

# The Supreme Court of South Carolina

Nathaniel Glenn, Jr., Petitioner,

v.

State, Respondent.

Appellate Case No. 2018-001251

Lower Court Case No. 2015CP2307585

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## ORDER

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Petitioner has filed a *pro se* document seeking to file a belated appeal in this post-conviction relief (PCR) case. According to the certificate of service, this document was served on the opposing counsel on June 19, 2018.

To the extent this document may be construed as a notice of appeal, petitioner's counsel before the circuit court has advised this Court that he received written notice of entry of the order on appeal on November 13, 2017. Therefore, the notice of appeal has not been timely served under Rules 243(b) and 203 of the South Carolina Appellate Court Rules (SCACR), and it is dismissed. The remittitur will be sent as provided by Rule 221, SCACR.

To the extent petitioner may be asking this Court to allow the late service of the notice of appeal, that request is denied.<sup>1</sup> This denial is without prejudice to whatever right petitioner may have to seek relief under *Austin v. State*, 305 S.C. 453, 409 S.E.2d 395 (1991), by filing an application for PCR in the circuit court. *Cf. King v. State*, 308 S.C. 348, 417 S.E.2d 868 (1992) (setting forth the appellate

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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.").

procedures to be followed depending on the findings made by the PCR judge regarding the *Austin* claim).

  
C.J.  
FOR THE COURT

Columbia, South Carolina  
July 26, 2018

cc: James H. Price, III, Esquire  
Valerie Garcia Giovanoli, Esquire  
Mr. Nathaniel Glenn, Jr., 303563