

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM Horry COUNTY
Court of General Sessions

Benjamin Culbertson, Circuit Court Judge

Case No. 2022-001076

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SC Court of Appeals

The State, Respondent,

VS.

Daniel Gause, #77753, Appellant.

[INITIAL] BRIEF OF APPELLANT

Daniel Gause, #77753
EVANS CORR. INST.
610 Hwy 9 West
Bennettsville, S.C. 29512
Appellant Pro-se

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2. The Lower Court committed an Abuse of Discretion that amounts to an error of Law for failing to adhere to the S.C.Civ.P. Rule 63 Disability of a Judge, and inquire about the Appellant's case and situation before the Court, 2
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TABLE OF AUTHORITIES

State vs. Dunbar,

S.C. Code Ann § 16-3-910 Kidnapping

Statement of Issues on Appeal &
Statement of the Case & Facts

- 1.) The Appellant filed a Petition for resentencing on a (1981) Kidnapping, pursuant to an Order per Honorable Jean Toal S.C. Code Ann §16-3-910- to 30 years. The Appellant has done (41) years for kidnapping under the "Old" Kidnapping Law, and he filed it on May 9, 2022.
- 2.) The Respondents failed to Respond/Answer the Petition therefore they Abandoned any Right to the Appeal; By failing to have an "Answer to petition" Ruled on in the lower Court. State vs. Dunbar,
- 3.) Appellant was sentenced to Life sentence on the indictment #81-GS-26-1146. Kidnapping

FACTS

The Appellant ask this Court to Remand this case Back to General Sessions Court for Resentencing to (30) years for Kidnapping on indictment number #81-GS-26-1146 / Appellant time served and released from Custody.
(1.)

Arguments

1.) The Lower Courts denial of even considering resentencing Appellant to 30 years, pursuant to an Order on Kidnapping from S.C. Supreme Court on S.C. Code Ann § 16-3-910 was An Abuse of Discretion amounting to an Error of Law, where Appellant has completed 41 years for Kidnapping under old law, where Respondents failed to respond to motion/petition, Abandoned Any known Right to the Appeal State vs. Dunbar,

2.) The Lower Court committed an Abuse of Discretion that amounts to an Error of Law for failing to adhere to the SCVP Rule 63 Disability of a Judge, an inquire about the Appellants' case and situation Before the Court, the Respondents Abandoned/relinquished all rights to Appeal for failing to make a response, State vs. Dunbar,

Facts & Discussion

Appellant files a Petition; State fails to Respond or Answer therefore they have no Ruling in Opposition to Appellants petition, State vs Dunbar, issue has to be raised and Ruled on in the Lower Court to be preserved for Appeal and General Sessions Judge Benjamin Culbertson did have the Jurisdiction to sentence Appellant to 30 years on Kidnapping and/or (2.) time served.

Conclusion

Appellant respectfully ask this Court to Remand this Case Back to General Sessions Court for Resentencing and/or Release the Appellant from Custody on Time served, since he's completed 41 years on this sentence.

Respectfully Submitted,

~~1st Daniel Gause~~

Daniel Gause, #177753

Appellant pro-se

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In The Court of Appeals

APPEAL FROM Horry COUNTY
Court of General Sessions

Benjamin Culbertson, Circuit Court Judge

Case No. 2022-001076

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SC Court of Appeals

THE STATE, RESPONDENT,

VS.

Daniel Gause, #77753, APPELLANT

CERTIFICATE OF SERVICE

I hereby Certify that the Appellants Initial Brief; and his designation of matter to be included on Appeal was served on this 25th Day of October, 2022, addressed as follows and mailed by way of U.S. postal services, Postage Prepaid, to the following Addresses.

1.) S.C. Attorney General's Office
Attn: Alan Wilson, A.G.
P.O. Box 11549
Columbia, S.C. 29211-1549

2.) S.C. Court of Appeals
Attn: Jenny Abbott Kitching, Clerk
P.O. Box 11629
Columbia, S.C. 29211

Respectfully Submitted,
Daniel Gause
Daniel Gause, #77753, Prose

Daniel Gause, #77753
Evans Corr. Inst. F-4-A-193
610 Hwy 9 West
Bennettsville, S.C. 29512

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SC Court of Appeals

October 25, 2022

S.C. Court of Appeals
Attn: Jenny Abbott Kitchings, Clerk
P.O. Box 11629
Columbia, S.C. 29211

RE: Appellant Case # 2022-001076 The State of S.C. vs.
Daniel Gause, #77753 / Filing of Initial Brief and designation
of matter to be included on Appeal

Dear Honorable Kitchings,

Please find an Original Courts Copy for filing in
the above referenced matter. Please clock-stamp and
file and forward to me clocked copy for my files.
I have included my copy to be returned to me. I
thank you for all your time and help with
this matter may God Bless you Abundantly.

Respectfully Submitted,

/s/ Daniel Gause
Daniel Gause, #77753
Pro-se

Verbatim Copy / File
S.C. Attorney General's Office, Alan Wilson

Daniel Gause #177753
ECF #19-193
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