

The Supreme Court of South Carolina

Curtis Adkins, Petitioner,

v.

State of South Carolina, Respondent.

Appellate Case No. 2012-212483

ORDER

Petitioner asks this Court to enlarge the time for filing the appeal in this matter. The State consents to this motion.

The notice of appeal states that appellant received written notice of entry of the order on appeal on March 15, 2012. The notice of appeal was not served on opposing counsel until June 18, 2012. Therefore, the notice of appeal has not been timely served under Rules 203(b)(1) and 243(b), SCACR.

The time to serve the notice of appeal may not be extended. Rule 263(b), SCACR; *see also 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.”). Accordingly, the motion is denied and the notice of appeal is hereby dismissed. This dismissal is without prejudice to whatever right petitioner may have to seek relief under Austin v. State, 305 S.C. 453, 409 S.E.2d 395 (1991). The remittitur will be sent as

provided by Rule 221, SCACR.

A handwritten signature in black ink, appearing to read "J. Rutledge Johnson", written over a horizontal line.

C.J.

FOR THE COURT

Columbia, South Carolina

July 19, 2012

cc: Leah B. Moody
J. Rutledge Johnson