

The Supreme Court of South Carolina

Jerry Simpson, Petitioner,

v.

State of South Carolina, Respondent.

Appellate Case No. 2020-001134

Lower Court Case No. 2019CP4203259

ORDER

In this post-conviction relief case, petitioner has appealed from an order which was entered by the clerk of the circuit court on January 6, 2020.

In response to a letter from this Court, petitioner's counsel indicates he received written notice of entry of this order on or about January 9, 2020, and the notice of appeal was served on the opposing counsel on August 13, 2020. Counsel also indicates that petitioner initially informed counsel he did not wish to appeal but then contacted counsel on or before August 13, 2020, about filing an appeal.

The notice of appeal has not been timely served under Rules 243(b) and 203(b) of the South Carolina Appellate Court Rules (SCACR). Accordingly, the notice of appeal is dismissed, and the remittitur will be sent as provided by Rule 221, SCACR.

Further, since the time to serve a notice of appeal is a jurisdictional requirement which cannot be extended,¹ the motion to allow the late filing of the notice of

¹ Rule 263(b), SCACR; *Elam v. South Carolina Dep't. of Transp.*, 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.").

appeal is denied.



FOR THE COURT C.J.

Columbia, South Carolina
October 21, 2019

cc: William G. Yarborough, III, Esquire
William Harold Ray, Esquire