

Date July 2, 2024

Emanuel Williams 392533
Lee Correctional Inst.
990 Wisacky Highway
Bishopville SC 29010

Honorable Jenny Kitchens Abbott Clerk of Court
South Carolina Court of Appeals
Post Offices Box 11629
Columbia, South Carolina 29211

RECEIVED

JUL 05 2024

SC Court of Appeals

Re: Emanuel Williams vs State of South Carolina
Appellant's Case Number 2023-001804
Appellant's Pro se Reply to Anders Brief

Dear Honorable Jenny Kitchens Abbott, Clerk of Court
Please find enclosed my Pro se Appellants Reply
to Anders Brief. Find original and one copy of Brief
along with certificate of mail services verifying and
served S.C. Attorney General and my Appellante
Defender Wanda H. Carter a copy of same

Respectfully!

July 2, 2024
Date

Emanuel Williams
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STATEMENT OF THE CASE

Procedural History

Appellant Emanuel Williams was convicted of Trafficking in Cocaine (10 grams or more or less than 28 grams) by a Jury trial Held during the November 2023 term of Charleston County General Sessions Court before Judge Perry H. Gravelly, who sentenced Petitioner to imprisonment for a period of twenty-five years. Assistant solicitors Nina L. Savas and John Byron Mullen prosecute the case, and Attorneys Helen Roper Dovell and Claire Schulmeister represented appellant at trial...

Appellant's trial counsel timely Filed Notice of Appeal of Conviction and Sentence.

The South Carolina Commission on Indigent Defense appointed Deputy Chief Appellant Defense appointed Deputy Chief Appellant Defender Wanda H. Carter to Represent Appellant in this Appeal.

Appellant Defender Wanda H. Carter Filed a Motion and Brief indicating she believes that this Appeal is without Merit and moved to be relieved as counsel Pursuant to *Anders v. California*, 386 U.S. 738, 87 S.Ct. 1396 (1967)...

This Court on May 30 2024, served me the (Appellant) Notice that i had 45 days From the date of its Notice to File a Pro se Brief addressing ANY issues that i believe this Court should consider in this Appeal.

I, Emmanuel Williams, timely, on this 2nd day of July 2024, mail and Submit to this Court, three Substantial and legal issues of significant Public importance that i believe Appellate Counsel should have included in My Appeal Brief and that are deserving of this Court's Consideration....

The issues Are as follow: (2)

Issue One

Appellant believe under these rare unusual and exceptional and exceptional circumstances it was error it was error and on abuse of discretion for the Court to amend the Trafficking Second = indictment to a trafficking Third Offense (At the 11th hour) beginning of trial...

(Issue One Argument)

Appellant complains that. The trafficking indictment had gone before the grand jury twice, once on May 5, 2023 and the state took the indictment back before the grand jury again on July 21, 2023 to correct an error...

Therefore, Appellant believes if State wanted to lawfully, without any deceit and or Machination amend the indictment to third Offense Trafficking, the state had two opportunities to accomplish the amending of the indictment before the prosecutor to gain an unfair advantage over a defendant by circumventing the grand jury and getting a judge to do what the grand jury was likely to decline doing, which was Amending the trafficking Second to a trafficking THIRD... The grand jury would likely have decline because the Florida simple possession charge prosecutor wanted to use to amend was well over 10 years and in Florida. This simple possession was a misdemeanor Magistrate Court charge. Some of the prejudice to Appellant was never timely given any formal notice or ever believed that his charges or that he would be facing at trial anything other than a trafficking second which he could have gotten probation, which he could have gotten probation, which lead to Appellant refusing any Plea Bargain offers see: Trial transcript Page 64-65

If this practice should be allowed to stand where prosecution who believed a Grand Jury will not likely upgrade (enhance or indictment) or charge, would just wait until 11th hour right before trial and ask a Judge from the upstate that wasn't familiar with Emanuel Williams case to amend indictment, which prosecutor knows a Grand Jury would not do... Such would call into question the very fairness of the proceeding, and purpose of the grand jury. And such practice could also be used to threaten and punish defendants for exercising their constitutional right to a jury trial...

(Issue Two)

It was error and an abuse of discretion for the court to allow the cocaine to be admitted in evidence where the states three most critical witnesses in the chain of custody gave significant and substantial conflicting testimony as to who they received and or gave the cocaine evidence to, which clearly shows the state failed to establish chain of custody of the evidence in this case.

(Issue Two Argument)

My trial Atty argued to the court, that the chain of custody in this case is insufficient and that there are breaks in this case are so significant that the evidence should not be allowed in (Trial Transcript page 340, lines 9-16)

And then the conflicting testimony of three different critical witnesses in the chain giving substantial and significant conflicting testimony as to who they gave and received the evidence from (see trial trans page 340 lines 20-25 and (4)

Page 341. line 1-16)

Trial Counsel relied on State v. Pulley ()

There might be a case out there somewhere where as one witness in the chain may have given conflicting testimony about the chain of custody. But there is no case like this one, where three critical witnesses gave conflicting testimony about the chain and the evidence was allowed to be admitted. This is not just a weak link in the chain of custody. But a significant period of the handling of the evidence. The Appellant believes this issue are deserving of this Courts Attention and Appellant Counsel should be ordered to Brief this issue.

(Issue three)

Did the trial Court Abuse Its Discretion in determining that police could arrest Appellant with an unsigned (incomplete) warrant by using the affidavit of a Search Warrant as probable cause to conduct Appellant's warrantless Arrest and then Denying Defense Counsel's Motion To suppress Drug evidence Found in Appellant's Pocket during the Warrantless Arrest incident to the arrest.

