

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHESTER COUNTY
Court of Common Pleas
Sixth Circuit Court
J. Ernest Kinard, Jr., Chief Administrative Judge

70887

Case No. 2013-CP-12-00267

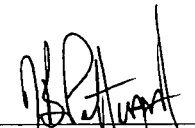
T. B. Patterson, Jr., Appellant,
v.
Justo P. Carmona Ortega, Respondent.

MOTION TO EXTEND TIME TO FILE RETURN

The appellant, appearing pro se, was out of state over the Christmas holiday and was ill as the New Year started. The motion of respondent to dismiss was served on December 23, 2013, and time to file a return has expired. This court has the discretion to enlarge the time for the return under the provisions of Rule 240(e) SCACR and should do so in this matter, so as to permit the filing of the return on January 7, 2014.

The respondent is not entitled to have this appeal dismissed as he claimed. The appellant, pro se, requests the court enlarge the time to file the return opposing the motion to dismiss and consider the issue on its merits. A memorandum in support of this motion follows.

January 7, 2014



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MEMORANDUM OF APPELLANT IN SUPPORT OF
THE MOTION TO ENLARGE TIME TO FILE RETURN

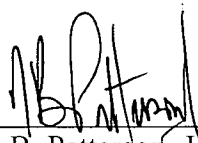
Respondent's memorandum in support of his motion to dismiss incorrectly asserted that appellant failed to serve a notice of appeal within thirty days of written notice of entry of the judgment; that claim is untrue, as explained in the return and its memorandum submitted with this motion and memorandum.

Rule 240(e), SCACR provides that "The court may in its discretion enlarge or limit the time for filing the return." In this case, the court should exercise that discretion and enlarge the time for appellant to file his return.

The respondent's motion to dismiss was filed on December 23, 2013, and served by mail that same day; it was delivered to the post office box of appellant sometime after Christmas. Upon appellant's return from out-of-state travel over Christmas, he retrieved the mail, but became ill before completing a return. He should be allowed to submit his return and the court should consider its arguments in deciding the motion of respondent to dismiss, especially as the argument of the respondent in support of the motion to dismiss misstated the express provisions of the applicable Rules of the SCACR to attempt to justify a dismissal, as noted in the return and the memorandum accompanying it.

Appellant respectfully requests the court enlarge the time for his return through January 7, 2014.

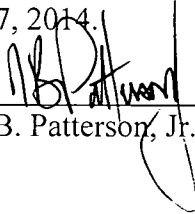
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CERTIFICATE OF SERVICE

In accordance with the provisions of Rule 240(c)(1) SCACR, I hereby certify that a copy of this motion was mailed to Mr. Michael S. Traynham, Post Office Box 12009, Columbia, South Carolina 29211-2009, on January 7, 2014.



T. B. Patterson, Jr.