

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

RECEIVED
APR 17 2015
SC Court of Appeals

Appeal from Charleston County
Honorable R. Markley Dennis, Jr., Circuit Court Judge
Appellate Case No. 2015-000389

THE STATE,

Respondent,

vs.

GERALD D. EDWARDS,

Appellant.

RETURN TO MOTION TO REINSTATE

The State, making return to Appellant's pro se motion to reinstate his appeal, would respectfully show the Court:

I.

It appears Appellant was convicted and sentenced on February 10, 2015 by the Honorable R. Markley Dennis, Jr., to imprisonment for twenty years for armed robbery and five years for a violation of a firearms provision.

II.

It appears Appellant forwarded a pro se notice of appeal to this Court which was received on February 24, 2015. It also appears that the Office of the undersigned received a copy of the pro se notice of appeal on February 25, 2015, and a second pro se notice of appeal which was served on March 9, 2015.

III.

By letter dated February 27, 2015, this Court notified trial counsel for Appellant of deficiencies in the notice of appeal and requested corrections within 10 days. By order filed March 11, 2015, this Court dismissed the appeal for Appellant's failure to timely serve the notice of appeal as required by Rule 203 (b)(2), SCACR. By letter dated April 9, 2015, this Court indicated that it received a letter from Appellant which the Court construed as a motion to reinstate the appeal. A copy of the letter was forwarded to the undersigned.

IV.

The State makes return to Appellant's communication which is being construed as a motion to reinstate. The State opposes reinstatement of the appeal on the ground Appellant failed to provide proof of timely service of the notice of appeal. Appellant's notice of appeal indicates that he was sentenced on February 10, 2015. The notice of appeal was filed by this Court on February 24, 2015 and was not received by the office of the undersigned until February 25, 2015. He did not provide a proof of service with the notice of appeal served on Respondent. The letter from Appellant which is being construed as a motion to reinstate does not provide information establishing timely service of the notice of appeal. Pursuant to the long-standing rules of appellate practice, a notice of appeal from a criminal conviction must be served upon the State within ten days of the imposition of the sentence. Rule 203 (b)(2), SCACR. Timely service of the notice of appeal is a jurisdictional requirement which may not be extended or expanded. State v. Hinson, 303 S.C. 92, 399 S.E.2d 422 (1990); State v. Miller, 269 S.C. 113, 236 S.E.2d 422 (1977). Appellant may have other avenues for relief other than an untimely appeal.

WHEREFORE, the State respectfully asks this Court to deny Appellant's request to reinstate the appeal.

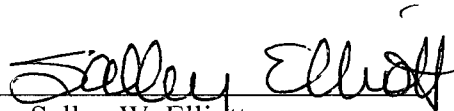
Respectfully submitted,

ALAN WILSON
Attorney General

SALLEY W. ELLIOTT
Senior Assistant Deputy Attorney General

SCARLETT WILSON
Solicitor, Ninth Judicial Circuit

BY:

A handwritten signature in black ink that reads "Salley Elliott". The signature is written in a cursive style with a large, looping initial "S".

Salley W. Elliott
S.C. Bar No: 1871

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

ATTORNEYS FOR RESPONDENT

April 17, 2015

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PROOF OF SERVICE

I, Angela Bennett, certify that I have served the Return to Motion to Reinstate on appellant by depositing two copies of the same in the United States mail, postage prepaid, addressed to Gerald D. Edwards, #173780, Perry Correctional Inst. 430 Oaklawn, Road, Pelzer, SC 29669, Robert M. Dudek, Esquire, South Carolina Commission on Indigent Defense, Division of Appellate Defense, P.O. Box 11589, Columbia, South Carolina 29211 and Shirene Hansotia, Esquire, 101 Meeting Street, 5th Floor, Charleston, South Carolina 29401.

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

This 17th day of April, 2015.



ANGELA BENNETT
Administrative Assistant

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