

The South Carolina Court of Appeals

Demetrius Jarod Smalls, Appellant,

v.

J.C. Nicholson, Linda S. Lombard, Alan Wilson, Ira Grossman, David Michel, Ronald Perry, D. Peters Rebecca Thomas, Frank Ricco, Christopher Morrell, J. Al Canon, Jr., Respondents.

Appellate Case No. 2017-001767

ORDER

The notice of appeal indicates this appeal was served on August 17, 2017, and the appellant received written notice of entry of the court's order on August 28, 2015.¹ The proof of service does not clearly indicate which, if any, of the respondents to this action were served. However, even assuming some of the respondents were served with a copy of the notice of appeal, it is apparent that the notice of appeal was not served until nearly two years after the appellant received written notice of entry of the order on appeal. Accordingly, this appeal is dismissed for the failure to timely serve the notice of appeal. *See USAA Prop. & Cas. Ins. Co. v. Clegg*, 377 S.C. 643, 651, 661 S.E.2d 791, 795 (2008) ("The requirement of proof of service of the notice of appeal is jurisdictional, i.e., if a party misses the deadline, the appellate court lacks jurisdiction to consider the appeal and has no authority or discretion to 'rescue' the delinquent party by extending or ignoring the deadline for service of the notice."); Rule 203(b)(1), SCACR (providing a notice of appeal from

¹ The Supreme Court transferred this appeal to the Court of Appeals for disposition in an order dated August 25, 2017.

the court of common pleas shall be served within thirty days after receipt of written notice of entry of the order or judgment).


FOR THE COURT

Columbia, South Carolina

cc:
Demetrius J. Smalls, 286806
Timothy Alan Domin, Esquire
Gordon Wade Cooper, Esquire
Hugh Willcox Buyck, Esquire

FILED

September 13, 2017