

# The Supreme Court of South Carolina

Ishmel J. Lemon, Petitioner,

v.

State of South Carolina, Respondent.


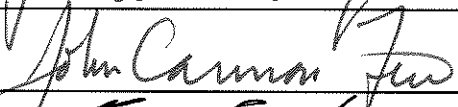
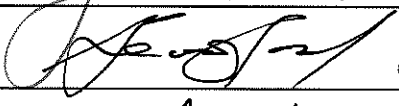
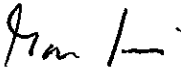

Appellate Case No. 2024-001348

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## ORDER

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The State has filed a motion to dismiss this matter. Because Petitioner did not timely serve the State as required by Rule 203(b)(1) of the South Carolina Appellate Court Rules, the motion is granted without prejudice to any right Petitioner may have to file a successive post-conviction relief application requesting a review of the denial of his second PCR application pursuant to *Austin v. State*, 305 S.C. 453, 409 S.E.2d 395 (1991). See *USAA Prop. & Cas. Ins. Co. v. Clegg*, 377 S.C. 643, 651, 661 S.E.2d 791, 795 (2008) (holding failure to timely serve the notice of appeal will result in dismissal of the appeal because the appellate court would no longer have jurisdiction to consider the appeal (citing *Canal Ins. Co. v. Caldwell*, 338 S.C. 1, 4, 524 S.E.2d 416, 418 (Ct. App. 1999))); see also *Elam v. S.C. Dep't of Transp.*, 361 S.C. 9, 14–15, 602 S.E.2d 772, 775 (2004) (holding the notice of appeal service requirement is jurisdictional).

	C.J.
	J.
	J.
	J.
	J.

Columbia, South Carolina  
October 21, 2025

cc:

Danielle Dixon

Lara Mary Caudy