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S.C. SUPREME COURT

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

On Petition for Writ of Certiorari to Spartanburg County
The Honorable J. Derham Cole, Circuit Court Judge

Appellate Case No. 2020-001418

JOHN D. GARVIN

Petitioner,

v.

STATE OF SOUTH CAROLINA

Respondent.

MOTION TO DISMISS

Respondent, the State of South Carolina, hereby moves before this Court to dismiss the appeal made by Petitioner John D. Garvin. In support of this motion, the undersigned shows the following:

1. Petitioner filed a notice of appeal from the Circuit Court's dismissal of his post-conviction relief application on October 22, 2020.
2. Since that date, Petitioner has requested and received, without objection, five extensions to file and serve his petition for writ of certiorari. The most recent extension order indicated that the petition and appendix were due to be filed and served by October 11, 2021.
3. On October 13, 2021 Petitioner filed a motion for leave to file an enlarged brief, pursuant to Rules 208(b)(5) and 263, SCACR. The Court denied this

motion on October 15, 2021, and ordered Petitioner to file and serve an amended petition that complies with the page limitations set forth in Rule 243(e)(3), SCACR within twenty days. Therefore, the compliant petition was due to be filed and served no later than November 4, 2021.

4. On October 26, 2021 Respondent was served with a petition for writ of certiorari dated October 8, 2021. This petition was over two-hundred pages in length, well beyond the length permitted in Rule 243(e)(3). As of November 5, 2021, no petition complying with the rule has been served upon Respondent, the State of South Carolina.
5. The Appellate Court Rules “are not mere technicalities but provide the parties and this Court with an orderly mechanism through which to guide appeals in this State. It is incumbent upon counsel to provide material that complies with the Rules and facilitates appellate review.” *Henning v. Kaye*, 307 S.C. 436, 437, 415 S.E.2d 794 (1992).
6. This Court has the authority to dismiss an appeal whenever a petitioner fails to comply with the requirements of the South Carolina Appellate Court Rules. Rule 260(a), SCACR.
7. Petitioner has not satisfied the obligations placed upon him by the Appellate Court Rules and by this Court’s October 15, 2021 order. For this reason, Respondent moves to dismiss the appeal.

WHEREFORE, Respondent prays that this Court will dismiss the appeal. Respondent also requests that this Court hold all deadlines in abeyance until the Court has ruled upon this motion.

Respectfully submitted,

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