

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

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APPEAL FROM UNION COUNTY  
Court of Common Pleas

William A. McKinnon, Circuit Court Judge

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Appellate Case No. 2025-000165  
Circuit Court Case No. 2022-CP-44-00188

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Curtis Dunbar, Individually and as former Co-Personal  
Representative of the Estate of Theo(dosia) Dunbar.....Appellant

v.

Sally T. Atwater and Ashley Atwater,  
as Trustees of the Sally D. Atwater Revocable Trust.....Respondents

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RESPONDENTS' MOTION TO DENY APPELLANT'S MOTION TO REINSTATE APPEAL

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Respondents were granted Summary Judgment by Order of the Honorable William A. McKinnon on October 29, 2024. Appellant then filed a Motion to Reconsider which was denied by Order received on December 30, 2024. Pursuant to SCACR 203, a notice of appeal shall be served on all respondents within thirty (30) days after receipt of written notice of entry of the order granting or denying the Motion to Reconsider. Appellant's notice of appeal was due on January 29, 2025. Appellant did not serve or file the notice of appeal until January 30, 2025 and therefore Appellant's appeal was dismissed.

Appellant's motion to extend time to reinstate appeal should be denied. "Rule 203(b), SCACR, requires a party to serve his notice of appeal within thirty days after receiving written notice of the entry of a final order or judgment, and failure to do so divests this court of subject matter jurisdiction and results in the dismissal of the appeal." USAA Property and Cas. Ins. Co.

v. Clegg, 377 S.C. 643, 661 S.E.2d 791 (2008) (quoting Canal Ins. Co. v. Caldwell, 338 S.C. 1, 4, 524 S.E.2d 416, 418 (Ct. App. 1999)). “The requirement of service of the notice of appeal is jurisdictional, i.e., if a party misses the deadline, the appellate court lacks jurisdiction to consider the appeal and has no authority or discretion to “rescue” the delinquent party by extending or ignoring the deadline for service of the notice.” Elam v. South Carolina Dept. of Transp., 361 S.C. 9, 14-15, 602 S.E.2d 772, 775 (2004). The Court of Appeals now lacks jurisdiction to reinstate the appeal, even based on the asserted good cause of Appellant.

Appellant admits that the appeal was not timely filed in Appellant’s Motion to Extend Time to Perfect Appeal and in Appellant’s Motion to Reinstate Appeal and therefore Respondents respectfully request that Appellant’s Motion to Reinstate Appeal be denied.

Respectfully submitted,  
**BROWN, MASSEY, EVANS,  
McLEOD & HAYNSWORTH,  
LLC**

s/ Jenna Hendricks McLeod  
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s/Tyler McLeod  
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Greenville, South Carolina  
March 5, 2025

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**SC Court of Appeals**

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PROOF OF SERVICE

I certify that I have served this Motion to Dismiss on William D. All by emailing a copy to [wall@allandfrost.com](mailto:wall@allandfrost.com), being William All's primary e-mail address listed in the Attorney Information System (AID) pursuant to Rule 262(a)(3), SCACR and South Carolina Supreme Court Order 2024-04-24-01, Section (d)(1).

s/ Jenna Hendricks McLeod  
Jenna Hendricks McLeod  
SC Bar No.: 101236  
s/Tyler McLeod  
Tyler McLeod  
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March 5, 2025

**From:** Jenna McLeod

**Sent:** Wednesday, March 5, 2025 12:21 PM

**To:** Will All <wall@allandfrost.com>; Tyler McLeod <tmcleod@bmemhlaw.com>

**Cc:** Erin Callahan <ecallahan@bmemhlaw.com>; marissa@allandfrost.com

**Subject:** RE: Service of Motion to Reinstate Appeal

Will,

Our motion to deny your motion to reinstate the appeal is attached.

Thanks,

Jenna Hendricks McLeod, J.D.

Brown, Massey, Evans, McLeod & Haynsworth, LLC

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