

The Supreme Court of South Carolina

The State, Respondent,

v.

Shonta Helton, Appellant.

Appellate Case No. 2014-001756

Lower Court Case No. 2013-GS-43-00239

ORDER

In this criminal case, appellant was sentenced on April 17, 2014. She has now filed a notice of appeal dated July 30, 2014.

The time to serve the notice of appeal on opposing counsel under Rule 203 of the South Carolina Appellate Court Rules (SCACR) cannot be extended. Rule 263(b), SCACR. Further, the timely service of the notice of appeal is a jurisdictional requirement. *Elam v. South Carolina Dept. of Transportation*, 361 S.C. 9, 602 S.E.2d 772 (2004).

In the present case, the notice of appeal was not served on opposing counsel within ten days of sentencing. Therefore, the notice of appeal has not been timely served under Rule 203, SCACR, and the notice of appeal is hereby dismissed.

This dismissal is without prejudice to whatever right appellant may have to seek a belated direct appeal under *White v. State*¹ by filing a timely application for post-conviction relief (PCR) in the circuit court.² The remittitur will be sent as provided

¹ 263 S.C. 110, 208 S.E.2d 35 (1974).

² See *Wicker v. State*, 310 S.C. 8, 425 S.E.2d 25 (1992) (“Under an exception to the prohibition against appellate courts considering appeals in the absence of notice of intent to appeal given and timely served, *White v. State, supra*, permits consideration of the full trial record on this issue in conjunction with appellate review of the PCR proceeding.”) see also *Davis v. State*, 288 S.C. 290, 342 S.E.2d 60 (1986) (discussing procedure to be followed for *White v. State* review depending on the findings of the PCR judge); Rule 243(i), SCACR (same).

by Rule 221, SCACR.


C.J.
FOR THE COURT

Columbia, South Carolina
August 21, 2014

cc: Ms. Shonta Helton, 326415
Alan McCrory Wilson, Esquire
Shuan Courtney Kent, Esquire