



STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

\_\_\_\_\_  
Appeal from Barnwell County

Clifton Newman, Circuit Court Judge  
\_\_\_\_\_

THE STATE,

RESPONDENT,

V.

ROOSEVELT KADEEM WORKMAN,

APPELLANT

\_\_\_\_\_  
ANDERS BRIEF OF APPELLANT  
\_\_\_\_\_

CARMEN V. GANJEHSANI  
Appellate Defender

South Carolina Commission on Indigent Defense  
Division of Appellate Defense  
PO Box 11589  
Columbia, SC 29211-1589  
(803) 734-1343

ATTORNEY FOR APPELLANT

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JUL 05 2013

SC Court of Appeals

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**STATEMENT OF ISSUE ON APPEAL**

The Trial Court erred in refusing to grant a directed verdict on the charge of kidnapping where it was merely incidental to the offense of armed robbery.

## STATEMENT OF THE CASE

On January 3, 2012, Appellant Roosevelt Kadeem Workman was indicted by the Barnwell County Grand Jury for (1) armed robbery; (2) kidnapping; (3) conspiracy; and (4) possession of a weapon during a violent crime. R. 33, ll. 3-10; 362-63; 365-66; 368-69.

On September 4-6, 2012, Workman was tried with two co-defendants before the Honorable Clifton Newman and a jury. R. 1. Workman was represented by Martha M. Rivers, and the State was represented by Assistant Solicitors Susanna M. Ringler and Jeffrey Alan Slocum. Id.

On September 6, 2012, the jury found Workman guilty of (1) armed robbery; (2) kidnapping; and (3) conspiracy. R. 329, ll. 4-12. The jury found Workman not guilty of possession of a weapon during a violent crime. R. 329, ll. 13-16.

Judge Newman sentenced Workman to (1) thirteen years for armed robbery; (2) ten years for kidnapping; and (3) five years for conspiracy, with the sentences to run concurrent. R. 356, ll. 21-22; 357, ll. 5-10.

Workman timely filed and served his Notice of Appeal on September 10, 2012.

## ARGUMENT

**The Trial Court erred in refusing to grant a directed verdict on the charge of kidnapping where it was merely incidental to the offense of armed robbery.**

Dona Corell, a clerk at Jimbo's Mini Mart in Barnwell, testified about an armed robbery that occurred at the store on July 21, 2011. While she was restocking, she heard a chime on the door. She looked up and a gun was pointed at her face. She was told not to look at the man holding the gun and not to look at the other people. She needed to keep her eyes down and do what she was told. There were three men who came into the store. Their faces were covered. One man was standing in front of the door. The other one was standing right in front of Ms. Corell, and the third man was already behind the cash register trying to open it. He could not open it and he instructed her to go back behind the counter and open the register for him. After she helped with the register, she was told to get out of the way. R. 110, l. 17 – 114, l. 5.

After the State rested, defense counsel moved for a directed verdict to the charge of kidnapping because the State did not present any evidence to support the charge of kidnapping. R. 245, l. 3 – 261, l. 8; 268, ll. 15-17. There was much discussion on the kidnapping charge, and the trial judge wanted to know if every armed robbery was also always a kidnapping. R. 248, l. 24 – 249, l. 10. The trial court ultimately denied the motion and relied on State v. East, 353 S.C. 634, 578 S.E. 2d 748 (Ct. App. 2003) and State v. Hall, 280 S.C. 74, 310 S.E.2d 429 (1983). R. 258, l. 11 – 261, l. 8. The court wrote in State v. East:

The issue of whether the act of confinement can constitute the separate offense of kidnapping when it is incidental to the commission of another crime was raised in State v. Hall, 280 S.C. 74, 310 S.E.2d 429 (1983). In Hall, the victim was abducted by knifepoint as she placed a call from a phone

booth near a clubhouse of an apartment complex. The perpetrator forced the victim to walk to an adjacent pool area where he sexually assaulted her and forced her to walk to different locations around the pool. At each location, the victim was assaulted. On appeal from his convictions for assault and battery of a high and aggravated nature, first degree criminal sexual conduct, and kidnapping, Hall argued the trial judge erred in failing to charge the jury that in order to establish kidnapping, the State must prove the confining and carrying away of the victim was more than incidental to the commission of another crime. The South Carolina Supreme Court disagreed, holding that Hall's restraint of the victim constituted kidnapping within the meaning of S.C. CODE ANN. § 16-3-910 (1976) "regardless of the fact that the purpose of this seizure was to facilitate the commission of a sexual battery." 280 S.C. at 78; 310 S.E.2d at 431.

East, 353 S.C. at 637, 578 S.E.2d at 750.

