

MAR 13 2024

SC Court of Appeals

IN THE COURT OF GENERAL SESSIONS

STATE OF SOUTH CAROLINA

COUNTY OF ANDERSON

STATE

RECEIVED

INDICTMENT/CASE#:

2020GS0402070

VS.

MAR 13 2024

SAVAYEA ANTWAN GLENN

A/W#:

2020A0410200740

AKA:

SC Court of Appeals

Date of Offense:

05/24/2020

Race: Black

Sex: M

Age: 32

S.C. Code §:

44-53-375(C)

DOB:

SS#:

CDR Code #:

0349

Address:

City, State, Zip:

DL#*

SID#

SC01869044



SENTENCE SHEET

*CDL Yes No CMV Yes No Hazmat Yes No

In disposition of the above indictment comes now the Defendant who was

CONVICTED OF or PLEADS

TO: Trafficking Crack Cocaine 28g but <100g 3rd offense

In violation of § 44-53-375(C) of the S.C. Code of Laws, bearing CDR Code # 0349

NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS § 17-25-45
(CSC w/minor 1st or CSC w/minor 3rd)

The charge is: As indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury. _____ (def.'s initials)

The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST:

Danny N. Fulmer, Jr.
Sr. Assistant Solicitor

SC Bar #

15693

Defendant

Heidi
101794

Attorney for Defendant

SC Bar #

WHEREFORE, the Defendant is committed to the State Department of Correction County Detention Center,

for a determinate term of 25 days/months/years/Time Served Youthful Offender Act not to exceed ___ years

and/or to pay a fine of \$50,000 provided that upon the service of ___ days/months/years/Time Served and or payment of \$____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

The sentence shall run

CONCURRENT or CONSECUTIVE to sentence on: _____

The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by SCDOC. _____ days/months

To include time spent on monitored house arrest prior to trial and sentencing.

The Defendant Shall be Released from County Detention Center.

Pursuant to 18 U.S.C. § 922 and § 16-25-30 it is unlawful for a person convicted of a violation of § 16-25-20 or § 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

PTUP after _____ months/years

And Other Terms Listed Below:

- Substance Abuse Counseling Completion of GED Random Drug/Alcohol Testing
- Attend Voc. Rehab. Or Job Corp No Contact with Victim Domestic Violence Intervention Program

Mental Health Counseling May serve W/E beginning: _____

Sex Offender Registry pursuant to S.C. Code § 23-3-430 Public Service Employment _____ days/hours

Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.

Other: _____

RESTITUTION: Deferred Def. Waives Hearing Ordered

Total \$ _____ plus 20% fee: _____ \$ _____

Payment Terms: _____ Set by SCDPPPS

Recipient: _____

*Fine:

Fine may be pd. in equal consecutive weekly/monthly pmts. of \$ _____

§14-1-206 (Assessments 107.5%)		Beginning	\$ <u>50,000.00</u>
§14-1-211 (A)(1)(Conv. Surcharge)	\$100		\$ <u>53,750.00</u>
§14-1-211 (A)(2)(DUI Surcharge)	\$100		\$ <u>100.00</u>
§56-5-2995 (DUI Assessment)	\$12		\$ _____
§56-1-286 (DUI Breath Test)	\$25		\$ _____
§14-1-212 (Law Enforce. Funding)	\$25		\$ <u>25.00</u>
§14-1-213 (Drug Court Surcharge)	\$150		\$ <u>150.00</u>
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)	\$41		\$ _____
§50-21-114 (BUI Breath Test Fee)	\$50		\$ _____
§56-5-2942(J) (Vehicle Assessment)	\$40/ea		\$ _____
3% to County (if paid in installments)	TBD		\$ <u>3,120.75</u>

Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees

§ 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund

TOTAL \$ 107,145.75

Clerk of Court/Deputy Clerk:

C. Reena Thomason
Lisa Taylor

Presiding Judge:
Judge Code:

(Signature)
2155

Court Reporter:

Sentence Date:

2-7-25

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HENDERSON, SC DOC. CP/SS

bulge. The shirt lift search revealed the presence of illegal drugs. A search of defendant, including bags he had in his possession and on his person, revealed over 72 grams of suspected cocaine base along with multiple suspected hydrocodone pills. Defendant was placed under arrest.

