STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from York County
Court of General Sessions
Hon.R.Keith Kelly, Presiding

LONDELL LASHUN ALSTON,.....**APPELLANT, pro-se**

-Vs-

STATE OF SOUTH CAROLINA,.....**RESPONDENT,**

Appellate Case No. 2025-000197

APPELLANT'S PRO-SE ANDERS BRIEF

ON APPEAL

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STATEMENT OF ISSUES ON APPEAL

ISSUE (I).

The Trial Court erred in denying Appellant's motion to suppress the evidence due to the Officer's abandonment of the mission of the traffic stop failing to complete the mission that was the justification for the encounter. The Fourth Amendment does not tolerate the complete abandonment of the mission of the traffic stop.

ISSUE (II).

The Trial Court erred in allowing Appellant's statements into evidence because said statements were inadmissible as involuntary in response to the use of coercive police tactics and communications regarding promises of leniency that occurred during the custodial interrogation held in the case.

ISSUE (III).

Appellant wholly Objects to Appellate Counsel's petition to relieved as Appellate Counsel.

Statement of the Case

Relevant Facts

On Friday July 14, 2023, at approximately 12:32 am, Officers Rhoads and Herring of the Rock Hill Police Department were conducting patrol operations in the area of Cherry Road and Heckle Blvd. While in the area of Cherry and Heckle, the Officers observed a white Dodge Magnaum (S.C. Tag #5005PG) operating on the roadway. The vehicles South Carolina license plate and decal had been expired since January of 2023. Officer Rhoads initiated the traffic stop on the vehicle, which yielded at McConnells Highway and heckle Blvd, within the city limits of Rock Hill, York, South Carolina.

Upon initial contact, Officer Rhoads informed Alston (hereafter "Appellant"), the reason for the stop and requested Appellant's license and registration along with proof of insurance. Appellant gave his South Carolina issued license to Officer Rhoads. Appellant began searching around in the vehicle's glove compartment for the registration and while doing so, Appellant picked up a handgun that was located inside the glove compartment. Officer Rhoads ordered Appellant to place the firearm down. Due to Officer safety concerns, Officer Rhoads gave Appellant commands to exit the vehicle.

Once out of the vehicle, Officer Rhoads asked Appellant did he have any weapons on him, and Appellant stated: "No". Officer Rhoads then asked: "could he check?" Appellant stated: "you can check me". Officer Rhoads then proceeded to ask a coercive question in an attempt to try and broaden the search. Rhoads asked Appellant could he search him, and Appellant once again stated: "You can check me", thus clearly limiting the full search request to a protective search for weapons.

Upon conducting the protective search, Rhoads felt an item that was not incriminating in nature, nor immediately apparent or recognized as contraband to apply the "plain feel" doctrine. Due to the marijuana located on Appellant's person at the time he exited the vehicle, Officer Rhoads performed a probable cause search of the vehicle, which also led to the discovery of the contraband within the vehicle that "Appellant does not own, nor was the vehicle registered to Appellant."(emphasis added).

> **A.** Motion to Suppress evidence due to Fourth Amendment violations by way of Officer's failure to address the traffic violation that warranted the encounter and therefore unreasonable search and seizure.

Appellant moved to suppress the evidence seized from the vehicle he was operating, thus contending Officer Rhoads violated Appellant's Fourth Amendment rights by abandoning the traffic stop mission to investigate Appellant as being Federally prohibited from possessing a firearm without reasonable suspicion of criminal activity. United States v. Teasley, 2023 WL 2599019 (3:22-CR-00083-FDW-DCK).

In South Carolina, A Law Enforcement Officer has the discretion to issue either, a written warning [or] a citation for the traffic offense, not unsurp the stop itself. In the case at bar, S.C. Code §56-3-840(Delinquent license and registration penalties) is a misdemeanor. Generally violations of [§56-3-840] requir[es] the Officer to issue a citation. A traffic citation, or uniform Traffic Ticket was no doubt required under the circumstances due to Appellant operating an improperly equipped vehicle on a South Carolina Highway.

Standard of Review

The Fourth Amendment of the United States Constitution guards the "right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures." For that reason an officers actions during a stop are subject to directive in [Terry v. Ohio] that they be "reasonably related in scope to the basis for the stop." A routine traffic stop becomes an unreasonable seizure and therefore unconstitutional under the protections of the Fourth Amendment, "...that when law enforcement impermissibly exceeds the stop's scope and duration." United States v. Hill, 849 F.3d 195, 200 (4th Cir.2017).

Coercive police activity is a necessary predicate to finding that a confession is not "voluntary" within the meaning of the Due Process Clause. A statement may not be "extracted by any sort of threats, or obtained by any direct or implied promises, however slight, or obtained by the exertion of improper influence."

