

# The South Carolina Court of Appeals

The State, Respondent,

v.

Jake Dale Lake, Appellant.

Appellate Case No. 2016-000976

---

## ORDER

---

Appellant pled guilty and was sentenced on October 4, 2012. Appellant filed a *pro se* motion to reconsider on October 9, 2012, which was denied April 28, 2016. Appellant served the notice of appeal on May 6, 2016. Because Appellant was represented by counsel at the time he filed the *pro se* motion to reconsider, the "motion was not proper, should not have been accepted, and should not have been ruled upon." *State v. Miller*, 388 S.C. 347, 347, 697 S.E.2d 527, 527 (2010) (holding a *pro se* motion filed while the party was represented by counsel "was essentially a nullity"). Accordingly, the improper motion to reconsider did not toll the time for serving the notice of appeal. Because Appellant's notice of appeal was served more than ten days after his sentence was imposed, Respondent's motion to dismiss is granted. *See* Rule 203(b)(2), SCACR ("After a plea or trial resulting in conviction or a proceeding resulting in revocation of probation, a notice of appeal shall be served on all respondents within ten (10) days after the sentence is imposed."); 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 or shortened by the appellate court, or by any judge or justice thereof." (emphasis added)). The remittitur will be sent as required by Rule 221, SCACR.

  
FOR THE COURT

Columbia, South Carolina

cc:

Alan McCrory Wilson, Esquire

Susan Barber Hackett, Esquire

William Frederick Schumacher, IV, Esquire

**FILED**

August 9, 2017