

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Richland County
The Honorable R. Ferrell Cothran, Presiding Judge

Appellate Case No: 2014-000799

RECEIVED

MAY 28 2014

SC Court of Appeals

THE STATE,

Respondent,

vs.

DEMETRIUS ANTWAN DAWSON, JR.,

Appellant.

MOTION TO DISMISS APPEAL

Respondent, through its undersigned counsel, would respectfully show unto this Court as follows:

I.

On April 3, 2014, Appellant entered a guilty plea to Robbery/Armed Robbery, Robbery While Armed or Allegedly Armed with a Deadly Weapon and sentenced that same date to imprisonment for a period of ten (10) years.

II.

Appellant, through counsel, served notice of appeal on April 17, 2014.

III.

Pursuant to the long-standing rules of appellate procedure, a notice of appeal from a criminal conviction must be served upon the State within ten (10) days of imposition of the sentence. See Rules 203(b)(2), 262(b), SCACR. The timely service is a jurisdictional requirement and this Court has no authority to extend or expand the time within which the notice of appeal must be served. State v. Hinson, 303 S.C. 92, 399 S.E.2d 422 (1990); Mears v. Mears, 287 S.C. 168, 337 S.E.2d 206 (1985); Miller v. State, 269 S.C. 113, 236 S.E.2d 422 (1977). The State also may not consent to appellate jurisdiction because the parties may not consent to jurisdiction if it is not properly acquired.

IV.

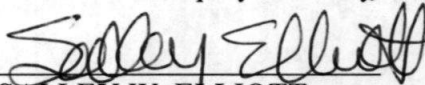
Appellant's notice of appeal should have been served upon Respondent on or before April 14, 2014. It was not served until April 17, 2014. The failure of Appellant to timely serve written notice of appeal upon the State deprives this Court of jurisdiction over this appeal and entitles Respondent to a dismissal of the appeal, regardless of the reasons for the failure to timely serve the notice.

WHEREFORE, Respondent respectfully prays that this Court dismiss the appeal; that the time limits for this appeal be held in abeyance until this Court's disposition of this motion; and for such other and further relief as this Court may deem just and proper.

Respectfully submitted,

ALAN WILSON
Attorney General

SALLEY W. ELLIOTT
Senior Assistant Deputy Attorney General

BY: 
SALLEY W. ELLIOTT
S.C. Bar No: 1871

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(803) 734-3727

ATTORNEYS FOR RESPONDENT

May 28, 2014

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Appellant.

PROOF OF SERVICE

I, Angela Bennett, certify that I have served the Motion to Dismiss Appeal on appellant by depositing two copies of the same in the United States mail, postage prepaid, addressed to his attorney, Drelton A. Carson, Jr., Esquire, P. O. Box 8086, Columbia, SC 29201 and Robert M. Dudek, Esquire, South Carolina Commission on Indigent Defense, Division of Appellate Defense, P.O. Box 11589, Columbia, South Carolina 29211.

I further certify that all parties required by Rule to be served have been served.

This 28th day of May, 2014.



ANGELA BENNETT
Administrative Assistant

Office of Attorney General
Post Office Box 11549
Columbia, SC 29211
(803) 734-3727



ALAN WILSON
ATTORNEY GENERAL

May 28, 2014

The Honorable Jenny A. Kitchings
Clerk, South Carolina Court of Appeals
P.O. Box 11629
Columbia, South Carolina 29211

Re: The State v. Demetrius Antwan Dawson, Jr.
Appellate Case N: 2013-002525

Dear Mr. Kitchings:

Enclosed please find the original and six copies of the Motion to Dismiss Appeal along with proof of service in the above-referenced case.

Sincerely,

Salley W. Elliott
Senior Assistant Deputy Attorney General
S.C. Bar No: 1871

SWE/ab
Enclosures

cc: Drelton A. Carson, Jr., Esquire
Robert M. Dudek, Esquire
Ms. Trisha Allen

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