

Supreme Court of South Carolina.  
 In re ESTATE OF Charles H. CRET-  
 ZMEYER, Jr.  
 Stacy Cretzmeyer, as Personal Representat-  
 ive of the Estate of Charles H. Cretzmeyer,  
 Jr., Appellant,

v.

Anne C. Bloch, Regan Cretzmeyer, and  
 Watts B. Stroman, Trustee, Respondents.

No. 26003.

Heard April 7, 2005.

Decided June 20, 2005.

**Background:** Appeal was taken from pro-  
 bate court order by mailing notice of ap-  
 peal to circuit court on day after the order.  
 The Circuit Court, Georgetown County,  
[James E. Lockemy, J.](#), dismissed appeal as  
 untimely. Appeal was taken.

**Holding:** The Supreme Court, [Kittredge](#),  
 Acting J., held that the notice of appeal had  
 to be filed in the circuit court within ten  
 days.

Affirmed.

West Headnotes

**Courts 106**  **202(5)**

106 Courts

106V Courts of Probate Jurisdiction

106k202 Procedure in General

106k202(5) k. Review and Vaca-  
 tion of Proceedings. [Most Cited Cases](#)

Appeal of probate court order was not  
 timely filed in the circuit court by mailing  
 notice of appeal to circuit court on day  
 after the order; the notice had to be filed in  
 the circuit court within ten days. [Code](#)  
[1976, § 62-1-308\(a\)](#).

**\*\*116** [Richard M. Lovelace, Jr.](#), of Con-

way, and [Robert N. Hill](#), of Newberry, for  
 Appellant.

[Susan Taylor Wall](#) and [J.W. Nelson](#)  
[Chandler](#), both of Parker, Poe, Adams &  
 Bernstein, of Charleston, and [William S.](#)  
[Duncan](#), of Georgetown, for Respondents.

Acting Justice [KITTRIDGE](#):

**\*13** This is an appeal from a circuit  
 court order that dismissed Appellant's ap-  
 peal from an order of the probate court.  
 The circuit court held that Appellant failed  
 to file her notice of appeal in the circuit  
 court within ten days of receiving the pro-  
 bate court order, as required by [South Caro-](#)  
[lina Code section 62-1-308\(a\)](#)  
 (Supp.2004). We affirm.

#### FACTS

Appellant received the probate court or-  
 der on December 19, 2002. According to  
 Appellant, on December 20, she mailed  
 original notices of appeal to the probate  
 court and the circuit court and mailed cop-  
 ies to Respondents' attorneys. <sup>FN1</sup> Because  
 there was no record that a notice of appeal  
 had been filed in the circuit court within  
 ten days of December 19, <sup>FN2</sup> the circuit  
 court held that Appellant failed to timely  
 file her notice of appeal under [South Caro-](#)  
[lina Code section 62-1-308](#). The circuit  
 court therefore dismissed the appeal.

**FN1.** The evidence of mailing is an  
 affidavit of Appellant's attorney's  
 secretary.

**FN2.** December 30, 2002, was the  
 last day for filing. *See* [Rules 6](#) and  
[74, SCRPC](#).

The sole issue is whether the notice of  
 appeal was timely filed in the circuit court.

**\*14 ANALYSIS**

South Carolina Code section 62-1-308 governs an appeal from a probate court order to the circuit court. The statute provides in pertinent part:

A person interested in a final order, sentence, or decree of a probate court and considering himself injured by it may appeal to the circuit court in the same county. *The notice of intention to appeal to the circuit court must be filed in the office of the circuit court and in the office of the probate court and a copy served on all parties within ten days after receipt of written notice of the appealed from order, sentence, or decree of the probate court.*

S.C.Code Ann. § 62-1-308(a)  
(Supp.2004) (emphasis added).

We decline Appellant's invitation to construe the statute in a manner inconsistent with its unambiguous terms. Our settled rules of statutory construction mandate the **\*\*117** result we reach, for the statute is clear that the notice of appeal "must be filed" in the circuit court within the ten-day period. See *Gary v. State*, 347 S.C. 627, 629, 557 S.E.2d 662, 663 (2001) ("When a statute requires the filing of a paper or document, it is filed when delivered to and received by the proper officer."); see also *State v. Brown*, 358 S.C. 382, 387, 596 S.E.2d 39, 41 (2004) (noting that failure to comply with the procedural requirements for an appeal divests the court of appellate jurisdiction).

**CONCLUSION**

The circuit court properly dismissed Appellant's appeal from the order of the probate court. The judgment of the circuit court is

**AFFIRMED.**

MOORE, A.C.J., WALLER, BURNETT, JJ., and Acting Justice JAMES R. BARBER, III, concur.

S.C.,2005.  
In re Estate of Cretzmeyer  
365 S.C. 12, 615 S.E.2d 116

END OF DOCUMENT