Appellant filed “Notice of Appeal” (Exhibit PRO.3). On 06/24/2021, a Clerk of the Supreme Court issued an

Order (O24, Exhibit PRO.4) that dismissed Appellant’s matter. On 07/12/2021 as stamped by the Supreme Court, Appellant filed “Petition for Rehearing of Order” (Exhibit PRO.5). On 07/22/2021 as stamped by the Supreme Court, Appellant filed “Petition for Writ of Certiorari” (Writ, Exhibit PRO.6). On 09/21/2021, the Supreme Court issued its Order (O921, Exhibit PRO.1) denying a petition for reinstatement.

FACTUAL HISTORY

1. A formerly-involved Counsel (G. Gibson), who previously was relieved as Counsel, received service of the 06/15/2021 “Order Denying Rehearing” (see Exhibit PRO.2.1). Appellant as a *Pro-Se* party did not receive service of this Order; Appellant was not on the “To”-distribution list, nor on the “Cc”-distribution list, as verified by Exhibit PRO.2.1.

2. A Supreme Court Order executed by a Clerk of Court was issued the very same date: 06/24/2021, that Appellant’s “Notice of Appeal” was received by the Supreme Court.

3. No Clerk noted any deficiencies relative to Rule 242(d), SCACR, as regards Appellant’s-actually-filed Writ (Exhibit PRO.6).

ARGUMENT

4. As paragraph 1 [... Appellant ... did not receive service ...], not until after 06/24/2021, and not until after O24 (Exhibit PRO.4) became known to Appellant, that Appellant as a *Pro-Se* party received service of the Order (Exhibit PRO.2). Writ (Exhibit PRO.6) was timely filed pursuant to Rule 242(c) on 07/22/2021, within the thirty day period that expired 07/25/2021 (not counting July 4 holiday).

5. Appellant’s “Notice of Appeal” (Exhibit PRO.3) showed a footer on each page that clearly stated: “SCACR II Form 01 Notice of Appeal in a Civil Case”. No reasonable and responsible Clerk of Court could **mistakenly construe** this Notice of Appeal to represent a filing of a “Writ of Certiorari” (Writ, Exhibit PRO.6). Given this **evidential fact**, it is **not possible** for any reasonable and responsible Clerk of Court to **mistakenly conclude**:

This petition for a writ of certiorari does not have the content required by Rule 242(d).¹ Accordingly, this matter is dismissed.
(Order, Exhibit PRO.4)

6. Factually, Appellant’s Writ (Exhibit PRO.6) contains all content required by Rule 242(d), SCACR. Appellant’s **Writ completely conforms** with Rule 242(d). This is proven by “Table of Contents” that specifically shows sections:

CONTENT REQUIRED BY RULE 242(d)
A) Required by Rule 242(d)(1): Certification
B) Required by Rule 242(d)(2): Questions presented for review
C) Required by Rule 242(d)(3): Statement of the case, containing the facts
D) Required by Rule 242(d)(4): Argument in support
(Writ, Exhibit PRO.6, p. ii)

7. The Clerk’s Order (Exhibit PRO.4) **plainly admits** to recognition of a notice of appeal. This Order also **plainly admits** to extrapolation of construction, which is an **Error of Fact** because a simple “Notice” cannot be construed as a “Writ” :

Petitioner has filed a notice of appeal ... this notice of appeal has been construed as a petition for a writ of certiorari.
(Order, Exhibit PRO.4)

8. Rule 242(c), SCACR, provides to Appellant a right to file a Writ (Exhibit PRO.6) within a thirty-day-time period. On the very same day that Appellant's "Notice of Appeal" (Exhibit PRO.3) was filed, the Clerk **prematurely** construed Appellant's "Notice" as a "Writ". Seemingly, the Order executed by the Clerk (Exhibit PRO.4) intended to deny a "Writ" from being filed, in **direct VIOLATION** of Rule 242(c).

9. Confusion in O921 that is based upon a **FALSE PRETENSE** ["... failure to file ..."] found in O24 (Exhibit PRO.4) cannot lead to denial of Appellant's petition (Exhibit PRO.5). O921 **erroneously** states:

The Clerk of this Court dismissed the petition for a writ of certiorari in this matter based on Petitioner's failure to file the petition in conformity with Rule 242(d), SCACR. (O921, Exhibit PRO.1)

10. O921 shows other confusion. A petition that was **not** filed cannot be denied. Appellant did **not** file a petition for **reinstatement**. Appellant filed a "Petition for Rehearing of Order" (Exhibit PRO.5). O921 with confusion **erroneously** states:

Petitioner has filed a petition for reinstatement. The petition is denied.
(O921, Exhibit PRO.1)

CONCLUSION

Based on all content herein, O24 cannot be used as a basis for Supreme Court Justices to deny Appellant's "Petition for Rehearing of Order" (Exhibit PRO.5), found in O921. Stated dismissal of matter in O24 cannot stand because it **CAME BEFORE** the actual filing of Appellant's "Writ of Certiorari". Appellant's having complied with Rule 242(d) before 07/25/2021 cannot be taken away by the **PREMATURE DISMISSAL** found in O24. **Trickery** by a Clerk of Court that **violated** Rule 242(c), SCACR, cannot be a basis for dismissal, and thereafter subsequent denial of Appellant's petition.

Like all Courts, the Supreme Court must be bound by its own rules, and must comply with its own rules. O921 cannot ignore **FACTUAL EVIDENCE** presented to the Court that proved violation of Rules of the Court on the part of the Clerk of Court who issued O24. Dismissal via “rubber stamp” per O921 violates Appellate’s right to file an actual “Writ of Certiorari”. This Writ was filed in a timely manner under Rule 242(c), and the Writ completely complied with all requirements found in Rule 242(d). O921 cannot lawfully stand because it represents violation Court rules. The Order O921 cannot lawfully stand because it is based upon the same assumption that Appellant’s Writ as actually filed was **deficient** under Rule 242(d), SCACR, which is **NOT TRUE!**

From Appellant’s perspective, the **“slight of hand”** attempted by the Clerk of Court in dismissing Appellant’s “Writ of Certiorari” **before** it was **actually filed** represents **MISCONDUCT!** From Appellant’s perspective, the confusion apparent in O921 also represents **conduct unbecoming** of Supreme Court Justices.

Appellant attaches Proof of Service to Counsel of Record. A filing fee of \$50 is remitted by Priority Mail.

September 27, 2021



Raymond A. Wedlake,
703 Creekview Drive,
wedlakera@mail.com

Appellant (*Pro Se*)
Greenville, SC 29607
864-254-9262