

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Charleston County
The Honorable Roger M. Young, Sr., Circuit Court Judge

Appellate Case No: 2014-001713

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SEP 24 2014

SC Court of Appeals

THE STATE,

Respondent,

vs.

KEEON BULTER,

Appellant.

MOTION TO DISMISS APPEAL

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

I.

On May 20, 2014, Appellant pled guilty to Armed Robbery, robbery while armed or allegedly armed with a deadly weapon (2012-GS-10-04586) and was sentenced that same date.

II.

Appellant served a pro se notice of appeal on August 3, 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. 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 May 30, 2014 and was not served until August 3, 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.

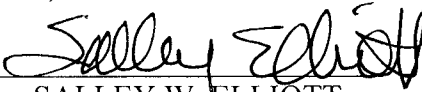
WHEREFORE, Respondent respectfully prays that this Court dismiss the appeal; that the time limits for this appeal be held in abeyance until this Court's disposition of this motion; and for such other and further relief as this Court may deem just and proper.

Respectfully submitted,

ALAN WILSON
Attorney General

SALLEY W. ELLIOTT
Senior Assistant Deputy Attorney General

SCARLETT A. WILSON
Solicitor, Ninth Judicial Circuit

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

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Columbia, SC 29211
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ATTORNEYS FOR RESPONDENT

September 24, 2014

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Charleston County
The Honorable Roger M. Young, Sr., Circuit Court Judge

Appellate Case No: 2014-001713

THE STATE,

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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, Guy J. Vitetta, Esquire, 225 Seven Farms Drive, Suite 201, Daniel Island, SC 29492 and a copy sent Mr. Keeon Butler, #243002, Kirkland Correctional Inst. 4344 Broad River Road, Columbia, SC 29210

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



Julie J. Armstrong
Charleston County Clerk of Court

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The State of South Carolina VS Keon Dejarvace Butler

Case Number:	2012GS1004586	Court Agency:	General Sessions	Filed Date:	08/22/2012
Case Type:	Criminal-Clerk	Case Sub Type:			
Status:	Disposed	Assigned Judge:	Clerk Of Court C P, G S, And Family Court	Disposition Judge:	Young, Roger M. Sr.
Disposition:	Pled Guilty				
Disposition Date:	05/20/2014	Date Received:	08/06/2012	Arrest Date:	08/06/2012
Law Enf. Case:		True Bill Date:	08/06/2012	No Bill Date:	
Prosecutor Case:		Indictment Number:	2012GS1004586	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
Butler, Keon Dejarvace	0139-Robbery / Armed Robbery, robbery while armed or allegedly armed with a deadly weapon	0139-Robbery / Armed Robbery, robbery while armed or allegedly armed with a deadly weapon	05/20/2014

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ALAN WILSON
ATTORNEY GENERAL

September 24, 2014

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

Re: The State v. Keeon Butler
Appellate Case N: 2014-001713

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: Guy J. Vitetta, Esquire
Keeon Butler, #243002
Ms. Trisha Allen

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SC Court of Appeals