

The Supreme Court of South Carolina

Derrick Javard George, Petitioner,

v.

State of South Carolina, Respondent.


Appellate Case No. 2013-002199

Lower Court Case No. 2012-CP-16-00735

ORDER

The notice of appeal was served in this matter on October 10, 2013. Petitioner's counsel admits that he received written notice of entry of the order on appeal on or about September 6, 2013, but moves to waive any time limitations.

The time to serve the notice of appeal on the opposing counsel cannot be extended, Rule 263(b) of the South Carolina Appellate Court Rules (SCACR), and the timely service of the notice of appeal is a jurisdiction requirement. *Elam v. South Carolina Dept. of Transportation*, 361 S.C. 9, 602 S.E.2d 772 (2004) ("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."). Accordingly, the motion is denied and the notice of appeal is dismissed based on the failure to serve the notice of appeal within the time specified by Rules 243(b) and 203(b)(1), SCACR. This dismissal is without prejudice to whatever right petitioner may now have to seek relief under *Austin v. State*, 305 S.C. 453, 409 S.E.2d 395 (1991).


C.J.
FOR THE COURT

Columbia, South Carolina

October 22, 2013

cc: Parker Edwards Howle, Esquire
Karen Christine Ratigan, Esquire