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SC Court of Appeals

DEFENSE STATEMENT AND STATEMENT OF DEFENSE

Defendant: Jason Fetzer

Case No.: 20240610553754

Date of Incident: July 8, 2024

Location: CVS, 900 Assembly St, Columbia, SC 29201

DEFENSE STATEMENT REGARDING ALLEGED SHOPLIFTING

I, Jason Fetzer, respectfully submit this statement concerning the allegation that I shoplifted merchandise from CVS at 900 Assembly St, Columbia, South Carolina 29201, on July 8, 2024.

I maintain that I did not enter the store with the intent to steal, conceal merchandise, or permanently deprive CVS of payment. I entered the store intending to make a legitimate purchase, and I attempted to obtain and pay for three beverages.

1. Intent to Purchase

My purpose in obtaining the three beverages was to purchase them. I was prepared and willing to provide payment. I did not enter CVS intending to steal merchandise.

My position is that the circumstances changed only after store management and/or store clerks refused to permit me to complete my purchase and directed me to leave the store.

I maintain that available surveillance footage should demonstrate the sequence of events, including my conduct inside the store, my attempt to make a purchase, the conduct of the employees, and what occurred before I left.

2. Homelessness, Dehydration, and Need for the Beverages

At the time of this incident, I was experiencing significant hardship because I was homeless and had nowhere stable to go. I was also dehydrated and in need of beverages.

This was an important reason why I was attempting to obtain the three beverages from CVS. I was attempting to obtain beverages that I intended to purchase because I needed them, and I was willing to pay for them.

After I was refused the opportunity to complete the purchase and was directed to leave, I was left without the beverages I had attempted to purchase and without a stable place to go.

I respectfully ask that these circumstances be considered as context concerning my intent and conduct.

3. I Was Not Disorderly

I dispute the characterization that I was "disorderly."

Before being denied the opportunity to complete my purchase and being directed to leave, I was calm and peaceful. I was not intentionally creating a disturbance, threatening employees, fighting, damaging property, or attempting to disrupt the store.

If the store relied upon alleged "disorderly" conduct as the justification for banning me from the premises, I respectfully request that the specific conduct allegedly constituting disorderly behavior be identified and supported by objective evidence.

4. Placement of the Beverages in My Bag

I acknowledge that the beverages were ultimately placed inside my bag after I understood that I was being refused the opportunity to complete the transaction and was being told to leave.

However, I dispute that this establishes an intent to steal.

I had selected the merchandise for the purpose of purchasing it and was willing to pay for it. The circumstances surrounding the placement of the items in my bag should be considered together with everything that occurred beforehand rather than viewing that single act in isolation.

Surveillance footage would be particularly important because it could show my conduct before, during, and after the alleged incident.

5. I Explained My Position to the Officers at the Scene

I also explained my position and the circumstances to the officers who responded to the incident.

I explained that I was attempting to purchase the beverages, that I had intended to pay for them, and that I had been refused the opportunity to complete the transaction.

I respectfully contend that the officers had an opportunity to investigate this explanation further rather than simply accepting the allegation that I had intended to shoplift.

One possible way to resolve the factual dispute would have been for officers, if authorized and appropriate under their procedures, to arrange a civil standby or other neutral arrangement that would have allowed me to return with an officer, provide payment for the beverages, and demonstrate that my actual intention was to purchase the merchandise.

Had such an arrangement been permitted, it potentially could have provided objective evidence concerning my intent and could have resolved the dispute without relying solely upon conflicting statements about what occurred.

I respectfully recognize that officers may have been subject to departmental procedures and legal limitations concerning whether they could conduct such a standby. Nevertheless, I believe this was a reasonable avenue that could have been considered after I explained that I was willing to pay for the merchandise.

The fact that I continued to maintain that I wanted to pay for the beverages is consistent with my defense that I did not enter the store with an intent to steal.

