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SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from McCormick County

Honorable Debra R. McCaslin, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

CHAVIS LARANZO COX,

APPELLANT.

APPELLATE CASE NO. 2024-000955

ANDERS BRIEF OF APPELLANT

WANDA H. CARTER
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STATEMENT OF ISSUE ON APPEAL

The trial judge erred in commenting on the facts while charging the jury on the offense of taking hostages in the case.

STATEMENT OF THE CASE

Appellant Chavis Loranzo Cox was convicted of attempted escape and taking hostages during a jury trial held at the May 2024 term of the McCormick County General Sessions Court before Judge Debra R. McCaslin. Appellant was sentenced to imprisonment for a period of life without parole on the conviction of taking hostages, and fifteen years (consecutive to a prior sentence being served¹) on the attempted escape conviction.

Appellant appealed his convictions and sentences in the case. This brief follows.

¹ At the time of sentencing in the instant case, appellant had previously been sentenced to a forty-year prison term on murder and weapon convictions from the year 2010. R. 434, l.4-p.344, l.4; R. 376, lines 17-20.

STANDARD OF REVIEW

In reviewing an alleged error in jury instructions, an appellate court will not reverse the circuit court's decision absent an abuse of discretion. See Cole v. Raut, 378 S.C. 398, 404, 663 S.E.2d 30, 33 (2008) (applying an abuse of discretion standard of review to an alleged error in jury instructions). In reviewing jury charges for error, the appellate court must consider the circuit court's jury charge as a whole in light of the evidence and issues presented at trial. Welch v. Epstein, 342 S.C. 279, 311, 536 S.E.2d 408, 425 (Ct.App.2000). If the charges are reasonably free from error, isolated portions that might be misleading do not constitute reversible error. Keaton ex rel. Foster v. Greenville Hosp. Sys., 334 S.C. 488, 497, 514 S.E.2d 570, 575 (1999).

ARGUMENT

The trial judge erred in commenting on the facts while charging the jury on the offense of taking hostages in the case.

Corrections Officer Tawanna Harden testified that she was working as a corrections officer on the evening of December 27, 2022, at McCormick Correctional Institution, and had started rounding up inmates to enter their cells when three inmates came out of cell 144 and pushed her inside that cell. Immediately thereafter, they locked her inside cell 144. Officer Harden identified appellant as one of the inmates who was a participant in the incident. Ultimately, SLED and SWAT teams safely rescued Officer Hardin and restored order among the inmates inside the facility. Later, appellant was captured outside near the fences that surrounded the prison. R. 125, 1.6-p. 156, 1.24; R. 180, 1.20-p. 190, 1.17.

Appellant testified at trial and stated that he did not forcibly move Harden into cell 144, and added further that he was not present in that cell at the time the incident occurred. R. 375, 1.24-p. 388, 1.24.

During the jury charge, the trial judge gave the following instructions on the offense of taking of hostages.

In a separate indictment, the defendant is charged with violating a statute called taking hostages—I can't pronounce that word for some reason—hostages by an inmate. Actually, the title of that statute is somewhat misleading because the statute criminalizes more than just hostage-taking. The statute provides that it is unlawful for an inmate of a state, county, or city correctional facility, acting alone or in concert with others, to use threats, coercion, intimidation, or physical force to take, hold, decoy, or carry away any person as a hostage or any other reason whatsoever. So to prove that the defendant is guilty of this crime, the state must prove beyond a reasonable doubt the following things: First, that the defendant was an inmate in the state correctional facility.

Second, that he or someone with whom he was acting in concert as an accomplice used threats, coercion, intimidation, or physical force over another person. Third, that the purpose of using such threats and coercion, intimidation, or physical force was to take physical control over another person, to hold that person to decoy that person, or to carry that person away. This may have been to use that person as a hostage though the statute does not necessarily limit it to that purpose.

The term “hostage” is not defined in the South Carolina Statutes. The term has evolved over the centuries. In modern terms, it generally refers to a person who was seized by a criminal abduction in order to compel another party to act or refrain from acting in a particular way. Even though the statute does not necessarily limit it to making someone a hostage, the law requires that a criminal statute be given—be given a reasonable construction. So in order for a criminal act to take place, the law would require that the conduct be for an unlawful purpose. The language about the purpose being for any purpose whatsoever must be read as requiring an unlawful purpose. In other words, the state must prove that the taking, holding, decoying or carrying away of another person be done against that captured person’s will and with a criminal intent. It would require proof that the defendant, as an inmate, acting alone or in concert with another accomplice, acted knowingly and intentionally for an unlawful purpose to take physical control over another person, hold someone against his or her will, or decoy someone for that unlawful purpose. R. 445, 1.13-p. 447, 1.9.

