

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

ORIGINAL

Appeal from Horry County

Steven H. John, Circuit Court Judge

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OCT 0 8 2013

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

QUENTIN GAUSE,

APPELLANT

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SC COURT OF APPEALS

Appellate Case No. 2011-194087

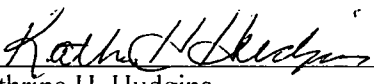
Motion to Supplement Record with Affidavit of Trial Counsel Outlining Inaudible Portion of Trial Transcript

Counsel for Quentin Gause moves to allow the record on appeal to be supplemented with the affidavit of trial counsel outlining the inaudible portion of the trial transcript.

- 1.) In June of 2011, a jury found the appellant, Quentin Gause, guilty of murder, burglary first degree and armed robbery. A timely notice of intent to appeal was filed and on May 11, 2012, counsel filed a brief pursuant to Anders. The issue raised in the brief is whether the trial judge erred in refusing to grant appellant's severance motion when appellant was indicted as a principal and the co-defendant was charged as an accessory before the fact.
- 2.) On February 21, 2013, this Court held the appeal in abeyance and partially remanded the case to the circuit court for a reconstruction hearing because trial counsel's motion to sever, appearing on pages 79-80 of the Supplemental Record on Appeal, is noted in the transcript as "not audible on tape."

- 3.) In an attempt to avoid the need for the remand and a full reconstruction hearing, counsel obtained from trial counsel, Ron Hazzard, Esquire, an affidavit stating his grounds for the severance motion. The affidavit is attached and made part of this motion.
- 4.) Counsel respectfully moves to supplement the record with the affidavit from trial counsel. Counsel has discussed this matter with opposing counsel, Donald Zelenka, Esquire with the South Carolina Attorney General's Office. As indicated by his signature below, Mr. Zelenka consents to allow the record to be supplemented with the affidavit of trial counsel.

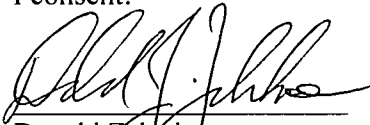
Respectfully submitted,



Kathrine H. Hudgins
Appellate Defender

October 2, 2013

I consent:



Donald Zelenka

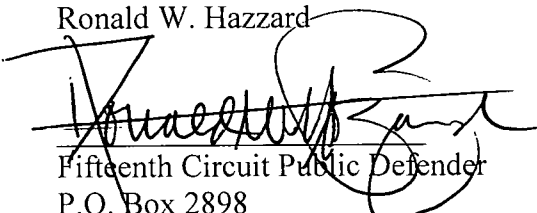
AFFIDAVIT

I Ronald W. Hazzard represented Quentin Lavant Gause at his trial for murder, burglary first degree and armed robbery in June of 2011, before the Honorable Steven H. John. One co-defendant, Ladorren Chukell Collington, was tried at the same time for accessory before the fact to burglary first degree and accessory before the fact to armed robbery. The jury found both Gause and Collington guilty. Judge John sentenced Gause to 42 years and Collington to 22 years. Mr. Gause's case is pending direct appeal and the South Carolina Court of Appeals held the case in abeyance and partially remanded the case to the circuit court for a reconstruction hearing because the grounds for a motion to sever I made prior to trial are listed in the June 2, 2011, trial transcript as "not audible on tape."

During a pre-trial motions hearing, counsel for the co-defendant moved for severance and I joined in that motion. (R. p. 181, lines 4- p. 181, lines 1-13). I noted additional grounds for severance that I wished to argue after the judge ruled on the admission of evidence of prior difficulties between the co-defendant and the deceased, Allen Smith. (R. p. 181, lines 3-13). The judge denied the motion to sever on the grounds stated but left open the motion as to any additional grounds. (R. p. 182, lines 23 - p. 183, lines 1-25).


During a later pre-trial motions hearing on June 2, 2011, I again moved for severance. (Supp. R. p. 79, lines 22-25). The grounds for my motion are listed in the transcript as "not audible on tape." I moved to sever Mr. Gause's trial from the trial of Ladorren Chukell Collington based on the fact that the State planned to introduce evidence of prior difficulties between Collington and the deceased, Allen Smith. The State summarized the evidence it proposed to submit as follows: "There are a number of threats made by the Defendant Collington directly to the victim, to the victim through a third party, an Anthony Grant, and by a note that was left at the victim's residence." (Supp. R. p. 73 lines 11-15). In addition, the prosecution alleged that Collington broke out a window at the victim's residence. (Supp. R. p. 73, lines 16-18).

Ronald W. Hazzard



Fifteenth Circuit Public Defender
P.O. Box 2898
Georgetown, SC 29440

SWORN TO before me this 28th
day of June, 2013.



(L.S.)
Notary Public for South Carolina
My Commission Expires: 7-15-20

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Horry County
Steven H. John, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

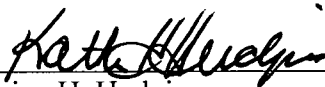
QUENTIN GAUSE,

APPELLANT

Appellate Case No. 2011-194087

CERTIFICATE OF SERVICE

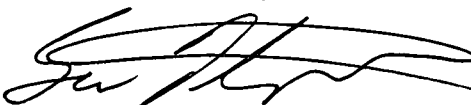
The undersigned attorney hereby certifies that a true copy of the Motion to Supplement Record with Affidavit of Trial Counsel Outlining Inaudible Portion of Trial Transcript in the above referenced case has been served upon Donald J. Zelenka, Esquire, at Rembert Dennis building, 1000 Assembly Street, Room 519, Columbia, SC 29201; and on Quentin Gause, # 300054 at Lieber Correctional Institution, this 2nd day of October, 2013.



Kathrine H. Hudgins
Appellate Defender

ATTORNEY FOR APPELLANT

SUBSCRIBED AND SWORN TO before me
this 2nd of October, 2013



(L.S.)

Notary Public for South Carolina
My Commission Expires: October 30, 2022.



SCCID

SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE

ORIGINAL

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Robert M. Dudek, Chief Appellate Defender
Wanda H. Carter, Deputy Chief Appellate Defender

October 2, 2013

The Honorable Jenny Abbott Kitchings
Clerk, S.C. Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

RECEIVED

OCT 02 2013

S.C. Court of Appeals

Re: State v. Quentin Gause
Appellate Case No. 2011-194087

Dear Ms. Kitchings,

Enclosed please find the original and six copies of the Motion to Supplement Record with Affidavit of Trial Counsel Outlining Inaudible Portion of Trial Transcript in the above case that I filed today with the S.C. Court of Appeals in the above case.

If you have any questions concerning this matter, please contact me.

Sincerely,

Kathrine H. Hudgins
Appellate Defender

KHH/dlw

Enclosures