

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Spartanburg County
The Honorable Roger L. Couch, Resident Judge

Appellate Case No: 2014-001806

THE STATE,

Respondent,

vs.

MARCUS A. JONES,

Appellant.

MOTION TO DISMISS APPEAL

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

I.

On information and belief, Appellant was found guilty on July 9, 2014 of manufacturing or distributing cocaine base, 3rd or subsequent offense (2013-GS-42-03356) and was sentenced that same date.

II.

Appellant served a pro se notice of appeal on August 14, 2014.

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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. Tatnall v. Gardner, 350 S.C. 135, 564 S.E.2d 377 (Ct. App. 2002); Hunter v. Boyd, 203 S.C. 518, 525, 28 S.E.2d 412, 416 (1943).

IV.

Appellant's notice of appeal should have been served upon Respondent on or before July 21, 2014 and was not served until August 14, 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.

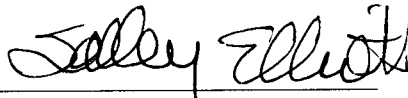
WHEREFORE, Respondent respectfully prays that this Court dismiss the appeal; that the time limits for this appeal be held in abeyance until this Court's disposition of this motion; and for such other and further relief as this Court may deem just and proper.

Respectfully submitted,

ALAN WILSON
Attorney General

SALLEY W. ELLIOTT
Senior Assistant Deputy Attorney General

BARRY BARNETTE
Solicitor, Seventh Judicial Circuit

BY: 

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

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

ATTORNEYS FOR RESPONDENT

September 24, 2014

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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Appeal from Spartanburg County
The Honorable Roger L. Couch, Resident Judge

SC Court of Appeals

Appellate Case No: 2014-001806

THE STATE,

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MARCUS A. JONES,

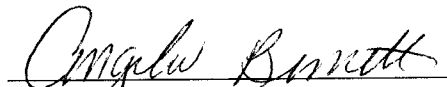
Appellant.

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, Michael D. Morin, Esquire, P.O. Box 161903, Boiling Springs, SC 29316 and a copy sent Marcus A. Jones, #319420, Perry Correctional Inst., Dorm Q3 119B, Pelzer, SC 29669.

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

This 24th day of September, 2014.


ANGELA BENNETT
Administrative Assistant

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



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The State of South Carolina VS Marcus Antwane Jones

Case Number:	2013A4210100346	Court Agency:	General Sessions	Filed Date:	02/15/2013
Case Type:	Criminal-Clerk	Case Sub Type:	180 Day Track		
Status:	Disposed	Assigned Judge:	Clerk Of Court C P, G S, And Family Court	Disposition Judge:	Couch, Roger L.
Disposition:	Trial Guilty				
Disposition Date:	07/09/2014	Date Received:	02/15/2013	Arrest Date:	02/12/2013
Law Enf. Case:	13011028	True Bill Date:	07/19/2013	No Bill Date:	
Prosecutor Case:		Indictment Number:	2013GS4203356	Waiver Date:	
Probation Case:					

Case Parties Charges Sentencing Associated Cases Actions Financials Bonds

Name	Charge Code - Charge Description	Original Charge Code - Original Charge	Disposition Date
Jones, Marcus Antwane	3039-Drugs / Manufacture, distribution, etc. of cocaine base, 3rd or sub. Offense	0185-Drugs / MDP, Narcotic drugs in Sch. I(b) & (c), LSD, and Sched. II - 3rd or sub. offense	07/09/2014

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ALAN WILSON
ATTORNEY GENERAL

September 24, 2014

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SC Court of Appeals

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

Re: The State v. Marcus A. Jones
Appellate Case N: 2014-001806

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: Michael David Morin, Esquire
Marcus A. Jones, #319420
Ms. Trisha Allen