Prior to the jury charge, defense counsel objected to the use of the word “criminalize” with respect to the jury charge on the definition of taking hostages. The trial judge did not sustain the objection. The colloquy in the matter follows:

The Court: Number one, I’m bringing them lunch so I won’t have to let them leave the courthouse. But I wanted to make sure...that I put on the record your email about the jury charges. I don’t believe the State had any objection—

Defense Counsel: Your Honor, in light of what we discussed, obviously, my second concern was simply—I simply sissed [indiscernible] the first page or two---

The Court: Right.

Defense Counsel: --of your jury instructions so that's, obviously, not an objection. That's covered. That was always part of your instructions. Honestly, I --just--I don't like the word "criminalize." I think it's maybe a little personal and I was looking for a synonym.

The Court: And it's hard to do it the way that we have it written because the statute is a criminal statute. You know? And I can't put "forbid," which is what you wanted--

Defense Counsel: I was trying to come up with a different word.

The Court: ---in place of it because it is a criminal statute.

Defense Counsel: Yes

The Court: And it's a little bit broader than taking a hostage, is what I was trying to state. I'm going to keep it as it is.

Defense Counsel: All right. Again, I--obviously, jury instructions, you know, things get--that's the easiest way to get things overturned, and so I'm just kind of preserving--again, preserving--

The Court: Right. Then I'm going to --hold on just a second.
(A discussion was held off the record.)

Defense Counsel: Oh, okay. That is a reasonable answer to my question.

The Court: Okay. Then, for the record, let me put this on it since you want to preserve it. "I object to the word 'criminalize' in the instruction for taking hostages charge. I ask that a different word such as 'forbids' or 'prescribes' be used in the alternate." I don't know that "forbid" and "prescribes" is a synonym for a criminal statute in the way that the jury charge is written is, I'm stating, in a separate indictment, the defendant is charged with violating a statute called taking hostages by an inmate. Actually, the title of that statute is somewhat misleading because the statute criminalizes more than just hostage taking. The statute provides that it is unlawful for an inmate of a state, county, or city correctional facility, acting alone or in concert with others, to use threats, coercion, intimidation, or physical force to take, hold, decoy, or carry away any person as a hostage or for any other reason whatsoever.

What I'm stating is that the statute's title is a little bit broader, not that it forbids. It's just broader. And then I go down and lay out the elements, the first, the second, and the third elements in order to convict on hostage taking. I don't know how else to say that. It's a criminal statute. I do not believe that "forbid" is a word that needs to be used, nor do I believe that "prescribes" is a word that needs to be used. Let me hear from the state.

Solicitor: You Honor, we defer completely to the Court on this issue.

The Court: Okay. All right. So I'm going to go forward with it. Your objection is so noted. I think it just says what the statute is. R. p. 403, 1.4-p. 405, 1.22.

Note that during deliberations, the jury sent out a note/question regarding the definition of taking hostages. The jury note and the re-charge both follow:

The Court: Got a note from the jury: Definition of the statute of taking a hostage in prison. R. 453, lines 4-6.

I'm going to read you the law again on that. Just that. In a separate indictment, the defendant is charged with violating a statute called taking hostages—I can't pronounce that word for some reason—hostages by an inmate. Actually, the title of that statute is somewhat misleading because the statute criminalizes more than just hostage-taking. The statute provides that it is unlawful for an inmate of a state, county, or city correctional facility, acting alone or in concert with others, to use threats, coercion, intimidation, or physical force to take, hold, decoy, or carry away any person as a hostage or any other reason whatsoever. So to prove that the defendant is guilty of this crime, the state must prove beyond a reasonable doubt the following things: First, that the defendant was an inmate in the state correctional facility. Second, that he or someone with whom he was acting in concert as an accomplice used threats, coercion, intimidation, or physical force over another person. Third, that the purpose of using such threats and coercion, intimidation, or physical force was to take physical control over another person, to hold that person to decoy that person, or to carry that person away. This may have been to use that person as a hostage though the statute does not necessarily limit it to that purpose.

The term "hostage" is not defined in the South Carolina Statutes. The term has evolved over the centuries. In modern terms, it

generally refers to a person who I seized by a criminal abduction in order to compel another party to act or refrain from acting in a particular way. Even though the statute does not necessarily limit it to making someone a hostage, the law requires that a criminal statute be given—be given a reasonable construction.

So in order for a criminal act to take place, the law would require that the conduct be for an unlawful purpose. The language about the purpose being for any purpose whatsoever must be read as requiring an unlawful purpose. In other words, the state must prove that the taking, holding, decoying or carrying away of another person be done against that captured person's will and with a criminal intent. It would require proof that the defendant, as an inmate, acting alone or in concert with another accomplice, acted knowingly and intentionally for an unlawful purpose to take physical control over another person, hold someone against his or her will, or decoy someone for that unlawful purpose. R. 453, 1.7-p. 455, 1.2.

