

# The South Carolina Court of Appeals

Billy Lee Lisenby, Jr., Appellant,

v.

South Carolina Department of Corrections, Deputy  
Director Michael McCall, Respondent.

Appellate Case No. 2015-001856

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## ORDER

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The notice of appeal filed in this case indicates the appellant received written notice of entry of the order on appeal on August 17, 2015. The proof of service shows service upon the respondent on September 19, 2015. Rule 203(b)(1) of the South Carolina Appellate Court Rules (SCACR) requires a notice of appeal to be served on all respondents within thirty days of receipt of written notice of entry of the order. The notice of appeal in this case was served on the 33rd day. Accordingly, this appeal is dismissed for failure to timely serve the notice of appeal. *See USAA Prop. & Cas. Ins. Co. v. Clegg*, 377 S.C. 643, 651, 661 S.E.2d 791, 795 (2008) ("The requirement of service of the notice of appeal is jurisdictional, *i.e.*, if a party misses the deadline, the appellate court lacks jurisdiction to consider the appeal and has no authority to 'rescue' the delinquent party by extending or ignoring the deadline for service of the notice." (quoting *Elam v. S.C. Dep't of Transp.*, 361 S.C. 9, 14-15, 602 S.E.2d 772, 775 (2004))). The remittitur will be sent as provided by Rule 221(b), SCACR.

FOR THE COURT

BY  CLERK

Columbia, South Carolina

**FILED**

CS 10-07-2015

cc:

Billy Lee Lisenby, Jr., #200273

David M. Tatarsky, Esquire