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SC Court of Appeals

ALAN WILSON
ATTORNEY GENERAL

July 30, 2026

The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

RE: State v. Daquan Markeise Terrell – Appellate Case No. 2026-001560

Dear Ms. Kitchings:

The above-referenced criminal appeal is currently pending before this Court. In this matter, Appellant pled guilty to assault and battery of a high and aggravated nature and was sentenced to an eight-year term of imprisonment for that conviction on June 12, 2026. Thereafter, plea counsel served and filed the notice of appeal and accompanying guilty plea explanation twenty-six days later on July 8, 2026. In that guilty plea explanation, plea counsel indicated no issues were raised during the guilty plea proceedings and the appeal was initiated solely at Appellant's request.

On July 23, 2026, Appellant—through plea counsel—filed a motion seeking leave to file his notice of appeal out of time. The State respectfully asks this Court to please accept this letter in lieu of a formal return to Appellant's motion.

Through his motion, Appellant accurately acknowledges he was required to serve and file his notice of appeal within ten days of his sentence being imposed. Appellant further appears to correctly concede that did not occur in his case while attributing the untimeliness of the service and filing of the notice of appeal to extraordinary circumstances outside his own control. Nonetheless, Appellant asks this Court to grant him leave to *file* his notice of appeal out of time and to deem his notice of appeal to be timely filed.

As Appellant has accurately acknowledged, he was required to serve and file his notice of appeal within ten days after his sentence was imposed. Rule 203(b)(2), SCACR. Notably, pursuant to well-established South Carolina law, the time period for service of the notice of appeal cannot be extended, and the failure to timely serve a notice of appeal results in an absence of proper appellate jurisdiction. Rule 263(b), SCACR; see Conner v. City of Forest Acres, 348 S.C. 454, 461, 560 S.E.2d 606, 609 (2002) (“Service of the notice of intent to appeal is a jurisdictional requirement, and the Court has no authority to extend or expand the time in which

the notice of intent to appeal must be served.”); White v. State, 263 S.C. 110, 119, 208 S.E.2d 35, 39 (1974) (“[I]t is well settled that in the absence of a notice of appeal having been given and timely served [the appellate court] has no jurisdiction over such an appeal.”).

Accordingly, because Appellant admittedly failed to timely serve his notice of appeal, no appellate jurisdiction exists in his case, and his appeal must unfortunately be dismissed as a result. See Elam v. S.C. Dep’t of Transp., 361 S.C. 9, 14-15, 602 S.E.2d 772, 775 (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.”); cf. Bowles v. Russell, 551 U.S. 205, 214 (2007) (“Today we make clear that the timely filing of a notice of appeal in a civil case is a jurisdictional requirement. Because this Court has no authority to create equitable exceptions to jurisdictional requirements, use of the ‘unique circumstances’ doctrine is illegitimate.”). And, in light of that, Appellant’s request to file his notice of appeal out of time is moot. See State v. Green, 337 S.C. 67, 71, 522 S.E.2d 602, 604 (Ct. App. 1999) (“When judgment on an issue can have no practical effect upon an existing case or controversy, the issue is moot.”).

For those reasons, the State respectfully asks this Court to deny Appellant’s motion seeking leave to file his notice of appeal out of time and dismiss the appeal for lack of appellate jurisdiction. Thank you very much, and, if you should have any questions or concerns or if a more formal return is desired, please do not hesitate to contact me

Sincerely,



Mark R. Farthing
Senior Assistant Deputy Attorney General
S.C. Bar Number 76901

MRF/

cc: Michael A. Berry, Esq.
Wanda A. Carter, Esq.
Assistant Solicitor Jennifer Jordan
Victim Advocacy Division