

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM ANDERSON COUNTY

The Honorable R. Lawton McIntosh, Circuit Court Judge

Appellate Case No. 2016-002331

THE STATE,.....RESPONDENT,

v.

ROBERT D. HOUSE,..... APPELLANT.

MOTION TO DISMISS APPEAL

The State hereby moves this Court to dismiss Appellant's direct appeal based upon a lack of appellate jurisdiction because Appellant has not been formally sentenced, and because Appellant's current whereabouts are unknown as he is wanted fugitive. The basis for this motion is set forth below.

BACKGROUND FACTS

During 2001 through 2003, Appellant engaged in Securities Fraud, illegally offering investments to numerous individuals from the Owens

Corning plant in Anderson County while knowingly making untrue statements and failing to state material facts – all in an effort to defraud investors.

He was indicted by the Anderson County Grand Jury Indictment for Securities Fraud Loss of \$20,000 or more [2011GS0401417]. He pled guilty on July 18, 2016, the day his jury trial was set to begin. Sentencing and restitution was deferred until October 24, 2016.

Appellant knowingly failed to appear for sentencing; he was however represented by counsel who requested a continuance as Appellant's absence was purportedly due to some alleged medical issues. The continuance request was denied and the hearing continued in Appellant's absence. The sentence was sealed until such time Appellant can be apprehended and brought before the Court.¹ Additionally, restitution was ordered in the amount of \$2,348,470. A bench warrant was authorized by the Court; at this time, Appellant is a wanted fugitive.²

On October 26, 2016, Appellant, through his counsel, filed a "Motion for Reconsideration and a Motion to Rescind Bench Warrant." Via Order dated November 2, 2016, the Sentencing/Restitution Court denied the request to rescind the Bench Warrant, as well as the request to reconsider the sentence.

¹ While Appellant was not present at the Sentencing/Restitution hearing, later that same day he mailed what Respondent interprets to be "Sovereign Citizen" type filings, i.e. "*Liquidation of Performance and Payment Bonds and Transfer by Deed of my Republic Grantor Borrowed Treasury Credits.*"

² South Carolina has been working with the State of Georgia in an attempt to apprehend the fugitive Appellant, see generally, <http://www.cbs46.com/story/35851857/south-carolina-fugitive-may-be-in-gwinnett-county>

ARGUMENT

Sentence Is Not Imposed Until Unsealed

Pursuant to the South Carolina Rules of Appellate Practice, the time for appeal for a criminal defendant arises from the date sentence is “imposed.” See Rule 203(b)(2), SCACR. An appeal may not be taken until the sealed sentence is opened and published to the defendant. Braddock v. State, 344 S.C. 578, 580, 545 S.E.2d 498, 499 (2001); State v. Washington, 285 S.C. 457, 458, 330 S.E.2d 289, 289 (1985).

Fugitive Disentitlement

Appellant cannot seek redress from this Court while failing to avail himself to the jurisdiction of this State. If, per Rule 203(b)(2), SCACR, Appellant’s sentence was validly “imposed” because it was verbally articulated in Court to Appellant’s attorney in Appellant’s absence³ – then his appeal should be denied and dismissed because he is presently a fugitive. “[T]his Court will not hear the appeal of a party who evades the process of the Court and refuses to submit to its jurisdiction...” Braddock v. State, 344 S.C. 578, 579–80, 545 S.E.2d 498, 498–99 (2001).

³ Additionally, a Rule 29, SCRCrimP, motion was later denied.

CONCLUSION

Based upon the foregoing, the State respectfully requests that this Court dismiss Appellant's appeal for lack of appellate jurisdiction.

Respectfully submitted,

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Attorney General

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By: 

ATTORNEYS FOR THE RESPONDENT

Columbia, South Carolina
July 31, 2017

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The Honorable R. Lawton McIntosh, Circuit Court Judge

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THE STATE, RESPONDENT,

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ROBERT D. HOUSE, APPELLANT.


MOTION TO DISMISS APPEAL

I certify that I have served the Motion to Dismiss Appeal by depositing a copy of it in the United States Mail; postage prepaid, on July 31, 2017, addressed to the attorney of record:

Mr. William G. Yarborough, III
William G. Yarborough III, Attorney at Law, LLC
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July 31, 2017

BRIAN T. PETRANO
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ALAN WILSON
ATTORNEY GENERAL

July 31, 2017

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

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SC Court of Appeals

RE: The State v. Robert D. House, Appellate Case No. 2016-002331

Dear Ms. Kitchings:

Enclosed for filing in the above matter are the following:

- (1) Original and six (6) copies of Respondent's Motion to Dismiss Appeal.
- (2) Proof of Service of the above item to Respondent's attorney.

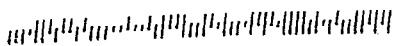
Sincerely,

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cc: Mr. William G. Yarborough, III
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ATTORNEYS FOR THE RESPONDENT



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SC Court of Appeals

ATTN: STATE GRAND JURY