

ORIGINAL

STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of General Sessions
The Honorable Kristi Lea Harrington, Circuit Court Judge

SEP 27 2013

Appellate Case No: 2012-212564

THE STATE,

RESPONDENT,

v.

JEROD SWINTON,

APPELLANT.

SUPPLEMENTAL RECORD ON APPEAL

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1 MR. DURANT: I hope not.

2 THE COURT: All right. And are you waiting for

3 ---

4 MR. DURANT: On the law. I am.

5 THE COURT: All right. Do I need to limit you,

6 Ms. Runey?

7 MS. RUNEY: I don't think so. If I can go ahead
8 and move the podium.

9 THE COURT: You may.

10 All right. Let's bring in the jury.

11 (WHEREUPON, the jury entered the open court at
12 approximately 10:24 a.m.)

13 THE BAILIFF: All seated, Your Honor.

14 THE COURT: Thank you. Please be seated. Ladies
15 and gentlemen, we have now reached the stage of the trial
16 where you will hear closing arguments on behalf of counsel.
17 Just as I indicated to you what was contained in opening
18 statements is not to be considered evidence, neither is
19 what is contained in closing arguments.

20 Ms. Runey.

21 MS. RUNEY: Thank you, Your Honor.

22 **CLOSING STATEMENT**

23 **BY MS. RUNEY:**

24 Simon Simmons does not want to handle this in this
25 courtroom. He wants to take care of this on the street

1 because he knows that he has blamed his old friend for
2 something that he did not do. He owed Jerod Swinton money
3 for drugs and Mr. Swinton told you that. And blaming Jerod
4 was easy, an easy way to get him off the street.

5 Simon Simmons' story and Ms. Black-Simmons' story do
6 not add up. Simon told you that he had not seen Jerod in a
7 while, yet they had made a drug deal and he owed him money.
8 Jerod spent time with Simon all day that day. And if he
9 was so angry with him that day, why did he hang out with
10 him? And Jerod told you he left. He left when Simon
11 Simmons started using drugs because he knows how he acts
12 when he does that, apparently.

13 Simon Simmons never followed up with the police. He
14 never met with detectives from North Charleston to give
15 them anymore details of what happened that day. And I'm
16 not suggesting to you that Detective Kramitz should have
17 stayed over him at the hospital. The man had been shot and
18 he was recovering from that. But once Simon Simmons is
19 released from the hospital, he never follows up with the
20 police or the Solicitor's office until he's locked up in
21 the county jail.

22 He was in jail for child support and I didn't ask
23 about that or bring that up because I was trying to say
24 that the Solicitor's office would make a deal with him if
25 he testified, he'd work out some charges. He was in on

1 child support. He didn't have any other charges. I asked
2 that because it is important, but it's important for
3 another reason. It's important because Simon Simmons only
4 cooperated once the Solicitor's office found him at the
5 jail. You heard from him, he never attended a bond
6 hearing, a preliminary hearing and only discussed the case
7 once he was in jail. And that's because he had to finally
8 stick with the story that he told the police that day in
9 August. Otherwise, he was not going to cooperate and he
10 wasn't going to have to deal with correcting the lie that
11 he told.

12 And he told you, I'd just shoot him myself. He didn't
13 want to be here and he didn't want to testify. He didn't
14 expect that it would have to come to this. He didn't
15 expect to come to this courtroom for justice. If he didn't
16 cooperate, it wouldn't matter if he had lied. Simon
17 Simmons lives this kind of lifestyle and he understandably
18 suffers from mental health issues. And we are not here to
19 dispute that he got shot, and he certainly could have died.
20 He is a lucky man. I didn't cross-examine the surgeon. We
21 don't doubt what he did. He did a great job and he saved
22 this man's life. But Jerod Swinton is not to blame for
23 this.

