

RECEIVED

Aug 04 2022

SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Sumter County

Honorable R. Ferrell Cothran, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

ORLANDO REAMES,

APPELLANT

APPELLATE CASE NO. 2021-000800

ANDERS BRIEF OF APPELLANT

WANDA H. CARTER
Deputy Chief Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1330

ATTORNEY FOR APPELLANT

TABLE OF CONTENTS

TABLE OF CONTENTS..... i

TABLE OF AUTHORITIES ii

STATEMENT OF ISSUE ON APPEAL.....1

STATEMENT OF THE CASE.....2

STANDARD OF REVIEW3

ARGUMENT

The trial judge erred in combining appellant’s sentencing proceeding on his prior shoplifting conviction simultaneously with a guilty plea and sentencing on a separate and unrelated offense (failure to stop) charged against him because this was an improper joinder of offenses.....4

CONCLUSION6

PETITION TO BE RELIEVED AS COUNSEL7

TABLE OF AUTHORITIES

Cases

Anders v. California, 386 U.S. 738, 87 S.Ct. 1396 (1967) 7

State v. Davis, 422 S.C. 472, 812 S.E.2d 423 (2018) 5

State v. Vick, 384 S.C. 189, 682 S.E.2d 275 (Ct. App. 2009) 3

Other Authorities

In Re M.B.H., 387 S.C. 323, 692 S.E.2d 541 (2010) 3

STATEMENT OF ISSUE ON APPEAL

The trial judge erred in combining appellant's sentencing proceeding on his prior shoplifting conviction simultaneously with a guilty plea and sentencing on a separate and unrelated offense (failure to stop) charged against him because this was an improper joinder of offenses.

STATEMENT OF THE CASE

Appellant Orlando Reames was found guilty of shoplifting (3rd or subsequent offense) per jury trial held in appellant's absence during the August 2018 term of the Sumter County General Sessions Court before Judge R. Ferrell Cothran. A sealed sentence was handed down in the case.

The sealed sentence was published at the July 2021 term of the Sumter County General Sessions Court by Judge Kristi F. Curtis. Appellant was sentenced to imprisonment for a period of six years.¹

Appellant appealed. This brief follows.

¹ During appellant's sentencing hearing on his shoplifting conviction, the sentencing court simultaneously conducted a guilty plea proceeding also on the offense of failure to stop charged against appellant, to which he pled guilty and was sentenced to imprisonment for one year to run concurrently with his shoplifting sentence.

STANDARD OF REVIEW

In criminal cases, the appellant court sits to review errors of law only. State v. Vick, 384 S.C. 189, 682 S.E.2d 275 (Ct. App. 2009). A sentence will not be overturned absent an abuse of discretion when the ruling is based on an error of law or a factual conclusion without evidentiary support. In Re M.B.H., 387 S.C. 323, 692 S.E.2d 541 (2010).

ARGUMENT

The trial judge erred in combining appellant's sentencing proceeding on his prior shoplifting conviction simultaneously with a guilty plea and sentencing on a separate and unrelated offense (failure to stop) charged against him because this was an improper joinder of offenses.

State's witness Carlton Burgess testified that he was working at a Wal-Mart store in Sumter as a loss prevention officer around 1:00 am on September 18, 2017, when he saw two men (appellant and Keith Ford) enter the store and walk to the electronics section of the store near where the DVD players were located. Burgess stated that he watched the two men move a DVD player over to where the vacuum cleaners were located, and then over to where bedding items were located. Shortly thereafter, appellant removed the spider wire from this DVD box, and afterward Ford placed the DVD player inside his (Ford's) pants. Then, they both attempted to leave the store, but were apprehended and detained at the loss prevention office in the store. The DVD player at that time was valued at approximately \$70.00. R. 38, l. 20 – p. 64, l. 25.

Inasmuch as appellant was tried in his absence, a sealed sentence was imposed by the trial judge. Subsequently, when the sealed sentence for appellant's shoplifting conviction was read and published, the sentencing judge simultaneously took appellant's guilty plea on a separate and unrelated offense (failure to stop) charged against him. R. 104, l.1 – p. 119, l. 25. Thus, appellant was sentenced on his failure to stop conviction at the same proceeding during which the sealed sentence on his prior shoplifting conviction was read and published. This was error because it was improper to join a guilty plea adjudication and sentencing on the unrelated offense of failure to stop on appellant's behalf together with the sentencing on his prior shoplifting conviction as one combined legal proceeding. This was an improper joinder.

In State v. Davis, 422 S.C. 472, 812 S.E.2d 423 (2018), the Court held that the joinder of offenses in one trial is proper if the offenses are of the same general nature or character and spring from the same series of transactions, and are committed by the same offender, and require the same or similar proof. Offenses are considered to be of the same general nature when they are interconnected. Joinder is allowed where the offenses charged are of the same general nature involving interconnected transactions closely related in kind, place, and character. State v. Davis, supra. Offenses which are of the same nature, but which do not arise out of a single chain of circumstances and are not provable by the same evidence may not properly be tried together. State v. Davis, supra.

In the case at bar, the alleged shoplifting occurred on September 18, 2017, and the alleged failure to stop offense occurred on January 16, 2021. The failure to stop offense emanated from what police observed to be a prior hand to hand drug transaction between two people from two cars; and when the driver (appellant) of one of the vehicles finally stopped after being chased by police, a search of his car revealed an ounce of marijuana. Hence, these two events involving appellant were unrelated events in time, kind, place, and character.