S.C. Code Ann. §24-13-450 reads as follows:

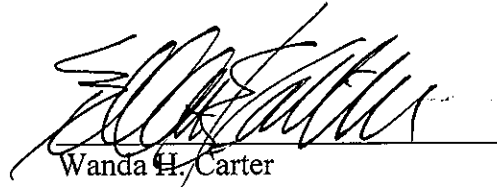
An inmate of a state correctional facility, a local detention facility, or a private entity that contracts with a state, county, or city to provide care and custody of inmates, including persons in safekeeper status, acting alone or in concert with others, who by threats, coercion, intimidation, or physical force takes, holds, decoys, or carries away any person as a hostage or for any other reason is guilty of a felony.

The trial judge's insistence on prefacing the jury charge on the offense of taking hostages with the instruction that the statute "criminalizes" hostage taking was a comment on the facts in violation of South Carolina State Constitution Article V, § 21, which requires judges to declare the law and refrain from charging juries regarding matters of fact. In other words, the judge's charge in question was a decision and foregone conclusion that appellant committed the crime of taking hostages without allowing the jury to deliberate on the same. See, State v. Dickey, 380 S.C. 384, 669 S.E.2d 917 (2008), where the Court held that a charge that states a legal conclusion by the judge is improper, and that a trial judge should refrain from any comment that would tend to indicate to the jury his opinion on the credibility of witnesses, or the weight of the

evidence, or the guilt of the accused. Here, the trial judge erred in commenting on the facts when charging the jury on the offense of taking hostages in the case.

CONCLUSION

Based on the foregoing argument, counsel for appellant would request that this Court reverse appellant's conviction on taking hostages and remand the case to the lower court for a new proceeding on that same offense.



Wanda H. Carter
Deputy Chief Appellate Defender

ATTORNEY FOR APPELLANT

This 3rd day of February, 2025.

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PETITION TO BE RELIEVED AS COUNSEL

Counsel for Chavis Laranzo Cox states that:

1. She is Deputy Chief Appellate Defender for the South Carolina Office of Appellate Defense and was appointed to represent appellant.
2. She has reviewed the record of appellant's trial before Judge Debra R. McCaslin, which was held on May 28-30, 2024, and, in her opinion, the appeal is without legal merit sufficient to warrant a new trial.
3. She has, pursuant to Anders v. California, 386 U.S. 738, 87 S.Ct. 1396 (1967), briefed an arguable legal issue which arose during the course of the trial.

WHEREFORE, she asks the Court to relieve her as counsel for Chavis Laranzo Cox.

Respectfully Submitted,



Wanda H. Carter

Deputy Chief Appellate Defender

ATTORNEY FOR APPELLANT

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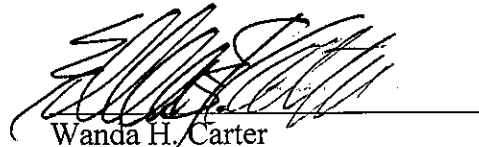
APPELLATE CASE NO. 2024-000955

**DESIGNATION OF MATTER TO BE
INCLUDED IN RECORD ON APPEAL**

Appellant proposes the following be included in the Record on Appeal:

- (1) Entire Trial Transcript
- (2) Indictments

I certify that this designation contains no matter which is irrelevant to this appeal.



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Deputy Chief Appellate Defender

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ATTORNEY FOR APPELLANT

This 3rd day of February, 2025.

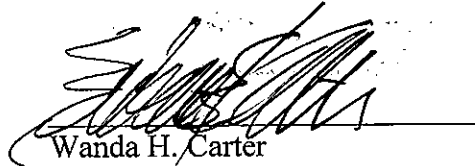
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CERTIFICATE OF COUNSEL

SC Court of Appeals

The undersigned certifies that to the best of my ability this Anders Brief of Appellant complies with Rule 211(b), SCACR, and the April 15, 2014, order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."



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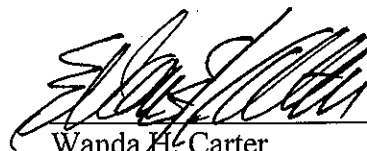
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APPELLATE CASE NO. 2024-000955

CERTIFICATE OF SERVICE

Pursuant to Rule 262(a)(3) and Rule 262(c)(3), SCACR, the undersigned hereby certifies a true copy of the Anders Brief of Appellant and Designation of Matter in the above-referenced case has been served upon Mark Farthing, Esquire, at the primary e-mail address listed in the Attorney Information System (AIS); and on Chavis Laranzo Cox, #327335, at Perry Correctional Institution, 430 Oaklawn Road, Pelzer, SC 29669, this 3rd day of February, 2025.



Wanda H. Carter
Deputy Chief Appellate Defender

ATTORNEY FOR APPELLANT