

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Spartanburg County
Roger L Couch, Circuit Court Judge

THE STATE,

Respondent,

v.

ANDREW BRENT SCOTT, #192735

Appellant.

Appellant Case No. 2012-212554

Additional Arguments Pursuant to the Anders Brief
of Appellant

ANDREW BRENT SCOTT, #192735
Prose Appellant
L.C.I. Wando 71
P. O. Box 205
Ridgeville, S.C. 29472

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TABLE OF AUTHORITIES

- A.) Niel v. Biggers, 409 U.S. 188 (1972)
- B.) State v. Traylor, 360 S.C. 74, 600 S.E.^{2d} 523 (2004)
- C.) Manson v. Brathwaite, 97 S.Ct. 2243 (1977)
- D.) Simmons v. U.S., 93 S.Ct. 375 (1968)
- E.) State v. Liverman, 727 S.E.^{2d} 422 (2012)
- F.) State v. McLeod, 260 S.C. 445, 196 S.E.^{2d} 645 (1973)
- G.) State v. Stewart, 275 S.C. 477, 272 S.E.^{2d} 628 (1980)
- H.) Stovall v. Denno, 87 S.Ct. 388, 293.18 L.Ed.^{2d} (1967)

STATEMENT OF ISSUE ON APPEAL

Whether the Trial Court erred in permitting and allowing an in-court identification, and a photographic line-up to be admitted into evidence when the witness (victim) identification had been suggested, and therefore corrupted by her being told by a police officer and a co-worker, prior to viewing the photographic line-up, that they suspected the Appellant to be the perpetrator.

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STATEMENT OF THE CASE

On November 24, 2010, Appellant was indicted in Spartanburg County for armed robbery, first degree assault and battery, kidnapping, and carrying a concealed weapon during the commission of a crime. On April 24-26, 2012, Appellant was tried before the Honorable Roger L. Couch and a jury. Appellant was represented by Attorney Beverly Jones. Zach Ellis represented the State. The jury convicted the Appellant on all counts. Judge Couch sentenced Appellant to thirty (30) years imprisonment on the kidnapping and armed robbery charges and ten (10) years imprisonment on the assault and battery charge to run concurrently. Judge Couch sentenced Appellant to five (5) years imprisonment on the weapons charge to run consecutive to the other sentences. On May 02, 2012, Appellant filed and served his Notice of Appeal. This Appeal follows.

ARGUMENT

From in depth research, it is clearly valid and authenticated that the Trial Court erred in allowing and permitting an in-court identification of the Appellant, and allowing and permitting a photographic line-up to be admitted into evidence, when the witness (victim) identification procedure had been corrupted and suggestive, by the witness (victim) being told by the police and a co-worker, prior to viewing the photographic line-up that they (police and co-worker), that they suspected the Appellant as the perpetrator.

DISCUSSION

The Appellant argues that it is true and authenticated, that the suggestiveness of the photographic line-up and the in-court identification, rendered by the witness (victim), should not have been allowed by the Trial Court, because, it not only prejudiced the jury towards the defendant, but it also violated the Appellant's Due Process. The witness (victim), during her time at the Police Station, was suggested by the arresting officer, that the Appellant could be the perpetrator. Also, during that same interview, the witness was approached and allowed to talk with her co-worker, in the presence of the arresting officer, about a conversation that both of them had, two (2) weeks before the robbery, about hearing the Appellant was going to rob the store. All of these conversations were held between the witness, arresting officer, and the co-worker at the Police Station before any investigations were done, and before an arrest was made. By these actions being taken, the Appellant argues that the photographic line-up and the in-court identification should have been suppressed and rendered inadmissible. The Appellant also argues and believes that the Appellant was deprived of his Due Process of Law by an identification procedure arranged by the police, which is unnecessarily suggestive and conducive to irreparable mistaken identification.

CONCLUSION

The Appellant concludes that, in weigh of the laws and statutes of the United States Judiciary system, it is clearly found that the Appellant's Due Process was violated, and therefore rendered trial prejudicial before a jury. In light of the procedural laws of the United States, all identification procedures pertaining to the Appellant's case should not have been permitted and allowed. The photographic line-up was tainted by a circle being placed around the Appellant's picture, which was not an authentic Police Department Line-up (No date, Time, Nor Police Department Inscription). The affidavit was done the day before the alleged robbery was to have taken place. Also, the name as the subject on the affidavit, was not the Appellant's. The Appellant argues that for the above stated reasons, Appellant's convictions should be reversed and he (Appellant) should be given a new trial.

With Warmest regards,

s/ Andrew Brent Scott

ANDREW BRENT SCOTT, #192735

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STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

CERTIFICATE OF SERVICE

I, ANDREW B. SCOTT do hereby Certify that I have Served the additional arguments pursuant to the Anders Brief. By placing a copy of the same in the U.S. postage mail pre-paid to the address as follows:

South Carolina Court of Appeals
Jenny Abbott Kitchens, "Clerk"
P.O. Box 11629
Columbia, S.C. 29211

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Honorable: Jenny Abbott Kitchens
S.C. Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

Dear Ms. Kitchens,

I would like a clocked in copy for my files...

With warmest regards,

151 Andrew B. Scott

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