Discussion

A. The Officer abandoned the mission of the traffic stop, thus exceeding the scope and duration to investigating matters wholly unrelated to the stop, and never concluding the mission addressing the traffic infraction of §56-3-840, which violated Appellants Fourth Amendment rights.

Appellant contends that the trial court erred in denying Appellant's motion to suppress evidence due to Officer Rhoads violating Appellant's Fourth Amendment rights by way of illegal search and seizure tactics, due to the traffic stop mission abandonment making the seizure unlawful and the search a fishing

expedition prohibited by the Fourth Amendment.

Appellant further contends that the initial traffic stop was clearly unlawful due to Officer Rhoads abandoning the mission of the stop in order to investigate unrelated matters as was exceeding the scope and duration of the routine stop violation of S.C. Code of Laws §56-3-840.

Law Enforcement purposes for making a traffic stop of a moving vehicle on a public highway are: (1) to verify that a violation of the traffic laws has occurred or is occurring and (2) to provide for issuance of an appropriate traffic ticket or a citation charging such a traffic violation or make an arrest of the driver based upon such a violation.

Officer Rhoads did not in anyway investigate or complete the traffic stop mission or addressing the traffic Law violation of South Carolina Code of Laws §56-3-840, the justification of the stop which violates section §56-3-110(vehicles required to be registered and licensed.). See State v. Fraiser, 437 S.C. 625, 879 S.E.2d 762 (2022)(quoting Justice Hall in Fraiser who wrote "a warning ticket for legal justification").(emphasiss original and added).

Section §56-3-2520 states: It is a misdemeanor for any person to violate any of the provisions of this chapter. S.C. Code Ann. §56-3-840(delinquent licenses on registration penalties" fall under this provision as well. (emphasis added).

Both Federal and State courts agree that it typically coincides with the issuance of a citation or warning for the traffic violation and the return of the driver's identification and other documents. Collecting cases See United States v. Meikle, 407 F.3d 670, 673 (4th Cir.2005); United States v.

Latimore, 87 F.3d 647, 653 (4th Cir.1996); United States v. Wilson, 413 F.3d 382, 386-87 (3rd Cir.2005); United States v. White, 81 F.3d 775, 778 (8th Cir.1996). All of these courts agreed and believed that these actions got "all the reasons for the stop out of the way." In cases at the margin, a court shall be required to determine when the task related to the traffic information were (or should have been) complet[ed].

It is well settled that because an automobile stop is considered a seizure of a person, it "must be justified by probable cause or a reasonable suspicion based on a specific and articulable facts, of unlawful conduct." United States v. Wilson, 205 F.3d 720, 722-23 (4th Cir.2000).

In State v. Williams, 351 S.C. 591, 571 S.E.2d 703, the probable cause to believe the driver committed a traffic violation was that the vehicles license tag was suspended for lack of insurance. Officer Blajszczak issued a citation for the tag violation. Id (emphasis added).

In State v. Hewins, 409 S.C. 93, 760 S.E.2d 814, Officer Cothran completed a written warning for the probable cause to seize the automobile which was an improper turn as well as issuing Hewins a ticket for an open container. Id. (emphasis added).

In the instant matter, Officer Rhoads probable cause to seize the automobile Appellant operating based upon his belief that the vehicle Appellant was operating was not in compliance with section §56-3-110. Rhoads testified for the State at Appellant's trial as "not issuing a ticket for an expired tag." ROA.105, l.9-11; ROA p.106, l.3-7.

As stated in South Carolina Laws Act 69 House Bill (H.3916,

12-37-2615 Code of Laws of South Carolina, 1976 relating to penalties for failure to register a motor vehicle, so as to provide that a person who fails to register a motor vehicle [is] guilty of a misdemeanor, and upon conviction must be fined not more than five thousand dollars or imprisoned for a period not to exceed thirty days or both. (emphasis original and added).

In the instant matter Appellant's position is "this is fruit of the poisonous tree" because due to Officer Rhoads abandoning the mission of the traffic stop by never issuing a written warning, citation nor an arrest warrant obtained charging Appellant for the traffic violation of §56-3-840, thus the initial probable cause that allegedly warranted the encounter. Appellant asserts that Rhoads impermissibly extended the traffic stop mission, when he interrupted his traffic related investigation to contact dispatch about Appellant being federally prohibited from possessing a firearm. In U.S. v. Teasley, 2023 WL 2599019, the Officer violated the Fourth Amendment rights of Teasley when the officers actions to investigate a potential fire-arm related crime went beyond a mere "detour" from the traffic mission, for in fact, almost from the onset, Officer Smith abandoned the purpose of the traffic stop. That complete abandonment of the purpose of the mission of the traffic stop is not tolerated by the Fourth Amendment. (emphasis original).

