

June 06, 2018

RECEIVED

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

JUN 11 2018

SC Court of Appeals

**Re: George Cleveland, III v. State, Appellate Case No. 2018-000564;
Emergency Motion to Stay Probation**

Dear Ms. Kitchings,

Attached to this letter is my Emergency Motion to *Stay Probation*, and four (4) pages of supporting exhibits. This is the second filing because the Respondent failed to follow *Rule 246 (a) SCACR*. Can you file, and forward to the Court to consideration?

Respectfully Requested,

s/

George Cleveland, III, *pro se*

400 Hunter Street

Seneca, S.C. 29678

Cell: 864-784-7223

Cc: file

Mr. Matthew Buchanan, *General Counsel*

APPELLANT'S PROOF OF SERVICE

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM OCONEE COUNTY

Court of Common Pleas

R. Lawton McIntosh, Circuit Court Judge

Case No. 2012-GS-23-0704, 07507

Appellate Case No. 2018-000564

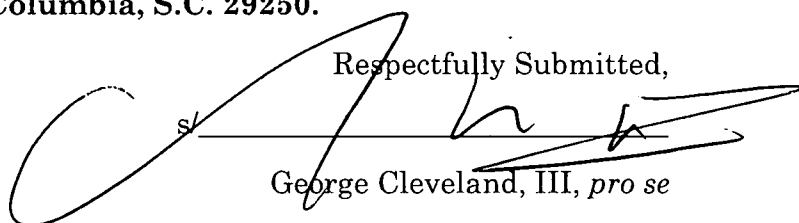
GEORGE CLEVELAND, III,Appellant

v.

THE STATE.....Respondent

I, George Cleveland, III, the Appellant, proceeding *pro se*, deposited into the mail system, properly addressed, and with proper postage, my *Emergency Motion to STay Probation, and four (4) pages of supporting exhibits* to the Respondent's Counsel of Record: **S.C.D.P.P.S.; Mr. Matthew C. Buchanan, General Counsel, Post Office Box 50666, Columbia, S.C. 29250.**

Respectfully Submitted,



George Cleveland, III, *pro se*

400 Hunter Street

Seneca, S>C. 29678

Cell no. 864-784-7223

Email: gcleland7475@gmail.com

Dated: June 06, 2018

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JUN 11 2018
SC Court of Appeals

**APPELLANT'S EMERGENCY MOTION TO STAY PROBATION
DUE TO THE S.C.D.P.P.S. FAILING TO FOLLOW THIS COURT'S ORDER**

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM OCONEE COUNTY

Court of Common Pleas

R. Lawton McIntosh, Circuit Court Judge

Case No. 2012-GS-23-0704, 07507

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SC Court of Appeals

GEORGE CLEVELAND, III,Appellant,

v.

THE STATE.....Respondent.

APPELLANT'S EMERGENCY MOTION TO STAY

Matthew C. Buchanan, General Counsel

S.C.D.P.P.S.

Post Office Box 50666

Columbia, S.C. 29250

Attorney of Record for the Respondent

George Cleveland, III, pro se

400 Hunter Street

Seneca, S.C. 29678

Cell no. 864-784-7223

Email: gcleland7475@gmail.com

Emergency Motion to Stay Probation:

MAY IT PLEASE THE COURT: George Cleveland, III, proceeding *pro se* in the above captioned case, respectfully request an Emergency Stay of Probation until this Appeal is finally disposed of this Appeal pursuant to *Rule 246 (a) SCACR* ("*The service of a notice of appeal by a criminal defendant shall operate a stay of the execution of the sentence until the appeal is finally disposed of...*"). R.p. 1.

This Court denied my Emergency Motion to Stay Probation pending the disposition of this Appeal on April 05, 2018. R.p.2. In the Order, this Court emphasized there was no need for the Court to Grant such a Stay because *Rule 246 (a) SCACR* automatically requires a Stay. *IBID*.

On May 21, 2018, Mr. Matthew C. Buchanan; *General Counsel* for the S.C.D.P.P.P.S. responded to my May 15, 2018 letter whereas I requested the Stay of my Probation pursuant to *Rule 246 (a) SCACR* denied my request stating "your appeal does not stay probation." (R.pp. 3-5.) which is in direct conflict with *Rule 245 (a), id*, and this Court's Order which both explicitly requires the Stay of my Probation because I'm not Confined in a Prison, or Jail; therefore, I'm respectfully requesting this Court Order the South Carolina Department of Probation, Parole, and Pardon Services; 2221 Devine Street, Suite 600; Columbia, S.C. 29250 to Stay enforcement of my Probation pending the finally disposition of this Appeal pursuant to *Rule 245 (a) SCACR*. *IBID*.