24 I want to talk to you about how many stories Ms.
25 Veronica Black-Simmons has told you, or told over the

1 course of this case. She met with Detective Ware in her
2 apartment after the shooting. She'd given a brief
3 statement; and then Detective Ware wanted to get a more
4 detailed version of what had happened. And, of course,
5 she's upset. She's worried. She's in shock. Her husband
6 had just been shot and I don't doubt that she was a nervous
7 wreck. But this was when everything was fresh in her mind.
8 She told Detective Ware that Rob Black had come to their
9 house and she saw him for the first time about nine p.m.
10 that day. And she also, most importantly, told Detective
11 Ware that she did not see Rob Black when he came back
12 around midnight. But on the stand in this courtroom,
13 almost two years later, after she's discussed the case, she
14 tells you that Rob Black came in the apartment and went to
15 the bathroom. And she told you that he was wearing all
16 black. Don't you think that if the man who had shot your
17 husband had come into your house and you laid your eyes on
18 him, that you would have told the police that night? It's
19 also interesting that she told you about what all they had
20 done that day and how many times they had seen Jerod
21 Swinton, yet all of a sudden at the end of her testimony,
22 she says, oh, yeah, and he came into the apartment that
23 night and I saw him and I saw what he was wearing and he
24 was wearing all black. Again, she adds that he came into
25 the apartment. It definitely was a stressful time for her

1 and she's having to answer questions by the police about
2 her husband getting shot, but she didn't remember to tell
3 him that that man had come into her apartment.

4 Once Simon Simmons says that Jerod Swinton shot him,
5 that's all the police have to do. They don't have to do
6 anymore to investigate this case. You heard from Crime
7 Scene Detective Kelly Murphy and she searched the scene,
8 she photographed it, she took a DNA swab from the cement
9 where she found blood. That swab was never sent off for
10 testing. And she wrote a report and she was done. You
11 heard from detectives that responded to the scene and they
12 did their job there that night. They searched for
13 evidence, they talked to who they could, but that's all
14 they did. They didn't find anybody in any apartments, no
15 other witnesses, only what Simon Simmons tells them and
16 they're done; which results in Jerod Swinton sitting here
17 in this courtroom facing serious charges with no follow-up
18 investigation, no corroboration and no confirmation.

19 Detective Kramitz shows Simmons the picture of Jerod at the
20 hospital. And, of course, he identifies him. He knows
21 him. He's already called his name. He needs to get him
22 off the street. But one of the most important things in
23 this case is the video. And although it's very short, you
24 see somebody running away from the same area shortly after
25 the shooting. And both Simon and Veronica Simmons told you

1 that Rob Black was wearing all black, a black shirt, black
2 shorts and black shoes. And you saw this video in here,
3 and you can watch it again if you want to, the man in that
4 video did not have on a black shirt, black shorts and black
5 shoes. The man in this video clearly has on a shirt with a
6 large logo on it. Looks like flip-flops to me, that are
7 striped, and it is not all black. So I want you to pay
8 special attention to that video. You can't see facial
9 features, but the person in that video is not wearing all
10 black. This same video is the video that Detective Kramitz
11 told Jerod, we see you in that video; which wasn't true.
12 He went on the word of Simon Simmons that that was Jerod
13 and assumed that he was in the video, not from his review
14 of the video.

15 In this case it's certainly easy to think, why would
16 somebody blame another person for something they didn't do,
17 especially something as serious as this, especially over a
18 hundred dollar debt? This is the same guy that said if he
19 knew he was going to die, he wouldn't have called his
20 name. He'd just kill him himself. I don't know who shot
21 Simon Simmons. People who sell drugs easily make enemies.
22 And as I told you from the beginning, this is a lifestyle
23 that you may not agree with and you may not understand and
24 you may not agree with the choices that Jerod Swinton has
25 made in his life, but he sits here in this courtroom facing.

CERTIFICATE OF COUNSEL

Counsel for Respondent certifies that this Supplemental Record on Appeal contains all material proposed to be included by any of the parties and not any other material.



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