

The South Carolina Court of Appeals

The State, Respondent,

v.

Wilbert J. Franklin, Appellant.

Appellate Case No. 2015-002437

ORDER

Respondent has filed a motion to dismiss, arguing Appellant failed to timely appeal from his conviction and sentence. Although Respondent acknowledges Appellant served a pro se notice of appeal within ten days of his sentence, Respondent argues that because Appellant was represented by counsel at the time he submitted his pro se notice of appeal, his pro se filings were improper and "could not operate as a notice of appeal which would comply with the time period for serving and filing of the appeal."

Respondent's motion to dismiss is denied because Appellant served his notice of appeal on Respondent within ten days of his sentencing. *See* Rule 203(b)(2), SCACR ("[A] notice of appeal shall be served on all respondents within ten (10) days after the sentence is imposed."). To the extent Respondent is arguing the *filing* of Appellant's notice of appeal was untimely in light of the amended notice of appeal filed by his counsel, this court has the authority to extend the deadline for filing a notice of appeal. *See* Rule 263(b), SCACR ("The time prescribed by these Rules for performing any act except the time for *-serving* the notice of appeal under Rules 203 and 243 may be extended" (emphasis added)).


FOR THE COURT

FILED

4 March 4, 2016 27

Columbia, South Carolina

cc:

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John Benjamin Aplin, Esquire
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