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SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Richland County

Honorable DeAndrea G. Benjamin, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

MICHAEL PAUL GRIFFIN,

APPELLANT

APPELLATE CASE NO. 2022-001261

ANDERS BRIEF OF APPELLANT

DAVID ALEXANDER
Appellate Defender

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ATTORNEY FOR APPELLANT

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STATEMENT OF ISSUE ON APPEAL

Whether the trial judge erred in admitting appellant's statements obtained in violation of Miranda v. Arizona, 384 U.S. 368 (1966) and Missouri v. Siebert, 542 U.S. 600 (2004)?

STATEMENT OF THE CASE

Appellant was indicted in Richland County for murder and on August 29, 2022, he was tried before the Honorable DeAndrea G. Benjamin and a jury. R. 1. C. Dale Scott and C. Grayson Hill represented the State. R. 1. Tracy E. Pinnock and Alicia D. Goode represented appellant. R. 1. The jury convicted appellant. R. 542-43. Judge Benjamin sentenced appellant to forty-six years' imprisonment. R. 555. This appeal follows.

STANDARD OF REVIEW

The trial court's ruling is reviewed to determine if it is supported by the record. State v. Hill, 425 S.C. 374, 380, 822 S.E.2d 344, 348 (Ct. App. 2018).

ARGUMENT

The trial judge erred in admitting appellant's statements obtained in violation of *Miranda v. Arizona*, 384 U.S. 368 (1966) and *Missouri v. Siebert*, 542 U.S. 600 (2004).

Appellant accidently shot the mother of his child, Jerry Lynn Sigmon ("Sigmon"), in the head as they were beginning to have sexual relations. R. 426-30. Appellant had a pistol in the waistband of his pants. R. 426-30. Sigmon was sitting on top of him. R. 426-30. Appellant did not want to disrupt the mood, so he tried to remove the gun and put it on the nightstand. R. 426-30. As he did, Sigmon flipped her hair back and hit the gun with her head. R. 426-30. The gun accidentally went off and Sigmon died from the wound. R. 426-30. R. 303. Appellant testified and told the jury about the accident. R. 426-30.

Crucial to the State's case was appellant's initial story to the police, which was untrue. R. 435-37. Appellant was afraid that no one would believe him. R. 435-37. He told the police that armed men broke into the house where he was staying and shot Sigmon during a struggle over a gun. R. 436.

The police obtained this initial statement from appellant before reading him his rights under Miranda v. Arizona, 384 U.S. 368 (1966). R. 61-63. The police claimed he was not a suspect at this point and was not in custody. R. 63. As shown during the Jackson v. Denno, 378 U.S. 368 (1964), hearing, appellant was in custody and Miranda warnings were required.

The shooting happened just before 6:00 AM. R. 342-43. The police arrived shortly afterwards. R. 80. The police conceded during the Denno hearing that appellant was never alone without an officer guarding him from the minute officers arrived on the scene until they transported him to the station for questioning. R. 81. While the policeman testified appellant

was only a witness, he said that of any witness "we will have an officer stand by them so they don't disappear." R. 81.

Miranda defined "custodial interrogation" as "questioning initiated by law enforcement officers after a person has been taken into custody or otherwise deprived of his freedom of action in any significant way." Miranda, 468 U.S. at 444. "To determine whether a suspect is in custody, the trial court must examine the totality of the circumstances, which include factors such as the place, purpose, and length of interrogation, as well as whether the suspect was free to leave the place of questioning." State v. Evans, 354 S.C. 579, 583, 582 S.E.2d 407, 410 (2003).

Multiple police cars were at the scene. R. 81-82. Appellant was taken to the police station in the back of a patrol car. R. 82-83. He was taken immediately into an interrogation room. R. 83. Appellant was in the interrogation room from approximately 8:00 AM until he was first given Miranda warnings at 1:30 PM. R. 70. Appellant was questioned for over twelve hours. R. 74.

"A person is in custody if formally arrested or deprived of his freedom of action to a significant degree." State v. Hill, 425 S.C. 374, 380, 822 S.E.2d 344, 348 (Ct. App. 2018). A court must decide if a reasonable person would feel free to leave. Id. The subjective opinions of officers that a defendant is not in custody are not definitive. Id.

Just like in Hill, appellant was "isolated" with police officers at the scene and at the station. Id. The police conceded that even witnesses are not allowed to leave the scene. No reasonable person in appellant's circumstance would have felt free to leave the scene, much less the interrogation rooms. Miranda warnings were required because appellant was in custody.

The later giving of Miranda warnings do not cure the initial failure. In Missouri v. Siebert, 542 U.S. 600 (2004), the United States Supreme Court condemned a deliberate practice

used in police departments throughout the country meant to circumvent Miranda. Siebert at 610-12 and n.2. The Court cited the Police Law Institute's manual which instructed officers to use a "two-stage interrogation" and not give Miranda warnings until after arrestees have confessed. Id. at 610. The Court listed multiple sources advising officers on how to obtain confessions and then curing the failure to give Miranda warnings. Id. at 610 n.2.

The Court called this practice "question-first" and rejected the notion that the subsequent giving of Miranda warnings could transmute these confessions into admissible evidence. Id. at 610-13. "By any objective measure . . . it is likely that if the interrogators employ the technique of withholding warnings until after interrogation succeeds in eliciting a confession, the warnings will be ineffective in preparing the suspect for successive interrogation, close in time and similar in content." Id. at 613. "After all, the reason that question-first is catching on is as obvious as its manifest purpose, which is to get a confession the suspect would not make if he understood his rights at the outset." Id. "Upon hearing warnings only in the aftermath of interrogation and just after making a confession, a suspect would hardly think he had a genuine right to remain silent, let alone persist in so believing once the police began to lead him over the same ground again." Id.

Under the Siebert rule, none of appellant's statements should have been admitted. The State used appellant's initial statements, given under fear and the upsetting situation of the accidental death of his lover, to portray appellant as a liar who attempted to cover up his crime. The error was prejudicial and appellant's conviction should be reversed.

CONCLUSION

For the foregoing reasons, appellant's conviction should be reversed and this case remanded for a new trial.

s/David Alexander
Appellate Defender

ATTORNEY FOR APPELLANT

This 5th day of June, 2023.

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PETITION TO BE RELIEVED AS COUNSEL

Counsel for Michael Paul Griffin states:

1. He is Appellate Defender for the South Carolina Office of Appellate Defense, and was appointed to represent appellant.
2. He has reviewed the record of appellant's trial before Judge Deandrea G. Benjamin, which was held on August 29 - 31, 2022, and, in his opinion, the appeal is without legal merit sufficient to warrant a new trial.
3. He 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, he asks the Court to relieve him as counsel for Michael Paul Griffin.

Respectfully Submitted,

s/David Alexander
Appellate Defender

ATTORNEY FOR APPELLANT

This 5th day of June, 2023.

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DESIGNATION OF MATTER TO BE INCLUDED IN RECORD ON APPEAL

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

(1) True-billed indictment(s):
(2) Trial transcript

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

s/David Alexander
Appellate Defender

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Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1330

ATTORNEY FOR APPELLANT

This 5th day of June, 2023.

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."

s/David Alexander
Appellate Defender

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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 Melody J. Brown, Esquire, at the primary e-mail address listed in the Attorney Information System (AIS); and on Michael Paul Griffin, #368423, at Turbeville Correctional Institution, 1578 Clarence Coker Hwy, Turbeville, SC 29162, this 5th day of June, 2023.

s/David Alexander
Appellate Defender

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