

The Supreme Court of South Carolina

Breon Alexander, Petitioner,

v.

State of South Carolina, Respondent.

Appellate Case No. 2013-00.2567

The Honorable Deadra L. Jefferson
Jasper County
Trial Court Case No. 2012CP2700218

ORDER

In this post-conviction relief case, petitioner filed a *pro se* notice of appeal dated November 20, 2013. This notice of appeal was not accompanied by a proof of service showing that a copy of the notice of appeal had been served on opposing counsel.

By letter dated December 5, 2013, petitioner's counsel was asked to provide a proof of service showing that the notice of appeal had been served on opposing counsel and to provide the date on which he received written notice of entry of the order under appeal. In response, petitioner's counsel has served and filed a second notice of appeal dated December 18, 2013. In this notice of appeal, counsel indicates that written notice of entry of the order on appeal was received on November 15, 2013. The proof of service shows that this notice of appeal was served on opposing counsel on December 18, 2013.

Based on petitioner's failure to show that either notice of appeal has been timely served on opposing counsel as required by Rules 243(b) and 203(b)(1) of the South Carolina Appellate Court Rules (SCACR), this matter is dismissed. *See* Rule 263(b), SCACR (time to serve notice of appeal cannot be extended); *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.”). The remittitur will be sent as provided by Rule 221, SCACR.


C.J.
FOR THE COURT

Columbia, South Carolina
January 3, 2014

cc: Gerald Alan Kelly, Esquire
Ashleigh Rayanna Wilson, Esquire