In U.S. v. Roderiquez-Diaz, 161 F.Supp.2d 627 (D.Md.2001), a police officer ignored the front passenger's seat belt violation, which was the purpose of the traffic stop and conducted an investigation into the lawfulness of the Defendant's possession and operation of a vehicle. The officer exceeded the permissible

scope and duration of the stop and thus the officer unreasonably prolonged the defendants detention and failed to employ least intrusive means to conclude the traffic stop in violation of the defendant Fourth Amendment right to be free from unreasonable seizure.

In the case at bar Officer Rhoads violated Appellant's Fourth Amendment rights of an automobile driver when Rhoads extended a valid stop of a vehicle "[far beyond]" the period required or justified for the issuance of a citation for a traffic offense in violation of §56-3-840, thus abandoning the citation process in order to investigate a potential firearms crime, when there was "[n]o behavior supporting reasonable belief that criminal activity was afoot.

To summarize, a traffic stop must be reasonable [both] in it's scope and duration. Florida v. Royer, 460 U.S. at 500, 103 S.Ct. 1319. The scope of a police officer's actions during a traffic stop still is relevant to the reasonableness analysis under the Fourth Amendment. See U.S. v. Mason, 628 F.3d at 132. This is because, during a stop, a police officer must act reasonably, that is, he must diligently pursue the investigation of the justification for the stop, usually a traffic infraction to avoid running afoul of the duration component of Terry v. Ohio's second prong. Sharpe 470 U.S. at 686, 105 S.Ct. 1568. Like other reasonableness determinations, the diligence determination examines the totality of the circumstances. U.S. v. Everett, 601 F.3d at 494.

The "[t]emporary detention of individuals during a stop of an automobile by police, even if only for a brief period and for a limited purpose, constitutes "a seizure" of "persons" within the meaning of the Fourth Amendment. Whren, 517 U.S. at 809-10, and

such a traffic stop is "more analogous to a so-called Terry Stop.... than to a formal arrest. Roderiquez v. U.S., 575 U.S. 348, 354 (2015)(quoting Knowles v. Iowa, 525 U.S. 113, 117 (1998). Thus, "the tolerable duration of police inquiries in the traffic-stop context is determined by the seizures "mission" -- to address the traffic stop violation that warranted the stop, which simply did not happen in the instant matter. Officer Rhoads never addressed the mission of the stop nor did he issue any type of written warning, citation or ticket, and therefore one should easily conclude Officer Rhoads abandoned the "mission" and did not address the traffic stop violation. Id (emphasis supplied and added).

Surely this Honorable Court must find that Officer Rhoads fail[ed] to diligently pursue the purpose of the stop and embarked upon a self driven sustained course of investigation into the presence of a firearm crime that constituted the bulk of the encounter between Officer Rhoads and Appellant.

B. Appellant's statements were inadmissible as involuntarily given in response to the use of coercive police tactics and communications from police regarding promise of leniency.

Counsel for Appellant objected to the admissibility of Appellant's statements given to Officer Sean Leary because the same were involuntarily given in the case, ROA p.24, l.15-17. An in-camera hearing was conducted and following was recorded:

> (1). Appellant was told by police that he faced 120 years on the pending charge. ROA p.30, l.14-17;

(2). Appellant was told the probability of being release to return home was "50/50", ROA p.30, l.25; p.31, l.6.;

(3). Appellant was told that federal charges (from DEA) were also possible in this case, ROA p.30, l.9-17;

(4). Appellant was asked to surrender access to his cell phone to police and that refusing to do so meant Appellant might forfeit favorable assistance from police if they had to get a search warrant. ROA p.31, l.21; p.33, l.6.;

(5). Appellant was repeatedly accused of lying to police. ROA p.30, l.9-10

(6). Appellant was in effect offered favorable results [if] he cooperated, ROA p.34, l.16; p.35, l.15;

Officer Leary admitted that he used the word "cooperation" when encouraging Appellant to incriminate himself. ROA p.172, l.14-20. Also Officer Leary stated that they would not stop the questioning (approximately 75 minutes) in effect until they (Officers) received the "answers they already knew". ROA 208, l.1-6; ROA p.238, l.9-10.

The trial judge's determination of the voluntariness of statement must be made on the basis of the totality of the circumstances. State v. Childs, 299 S.C. 471, 385 S.E.2d 839 (1989). Moreover, if a suspect's will is overborne by coercive police tactics and his capacity for self-determination is impaired, then the confession would be found involuntarily given. State v. Miller, 375 S.C. 370, 652 S.E.2d 444 (2007), citing Colorado v. Connelly, 479 U.S. 157 (1986). See also State v. Saltz, 346 S.C. 114, 551 S.E.2d 240 (2001). Additionally, a statement that is induced by a promise of leniency is involuntary 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

trial judge erred in admitting Appellant's involuntarily given statements into evidence during trial.