Any other relief this Court deems *proper, just, and/ or equitable*.

Respectfully Submitted,


s/

George Cleveland, III, *pro se*

400 Hunter Street

Seneca, S.C. 29678

Cell: 864-784-7223

Email: gcleland7475@gmail.com

Dated: June 06, 2018

**RULE 246
STAY IN CRIMINAL CASES**

(a) Stays Pending Appeal. The service of a notice of appeal by a criminal defendant shall operate as a stay of the execution of the sentence until the appeal is finally disposed of; provided, however, a sentence of confinement shall not be stayed until the defendant has posted bail under S.C. Code Ann. 18-1-80 and -90 (1985). Where the sentence exceeds imprisonment for ten (10) years, the defendant may only be admitted to bail by an appellate court. Where the State has taken an appeal, the appeal shall automatically operate as a stay of further proceedings in the lower court.

(b) Stays of Sentences After Affirmance. No stay of any sentence in a criminal case which has been affirmed by the judgment of an appellate court shall be granted, except by order of an appellate court, or a judge or justice thereof, upon motion pursuant to Rule 240.

Amended by Order dated January 29, 2009, effective April 29, 2009, by Order of the same date.



The South Carolina Court of Appeals

The State, Respondent,

v.


George Cleveland, III, Appellant.

Appellate Case No. 2018-000564



ORDER

After careful consideration, the motion to stay is denied. *See* Rule 246(a), SCACR ("The service of a notice of appeal by a criminal defendant shall operate as a stay of the execution of the sentence until the appeal is finally disposed of; provided, however, a sentence of confinement shall not be stayed until the defendant has posted bail under S.C. Code Ann. 18-1-80 and -90 (1985).").


FOR THE COURT

Columbia, South Carolina

cc:
George Cleveland, III
Matthew C. Buchanan, Esquire

FILED

April 5, 2018

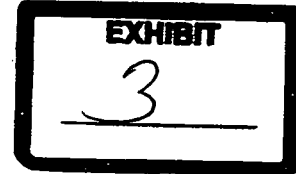
State of South Carolina
Department of Probation, Parole and Pardon Services

HENRY McMASTER
Governor



JERRY B. ADGER
Director

2221 DEVINE STREET, SUITE 600
POST OFFICE BOX 50666
COLUMBIA, SOUTH CAROLINA 29250
Telephone: (803) 734-9220
Facsimile: (803) 734-9440
www.dppps.sc.gov/



May 21, 2018

George Cleveland III
400 Hunter Street
Seneca, South Carolina 29678

Dear Mr. Cleveland:

This letter is in response to your May 15, 2018 letter in which you are asking that your probation sentence is stayed while your appeal proceeds. Unfortunately, your appeal does not stay probation.

The Appellate Rule states that the notice of appeal stays the execution of the sentence, but does not stay a sentence of confinement without an appellate bond. In *State v. Gibbs*, 353 S.C. 226, 577 S.E.2d 454 (2003), the South Carolina Supreme Court determined that because a probation sentence includes a sentence of confinement, the sentence is not stayed by the Rule. As you are aware, a probationary sentence is a term of confinement suspended to supervision.

Sincerely,

A handwritten signature in black ink, appearing to read "Matthew C. Buchanan".

Matthew C. Buchanan
General Counsel

Cc. Agent Joshua Sample

May 15, 2018

South Carolina Department of Probation, Parole, and Pardon Service

Office of General Counsel

c/o Mathew C. Buchanan, *General Counsel*

Post Office Box 50666

Columbia, S.C. 29250



Re: State v. George Cleveland, III, Appellate Case No. 2018-000564

Dear Mr. Buchanan,

The April 05, 2018 *Order of the South Carolina Court of Appeals and Rule 246 (a) SCRAP* (both are attached hereto) explicitly states that while this case is in the Appeals process, my *Probation is Stayed*; therefore, can you respond to me by mail, or email acknowledging the *Stay*, so that the Oconee County Probation Office, and my Probation Agent (Sample) are made aware, thus preventing an arbitrary probation violation.

With Kind Regards,

A large, stylized handwritten signature in black ink, appearing to be "G. Cleveland III". The signature is written over a horizontal line that serves as a separator between the signature and the typed name below.

George Cleveland, III, *pro se*

400 Hunter Street

Seneca, S.C. 29678

Cell no. 864-784-7223

Email: gcleland7475@gmail.com

cc: file