

The South Carolina Court of Appeals

Joseph C. Sun, Appellant,

v.

Town of Bluffton, Bluffton Police Department, Bryan Norberg, Angela Tubbs, Joseph Babkiewicz, Claudia Hebda, Jeffrey Dickson, and Christian Gonzales,
Respondents.

Appellate Case No. 2017-002270

ORDER

Respondents have filed a motion to dismiss, contending Appellant has failed to timely serve the notice of appeal.

First, Appellant certifies he received written notice of entry of the "Order Denying Plaintiff's Motion to Vacate and Set Aside Judgment" on September 27, 2017, and he served the notice of appeal on October 18, 2017. Accordingly, Appellant's service is timely and his appeal from this order shall proceed.

Second, because a Rule 60, SCRCR motion does not toll the time for serving the appeal for any other orders, Appellant has failed to timely serve and file an appeal from any other order. *See* Rule 203(b)(1), SCACR (excluding Rule 60, SCRCR motions from the types of post-trial motions that toll the time for service of the notice of appeal). Because Appellant has failed to timely serve a notice of appeal from any other order listed in Appellant's notice of appeal, these appeals are dismissed. *See* Rule 203(b)(1), SCACR ("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."); *Elam v. S.C. Dep't of Transp.*, 361 S.C. 9, 14–15, 602 S.E.2d 772, 775 (2004) ("The requirement 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."). Appellant's appeal shall proceed only as to the August 29, 2017 "Order Denying Plaintiff's Motion to Vacate and Set Aside Judgment."


FOR THE COURT

Columbia, South Carolina

cc:
Joseph C. Sun
Ernest Mitchell Griffith, Esquire

FILED

January 26, 2018