6. Mistaken Identification and Characterization

I am concerned that store employees or management may have formed an inaccurate impression of me based upon mistaken identification, prior encounters, or information that was inaccurate or unrelated to the actual conduct occurring on this occasion.

I respectfully request that the court distinguish between evidence concerning what actually happened inside CVS on July 8, 2024, and assumptions about my character or reputation.

I should not be presumed guilty of shoplifting because an employee may have had a preconceived opinion about me. Nor should unrelated allegations, prior arrests, or mistaken characterizations be used as a substitute for proof of the specific offense charged.

7. Failure to Present the Alleged CVS Witnesses

I further contend that the employees or store clerks whose actions and statements were central to the allegation should have been available for examination and testimony concerning what actually occurred, subject to the applicable rules of evidence and criminal procedure.

I requested an opportunity to have the relevant CVS employee or employees provide testimony so that the circumstances surrounding the alleged shoplifting could be examined in court.

The absence of the alleged eyewitnesses limited my ability to directly question them concerning:

- whether I attempted to make a purchase;
- whether payment was refused;
- what instructions management gave me;
- whether I was actually disorderly;
- whether I threatened or disturbed anyone;
- why I was ordered to leave;
- what the employees observed regarding the merchandise; and
- whether their characterization of the incident was accurate.

8. Objective Evidence and Surveillance

I respectfully request consideration of any available surveillance footage, point-of-sale records, incident reports, employee statements, photographs, and other objective evidence.

Surveillance footage could potentially establish the actual sequence of events without relying solely upon conflicting characterizations.

If the footage demonstrates that I attempted to purchase the beverages and that the transaction was prevented by store personnel before I left, that evidence would be directly relevant to my defense.

9. Harm and Vulnerability Resulting From the Incident

I contend that the manner in which the incident was handled caused me substantial hardship.

I was homeless, dehydrated, had nowhere stable to go, and was attempting to obtain beverages that I intended to purchase. I was then refused the opportunity to complete the purchase and directed away from the store.

I felt that I was being treated as though I had committed an offense when I had attempted to make a legitimate purchase. The resulting circumstances caused significant distress and placed me in an especially vulnerable situation.

10. Summary of My Defense

I respectfully maintain that:

1. I entered CVS intending to make a purchase.
2. I selected the three beverages intending to pay for them.
3. I attempted to complete a legitimate transaction.
4. Store personnel refused or prevented completion of the transaction.
5. I was directed to leave.
6. I dispute that I was disorderly.
7. I dispute that I possessed an intent to permanently deprive CVS of its merchandise.
8. The circumstances surrounding the placement of the beverages in my bag should be considered in their full context.
9. I was homeless and dehydrated and was seeking beverages because I needed them.
10. I explained my position to the responding officers at the scene.
11. I maintained that I was willing to pay for the merchandise.
12. A civil standby or other neutral arrangement could potentially have allowed the dispute to be tested by permitting me to return and make payment, subject to police and store policies.
13. Surveillance footage and other objective evidence should be reviewed.
14. The testimony of the employees who allegedly witnessed the incident should be considered where legally applicable.

15. My character or any alleged prior history should not be used as a substitute for evidence proving the specific allegation in this case.

REQUEST FOR FAIR CONSIDERATION

For these reasons, I respectfully maintain that the allegation of shoplifting does not accurately describe my intent or the circumstances that occurred inside the CVS.

I respectfully request that the court give full and fair consideration to the objective evidence, the circumstances preceding my departure from the store, my attempt to make a purchase, my explanation to the responding officers, my willingness to pay for the merchandise, my homelessness and dehydration at the time, and my stated intent to purchase the merchandise.

I further respectfully request that any available surveillance footage and other objective evidence be preserved and reviewed, and that the testimony of persons whose statements formed the basis of the accusation be considered where legally applicable.

I submit this statement in good faith to explain my version of the events and to assert my defense to the allegation.

Respectfully submitted,

Jason Fetzer

Signature: _____

Date: _____

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