

**ORIGINAL**

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal to Richland County

Cifton Newman, Circuit Court Judge

2011-GS-40-02114, 02115

**RECEIVED**

FEB 23 2015

THE STATE,

**SC Court of Appeals**  
RESPONDENT,

V.

JOSEPH CHARLES TICE,

APPELLANT

Appellate Case No. 2014-001957

PETITION TO RELAX RULE 203, SCACR, AND  
REQUEST FOR LEAVE TO FILE APPEAL NOTICE OUT OF TIME

Pursuant to Rule 240, SCACR, the undersigned counsel representing the above named individual on appeal petitions the court to relax Rule 203, SCACR, and grant leave to file the notice of appeal out of time in the case. In support of this petition, counsel submits the following information.

1.) Appellant Joseph Charles Tice pled guilty to two counts of second degree criminal sexual conduct with a minor during the August 2011 term of the Richland County General Sessions Court before Judge G. Thomas Cooper, Jr., and was sentenced to imprisonment for a period of two concurrent twenty-year terms, suspended upon time

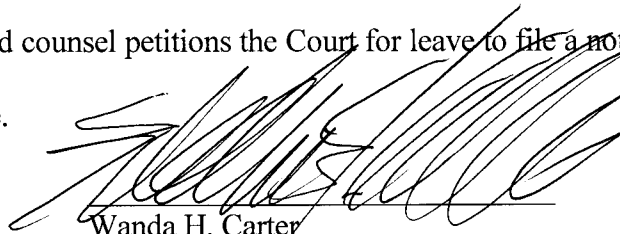
served and five years probation. On November 11, 2011, Judge R. Markley Dennis revoked six months of appellant's probation sentence for violating his probation. Appellant was subsequently released and placed in a community supervision program.

On July 7, 2014, a citation was issued from SCDPPP against appellant for violating the terms and conditions of his supervision by using Facebook/social media. A probation violation hearing was convened on September 5, 2014, at the Richland County Courthouse before Judge Clifton Newman. Appellant was present at the hearing and represented by John C. Shipman, and Mathew C. Buchanan appeared as counsel on behalf of SCDPPP. Judge Newman revoked 90 days of appellant's suspended sentence and ordered that his reinstatement into the community supervision program could follow thereafter. On February 9, 2015, a brief on appeal was filed on raising the issue of the circuit court judge's error in revoking appellant's probation due to reported allegations that he violated a condition of probation that prohibited the use of Facebook because this total ban against social media violated appellant's First Amendment right to free speech to the extent that such a restriction was neither reasonably related to the nature and circumstances of his prior conviction nor sufficiently narrowly tailored to serve the state's interest.

2.) Attorney Shipman appealed Tice's case one day late, i.e., on February 16, 2014. On February 20, 2015, this Court sent an Order dismissing this appeal in violation of Rule 203(b)(2). However, inasmuch as the case on appeal contains merit, and Mr. Tice through no fault of his own could be denied the right of appeal arguably because of ineffective assistance of Mr. Tice's probation revocation counsel, which would be probably addressed at PCR at a later date anyway, counsel requests leave for the sake of judicial economy and fundamental fairness to Mr. Tice to file an appeal notice out of time before the issuance of

the remittitur. This would avoid the issuance of a remittitur due to mistake by Mr. Tice's probation revocation counsel. See State v. Keels, 39 S.C. 553, 17 S.E.802 (1893).

WHEREFORE, the undersigned counsel petitions the Court for leave to file a notice of appeal out of time in Mr. Tice's case.

A handwritten signature in black ink, appearing to read 'Wanda H. Carter', written over a horizontal line.

Wanda H. Carter  
Deputy Chief Appellate Defender

ATTORNEY FOR APPELLANT

February 23, 2015

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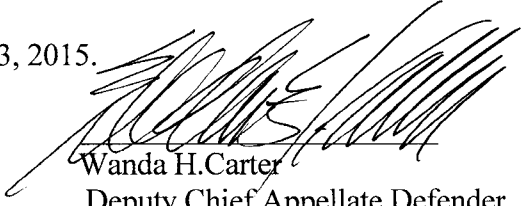
V.

JOSEPH CHARLES TICE,

APPELLANT

\_\_\_\_\_  
CERTIFICATE OF SERVICE  
\_\_\_\_\_

The undersigned attorney hereby certifies that a true copy of the Petition to Relax Rule 203, SCACR, And Request For Leave To File Appeal Notice Out Of Time in the above referenced case has been served upon Matthew Buchanan, Esquire, at the South Carolina Department of Probation, Parole & Pardon Services, PO Box 50666, Columbia, SC 29250, Esquire, this 23<sup>rd</sup> day of February 23, 2015.

  
Wanda H. Carter  
Deputy Chief Appellate Defender

ATTORNEY FOR APPELLANT

SUBSCRIBED AND SWORN TO before me  
this 23<sup>rd</sup> day of February, 2015.

 (L.S.)

Notary Public for South Carolina  
My Commission Expires: October 30, 2022.