This would be a case of first impression in this state where a law enforcement officer definitively abandoned the purpose of the traffic stop itself and instead the Officer launched a wholly unrelated investigation into unrelated territory and separate possible criminal activity. Importantly, Our Fourth Circuit Court of Appeals has stated that "possessing probable cause that a driver has committed a traffic infraction does not give an officer free reign to keep the vehicle and it's passengers on the side of the road while the officer investigates any hunch he may have. United States v. Guijon-Ortiz, 660 F.3d 757, 770 (4th Cir.2011).

Indeed the Fourth Amendment has a clear purpose of protecting citizens from unreasonable intrusions, such as, "traffic stops are not hypothetically imaginings. Rather, they are real world interferences with Constitutional liberty, permissible only when they are constitutionally reasonable. While Terry entitled Officer Rhoads to place his hands on Appellant's jacket and to feel the slight lump in the pocket, his continued exploration of the pocket after he concluded that it contained "[n]o weapon was unrelated to the sole justification for the search under Terry, infra.

Because this further search was "constitutionally invalid." The seizure of the marijuana that followed is likewise unconstitutional because Officer Rhoads overstepped the bounds of the "strictly circumscribed" search for weapons allowed under Terry v. Ohio, supra. See Arizona v. Hicks, 480 U.S. 321, 107 S.Ct. 1149 (1987).

Appellant's statements were induced by implied promises of leniency and threats of 120-years in prison and that the DEA would pick up the case. Appellant contends that under the totality of the circumstances Appellant's will was overborne and his statement was not voluntarily given. Colorado v. Connelly, 479 U.S. 157, 107 S.Ct. 515 (1996); State v. Collins, 453 S.C. 31, 864 S.E.2d 914 (2021).

Due to the indictments being stamped "True Bill" and not being presented to the County Grand Jury will be voided on appeal. State v. Hann, 196 S.C. 211, 12 S.E.2d 720 (1940). Appellant's motion to suppress evidence should have been granted.

Conclusion

Based on the aforegoing, Appellant respectfully prays that this Court will agree that Appellant's motion to suppress the evidence should have been granted based on Fourth Amendment violations of Appellant's rights and that the case be reversed and remanded back to trial court for a new trial with instructions to suppress the tainted evidence or in the alternative that this Court will affix the relief deemed just and appropriate under the facts and circumstances of this case.

ISSUE (III).

Appellant wholly objects to Appellate Counsel's petition and request to relieved as Appellate Counsel.

Facts

In the instant matter Appellant was appointed Wanda H. Carter (hereafter "Carter") of the South Carolina Office of Indigent Defense.

Carter raised one (1) issue and presented it in a "no merit Anders Brief" and then simultaneously submitted a petition to be relieved as counsel. See page 7 of Carter's Anders Brief. Appellant wholly objects to Carter's petition and request to be relieved as appellate counsel. Appellant received Carter's Anders brief in September 2025. Appellant called Carter via institutional telephone inquiring as to why Carter did not raise the properly preserved issue of the "motion to suppress evidence from the unlawful traffic stop", which instead Carter chose to brief the issue of suppressing Appellant's statements rather than the meritorious suppression of the evidence.

It should be noted that the suppression of the statements came after the issue of suppression of the evidence. Carter stated November 5,. 2025 that the Court will have the exhibits and her brief from the transcript. However, Carter's issue did not come in the proper order of the trial. Dakota Rhoads was the very first witness and this is supported by the audio. Carter informed Appellant that she neither request the footage or audio to diligently investigate and research the issue of the appeal, but a transportation order of both exhibits are for the Court of Appeals to examine.

The United States Supreme Court has found that the Due Process Clause of the Fourteenth Amendment protects the right to direct appeal. Due Process requires that a right to appeal be a right to an "adequate and effective appeal", which is "more than a meaningless ritual." Evitts v. Lucy, 469 U.S. at 393, 105 S.Ct. at 834 (quoting Griffin v. Illinois, 351 U.S. 12, 18, 76 S.Ct. 585, 590 (1956); also see Douglas v. California, 372 U.S. 353, 358, 83 S.Ct. 814 (1963).

Due Process further protects not only the right to obtain a favorable decision, but also the right to obtain a decision at all ... on the merits of the case." See Evitts v. Lucey, 469 U.S. at 395 n.6, 105 S.Ct. at 835 n.6.

The right to a direct appeal also encompasses the right to the effective assistance of appellate counsel as a matter of right. The right to a direct appeal is governed by the Due Process Clause of the fourteenth Amendment of the United States Constitution. Appellant enjoys the right to the assistance of appellate counsel on the direct appeal. Appellant wholly objects to Carter being relieved as appellate counsel and would suggest that this Court to direct Carter to redraft the brief and include the issue of the "suppression of evidence as a result of the unlawful stop.