

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

RECEIVED

JUN 21 2013

APPEAL FROM CHEROKEE COUNTY
Court of Common Pleas

SC Court of Appeals

J. Mark Hayes, II, Circuit Court Judge

Case No. 2008-CP-11-1038

Christopher Drye, d/b/a Drye's Auto Crushing Respondent,

v.

Mike Gault and Mary T. Gault, d/b/a Gault's Used Cars, Total Inc., Edward Keith Potter
individually and as President of Total Inc. Defendants,

Of whom,

Mike Gault is Petitioner.

EMERGENCY PETITION FOR WRIT OF SUPERSEDEAS

Petitioner Mike Gault moves the Court for an emergency writ of supersedeas pursuant to Rule 241(c), SCACR.

A hearing on a motion for contempt for an alleged failure to fully answer interrogatories was held on June 17, 2013 before The Honorable J. Mark Hayes, II in Cherokee County. At the conclusion of this hearing, Judge Hayes found Petitioner Mike Gault in contempt of court and sentenced him to 10 days in jail. Petitioner made an oral motion for stay of the sentence pending further action, which was denied.

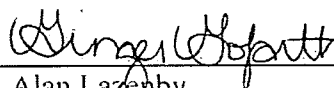
First, Petitioner submits that under Rule 246, SCACR, his sentence for criminal contempt is automatically stayed upon filing of the notice of appeal, and that he is entitled to post a bond with a lower court to immediately stop his confinement.

Out of an abundance of caution, however, and to preserve the Court of Appeals' jurisdiction of this matter and prevent the contested issue from becoming moot because of the short term of the sentence, Petitioner is simultaneously requesting this Court to issue a Writ of Supersedeas and set a bail for Petitioner so that he may be released from confinement today.

Due to the emergency nature of this filing, Petitioner has not been able to verify this Petition immediately, but will do so as soon as counsel has access to Petitioner, who is currently confined at the Cherokee County Detention Center.

Petitioner therefore prays that this Court issue a Writ of Supersedeas setting a bail amount and ordering his release from confinement or, in the alternative, confirming that he is entitled to release under the terms of Rule 246, SCACR because his confinement is a criminal sentence for contempt.

Respectfully submitted,



D. Alan Lazenby
Ginger D. Goforth
LAZENBY LAW FIRM, LLC
PO Box 6099
Spartanburg, SC 29304
Phone: (864) 804-5050
Fax: (864) 804-5051

June 21, 2013

ATTORNEYS FOR APPELLANT

Other Counsel of Record:

Wade S. Weatherford, III
915 N. Limestone Street
P.O. Box 2207
Gaffney, SC 29342

ATTORNEY FOR RESPONDENT

HOLD FOR CONTEMPT ORDER PER JUDGE HAYES

AGENCY I.D. SCO110000 DATE/TIME OF ARREST 06-18-2013 CHEROKEE COUNTY SHERIFF'S OFFICE BOOKING REPORT CASE NUMBER

DEFENDANT NAME (LAST, FIRST, MIDDLE) GAULT, MICHAEL WAYNE RACE WM SEX M DATE OF BIRTH 9-10-62 DOCKET NUMBER
 AGE 45 ETH 510 HEIGHT 220 WEIGHT BAW HAIR BLUE EYES 247510572 SOCIAL SECURITY NUMBER
 ADDRESS (NUMBER AND STREET) 199 SPEEDWAY LD CITY GAFFNEY STATE SC ZIP CODE 29340 RESIDENT (J) (S) (O) (U) PHONE NUMBER
 ALIAS CHEROKEE PLACE OF BIRTH DRIVERS LICENSE NUMBER 008549196 STATE SC
 EMPLOYER OR OCCUPATION NEXT OF KIN MANY GAULT ADDRESS (CITY AND STATE) GAFFNEY
 BOOKING OFFICER'S NAME S D MCCALL NUMBER 417 ARRESTING OFFICER MCCALL AGENCY CC 50 NUMBER 417
 ARRESTEE ARMED YES NO WEAPON TYPE: SEM-AUTO FULL-AUTO ON VIEW ARREST SUMMONED CUSTODY
 JUVENILE DISPOSITION: 1. HANDLED, RELEASED 2. REFERRED TO OTHER AUTHORITY *J-This Jurisdiction, S-State, O-Out of State, U-Unknown.

ADDITIONAL CASE NUMBERS		MORE IN REMARKS <input type="checkbox"/>					
IF HOLDING FOR ANOTHER AGENCY, CIRCLE CHARGE - A, B, C, D, E, F							
CHARGE I.D.		A		B		C	
CHARGE							
STATUTE							
BOND AMOUNT							
BOND TYPE							
RET. DATE							
DISPOSITION							
		DAYS		AMOUNT		DAYS	
SENTENCE							
TIME SERVED							
GOOD TIME							
BALANCE							
PAID							
RECEIPT NUMBER							
CHARGE I.D.		D		E		F	
CHARGE							
STATUTE							
BOND AMOUNT							
BOND TYPE							
RET. DATE							
DISPOSITION							
		DAYS		AMOUNT		DAYS	
SENTENCE							
TIME SERVED							
GOOD TIME							
BALANCE							
PAID							
RECEIPT NUMBER							
RELEASE DATE	TIME	RELEASING OFFICER		NUMBER	AGENCY RELEASED TO		

SIGNATURE OF RECEIVING OFFICIAL X _____ LIST ANY REMARKS BELOW
 REMARKS: _____

RECEIVED

JUN 21 2013

JCA #: 2010 0435 BOOKING ID: SC Court of Appeals