

The Supreme Court of South Carolina

Dontavious H. Jackson, Petitioner,

v.

State of South Carolina, Respondent.

Appellate Case No. 2015-002660

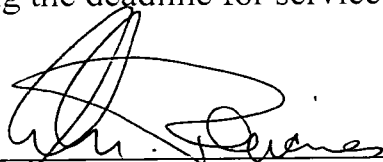
Lower Court Case No. 2013CP1600177

ORDER

In this post-conviction relief case, the notice of appeal was served on December 23, 2015. In the notice of appeal, counsel for the petitioner indicates that he received the order on appeal on November 9, 2015, and the copy of this order filed with the notice of appeal contains a file stamp showing it was filed with the clerk of the circuit court on October 16, 2015.

Since the notice of appeal has not been timely served under Rules 243(b) and 2013(b)(1) of the South Carolina Appellate Court Rules, the notice of appeal is dismissed without prejudice to whatever right petitioner may have to seek relief under *Austin v. State*, 305 S.C. 453, 409 S.E.2d 395 (1991). The remittitur will be sent as provided by Rule 221, SCACR.

As to the request to allow this appellate matter to proceed, this request is denied. Rule 263(b), SCACR; *Elam v. South Carolina Dept. of Transportation*, 361 S.C. 9, 602 S.E.2d 772 (2004) ("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 or discretion to 'rescue' the delinquent party by extending or ignoring the deadline for service of the notice.").



FOR THE COURT C.J.

Columbia, South Carolina
January 8, 2016

cc: Lance S. Boozer, Esquire
Jessica Elizabeth Kinard, Esquire