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SC Court of Appeals

STATE OF SOUTH CAROLINA  
In the Court of Appeals

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Appeal from Charleston County  
The Honorable Paul M. Burch, Circuit Court Judge

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THE STATE,

Respondent,

v.

ANTWON D. GOODWIN,

Appellant.

Appellate Case No. 2018-000144

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**MOTION TO DISMISS APPEAL AS UNTIMELY**

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The State moves this Court to dismiss the above captioned appeal as untimely. The bases for this Motion are:

1. The appeal is from a January of 2003 conviction for murder. Appellant filed post-trial motions pursuant to South Carolina Rules of Criminal Procedure Rule 29(a) and (b) in March of 2017, which were denied by order filed January 19, 2018. In that order, the judge found the Rule 29(a) motion untimely and found the Rule 29(b) motion failed on the merits. Respondent has filed this same day an Initial Brief of Respondent, which is incorporated herein by reference. As discussed thoroughly in Respondent's Brief, Appellant's claims are not entitled to review by this Court. Respondent asserts the following

2. Appellant Antwon Goodwin's post-trial motions were not timely filed during the ten day period following the conclusion of his trial, thereby depriving the appellate court of

jurisdiction to hear the appeal when Goodwin also failed to file a timely notice of appeal. Appellate jurisdiction is conferred by operation of law, and cannot be waived. “Service of the notice of intent to appeal is a jurisdictional requirement, and this Court has no authority to extend or expand the time in which the notice of intent to appeal must be served.” *Mears v. Mears*, 287 S.C. 168, 169, 337 S.E.2d 206, 207 (1985); *State v. Brown*, 344 S.C. 302, 305, 543 S.E.2d 568, 570 (Ct. App. 2001), overruled on other grounds by *State v. Oxner*, 391 S.C. 132, 705 S.E.2d 51 (2011).

3. Because the Rule 29(a) motion is untimely, the instant appeal is untimely and must be dismissed. *See* Rule 203(b)(2), SCACR. (“When a timely post-trial motion is made under Rule 29(a), SCRCrimP, the time to appeal shall be stayed and shall begin to run from receipt of written notice of entry of an order granting or denying such motion.”)

Based on the foregoing, and for all the reasons cited in the Initial Brief of Respondent, the State respectfully asks this Court to dismiss this appeal as untimely.

Respectfully submitted,

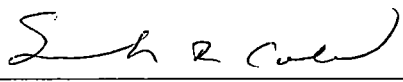
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Attorney General

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Assistant Attorney General

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BY:   
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ATTORNEY FOR RESPONDENT

January 7, 2019  
Columbia, South Carolina

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**PROOF OF SERVICE**

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I, Susannah Cole, counsel for Respondent, certify that I have served the within Motion to Dismiss on Appellant by depositing two (2) copies of the same via inter-agency mail, addressed to his attorneys of record at:

Jeremy A. Thompson, Esquire  
Law Office of Jeremy A. Thomspson  
P.O. Box 1834  
Irmo, SC 29063

Tricia A. Blanchette, Esquire  
P.O. Box 2147  
Leesville, SC 29070

I further certify that all parties required by Rule to be served have been served.

This 7th day of January, 2019.



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Susannah R. Cole  
Assistant Attorney General  
SC Bar No. 68383



ALAN WILSON  
ATTORNEY GENERAL

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SC Court of Appeals

January 7, 2019

The Honorable Jenny A. Kitchings  
Clerk, South Carolina Court of Appeals  
P.O. Box 11629  
Columbia, South Carolina 29211

Re: *The State v. Antwon Goodwin*  
Charleston County  
Appellate Case No: 2018-000144

Dear Ms. Kitchings:

Enclosed for filing are the original and six (6) copies of the Motion to Dismiss Appeal as Untimely, with Proof of Service, in the above-referenced case. Also enclosed for filing is the original Initial Brief of Respondent, Designation of Matter, and Proof of Service in the same matter.

Sincerely,

Susannah R. Cole  
Assistant Attorney General

SRC:dmd  
Enclosures

cc: Jeremy A. Thompson, Esq. (w/two copies of encls.)  
Tricia A. Blanchette, Esq. (w/two copies of encls.)  
The Honorable Scarlett Wilson, Solicitor, Ninth Judicial Circuit (w/copy of encls.)  
Trisha Allen, Victim Advocacy Division (w/copy of encls.)