

STATE OF SOUTH CAROLINA
STATE OF SOUTH CAROLINA
In The Court of Appeals
Appeal From York County
Court of Common Pleas
The Honorable Daniel D.Hall, Circuit Court judge

RECEIVED

AUG 02 2016

SC Court of Appeals

Appellate Case NO.:2015-001004

Antonio Gordon,

Appellant,

v.

State of South Carolina,

Respondent.

REPLY IN OPPOSITION TO RESPONDENT
PETITION TO RELAX RULE 243(f) and
REQUEST FOR EXTENTION

Comes Now, Appellant, Antonio Gordon, hereby pro se making his reply in opposition to Respondent Petition to relax Rule 243(g) and Request for Extention.

I.

Respondent's brief of Respondent in the above captioned matter was due to be filed and served on June 27, 2016. The Respondent has failed to comply with Rules 208 and 209 of the South Carolina Appellate Court Rules (SCACR). See Fn 1 The Respondent only reason of not complying with the Appellate Court Rules is due to the date was not never properly calendared due to inadvertence

Appellant asserts the Respondent has failed to demonstrate inadvertence sufficient to entitle them to the relief requested in their motion. See Fn 2 The Respondent has not informed this Court when this suppose inadvertence came to their attention but delayed filing their initial brief and

Fn 1 The Respondent asked this Court to relax Rule 243(g), SCACR but Appellant's appeal is governed by Rules 208 and 209 but both have a 30 day limitation for Respondent to file their initial brief.

Fn 2 The Respondent has not submitted no affidavits nor any other evidence.

desidesignation of matter approx twenty-five (25) days after their time to file and serve had ran out. It is Appellant's position the Respondent was properly served with his initial brief and designation of matter to be included in the record of appeal and the Respondent acted deliberate indifference in filing their initial brief and designation matter to be included in the record on appeal. The Respondent has failed to present any concrete evidence that the matter was never properly calendared, such as, **affidavits, and or calendar** showing the due date in this matter was never properly calendared and the Return was not submitted as a result of inadvertence. It is argued by Appellant the Respondent knew it had to file its initial brief and designation of matter to be included in the record on appeal but failed to do so and at the last minute to escape their intentional act and cover up their sham of unlawfully continuing Appellant's confinement, they is now asking this Court to allow them to be ignorant of the law because their is ^{NO} evidence offered by them showing it was inadvertence. It is well established principle, often advanced by the "State" in criminal prosecutions, that "[i]gnorance" of the law is no excuse. State v. Binnair, 400 S.C. 156, 160, 733 S.E.2d 890, 892 (2012). There would be a fundamental unfairness [in] holding citizens to the traditional Rule that ignorance of the law is no excuse, while allowing those entrusted to enforce the law to be ignorant of it. United States v. Chanthasouxat, 342 F.3d 1271, 1280 (11th Cir. 2003).

It's clear the Respondent never intended to Respond to any thing Appellant put before the Court. See Appendix volume two page 71 (**Letter from Respondent to Judge Hall asserting they will not respond to Gordon's motion unless ordered by the court**). And to delay justice the Respondent refuses to file their brief in a timely fashion in an attempt to prolong ruling on Gordon's jurisdiction claim.

Its obvious through the record on appeal in this case the State is attempting to present to this Court a frivolous procedural argument in a untimely brief and trying to offer as evidence Appellant's PCR judgement in Gordon v. State, (1414) to confuse this Court as to Gordon's jurisdiction argument that's currently before this Court. IN (1414) Appellant did have attached to his original application a subject matter jurisdiction claim relating to him being tried as an adult, the Respondent failed to respond to the claim in their Return but bootstrapped their propped order to find

within a frivolous **ineffective assistance of counsel** claim presented by PCR Counsel, general sessions had jurisdiction pursuant to §20-7-6605(1) and now committing fraud in this Court by stating the current jurisdiction claim that's before this court is the same trumped up jurisdiction claim placed in their bootstrapped proposed order when in actuality the PCR Court addressed the ineffective assistance of counsel claim raised by PCR Counsel. See Appendix volume one page 354-355 claim five. Once again another way of Respondent obstructing justice and to delay Appellant's speedier and immediate release from their unlawful custody.

