

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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JAN 13 2017

SC Court of Appeals

APPEAL FROM BEAUFORT COUNTY
Court of Common Pleas
The Honorable Carmen T. Mullen

Case No: 2015-CP-07-02946

Carlos Kinlaw,Appellant,

v.

South Carolina Workers' Compensation Commission,Respondent.

RETURN TO APPELLANT'S MOTION TO REINSTATE APPEAL

On December 15th, 2016 the court issued its dispositional decision dismissing Appellant's appeal for failure to timely serve the Notice of Appeal in accordance with Rule 203(b)(1), SCACR. On January 3rd, 2017, Appellant *pro se* filed what appears to be a Motion to Reinstate under Rule 240, SCACR. For the reasons stated herein, Appellant's Motion should be denied and the court's December 15th, 2016 decision dismissing Appellant's appeal should be affirmed.

It is undisputed that Appellant received written notice that the order of the Court of Common Pleas had been entered on September 16th, 2016. *See* Appellant's Notice of Appeal, November 8th, 2016. It is also established in the


record that Appellant served written notice of the appeal on the undersigned counsel for Respondent on November 8th, 2016. *Id.* Nothing contained in Appellant's January 3rd, 2017 Motion disputes these facts. Further, Appellant's Motion does not offer any reason why he was unable to file and serve the Notice of Appeal within the timeframe required by Rule 203(b)(1).

Under Rule 203(b)(1) "[a] notice of appeal shall be served on all respondents within thirty (30) days after receipt of written notice of entry of the order or judgment." Rule 203(b)(1), SCACR. "Service of the notice of appeal is a 'jurisdictional requirement, and [the appellate court] has no authority to extend or expand the time in which the notice of intent to appeal must be served.'" *Camp v. Camp*, 386 S.C. 571, 574-75, 689 S.E.2d 634, 636 (2010) (quoting *Mears v. Mears*, 287 S.C. 168, 169, 337 S.E.2d 206, 207 (1985)).

CONCLUSION

Nothing contained in Appellant's January 3rd, 2017 Motion changes the fact that Appellant did not timely file and serve his Notice of Appeal as required by Rule 203. Because timeliness of the Notice of Appeal is a jurisdictional requirement, the court should not grant Appellant's Motion to Reinstate his appeal, and should affirm the court's December 15th, 2016 dismissal.

January 13th, 2017



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Workers' Compensation Commission

January 13, 2017

South Carolina Court of Appeals
The Hon. Jenny Abbott Kitchings, Clerk of Court
1220 Senate St.
P.O. Box 11629
Columbia, SC 29211

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JAN 13 2017
SC Court of Appeals

Re: Carlos Kinlaw, Appellant v. S.C. Workers' Compensation Commission,
Respondent.
Appellate Case No.: 2016-002182

Dear Ms. Kitchings:

In accordance with Rule 240(e), SCACR, enclosed please find the original and six (6) copies of Respondent the South Carolina Workers' Compensation Commission's Return to Appellant's Motion to Reinstate, which I would appreciate your filing with the court.

By copy of this letter to the last known address for Mr. Carlos Kinlaw, Appellant *pro se*, I am hereby serving him with a copy of our Motion. Please see the attached Certificate of Service.

If there is anything further the court requires from the Respondent at this time, please do not hesitate to ask.

With warmest regards,

Sincerely,

A handwritten signature in black ink, appearing to read "J. Keith Roberts".

J. Keith Roberts, Esquire
S.C. Workers' Compensation Commission

Enclosure

Cc: Mr. Carlos Kinlaw
2 Taylor Court
Bluffton, SC 29910

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v.


South Carolina Workers' Compensation Commission,.....Respondent.

PROOF OF SERVICE

I, the undersigned counsel for Respondents, hereby certify that I have served a copy of the RESPONDENT'S RETURN TO APPELLANT'S MOTION TO REINSTATE by causing a copy of the same to be deposited in the United States mail, first class postage, prepaid, address to the *pro se* Appellant on this the 13th day of January, 2017:

Carlos Kinlaw
2 Taylor Court
Bluffton, SC 29910

1/13/, 2017



Keith Roberts
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*Attorney for Respondent South
Carolina Workers' Compensation
Commission*