(Issue three Argument)

Appellant was suspected of committing an armed Robbery of a Former employer at around 12:03 Am... Police knew where Appellant lived.. 13 hours later police came to Appellants Girlfriend home where he was staying and conducted the Warrantless arrest. (13 Hours was plenty enough time to get on Arrest warrant) (see Trial trans Page 202 lines 9-16) (see trial transcript page 192, lines. When Police came they had

had an Alleged affidavit with an unsigned warrant.
(Appellant was arrested at 1:15 pm. However, the actual arrest
warrant was not generated until 2:22 pm OR 2:27 pm
depending on which warrant you're looking at (see trial trans
page 187 lines 4-13) And concerning the search warrant the
search warrant return is time stamped at a time before
the search warrant was even issued (see trial trans pg,
191, lines 19-25) (Trial Transcript pg 190 lines 1-6) and trans
pg, 189 lines 23-25 * One of the major reasons Appellant
believes this issue is of significant public importance and
deserving of this court's attention and review is: Our state's
high court in State vs. Covert made clear that a warrant
that is executed before its been issued is not a warrant
insufficient to make the arrest warrant a legal document.
However, the very purpose of the signing of the warrant by
a magistrate is to have the probable cause determination
authorizing the arrest of an individual, be determined
by someone independent of police and prosecutor... which
is consistent with our United States Supreme Court's Ruling
in Shadwick vs. City of Tampa 407 U.S. 345, 92 S.Ct. 2119 which
held that probable cause for the issuance of an arrest
warrant must be determined by someone independent of
a prosecutor and police... However in Appellant case,
before this Honorable Court, The prosecutor and Trial Judge
are attempting to eliminate the protections of having the
probable cause determinations made by an independent
source independent of police and prosecutor by Ruling
that police can make a warrantless arrest. (even though they
have ample time to get an arrest warrant) by simply using
an affidavit from a search warrant.

had an Alleged Affidavit with an unsigned warrant.

Appellant was arrested at 1:15 pm. However, the actual arrest warrant was not generated until 2:22 pm or 2:27 pm depending on which warrant you're looking at (see trial trans - page 187 lines 4-13) And concerning the search warrant the search warrant return is time stamped at a time before the search warrant was even issued (see trial trans pg. 191, lines 19-25)

(Trial Transcript Pg 190 lines 1-6) and Trans Pg. 189 lines 23-25.

One of the major reasons Appellant believes this issue is of significant public importance and deserving of this Court's attention and review is: Our State's High Court in State vs Covert made clear that a warrant that is executed before its been issued is not a warrant, and that the affidavit attached to the warrant insufficient to make the arrest warrant a legal document..

However, the very purpose of the signing of the warrant by a magistrate is to have the probable cause determination authorizing the arrest of an individual, be determined by someone independent of police and prosecutor.. Which is consistent with our United States Supreme Court's ruling in Hadwick vs City of Tampa 407 U.S. 345, 92 S.Ct. 2119 which held that probable cause for the issuance of an arrest warrant must be determined by someone independent of a prosecutor and police... However, In Appellant case, before this honorable court, The prosecutor and Trial Judge are attempting to eliminate the protections of having the probable cause determinations made by an independent source independent of police and prosecutor by ruling that police can make a warrantless arrest, (even though they have ample time to get on arrest warrantless arrest,

Over Ruling and eliminating the reasoning and Protections of
• State vs. Covert and denying our citizens the
constitutional protection and Role of a neutral and
detached Magistrate. afforded us by our united States
supreme Court in Coolidge V. New Hampshire 403 U.S. 443,
71 S.Ct. 2022 And Affirmed in Shadwick vs. City of tamp
407 us. 345, which held that probable cause for the
issuance of an Arrest warrant must be determined by
someone independent of police and prosecutor,
by allowing Affidavits of search warrants which affidavits
are created by police, it would allow police to eliminate and
circumvent a Magistrate, who might refuse to issue an
arrest warrant, based off an affidavit attached to a
search warrant. Finding the information contained in the
search warrant affidavit, to be insufficient to Find probable
cause...

And for the record,
police had 13 hours to get an arrest warrant, there was
nothing stopping them from getting the arrest warrant, ~~the~~
~~192, lines 15-18~~ They did not do it so the drugs found on
Appellant in the search incident to arrest is unlawful
and the drugs found on Appellant are the fruit of the
poisoness tree (Trans 192, lines 15-18) and the drugs
were not going to be found any other way (Transcript pg
192, lines 19-20) Because, Police had Already conducted a
pat down search of Appellant and found nothing, and
Appellant would never have been searched again, but for
the fact, police arrested Appellant without a warrant,

to the trial judge's police found drugs. (see trial transcript pg. 188, lines 1-21)

Also, The trial Judge said in denying Appellant's Motion to suppress that Appellant had no ~~expectancy~~ ^{expectency} of privacy etc. because Appellant did not live at the house, (see Transcript pg 235, lines 12-17). But this is wrong because the Solicitor said Appellant live at the residence and the police had proof of it (see trans Page 196, lines 17-20) which clearly shows Judge Ruling on Appellant having no right of expectency of Privacy is clearly an error not based on the facts and evidence contained in the Record.

(conclusion)

Appellant would respectfully pray this Honorable Court Deny Appellant Counsel's Motion to be Relieved as counsel and that Appellate Counsel should be Ordered to Brief this Novel and issue of First Impression Regarding the Search incident to the unlawful arrest and the drugs being the fruit of the poisonous tree

July 21, 2024
Date

Respectfully Submitted

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(Pro se)

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