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SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Bamberg County

Honorable Courtney Clyburn-Pope, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

DEAN TROY STEVENS,

APPELLANT.

APPELLATE CASE NO. 2024-000648

INITIAL BRIEF OF APPELLANT

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STATEMENT OF ISSUE ON APPEAL

Did the trial judge err in refusing to suppress statements made to law enforcement agents when the statements were rendered involuntary by one of the agent's coercive tactic of promising leniency?

STATEMENT OF THE CASE

In November of 2021, the Bamberg County Grand Jury indicted Appellant, Dean Troy Stevens, Jr., for murder and possession of a weapon during the commission of a violent crime, indictments #2021-GS-05000182, 183. On April 8, 2024, Appellant proceeded to jury trial before the Honorable Courtney Clyburn-Pope. Grant Smaldone represented Appellant at trial. David W. Miller and Tyler Sanderlin prosecuted the case. The jury returned verdicts of guilty. Judge Clyburn-Pope sentenced Appellant to forty (40) years for murder and five (5) years concurrent for the weapon charge. A timely notice of intent to appeal was served on April 17, 2024. This appeal follows.

STANDARD OF REVIEW

“Going forward, we [the appellate court] will review the trial court's factual findings regarding voluntariness for any evidentiary support. However, the ultimate legal conclusion—whether, based on those facts, a statement was voluntarily made—is a question of law subject to de novo review.” State v. Miller, 441 S.C. 106, 119, 893 S.E.2d 306, 313 (2023)

ARGUMENT

The trial judge erred in refusing to suppress statements made to law enforcement agents when the statements were rendered involuntary by one of the agent's coercive tactic of promising leniency.

The jury found Appellant guilty in the shooting death of Jeremy Craddock. The State's evidence at trial was based predominantly on statements Appellant made to law enforcement. The agent from the South Carolina Law Enforcement Division [SLED] testified that he talked with approximately twenty people who were believed to be connected to or have information about the death. (Tr. p. 102, lines 4-19). The only witnesses called by the State at trial, however, were law enforcement officers, the individual who discovered the body, and the original owner of the gun linked to the death of Craddock. The State did not call any witnesses who placed Appellant with the deceased at the time of his death.

Facts

On August 18, 2020, a body was found in a burned car on a dirt road in Bamberg County. (Tr. p. 69, line 9 – p. 70, lines 1-25). The body was identified as Jeremy Craddock. (Tr. p. 99, lines 13-19). Craddock died as a result of a gunshot wound to the chest. (Tr. p. 99, lines 4-12). A projectile/fired bullet jacket, admitted as State's Exhibit #10, and parts of a gun - a slide, a barrel and a magazine admitted as State's Exhibit #11- were found inside the car. (Tr. p. 91, line 21 -p. 92, lines 1-24). A 380 shell casing, admitted as State's Exhibit #7, was found outside the car. (Tr. p. 92, lines 2-8). Appellant led law enforcement to Lake Warren in Hampton County where the slide of a Glock 42, admitted as State's Exhibit #12, was recovered. (Tr. pp. 128-130; p. 140, lines 9-14). The gun had been given to Appellant's girlfriend as a graduation gift from her father, a Beaufort County Sheriff's Deputy. (Tr. pp. 132-133). A firearms examiner from SLED pieced together a "Frankenstein" pistol with the recovered slide from the lake and

opined that the shell casing found outside the car, State's Exhibit #7, was fired by the gun associated with the recovered slide, State's Exhibit #12. (Tr. pp. 141-145; p. 151, lines 3-6).

Appellant was first interviewed by Investigator Matt Davis with the Barnwell County Sheriff's Office on September 16, 2020. (Tr. p. 6, line 13 – p. 7, lines 1-2). Appellant was in the Barnwell County Detention Center on unrelated charges. (Tr. p. 6, line 25 – p. 7, line 1). According to the investigator, he interviewed Appellant because a confidential source contacted him about a Bamberg County investigation, presumably the death of Craddock. (Tr. p. 6, lines 21-24). On September 18, 2020, Appellant was interviewed by both Investigator Davis and Agent Jeff Croft with SLED. (Tr. p. 13, lines 1-5).

Argument

Prior to trial the judge held a Jackson v. Denno hearing. (Tr. pp. 5-19). Both Investigator Davis and Agent Croft testified that Appellant was *Mirandized*. (Tr. p. 7, lines 15-21; p. 13, line 6 – p. 14, lines 1-10). A *Miranda* form was admitted in evidence as State's Exhibit #1. (Tr. p. 14, lines 4-10; R. p. ** *Miranda* form). Appellant moved to suppress the statements made during the interview. (Tr. p. 20, line 14 – p. 21, lines 1-24). Appellant argued, "Specifically, because of a promise made to the Defendant, which was I promise I'll walk every step of the way with you." (Tr. p. 20, lines 20-22). The judge denied the motion to suppress. (Tr. p. 98, lines 3-16). The trial judge erred in refusing to suppress the statements. Under the totality of the circumstances, the "promise to walk every step of the way with you" in addition to other statements and actions made by Agent Croft resulted in a coercive promise of leniency rendering the statements involuntary.

