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Robert M. Dudek, Chief Appellate Defender
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July 9, 2024

The Honorable Jenny Kitchings
Clerk, South Carolina Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

Re: The State v. Emanuel Williams, IV
Appellate Case No. 2023-001804

Dear Ms. Kitchings:

Attached please find a *Pro Se* Brief of Appellant in the above referenced case that was received by my office on July 8, 2024.

Sincerely,

Wanda H. Carter
Deputy Chief Appellate Defender

WHC/sl

cc: Mark R. Farthing, Esquire

Date July 2, 2024

State of South Carolina
In the court of Appeals

Appeal From Charleston County
Honorable Perry H. Gravely, Circuit court Judge

The State — Respondent

V.

Emanuel Williams — Appellant

Appellate Case No. 2023-001804

Cerificate of mail service

I, Appellant, Emanuel Williams here by Certify that a true copy of Appellants Reply to Anders Brief has been place in U.S. postal mail postage on July 2, 2024 mailing it to Addressed as Follow

Wanda H Carter
PO BOX 11589
Columbia, SC 29211-1589 (1)

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. Gravely, who sentenced Petitioner to imprisonment for a Period of twenty-Five Years. Assistant solicitors NINA L. Savas and John Byon Mullen Prosecuted the case, and Attorneys Helen Roper Dovell and Claire Schulmeister represented appellant at trial...

Appellants 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.C.t. 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 Courts 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, 2022 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 deciet and or Machination amend the indictment to third Offense Trafficking, the State had two opportunites to accomplish the amending of the indictment before the Prosecutor to goin 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 declined because The Florida Simple Possession charge Prosecutor Wanted to use to amend was Well over 10 Years and in Floridea. 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 Familar 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

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'nt 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 Signicant Public importance and deserving of this Courts Attention and Review is: Our States High Court in State vs. Covert made clear that a warrant that is executed before it's 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 independant 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 independant 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 independant source independant 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 it 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 maior reasons Appellant believes this issue is of Signicant Public importance and deserving of this Courts Attention and Review is: Our States 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 independant of Police and Prosecutor... Which is Consistent With our United State's 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 independant 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 independant 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; 91 S.Ct. 2022 And Affirmed in Shadwick Vs. City of Tampa 407 US. 345, which held that probable cause for the issuance of on Arrest warrant must be determined by someone independent of police and prosecutor, by allowing Affidavits of search warrants which affidavit 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, [redacted] 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 poiseness 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,

so in that search police found drugs. (see trial transcript pg. 188, lines 1-21)

Also, The trial Judge said in denying Appellants Motion to suppress that Appellant had no 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 Counsels 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

Emanuel Williams

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(Pro se)