

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

68849

APPEAL FROM CHEROKEE COUNTY
Court of Common Pleas

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 Appellant.

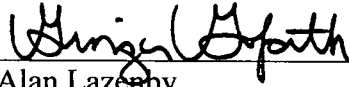
NOTICE OF APPEAL

RECEIVED
JUN 24 2013

SC Court of Appeals

Mike Gault appeals the Order of the Honorable J. Mark Hayes, II, issued June 19, 2013. Appellant has received notice of entry of the handwritten Order issued by Judge Hayes holding Mr. Gault in confinement, a copy of which is attached hereto, and which was received on June 19, 2013. Upon information and belief, this is the only Order that will be prepared regarding Mr. Gault's 10 days contempt sentence, and therefore constitutes the final order in this case from which appeal may be taken.

By and through this notice, Appellant also makes an emergency request pursuant to Rule 246, SCACR - because his sentence is for criminal contempt for a period of 10 days - that the Court of Appeals set a bond for him today so that he can obtain his release from confinement at the Cherokee County Detention Center. The Court is authorized to issue such a bond pursuant to Rule 246 and S.C. Code Ann. § 18-1-80.



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

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHEROKEE COUNTY
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J. Mark Hayes, II, Circuit Court Judge

Case No. 2008-CP-11-1038

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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.

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EMERGENCY PETITION FOR WRIT OF SUPERSEDEAS **SC Court of Appeals**

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.

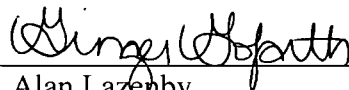
First, Petitioner submits that under Rule 246, SCACR, his sentence for criminal contempt is automatically stayed upon filing of the notice of appeal, and that he is entitled to post a bond with a lower court to immediately stop his confinement.

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
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June 21, 2013

ATTORNEYS FOR APPELLANT

Other Counsel of Record:

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915 N. Limestone Street
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Gaffney, SC 29342

ATTORNEY FOR RESPONDENT

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHEROKEE COUNTY
Court of Common Pleas

J. Mark Hayes, II, Circuit Court Judge

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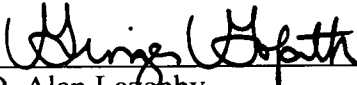
Mike Gault and Mary T. Gault, d/b/a Gault's Used Cars, Total Inc., Edward Keith Potter
individually and as President of Total Inc. Defendants,

Of whom,

Mike Gault is Appellant.

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify the Notice of Appeal and Emergency Petition for Writ of Superdeas in the above referenced matter was mailed, postage prepaid, to Respondent's Attorney, Wade S. Weatherford, III, by sending to PO Box 2207, Gaffney, SC 29342, on June 21, 2013.



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ATTORNEYS FOR APPELLANT

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SC Court of Appeals

June 21, 2013

HOLD F CONTEMPT ORDE PEN 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
VISIBLE SCARS AND MARKS
NDIC
ID NUMBER

ADDRESS (NUMBER AND STREET) **199 SPEEDWAY RD** CITY **GAFFNEY** STATE **SC** ZIP CODE **29340** RESIDENT **BOU** PHONE NUMBER

ALIAS PLACE OF BIRTH **CHEROKEE** DRIVERS LICENSE NUMBER **008544196** STATE **SC**

EMPLOYER OR OCCUPATION NEXT OF KIN **MARY GAULT** ADDRESS (CITY AND STATE) **GAFFNEY**

BOOKING OFFICER'S NAME **S.D. McCALL** NUMBER **417** ARRESTING OFFICER **McCALL** AGENCY **CCSO** NUMBER **417**

ARRESTEE ARMED YES NO WEAPON TYPE: SEMI-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

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

SENTENCE	TIME SERVED	GOOD TIME	BALANCE	PAID	RECEIPT NUMBER	CHARGE I.D.	D		E		F	
							DAYS	AMOUNT	DAYS	AMOUNT	DAYS	AMOUNT

CHARGE I.D.	D		E		F	
	CHARGE	STATUTE	BOND AMOUNT	BOND TYPE	RET. DATE	DISPOSITION

SENTENCE	TIME SERVED	GOOD TIME	BALANCE	PAID	RECEIPT NUMBER	CHARGE I.D.	D		E		F	
							DAYS	AMOUNT	DAYS	AMOUNT	DAYS	AMOUNT

RELEASE DATE TIME RELEASING OFFICER NUMBER AGENCY RELEASED TO

SIGNATURE OF RECEIVING OFFICIAL X LIST ANY REMARKS BELOW

REMARKS:

RECEIVED JUN 24 2013

JCA #: 2010 0435

BOOKING ID: SC Court of Appeals

LAZENBY LAW FIRM, LLC

ATTORNEYS AT LAW

D. ALAN LAZENBY
GINGER D. GOFORTH

POST OFFICE BOX 6099 (29304)
340 E. MAIN ST., SUITE 240
SPARTANBURG, SC 29302
PHONE: 864-804-5050
FAX: 864-804-5051

June 21, 2013

The Honorable Jenny Abbott Kitchings
SC Court of Appeals Clerk
PO Box 11629
Columbia, SC 29211

**Re: Christopher Drye, d/b/a Drye's Auto Crushing, Plaintiff 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
In the Court of Common Pleas for Cherokee County
C.A. No: 2008-CP-11-1038**

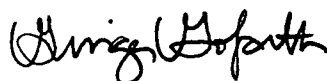
Dear Ms. Kitchings:

Enclosed please find for filing an original and one copy of a Notice of Appeal in the above case. Also enclosed is the following:

- Proof of service of the Notice of Appeal on Respondent;
- A copy of the Order on appeal;
- Emergency Petition for Writ of Supersedeas; and
- The filing fee of \$100.

Please file the originals and send the clocked copies back to me in the envelope I have enclosed for your convenience. I appreciate your assistance in this regard.

Sincerely,



Ginger D. Goforth
ginger@lazenbylawfirm.com

GDG: jeh
Enclosures
cc: Wade Weatherford, III, Esq. (via email & U.S. Mail)

RECEIVED
JUN 24 2013

SC Court of Appeals