The *Miranda* form was admitted in evidence in front of the jury as State's Exhibit #13. (Tr. p. 104, lines 9-15; R. p. ** *Miranda* form). The interview with Agent Croft and Investigator

Davis was admitted, over objection, as State's Exhibit #6. (Tr. p. 106, lines 18-25). The interview was played for the jury. (Tr. p. 107, lines 15-16). After the interview was played for the jury, the agent testified about interview techniques and building rapport. (Tr. p. 108, line 25-p. 109, 110, lines 1-25). The agent testified about the three versions of events provided by Appellant during the interview. (Tr. p. 110, line 11 – p. 111, p. 112, lines 1-20). The prosecutor asked the agent about a hypothetical he used during the interview and Appellant's response. "And in that hypothetical, you explain that you think he went to go beat up the victim and things went south. And you ask him how close am I. What was his response?" (Tr. p. 112, lines 12-14). The agent testified that Appellant answered, "Pretty close." (Tr. p. 112, line 15).

During cross examination the agent confirmed that Appellant wanted to beat up the deceased because of an allegation that the deceased sexually assaulted Stacy Hudson, who Appellant may have dated at one time. (Tr. p. 117, line 14 – p. 118 – 120, lines 1-10). The agent also confirmed that on the night of the death both the deceased and Appellant had a gun. (Tr. p. 120, lines 11-25). During re-direct examination the agent testified that in the second version of events Appellant denied knowing about the sexual assault and told the agent that someone named Shawn sent him to beat up the deceased. (Tr. p. 122, lines 2-20).

At the start of the interview Agent Croft introduced himself to Appellant and stated that he knew they had met before. (State's Exhibit #6). Appellant reminded the agent that they used to go to church together. The waiver of rights is recorded on the video. Approximately twenty-seven minutes into the interview Agent Croft told Appellant he believed Appellant went to whip the guy's ass, no doubt about it, what he did was wrong, but believed things went sideways. (State's Exhibit #6, 26:48). The agent said he thought the deceased had a gun and had information that Appellant had a gun and things just went a little too far. (State's Exhibit #6,

27:06). Agent Croft told Appellant that the good lord brought him through a lot and there are a lot of people out there who care about him including the agent. (State's Exhibit #6, 27:37). The agent told Appellant he thought things got out of hand. (State's Exhibit #6, 27:51). He told Appellant it is up to him to get things squared away, off his chest, let's deal with it, make things right and move forward. (State's Exhibit #6, 28:07).

At this point the agent told Appellant he couldn't make any promises about what was going to happen but what he could do was promise to walk every step of the way with Appellant. (State's Exhibit #6, 28:23). Agent Croft also told Appellant he could stand before whoever is involved and say, listen, this guy raped this girl who this man cares about. We all know that is awful, probably one of the worst things you can do to somebody. He completely violated her. Emotions ran high. Things went sideways and got out of hand. How close am I? (State's Exhibit #6, 28:33 – 29:22). Appellant told the agent he was close. (State's Exhibit #6, 29:23). The agent then reached out and held Appellant's hand while telling Appellant to just shoot straight with him, assuring Appellant that he respected him. (State's Exhibit #6, 29:30). The agent talked about consequences and making a mistake and told Appellant they will deal with this together. (State's Exhibit #6, 29:43).

Appellant made incriminating statements after the agent promised to walk every step of the way with him and stand before whoever was involved in the case and tell them the deceased raped a friend of Appellant. Appellant told the agent he confronted the deceased about the rape, the deceased admitted to the rape and acted like it was a joke, Appellant hit the deceased, the deceased reached for a gun and Appellant shot him. (State's Exhibit #6, 30:00). Appellant told the agent his gun was a 380. (State's Exhibit #6, 31:30). Appellant offered to show the agent where the gun was located. (State's Exhibit #6, 36:15; 55:51).

The agent's promise to walk every step of the way with Appellant and stand before whoever was involved in the case and tell them the deceased raped a friend of Appellant constituted a promise of leniency. The reasonable inference is that the agent was promising a reduced charge because the shooting was mitigated. The agent's coercive tactic of promising leniency rendered Appellant's statements involuntary.

