

The South Carolina Court of Appeals

Clyde Morris, Respondent,

v.

Joseph V. Johnson, III, Joseph V. Johnson, Sr., Mildred R. Johnson, Joseph V. Johnson, Jr., William Johnson, and Allen R. Barnette, Defendants,

Of Whom Joseph V. Johnson, Sr. and Joseph V. Johnson, Jr. are the Appellants.

Appellate Case No. 2014-002580

ORDER

On November 21, 2014, Appellants served a notice of appeal from the Master-in-Equity's order denying their motion to reconsider on the ground the motion was untimely. The master had issued its final order on August 19, 2014, and Appellants did not file and serve their motion to reconsider until September 25, 2014. Because Rule 59(e), SCRCRCP, requires a motion to reconsider to be served within ten days after written receipt of the entry of the order, Appellants' motion to reconsider was untimely. Only when a motion to reconsider is timely does it toll the time for service of the notice of appeal. *See* Rule 203(b)(1), SCACR ("A notice of appeal shall be served on all respondents within thirty . . . days after receipt of written notice of entry of the order or judgment."); *id.* ("When a *timely* . . . Rule 59, SCRCRCP[motion] has been made, the time for appeal for all parties shall be stayed and shall run from receipt of written notice of entry of the order granting or denying such motion." (emphasis added)). Appellants served their notice of appeal on November 21, 2014. Because the untimely motion to reconsider did not toll the time for service of the notice of appeal, Appellants failed to timely appeal the August 19, 2014 order. Accordingly, the appeal from that order is dismissed. *See USAA Prop. & Cas. Ins. Co. v. Clegg*, 377 S.C. 643, 651, 661 S.E.2d 791, 795 (2008) (noting the Rule 203(b), SCACR service requirement

is jurisdictional, and when a party misses the deadline, this court lacks jurisdiction to consider the appeal).

Appellants' appeal from the denial of their motion to reconsider was timely; however, the only issue before this court is whether the master erred in denying the motion based on timeliness. Appellants did not raise this issue in their brief. Accordingly, this appeal is dismissed. *See* Rule 208(b)(1)(B) ("[N]o point will be considered [that] is not set forth in the statement of the issues on appeal."). Remittitur will be sent as required by Rule 221(b), SCACR.



FOR THE COURT

Columbia, South Carolina

cc: Willie Bruce Heyward, Esquire
Clyde Morris

FILED
