

The South Carolina Court of Appeals

Ronnie Cleveland Swofford, Jr., Petitioner,

v.

State of South Carolina, Respondent.

Appellate Case No. 2016-000508

ORDER

This matter is before the court on a petition for a writ of certiorari following the denial of Petitioner's application for post-conviction relief (PCR). However, Petitioner did not timely serve the notice of appeal from the PCR court's order on the State as provided by Rules 243(b) and 203(b)(a), SCACR. Petitioner received written notice of the PCR court's order on January 12, 2016, but his motion for reconsideration was dated January 28, 2016, six days beyond the ten-day filing period allowed by Rule 59(e), SCRCP. As a result, the time to serve the notice of appeal was not tolled and ended on February 11, 2016, well before Petitioner's March 3, 2016 service on the State. Accordingly, this appeal is dismissed. *See 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."). The remittitur will be sent as provided by Rule 221, SCACR.


FOR THE COURT

Columbia, South Carolina

FILED

Sept. 27, 2018

cc: Wanda H. Carter, Esquire
DeShawn Herman Mitchell, Esquire
Ronnie Cleveland Swofford, Jr., 218281
The Honorable Perry H. Gravely