

The Supreme Court of South Carolina

Demarco Johnson, Petitioner,

v.

The State of South Carolina, Respondent.


Appellate Case No. 2013-000935

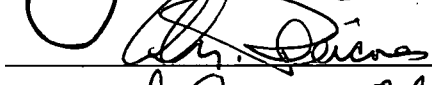
ORDER

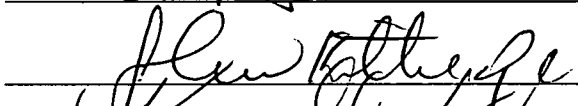
On April 26, 2013, petitioner filed a *pro se* Notice of Appeal from an order denying his application for post-conviction relief (PCR). The Notice of Appeal indicated he received written notice of entry of the order on April 1, 2013. However, no proof of service on the State was included. In response to a letter from the Clerk of Court, petitioner filed proof of service, indicating the State was served on May 16, 2013. Because the proof of service showed the State was not timely served with the Notice of Appeal, the Notice of Appeal was dismissed by order dated May 28, 2013.

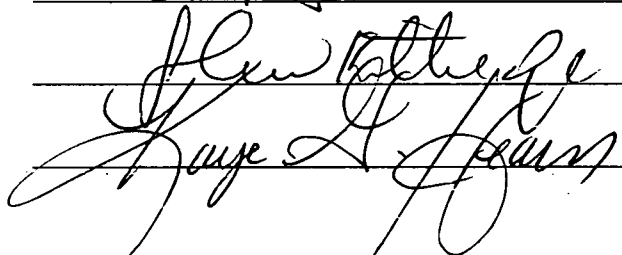
Petitioner now asks this Court to reinstate his appeal. He contends he did timely serve the State on April 26, 2013. He states the proof of service dated May 16, 2013, was for serving the State a second time. The State has not filed a return to the motion to reinstate the appeal.

Because petitioner indicates the Notice of Appeal was timely served, we reinstate the appeal. Petitioner shall, within ten (10) days of the date of this order, file an explanation under Rule 243(c), SCACR, as to why the PCR judge's determination that the action is barred as successive and by the statute of limitations was improper. This explanation must contain sufficient facts, argument, and citation to legal authority to show that there is an arguable basis for asserting that the determination by the PCR judge was improper.


_____ C.J.


_____ J.


_____ J.


_____ J.

Beatty, J., not participating

Columbia, South Carolina

July 12, 2013

cc:

Megan E. Harrigan, **Esquire**

Demarco Johnson, #241438