



ALAN WILSON
ATTORNEY GENERAL

April 9, 2014

The Honorable Christina T. Adams
Solicitor, Tenth Judicial Circuit
P.O. Drawer 8002
Anderson, South Carolina 29622

RE: State v. Dametrioise R. Moss
2011-GS-37-765

Dear Solicitor Adams:

In its Order, filed on March 11, 2014, the South Carolina Court of Appeals dismissed the above appeal due to the appellant's failure to timely perfect an appeal. The Remittitur was subsequently sent to the Greenville County Clerk of Court and should have been sent to the Oconee County Clerk of Court's office. I am herewith providing you with a copy of the Order and Remittitur issued by the Court of Appeals. Therefore, with this letter, we are closing our direct appeal file in this matter.

This Office has verified through the South Carolina Department of Corrections' computer that Mr. Moss is presently incarcerated.

Sincerely,

Salley W. Elliott
Senior Assistant Deputy Attorney General

SWE/ab
Enclosure

cc: The Honorable Jenny A. Kitchings
The Honorable Beverly H. Whitfield
David M. Tatarsky, Esquire
Ms. Trisha Allen, Victim Services

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APR 11 2014

SC Court of Appeals

RECEIVED

APR 11 2014

The South Carolina Court of Appeals

SC Court of Appeals

The State, Respondent,

v.

Dametrioise R. Moss, Appellant.

Appellate Case No. 2013-002255

RECEIVED

MAR 12 2014

Referred to

Ellrott / dcm

Answered

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MAR 13 2014

ATTORNEY GENERALS
OFFICE

ORDER

On October 21, 2013, the appellant filed a pro se notice of appeal entitled "BELATED Appeal," which indicated the appellant believed his attorney had filed a timely notice of appeal from his convictions. After this Court's repeated requests to trial counsel Scott D. Robinson to provide various documents, including proof of timely service, Mr. Robinson wrote this Court to explain that on May 27, 2011, the appellant was convicted at trial of three counts of discharging a firearm into a dwelling, and acquitted of murder. Despite counsel's obligation to either obtain a waiver or file an appeal after conviction at trial, *see Turner v. State*, 380 S.C. 223, 224, 670 S.E.2d 373, 374 (2008), Mr. Robinson explains simply that the appellant "had ten (10) days to appeal a General Sessions conviction. He did not appeal." Because Mr. Robinson has convinced the Court that neither he nor the appellant perfected a timely appeal, we dismiss. *See Hill v. S.C. Dep't of Health & Envtl. Control*, 389 S.C. 1, 21, 698 S.E.2d 612, 623 (2010) ("The service of a notice of appeal is a jurisdictional requirement, and the time for service may not be extended by this Court."); Rule 203(b)(2), SCACR. Remittitur will be sent pursuant to Rule 221(b), SCACR.

Mr. Robinson also argues in his letter that the appellant failed to timely file an action for post-conviction relief (PCR). Mr. Robinson's apparent efforts to defeat his client's rights notwithstanding, the one-year statute of limitations under section 17-25-45(A) (2014) for a PCR action does not apply when the applicant alleges his lawyer failed to perfect a direct appeal from a criminal conviction. *See Wilson v. State*, 348 S.C. 215, 218, 559 S.E.2d 581, 582-83 (2002) ("[E]very defendant has a

right to file a direct appeal and one PCR application. In this case, [the petitioner] has not had 'one bite of the apple' since he has not received either a direct appeal from his conviction or a PCR hearing.").


_____, C.J.
FOR THE COURT

Columbia, South Carolina

cc:
Dametriose Moss
Alan McCrory Wilson, Esquire
Salley W. Elliott, Esquire
Scott David Robinson, Esquire

FILED

3/11/2014 



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MAR 31 2014 *Close*

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The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS,
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

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March 27, 2014

The Honorable Paul B. Wickensimer
Courthouse
305 E North St
Greenville SC 29601-2121

REMITTITUR

Re: State v. Dametriose R. Moss
Lower Court Case No. 2011GS3700765
Appellate Case No. 2013-002255

Dear Clerk of Court:

The above referenced matter is hereby remitted to the lower court or tribunal. A copy of the judgment of this Court is enclosed.

Very truly yours,

V. Claire Allen, Deputy

CLERK

Enclosure

cc: Dametriose Moss
Salley W. Elliott, Esquire
Scott David Robinson, Esquire



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APR 11 2014

SC Court of Appeals

The Honorable Jenny A. Kitchings
Clerk, South Carolina Court of Appeals
P.O. Box 11629
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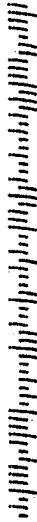
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