

Frederick Flowers #352185

Lee Correctional Inst.

990 Wisacky Hwy

Bishopville, S.C. 29010

Ref. Case NO. 2013

Clerk of Court

2/29/07

S.C. Appeals Court

P.O. Box 11629

Columbia, S.C. 29211

Inside file and clock stamp
Prose Anders Brief of Appellant on above
case.

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SEP 12 2013

SC Court of Appeals

State of South Carolina
in the Court of Appeals

Appeal from Charleston County
J.C. Buddy Nicholson, Jr. Circuit Court
Judge

The State

Respondent

v

Fredrick Flowers

Appellant

Appellant Case No. 2011-212907

Anders Prose Brief of Appellant

Benjamin John Tripp

Appellant Defender

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SC Court of Appeals

S.C. Commission on Indigent Defense

Division of appellate defense

P.O. Box 11589

Columbia, SC 29211-1589

Attorney for Appellant

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Table of Authorities

cases

State vs Williams, 223 S.E.2d 38

State vs Lyle, 125 S.C 406 (1923)

State vs Jones, 681 S.E.2d 580

State vs Morgan, 282 S.C 409, 319 S.E.2d 20
335 (1984)

State vs Pinckney, 339 S.C 346

Rule 401; 402 S.C.R.E

Biggers 409 U.S 188 (1992)

Const. Art 5 § 26

State vs McAdams, 166 S.E.2d 405

Statement of Issue on Appeal

- 1 Whether appellant was entitled to a directed Verdict
- 2 The United States Lack a Element of offense Identity
- 3 The allege murder indictment Lack Subject matter Jurisdiction

Statement of the Case

Appellant was indicted by the Charleston County grand jury on one count of murder and one count of possession of a firearm during the commission of a violent crime. On August 27, 2012 Appellant proceeded to trial before a jury and the Honorable J.C. Nicholson Jr, Mary A. Ford and Beattie I. Butler represented Appellant and D. Bruce Durant represented the State of South Carolina. Trial not effectively representation

Secondly the state proceeded to trial on a allege drug deal going bad case of victim a well know drug dealer not knowing whether or not victim was armed or not on 3-1-11, No one from the yard allegely in West Ashley could Truthfully say appellant was the shooter. (See State vs. Williams, 2013 S.E. 2d 38. All testimony is irrelevant to produce a fact that isn't in existance of allege crime already

Ground 1

- 1 Whether Appellant was entitled to a directed verdict

Supporting Facts 1

Upon the case has no identify and no physical evidence from Sled, South Carolina Law Enforcement Department to link appellant to crime nor crime scene.

Secondly, Sergeant Michael Niblack had earlier prepared a photographic line-up with Frederick L Flowers appellant the suspect After 5 seconds Kennedy Smith viewed the line-up and pointed out to number 5 (Frederick Flowers) and said (that person resembled the individual who shot his son) Kennedy read under compelled the admission ~~from~~^{form} and wrote Bottom following:

"This look the closest to the person who shot my son, neck and side of face complexion is what I saw. To appellant this was Kennedy coached I.D of the investigation not of his own recollection of what he remember allegely. A positive I.D wasn't within Kennedy statements until after Kennedy spoke to Authorities during interrogation and possible threats to punish Kennedy for not picking the photo of

fits the state's Theory.

I/o meaning sergeant Micheal Nblock then prepared a photographic lineup with Cornelius Jenkins the suspect. The file numbers as follows: (1) 0000807388 (Suspect); (2) 0001099678; (3) 0001190618; (4) 0001070470; (5) 0001182470; (6) 0001208972

I/o again read the CPD line up admonition from to Kennedy, which he indicated he understood. I/o then handed the line-up to Kennedy. Kennedy viewed the line up and was unable to make a positive identification. I/o had Kennedy completed the line up admonition ~~for~~ accordingly. I/o then transported Kennedy back to Charleston County Detention Center where he was housed accordingly. Under Lyle test there is no evidence, nor identity of appellant in this case. Pursuant to Rule 6 S.C.R. crimp must have physical evidence support testimony and comments. SLED did not do a thorough investigation upon allege crime scene, no leads what so ever, no

weapon, footprints, blood, saliva, no crime scene evidence other than a cell phone that was stolen and should not been allowed into evidence unless proven otherwise, blue cricket cell phone located inside vehicle which victim was shot. The description of the offense is painted incorrectly and the others involved in this case did not get investigated. The State of South Carolina establish the shooter accordingly to above argument nor was a positive Ballistic test nor GSR k^{ite} done on appellant^{now} or any one who was at crime scene when authorities get there ~~there~~ a crucial piece of missing evidence. No Physical evidence no case this is the only positive link the State could of tried and from reading Sled testingley isn't 100% State vs. Lyle, 125 S.C 406 (1993) Herewith the expert at trial did not produce the murderer Nor height weight, fingerprints DNA Nor identity Nor did coroner's report do the same State vs. Jones 681 S.E.2d 580