Defendant asserts that law enforcement exceeded the scope of a permissible "Terry" stop and search under the circumstances by lifting the defendant's shirt two (2) times instead of conducting a pat down search. The state contends that lifting defendant's shirt twice was not a violation of "Terry" based upon the circumstances present at the time. The state submitted multiple cases as persuasive authority where law enforcement was found not to have violated "Terry" by either lifting a defendant's shirt or requiring a defendant to do so (see Adams v. Williams 407 U.S. 143 (1972); State v. Michael 995 N.E. 2d 286 (2013); United States v. Baker 78 F. 3d 135 (4th Cir. 1996); State v. Privott 203 N.J 16 (2010). There is no South Carolina case directly on point.

The defense points out that each of the cases submitted by the state involves a suspect's conduct being such as would warrant law enforcement being in immediate fear for their safety thereby allowing law enforcement to bypass a pat down search in favor of a more intrusive search. The defense correctly points to the distinguishing factor in these cases:

"Scenario one" involves law enforcement ONLY having a reasonable suspicion that a suspect may be armed. In these cases, a pat down search is required. "Scenario two" involves those cases where law enforcement has a reasonable suspicion that the suspect may be armed accompanied by suspect conduct who leads law enforcement to reasonably believe that the suspect was not only armed but he is presently prepared to use the weapon or that he was threatening to do so. In these latter class of cases, law enforcement is justified. In bypassing a pat down search in favor of a more intrusive search such as lifting a shirt or grabbing a weapon. Defendant asserts that his conduct falls within the first class of cases which requires that a pat down search be performed. The Court finds that as the defendant's conduct falls more squarely under the class of cases where a pat down search may be by passed (see Lafave's Search and Seizure: A Treatise on the Fourth Amendment).

As an initial matter, the court finds that it is unnecessary to analyze defendant's conduct under either class of the above cases. Based upon defendant conduct reported by dispatch and his conduct upon being approached by law enforcement, the officers had the right to immediately place defendant under arrest for disorderly conduct. Defense urges that defendant had to be "grossly intoxicated" before he could be arrested for disorderly conduct. The state correctly points out that the statute also allows a suspect to be arrested based upon disorderly or boisterous behavior (see SC Code Ann §16-17-530 (A)). The court agrees with the state. Therefore, the search of defendant could have been one incident to arrest. It does not matter that the search occurred prior to the arrest. In this scenario, law enforcement was not limited to a pat down search.

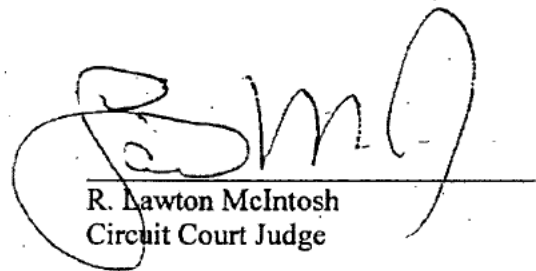
Notwithstanding, the court also finds that based upon a totality of the circumstances, defendant's conduct was such as would allow the responding officers to bypass a pat down search in favor of the more intrusive search of lifting up defendant's shirt. The dispatch to law enforcement relayed that defendant was intoxicated at Eddies Minute Mart; that defendant had shown a gun to a sales clerk in a non-threatening manner; that defendant was invading customer's personal spaces and that he was making suggestive sexual comments. Defendant was also allegedly buying strangers food. Officer Smith was aware of this as she approached defendant.

The court acknowledges that defendant was not acting in an immediately threatening manner when initially approached by law enforcement. However, the totality of defendant's conduct was sufficiently suspicious to cause a reasonably prudent officer to believe that defendant might present an immediate threat to their safety. Based upon a totality of the circumstances, the defendant was very intoxicated and had shown a gun to a sales clerk. Defendant smelled of alcohol and slurred his speech. Defendant disturbed customers and used inappropriate sexual language. Upon being approached by law enforcement defendant was animated, loud and boisterous. Defendant had a bulge in his waistband that he denied was a weapon while keeping his hands in the vicinity of the bulge during questioning by law enforcement. Law enforcement should not have to wait until a suspect becomes an actual threat to their safety nor should law enforcement have to be clairvoyant to determine that a suspect will become an immediate threat to their safety before conducting more intrusive searches for their safety. Based upon a totality of the circumstances, the officers were justified in by passing a pat down search in favor of lifting defendant's shirt (twice).

ACCORDINGLY, Defendant's motion to suppress the results of the search and seizure is Denied.

It is so ordered.

February 8, 2024
Anderson, SC


R. Lawton McIntosh
Circuit Court Judge