"A confession is not admissible unless it was voluntarily made." State v. Myers, 359 S.C. 40, 47, 596 S.E.2d 488, 492 (2004). "Coercive police activity is a necessary predicate to finding a statement is not voluntary. Colorado v. Connelly, 479 U.S. 157, 107 S.Ct. 515, 93 L.Ed.2d 473 (1986); Linnen, 278 S.C. 175, 293 S.E.2d 851. Coercion is determined from the perspective of the suspect. Illinois v. Perkins, 496 U.S. 292, 110 S.Ct. 2394, 110 L.Ed.2d 243 (1990)." State v. Miller, 375 S.C. 370, 386, 652 S.E.2d 444, 452 (Ct. App. 2007). The statements in the present case were the result of coercive police activity and inadmissible as involuntary.

In State v. Collins, 442 S.C. 444, 455–56, 900 S.E.2d 426, 432 (2024), the South Carolina Supreme Court wrote:

"The trial judge's determination of the voluntariness of a statement must be made on the basis of the totality of the circumstances, including the background, experience, and conduct of the accused." State v. Saltz, 346 S.C. 114, 136, 551 S.E.2d 240, 252 (2001); see also State v. Moses, 390 S.C. 502, 513, 702 S.E.2d 395, 401 (Ct. App. 2010) ("In South Carolina, the test for determining whether a defendant's confession was given freely, knowingly, and voluntarily focuses upon whether the defendant's will was overborne by the totality of the circumstances surrounding the confession.").

"If a suspect's will is overborne and his capacity for self-determination critically impaired, use of the resulting confession offends due process." Saltz, 346 S.C. at 136, 551 S.E.2d at 252 (citing Schneekloth v. Bustamonte, 412 U.S. 218, 225, 93 S.Ct. 2041, 36 L.Ed.2d 854 (1973)). "Ultimately, the determination will depend 'upon a weighing of the circumstances of pressure against the power of resistance of the person confessing.'" Miller, 441 S.C. at 120, 893 S.E.2d at 314 (quoting Dickerson, 530 U.S. at 434, 120 S.Ct. 2326). We have noted that "[c]ourts may consider the impact of a number of factors" in assessing voluntariness, such as the accused's youth and maturity, lack of education, or low intelligence; the failure to

advise the accused of his constitutional rights; the presence of a written waiver of rights; the physical condition and mental health of the accused; the circumstances of the interrogation, including its length, repeated nature, location, and continuity; the use of physical punishment; whether law enforcement offered specific promises of leniency (as opposed to general comments that cooperation would be beneficial); and whether law enforcement made intentional misrepresentations of the evidence against the accused. See id. at 120–21, 893 S.E.2d at 314 (enumerating a nonexclusive list of factors).


Viewing the totality of the circumstances surrounding the interrogation, Appellant’s statements were not made voluntarily. The agent’s promises of leniency were coercive and rendered the statements inadmissible. “If a defendant was advised of his *Miranda* rights, but chose to make a statement anyway, the ‘burden is on the State to prove *by a preponderance of the evidence* that his rights were voluntarily waived.’ ” State v. Childs, 299 S.C. 471, 475, 385 S.E.2d 839, 842 (1989) (quoting State v. Washington, 296 S.C. 54, 55, 370 S.E.2d 611, 612 (1988)). “The State bears this burden of proof even [when] a defendant has signed a waiver of rights form.” Id. While Appellant was advised of his *Miranda* rights, the State failed to prove that Appellant made the statements voluntarily. Appellant made the statements about the shooting after the agent stated that he would walk every step of the way with Appellant and let those involved know that there were mitigating circumstances surrounding the shooting, implying a promise of leniency.

In State v. Rochester, 301 S.C. 196, 200, 391 S.E.2d 244, 246–47 (1990), the South Carolina Supreme Court wrote, “Further, the confession may not be “extracted by any sort of threats or violence, [or] obtained by any direct or implied promises, however slight, [or] by the exertion of improper influence.” Hutto v. Ross, 429 U.S. 28, 30, 97 S.Ct. 202, 203, 50 L.Ed.2d 194, 197 (1976) (brackets in original). A statement induced by a promise of leniency is involuntary only if so connected with the inducement as to be a consequence of the promise. State v. Peake, 291 S.C. 138, 352 S.E.2d 487 (1987).”

The agent in this case directly promised to walk every step of the way with Appellant and stand before whoever was involved in the case and tell them the deceased raped a friend of Appellant. The coercive promises by the agent implied leniency in the form of a reduced charge because the shooting was mitigated. The statements were not made voluntarily and should not have been admitted.

CONCLUSION

Based on the above argument, this Court should reverse the convictions and remand for a new trial.


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ATTORNEY FOR APPELLANT

This 12th day of March, 2025.