Clearly, these two offenses in question were two separate and distinct offenses in nature that occurred three years apart at different venues, which meant that the two offenses did not arise out of the same transaction or the same set of circumstances; and furthermore, did not require similar proof to convict. These two offenses were not of the same general nature and were not interconnected transactionally whatsoever.

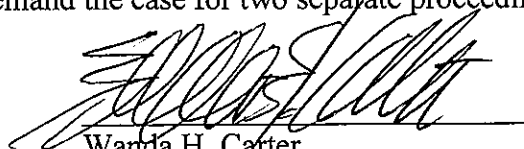
Therefore, the joinder of appellant's sentencing on his previous shoplifting conviction combined with the adjudication and sentencing on the failure to stop offense (all simultaneously)

into one proceeding constituted an improper joinder of offenses. These two cases should have received separate sentencing proceedings.

Furthermore, there was a likelihood of prejudice where appellant was presented as a two-time offender; and therefore, the sentencing outcome on the failure to stop conviction could have been impacted by the prior shoplifting conviction. The trial judge erred in combining appellant's sentencing proceeding from his prior shoplifting conviction in unison with his guilty plea and sentencing on the unrelated offense of failure to stop charged against him because this was an improper joinder of offenses.

CONCLUSION

Based on the foregoing argument, counsel for appellant requests that this Court reverse the lower court sentencing proceeding and remand the case for two separate proceedings.



Wanda H. Carter
Deputy Chief Appellate Defender

ATTORNEY FOR APPELLANT

This 4th day of August, 2022.

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Sumter County

Honorable R. Ferrell Cothran, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

ORLANDO REAMES,

APPELLANT

APPELLATE CASE NO. 2021-000800

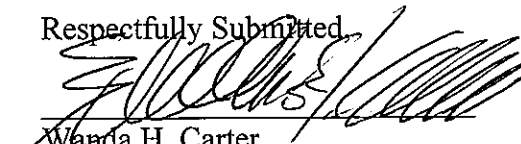
PETITION TO BE RELIEVED AS COUNSEL

Counsel for Orlando Reames states that:

1. She is Deputy Chief Appellate Defender for the South Carolina Office of Appellate Defense and was appointed to represent appellant.
2. She has reviewed the record of appellant's trial before Judge R. Ferrell Cothran, which was held on August 22, 2018, and, in her opinion, the appeal is without legal merit sufficient to warrant a new trial.
3. She has, pursuant to Anders v. California, 386 U.S. 738, 87 S.Ct. 1396 (1967), briefed an arguable legal issue which arose during the course of the trial.

WHEREFORE, she asks the Court to relieve her as counsel for Orlando Reames.

Respectfully Submitted,



Wanda H. Carter
Deputy Chief Appellate Defender

ATTORNEY FOR APPELLANT

This 4th day of August, 2022.

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Sumter County

Honorable R. Ferrell Cothran, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

ORLANDO REAMES,

APPELLANT

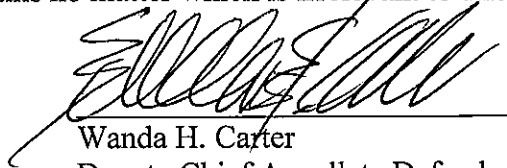
APPELLATE CASE NO. 2021-000800

**DESIGNATION OF MATTER TO BE
INCLUDED IN RECORD ON APPEAL**

Appellant proposes the following be included in the Record on Appeal:

- (1) Trial Transcript dated March 1-3, 2018
- (2) Sentencing Transcript dated July 15, 2021
- (3) True-billed indictments

I certify that this designation contains no matter which is irrelevant to this appeal.



Wanda H. Carter
Deputy Chief Appellate Defender

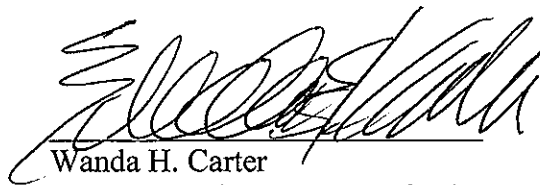
South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1330

ATTORNEY FOR APPELLANT

This 4th day of August, 2022.

CERTIFICATE OF COUNSEL

The undersigned certifies that to the best of my ability this Anders Brief of Appellant complies with Rule 211(b), SCACR, and the April 15, 2014, order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."



Wanda H. Carter
Deputy Chief Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1330

ATTORNEY FOR APPELLANT

This 4th day of August, 2022.

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Sumter County

Honorable R. Ferrell Cothran, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

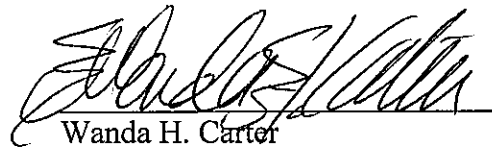
ORLANDO REAMES,

APPELLANT

APPELLATE CASE NO. 2021-000800

CERTIFICATE OF SERVICE

Pursuant to Rule 262(a)(3) and Rule 262(c)(3), SCACR, the undersigned hereby certifies a true copy of the Anders Brief of Appellant and Designation of Matter in the above-referenced case has been served upon William M. Blich, Esquire, at the primary e-mail address listed in the Attorney Information System (AIS); and on Orlando Reames, #278341, at Evans Correctional Institution, 610 Hwy. 9 West, Bennettsville, SC 29512, this 4th day of August, 2022.



Wanda H. Carter
Deputy Chief Appellate Defender

ATTORNEY FOR APPELLANT