

The South Carolina Court of Appeals

The State, Respondent,


v.

Marcus M. McFadden, Appellant.

Appellate Case No. 2017-001477

ORDER

A review of the trial court index reveals the appellant's motion for a new trial is still pending. Pursuant to the South Carolina Appellate Court Rules (SCACR), a timely-filed post-trial motion pursuant to Rule 29(a) of the South Carolina Rules of Criminal Procedure stays the time to serve a notice of appeal. Rule 203(b)(2), SCACR. The time for serving the notice of appeal begins to run from receipt of written notice of entry of an order *granting or denying* the Rule 29 motion. Rule 203(b)(2), SCACR. Accordingly, this appeal is dismissed without prejudice. *See State v. Devore*, 416 S.C. 115, 784 S.E.2d 690 (Ct. App. 2016) (finding this court did not have appellate jurisdiction where no notice of appeal was served within ten days of the imposition of the sentence); *cf. Hudson v. Hudson*, 290 S.C. 215, 349 S.E.2d 341 (1986) (dismissing an appeal without prejudice in the event a timely post-trial motion is filed). The remittitur will be sent pursuant to Rule 221(b), SCACR.


FOR THE COURT, C.J.

Columbia, South Carolina

cc:

Michael McKinney Jordan, Esquire

Robert Michael Dudek, Esquire

FILED

July 7, 2017

John P. Meadors, Esquire
Alan McCrory Wilson, Esquire
John Benjamin Aplin, Esquire
The Honorable James C. Campbell