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May 27 2025
SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Florence County

Honorable Michael G. Nettles, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

TYQUAN JAMAR JOHNSON,

APPELLANT

APPELLATE CASE NO. 2024-000112

FINAL BRIEF OF APPELLANT

WANDA H. CARTER
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ATTORNEY FOR APPELLANT

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STATEMENT OF ISSUE ON APPEAL

The trial judge erred in allowing appellant's confession into evidence at trial because it was given involuntarily as appellant was coerced into an admission of guilt due to improper police tactics used during the custodial interrogation that followed a search of his residence.

STATEMENT OF THE CASE

Appellant Tyquan Johnson was convicted of trafficking in methamphetamine and possession of a weapon during the commission of violent crime during a jury trial held at the January 2024 term of the Florence County General Sessions Court before Judge Michael G. Nettles. Appellant was represented at trial by Ralph Wilson, Esquire, and Assistant Solicitors John Jepertinger and David Richardson prosecuted the case. Judge Nettles sentenced appellant to imprisonment for an aggregate period of twenty-five years.

Appellant appealed. This brief follows.

STANDARD OF REVIEW

On appeal, the conclusion of the trial judge on issues of fact as to the voluntariness of a confession will not be disturbed unless so manifestly erroneous as to show an abuse of discretion." State v. Rochester, 301 S.C. 196, 391 S.E.2d 244 (1990); See also, State v. Reed, 332 S.C. 35, 503 S.E.2d 747 (1998). The reviewing court will reverse a trial judge's ruling on the voluntariness of the confession when the ruling is so erroneous as to constitute an abuse of discretion. State v. Myers, 339 S.C. 40, 596 S.E.2d 488. (2004). In criminal cases, appellate courts are bound by the fact finding in response to preliminary motions where there has been conflicting testimony or where the findings are supported by the evidence and not clearly wrong or controlled by an error of law. State v. Asbury, 328 S.C. 187, 493 S.E.2d 349 (1997).

ARGUMENT

The trial judge erred in allowing appellant's confession into evidence at trial because it was given involuntarily as appellant was coerced into an admission of guilt due to improper police tactics used during the custodial interrogation that followed a search of his residence.

On May 4, 2022, six police officers participated in the execution of a search warrant at appellant's residence. The officers used flashbangs to secure the area and apprehended appellant and two other men (Lorenzo Johnson and Harvey Allen) who were located outside the residence. The officers detained appellant, Johnson, Allen, and also appellant's wife, mother, son, and younger brother, all of whom were present at the residence prior to the execution of the search warrant. Two guns were found on the ground outside the residence and methamphetamine pills were found in a trash can near the residence. R. 102, l.12 – p. 106, l.12; R. 115, lines 7-16; R. 121, l.8 - p.124, l.3; R. 152, l.18 - p.153, l.19; R. 225, l.19 - p. 232, l.14. During the custodial interrogation of appellant at the scene, police officers announced to everyone that all persons could be charged if no one claimed ownership of the drugs. Immediately thereafter, appellant confessed and claimed ownership of the drugs. R. 213, lines 6-14.

Prior to trial, an in-camera Jackson v. Denno[1] hearing was held in the case. Officer Hewin Buxton testified that after Miranda warnings were administered, the detainees[2] were told that if no one admitted to ownership of the drugs, then the entire group of people at the scene (including appellant's wife, mother, son, and younger brother) could be charged and/or arrested. Appellant's confession followed. R. 58, l.12 - p. 61, l.13. Officer Kendrick Spears testified during the in camera hearing and confirmed that all persons at the scene were threatened with possible arrests unless someone claimed ownership of the drugs. R. 65, l.1 - p. 66, l.21.

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[1] 378 U.S. 368 (1964).

[2] Appellant, Lorenzo Johnson, and Harvey Allen.

At the conclusion of the in-camera hearing, defense counsel objected to the admission of appellant's confession into evidence because it was involuntarily given as he was coerced into declaring possession of the drugs in order to protect his family members from prosecution. R. 67, l.16 - p. 68, l.8. The trial judge ruled that no coercion existed in connection with appellant's confession given in the case. R. 68, l.11 - p. 69, l.11.

At trial, Officer Buxton testified that appellant gave a confession wherein he stated that "everything's mine," which included the two guns and methamphetamine pills. R. 165, lines 12-19. Officer Buxton admitted, however, that appellant's confession came after the threat that if no one claimed ownership of the gun and drugs, then "everyone could be charged." R. 169, lines 13-169. Additionally, Officer Spears testified at trial and verified that all persons at the scene were told that "if nobody admitted to these drugs [then] everybody's going to jail," and that appellant confessed thereafter. R. 213, l.6-p. 214, l.21.

Appellant testified at trial and explained that neither the guns nor the drugs found at the scene belonged to him, and that he claimed possession of the same because police threatened to arrest his family members (mother, wife, son and younger brother) who were detained at the scene if no one else confessed. Appellant stated that he did own or place the drugs into the nearby trash can, but was forced into issuing an admission nonetheless. R. 283, l. 21-p. 301, l.20.