The court went on to note that in other jurisdictions, the majority view is to the contrary and "kidnapping statutes do not apply to unlawful confinements or movements incidental to the commission of other crimes." Id. at 637-38, 578 S.E.2d at 750 (quoting State v. Anthony, 817 S.W.2d 299, 305 (Tenn. 1991)). It appears that 28 states agree that the mere seizure or detention of a victim with any accompanying movement is not sufficient to constitute the separate crime of kidnapping. Frank J. Wozniak, Annotation, *Seizure or detention for purpose of committing rape, robbery, or other offense as constituting separate crime of kidnapping*, 39 A.L.R. 5th 283.

This Court should adopt the majority view and hold that the kidnapping statute, S.C. CODE ANN. § 16-3-910, does not apply to confinements or movements incidental to the commission of another crime. The evidence in this case shows that any confinement or movement of Ms. Corell was very brief and only occurred to facilitate the robbery. She was told not to look at any of the men and was only moved to help open the cash register when one of the men could not open it. R. 111, l. 15 – 113, l. 12. Ms. Corell was not

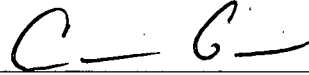
separately detained by being placed into a closet or back storeroom or the like. The entire incident took place quickly. R. 121, ll. 3-6. See Grimes v. State, 678 S.E.2d 167 (Ga. Ct. App. 2009) (finding insufficient evidence of kidnapping where defendants entered restaurant with guns drawn, forcing waitresses into a booth and forcing manager into office to unlock money cabinet and then forcing manager to go to the front cash register to open it; court concluded defendant's "movement of the victim was brief, occurred during and incidental to the armed robbery, and did not enhance significantly the risk to the victim already faced as a victim of armed robbery").

Given the brief and incidental confinement and movement of Ms. Corell, Appellant Workman is entitled to a directed verdict for kidnapping.

**CONCLUSION**

Based upon the foregoing reasons, this State should adopt the majority view that not all instances of confinement or movement constitute a kidnapping, and accordingly, this Court should direct a verdict on the kidnapping charge in favor of Appellant Roosevelt Kadeem Workman.

Respectfully submitted,



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Carmen V. Ganjehsani  
Appellate Defender

ATTORNEY FOR APPELLANT

This 5th day of July, 2013.

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IN THE COURT OF APPEALS

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Appeal from Barnwell County  
Clifton Newman, Circuit Court Judge

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THE STATE,

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PETITION TO BE RELIEVED AS COUNSEL

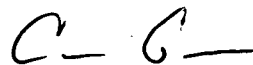
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Counsel for Roosevelt Kadeem Workman states:

1. She is 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 Clifton Newman, which was held on September 4-6, 2012, 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 Roosevelt Kadeem Workman.

Respectfully submitted,



---

Carmen V. Ganjehsani  
Appellate Defender

ATTORNEY FOR APPELLANT

This 5th day of July, 2013.

STATE OF SOUTH CAROLINA

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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 indictments for armed robbery, kidnapping and conspiracy;
- (2) Entire transcript of trial held September 4-6, 2012; and
- (3) Sentencing sheets.

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

July 5th, 2013



Carmen V. Ganjehsani  
Appellate Defender

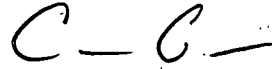
South Carolina Commission on Indigent Defense  
Division of Appellate Defense  
PO Box 11589  
Columbia, SC 29211-1589  
(803) 734-1343

Attorney for Appellant

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 August 13, 2007, order from the South Carolina Supreme Court entitled "Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings."

July 5<sup>th</sup>, 2013



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Carmen V. Ganjehsani  
Appellate Defender

S.C. Commission on Indigent Defense  
Division of Appellate Defense  
1330 Lady Street, Suite 401  
Post Office Box 11589  
Columbia, South Carolina 29211-1589

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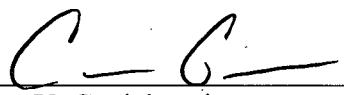
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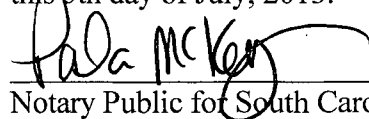
\_\_\_\_\_  
CERTIFICATE OF SERVICE  
\_\_\_\_\_

The undersigned attorney hereby certifies that a true copy of the Anders Brief of Appellant and Designation of Matter in the above referenced case has been served upon Salley W. Elliott, Esquire, at the Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201; and a copy of the Anders Brief of Appellant and Designation of Matter and Record on Appeal have been served on Roosevelt Kadeem Workman, #341193 at McCormick Correctional Institution, on this 5th day of July, 2013.

  
\_\_\_\_\_  
Carmen V. Ganjehsani  
Appellate Defender

ATTORNEY FOR APPELLANT.

SUBSCRIBED AND SWORN TO before me  
this 5th day of July, 2013.

  
\_\_\_\_\_  
(L.S.)  
Notary Public for South Carolina  
My Commission Expires: July 24, 2022.