On A motion for a directed Verdict in a criminal case, the trial court is concerned with the existance or nonexistance of evidence

, not its weight. State vs Morgan, 282 S.C
409, 319 S.E.2d 335 (1984)

If the state presents any direct or substantial circumstantial evidence which reasonably tends to prove the guilt of the defendant or from which the defendants guilt may be fairly and logically deduced, the case must go to the jury. State vs Pinckney 339 S.C 346. Here the allege circumstances fell below proof of above and the state of South Carolina / Solicitors theory of case. The excited utterance standard of the victim allegy calling appellants frist name Fred or Freddie is inadmissable under Rule 401, 402 of SCRE. Inadmissable evidence and admissable evidence is still a waste of time, prejudicial than anything allegely not direct to Identifying only to confusion and misleads and fraud. (Here the Direct verdict should had been Eranted for the above argument, The Judge and Solicitor even to deny the direct verdict.

2 The United States lack a
element of offense Identify

Supporting facts

Allegely at hearing in this case, Appellant
trial counsel moved for a Neil v Bigger
hearing seeking to exclude Mr. Smith
photographic identification.

Appellant contends Neil v. Bigger doesn't
have nothing to do with the case at
hand Biggers 409 U.S 188 (1992). This wasn't
a mistaken identity, there was no positive
identity and I don't have a case on
this, but it violates the Law, shift Burden
of Proof, 5th Amend, U.S const. violation
due process of law and triggered the
false description doctrine whether ~~this~~ this
was intentionally to give a false description
or not. Kennedy the allege victim father
should be excluded as a eyewitness especially
when Kennedy moved marigatns around on a
scene to misguide and scheme the
police; This demonish Kennedy character

, untrustworthy person cannot testify if Rule of courts stated This then abolish Rule. The court system is subpoenaing their witnesses only and not defense witnesses

The Appellant further argues that Kennedy be reinvestigated, requested and go under a polygraph test To Appellant Kennedy version of case story was under duress pressure and not face of his own thought or decision.

The statement Kennedy wrote is evidence Kennedy has been coached in giving this anonymous positive I.D in and out of court (When a out of court I.D. is made inadmissible any in of court I.D's is inadmissible as well.) This also fall under 8th Amend violation of solicitor, Judge, and Trial lawyer for ~~not~~ no identity not mistaken identity or other of the above and once a full investigation is conducted then the statement itself will prove that Kennedy is not telling the truth on his afterwards discussion

with Charleston Police Authorities that was a totally different version from a side view of neck than a positive Identity. No Law at trial on Positive I.O. Nor the Topics in this argument. Before Kennedy gave an I.O. he told Detective Osborne his vision was blocked. Trip. 225, lines 1-25;

Allegedly nothing physical places appellant at the all celvie car door on passenger side - All exhibits should be Ruled as Fraud; Projectiles, DNA Swabs Blood spots All Ladoratory testing clears appellant and from observation Appellant noticed maybe the investigation and Ladoratory test ~~are~~ ^{are} not conducted right to get a right lead on the real suspect. The above argument could discredidate case and Authorities and witnesses Testimony

Ground 3

The Allege murder indictment Lack subject matter jurisdiction and the court

Supporting facts

An appellant may still challenge the subject matter jurisdiction of the trial court and such a claim is one that may be raised at anytime. See *Brown v. State*, 343 S.C. 342, 540 S.E.2d 846 (2001), overruled in part by *Gentry* 363 S.C. 93, 610 S.E.2d 494

Hereto under Article III a state court isn't mention within this article or language article III of the United States constitution only article I & II grounds defects in indictments here the murder indictment # 2011-GS-10-4314 lacks subject matter jurisdiction and the court - the time, place of Death, nor caliber of weapon on body of indictments in violation of § 17-19-20 or 30 and check the True Bill for rubber stamping.

Herewith whittle a firearm expert identification Lad # - 21102587 -

In addition whittle received a Thurus 380 caliber pistol, which is designed as Item number 2 with a couple of magazines of ammunition relative to this case. Mr. Whittle fired

the gun test fired.

The test fire prove the projectifiles shell casings from the test fired Taurus 380 compared with the shell casings and spent projectiles in states exhibits 39, 44, 45 and whittler, firearm experts concluded from those comparisons they were not fired by that pistol.