Appellant's confession was clearly coerced and thus involuntarily given. Certain interrogation techniques, either in isolation or as applied, are so offensive to a civilized system of justice that they must be condemned under the Due Process Clause of the Fourteenth Amendment and rendered involuntarily given. See State v. Miller, 441, S.C. 106, 893 S.E.2d 306 (2023), citing to Dickerson v. United States, 530 U.S. 428 (2000). See also, Miller v. Fenton, 474 U.S. 104 (1985). A defendant is deprived of due process if his conviction is founded upon the

submission of an involuntary confession given to police. State v. Parker, 381 S.C. 68, 671 S.E.2d 619 (2008). In analyzing whether a defendant's will was overborne and the resulting confession offended due process, courts must consider the totality of the circumstances (including details of the interrogation and the defendant's characteristics), and a weighing of the circumstances of pressure against the power of resistance of the confessor. State v. Miller, supra; Dickerson, supra; Schneckloth v. Bustamonte, 412 U.S. 218 (1973). See also Withrow v. Williams, 502 U.S. 680 (1993). The totality of the circumstances analysis with respect to whether a statement was involuntarily given not only includes an assessment of police coercion, (see Colorado v. Connelly, 429 U.S. 157 (1986)), but also a review of 1.) the length of the interrogation; 2.) its location; 3.) its continuity; 4.) the defendant's maturity; 5.) education, 6.) physical condition, and 7.) mental health. State v. Parker, 381 S.C. 68, 671, S.E.2d 619 (2008). Although a statement may be held involuntarily given if induced by threats of violence, or if obtained by any direct or implied promises, or if obtained by the exertion of improper influence; nevertheless, the controlling question is whether the defendant's will was overborne. State v. Parker, supra, citing to State v. Van Dohlen, 322 S.C. 234, 471 S.E.2d 689 (1996) and State v. Register, 323 S.C. 471, 476 S.E.2d 153 (1996).

Note the case of Sate v. Collins, 435 S.C. 31, 864 S.E.2d 914 (2022), where the Court reversed upon a finding that the defendant's confession was deemed involuntarily given due to coercive tactics used by the police. The Collins Court reiterated the rule that coercive police activity is a necessary predicate to a finding that a statement was not given voluntarily, and that a statement is deemed involuntarily given if a suspect's will is overborne and his capacity for self-determination critically impaired.

In Collins, the police officers told the defendant that his answers to questions "ain't gonna leave this room" and that his answers would be placed in a file, which in turn resulted in statements that were induced by deception via assurances and misrepresentations that indicated to the defendant that his words would not be used against him. Additionally, the police officers in Collins told the defendant that he would die in prison if he did not cooperate. Confessions that are obtained through physical and/or psychological pressures cannot stand. State v. Collins, supra. Compare State v. Peake, 291 S.C. 138, 352 S.E.2d 487 (1987), where the statement given was so connected to the inducement of leniency during questioning that it was deemed involuntarily given.

In the case at bar, appellant's will was overborne obviously by the exertion of improper police influence in the form of the threat to arrest appellant's family members if he did not confess to possession or ownership of the drugs found at the scene. This specific police tactic used in the case at bar was coercive in nature and rendered appellant's confession that followed involuntarily given in the case. It is improper to use threats against a defendant to gain a confession, but even more inappropriate to elicit a confession as a result of threats made against a defendant's mother, wife, son, and brother in a case. During the interrogation in the case at bar, appellant's will to resist admitting to guilt no longer existed as an option. The police conduct in this case was beyond coercive. Compare Miller v. Fenton, 474 U.S. 104 (1985).

A defendant is deprived of due process if his conviction is founded upon an involuntary confession. State v. Pittman, 373 S.C. 527, 647 S.E.2d 527 (2007). The trial judge erred in allowing appellant's confession into evidence at trial.

CONCLUSION

Based on the foregoing argument, appellant's convictions and sentences should be reversed and his case remanded to the lower court for a new trial.

Lara M Caudy for:
Wanda H. Carter
Deputy Chief Appellate Defender

ATTORNEY FOR APPELLANT

This 27th day of May, 2025.

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CERTIFICATE OF COUNSEL

The undersigned certifies that to the best of my ability this Final 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."

May 27, 2025.

Lara M Caudy for:

Wanda H. Carter
Deputy Chief Appellate Defender

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APPELLATE CASE NO. 2024-000112

CERTIFICATE OF SERVICE

Pursuant to Rule 262(a)(3) and Rule 262(c)(3), SCACR, the undersigned hereby certifies a true copy of the Final Brief of Appellant in the above-referenced case has been served upon Brian H. Gibbs, Esquire, at the primary e-mail address listed in the Attorney Information System (AIS), this 27th day of May, 2025.

Lara M Caudy for:

Wanda H. Carter
Deputy Chief Appellate Defender

ATTORNEY FOR APPELLANT

Leverett, Scott

From: Leverett, Scott
Sent: Tuesday, May 27, 2025 11:32 AM
To: Brian Gibbs
Cc: Grace Sommer; Carter, Wanda
Subject: 2024-000112 - State v. Tyquan Johnson - Final Brief of Appellant
Attachments: 2024-000112 - State v. Tyquan Johnson - Final Brief of Appellant.pdf

Dear Mr. Gibbs,

Attached please find a copy of the Final Brief of Appellant that is being filed today with the Court of Appeals.

-Scott Leverett
Admin. Asst. for Wanda Carter
Appellate Defense