

# The Supreme Court of South Carolina

The State, Respondent,

v.

Dawan Chatman, Petitioner.

Appellate Case No. 2012-213622

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## ORDER

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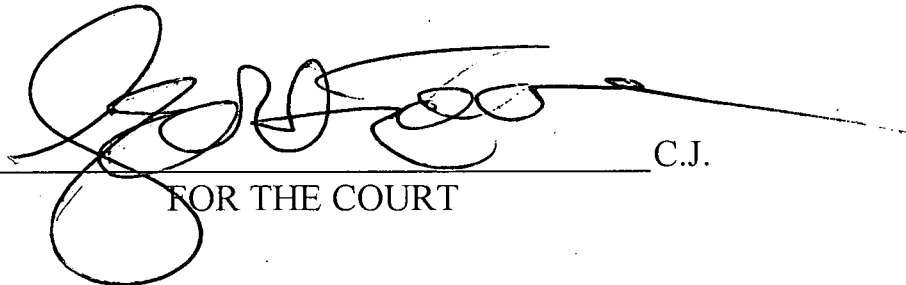
Petitioner seeks review of the dismissal of his appeal by the South Carolina Court of Appeals.

Although the appeal from the circuit court was initially filed with this Court, it was transferred to the South Carolina Court of Appeals. Since the notice of appeal was not accompanied by a proof of service showing that the notice of appeal had been served on opposing counsel as required by Rule 203(d)(1)(B)(i) of the South Carolina Appellate Court Rules (SCACR), the Court of Appeals requested a proof of service showing that a copy of the notice of appeal had been served on opposing counsel. This proof of service was to be provided by September 21, 2012. When the requested proof of service was not provided by that date, the Court of Appeals dismissed the appeal on September 28, 2012.

On October 18, 2012, the Court of Appeals received a document from petitioner dated October 16, 2012, which was construed as a petition for rehearing. In this document, petitioner admits that he "did not meet the dead line [sic] in issueing [sic] my opposing [sic] counsel his notice of appeal." The Court of Appeals denied the petition for rehearing, and petitioner has now filed a notice of appeal seeking review of the decision of the Court of Appeals.

The time to serve the notice of appeal on opposing counsel under Rule 203, SCACR, is a jurisdictional requirement and the time to serve the notice of appeal

cannot be extended.<sup>1</sup> Rule 263, SCACR. Despite a request from the Court of Appeals, petitioner has failed to provide a proof of service showing that the notice of appeal has been timely served on opposing counsel, and in the petition for rehearing filed with the Court of Appeals, he admits that timely service on opposing counsel did not occur. Accordingly, the jurisdictional requirement for appellate review has not been met and this matter is dismissed.<sup>2</sup>

  
C.J.  
FOR THE COURT

Columbia, South Carolina

January 2, 2013

cc: Salley W. Elliott, Esquire  
Robert M. Dudek  
The Honorable Jenny Kitchings  
Mr. Dawan Chatman, #172972

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<sup>1</sup> Rule 263(b), SCACR; Elam v. South Carolina Dept. of Transportation, 361 S.C. 9, 602 S.E.2d 772 (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.”).

<sup>2</sup> Decisions of the Court of Appeals are reviewed by serving and filing a petition for a writ of certiorari and an appendix, rather than a notice of appeal. Rule 242, SCACR.