Whittler microscopically compared States 39 two spent shell casing to each other as well as to the test cartridge case from the pistol. They were not fired by the pistol so then I compared them to each other and determined that both cartridge cases were fired by same firearm. and in conforming with the allege weapon not being compared, match, no test positive results on indictment from SLED the Grand Jury findings and indictment is void in its entirety and no Jurisdiction of case, Indictment nor appellant Further testimony ~~several~~ several others approach the allege celica Trip 100' and Trip 83 witness was hesitant to demonstrate the allege shooting and what hand allege phone or gun was suppose to be in and to be more eager

to bring light that a two way conversion is
conductive within witnesses stories - I say appellant
was pulling a lick on Tiddy - other say appellant
did this for a reputation or Rep. see Trip 17
Herewith the statute § 16-03-10 murder isn't within
body or face of indictment. Also changing meaning
of statute. Herewith the possession of firearm during
commission of a violent crime is a sentencing
enhancement charge not a Poss of weapon charge
thus still double jeopardy to charge poss. charge
and murder. Pursuant witness testimony isn't evidence
only testimony - only physical evidence can prove
a case and the court rulings within case law.
Opinions, orders, etc. j are stating according
to evidence meaning testimony at time is evidence -
negative - The correct statement of law would be
according to the testimony.

If testimony match up or corroborate
Ballistic Report, Bloody hair, Samples, Fingerprints, etc. j
than this is what the state needs a proof
testimony to corroborate Physical evidence if not
then proof fails.

If testimony match up or corroborate Ballistile Report, Blood, Hair, Salivai, hair samples ~~and~~ Fingerprints, etc; then this is what the state needs as proof testimony to corroborate Physical evidence if not then proof fails.

The change is ~~and~~ ~~and~~ land or laws needs to be testimony without physical evidence cannot stand ~ testimony alone isn't correct Standard of a true guilty Finding - The physical evidence could contradict a witness testimony, time, place, alibi, etc; upon physical evidence must support testimony testimony - differs from physical evidence way different.

testimony is in a class by itself so is physical, evidence, Papers, Report, Examinations isn't Physical evidence, only Blood, footprints Salavai, fingerprints, is physical evidence.

Criminal law key (18) Corroboration of witnesses change that there should be no conviction on testimony of coconspirators

unless corroboration and that corroboration must come from evidence aside from testimony of other ~~coconspirators~~ ^{coconspirators}, held properly refused as change on facts, canst. Art § 26 - State v. McAdams, 166 S.E. 405

No weapon was found in case only testimony and accusations that were false The § 16-3-10 Murder Statute wasn't met in indictment that I must be Armed and using a weapon - here its said allegedly to be a gun - No comparisons - no groove comparisons of allege wounds testimony is testimony Not physical evidence nothing linked Appellant to allege murder weapons & scene.

Conclusion

Appellant Demands Reversal of conviction and sentence i vacate; and set aside all judgment in case and Immediately Release appellant from Prison for the Supremements.

State of South Carolina
in court of Appeals

Appeal From Charleston County
J.C. Buddy Nicholas Jr., Circuit
Court Judge

The State,
v.

Respondent

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Frederick Flowers.

SC Court of Appeals

Appellant

Appellate case No: 2012 - 212907

Designation of matter to be
included in Record on Appeal

Appellant proposes the following to be included
in Record on Appeal

- 1 True-Billed Indictments
- 2 Entire Trial Transcript
- 3 All Exhibits
- 4 Entire Case Record

Frederick Flowers

Affidavit in
Support of Prose
Anders Brief

Re: Indict # 12-212907

Upon and as around the appellate Defense Attorney ~~Stevens~~ B.R. Stevens told me that Appellant case had merit and said he was going to file a initial brief, then there after I wanted to file so on separate issues and Attorney B.R. Stevens got upset and said well then you just file a anders prose brief and I'll brief it issue. Attorney B.R. Stevens should had brought this to the Chief Justice of Appeal Court or his Boss Attention. Appellant request that the Initial brief be drafted and the brief be drafted and ~~admitted~~ ^{admitted} into Record for evidence and forward Appellant a copy and even Attorney of ~~the~~ conjudgmental decision.

State of South Carolina
In the Court of Appeals

Appeal from Charleston County
J.L. Buddy Nicholson, Jr.
Circuit Court Judge

The State respondent
vs

Frederick Flowers Appellant

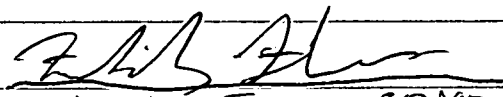
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Certificate of Service

SC Court of Appeals

The undersigned hereby certifies
A True Copy of Pro Se Anders Brief
has been served on S.C. Court of
Appeals, Clerk of Court, P.O. Box 11629,
Columbia, SC 29211 on this 5 day of
Sept. 2013.


Frederick Flowers *et al*

Subscribed and Sworn
to before me this 5th
day of Sept 2013

Muscha Michel
9-3-2013

Notary Public for South Carolina
my commission expires 9-3-2014