

# The Supreme Court of South Carolina

Billy L. Alford, Petitioner,

v.

State of South Carolina, Respondent.

Appellate Case No. 2015-000786

Lower Court Case No. 2012CP2605785

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## ORDER

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Petitioner has failed to establish that the *pro se* notice of appeal was served on opposing counsel within the time specified by Rule 203 of the South Carolina Appellate Court Rules (SCACR).<sup>1</sup> Accordingly, this matter is dismissed. The remittitur will be sent as provided by Rule 221(b), SCACR.

The motion for a belated appeal and *Austin*<sup>2</sup> review is denied without prejudice to whatever right petitioner may have to seek relief under *Austin* by filing an application for post-conviction relief in the circuit court. *Cf. King v. State*, 308

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<sup>1</sup> The proof of service which was initially filed indicated that the notice of appeal was served on counsel for the respondent on April 9, 2014. Since this notice of appeal and proof of service were not received by this Court until April 15, 2015, petitioner was advised that this 2014 date appeared to be in error, and he was asked to provide the actual date on which the notice of appeal was served. Apparently in response to this request, petitioner has sent a second proof of service indicating that the notice of appeal was served on May 7, 2015. Since counsel for petitioner has advised this Court that he received written notice of entry of the order on appeal on April 17, 2014, the service of the notice of appeal at any time in 2015 would be untimely under Rule 203, SCACR.

<sup>2</sup> *Austin v. State*, 305 S.C. 453, 409 S.E.2d 395 (1991)

S.C. 348, 417 S.E2d 868 (1992) (setting forth the appellate procedures to be followed depending on the findings made by the PCR judge regarding the *Austin* claim).

  
C.J.  
FOR THE COURT

Columbia, South Carolina  
May 20, 2015

cc: Russell Blake Long, Esquire  
Joshua L. Thomas, Esquire  
Mr. Billy Leon Alford, #285850