Appellant presented to the PCR Court a second jurisdiction claim in PCR (1700) relating to him being tried and handled as an adult but not under the current section §20-7-7205(a) that's before this Court. The Respondent once again in their Return informed the Court Appellant claim was general sessions lacked subject matter jurisdiction due to a defective indictment. The PCR Court denied the application as being successive and time barred.

Then in PCR (0010) the Respondent in their Return to dismiss further mislead the Court by asserting Appellant to a large extent did raise his jurisdiction Kent v. United States, 86 S.Ct 1045 (1966) in PCR (1414). See Appendix volume one page 438. Its obvious the Respondent clear intent is no matter what type of jurisdiction claim Gordon raise relating to the children code of laws they all are the same and now that Appellant raised for the first time a jurisdiction argument under §20-7-7205(a) and the Respondent has no case law and neither cited no supporting authority to refute and contest Gordon's claim their only stunt left is to delay justice and deprive Appellant of his liberty unlawfully.

Its clear Respondent even admitted in their untimely initial brief that Appellant raises a new cause of action for the first time that General Sessions lacked jurisdiction over him because the Family Court acquired first jurisdiction which can be raised at any time. State v. Funderburk, 259 S.C. 256, 191 S.E.2d 520 (S.C.1972), but nevertheless asked this Court to find Appellant's jurisdiction argument is improperly before the Court which a frivolous argument in an attempt to delay justice.

As another initial matter Appellant will point out the Respondent in their untimely initial brief does not contest Appellant's argument that family court acquired the first jurisdiction over the subject matter and him upon him being found violating a criminal law and taken into custody pursuant to §20-7-7205(a) and because family court never relinquished it

its jurisdiction to general sessions his indictments and guilty plea judgment is a nullity void ab initio and Appellant, therefore, is entitled to his speedier and immediate release because family court jurisdiction has now terminated over him.

However, instead of upholding administering justice the Respondent continue to obstruct justice, delay justice, mislead the courts, confuse the courts and then now asking this Court to allow them to be ignorant of the law so they can hold up the court docket with a frivolous procedural argument in a untimely brief when they have asked ever Court in this district to hold Gordon accountable to ever Rule and law. Therefore, the same should apply to them, especially when the Respondent has not countered Appellant's jurisdiction argument but merely asking this Court to adopt the language out their bootstrap propose order and to completely overlook written legislation to suit their interest.

Therefore, because Respondent has not informed this Court when this suppose inadvertence came to their attention and has not supported their claim with any reliable evidence and because ignorance of the law is no excuse the and motion requesting extention of time was filed **after** their original time to file their initial brief had expired and they have not countered Gordon's true jurisdiction argument in their untimely brief, Appellant ask this Court not grant the relief contemplated by Respondent in their Petition.

This 31 day of July, 2016



Antonio Gordon, #259798

4848 Goldmine Hwy

Kershaw, SC 29067

Antonio Gordon, #259798
Kershaw C. I. PB 35
4848 Goldmine Hwy
Kershaw, SC 29067

RECEIVED
AUG 02 2016
SC Court of Appeals

South ^{Carolina} Court of Appeals
Jenny Abbott Kitchings, Clerk
Post office Box 11629
Columbia, SC 29211

Antonio Gordon, #259798
Kershaw C.I. P-B#35
4848 Goldmine Hwy
Kershaw, SC 29067
July 31, 2016

RECEIVED
AUG 02 2016
SC Court of Appeals

RE: Antonio Gordon v. State
Appellate Case No.: 2015-001004
Lower Court Case NO.: 2006-cp-46-0010

Dear Ms. Kitchings:

Please find enclosed Appellant's Reply in opposition to Respondent's petition to relax Rule 243(g), Appellant's Reply brief and Appellant's motion requesting a belated appeal on judge Hayes order. The Respondent has been properly served with the same.

Sincerely,

Enclosures

CC: Justin James Hunter, Esquire

