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SC Court of Appeals

The STATE, Respondent,

V.

Donquavis McConnell, Appellant

APPELLATE CASE NO. 2026-000112

BRIEF OF APPELLANT:

LEGAL MAIL

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Statement of the case

Appellant was indicted by a York county grand jury for distribution of fentanyl in violation of S.C code Ann. § 44-53-370 arising out of "controlled buy" using a confidential informant on July 18, 2024. R. 378-379. A few weeks before trial, the state provided notice pursuant to S.C code Ann § 17-25-45 asserting imprisonment for life without the possibility of parole as the sentence upon conviction. The case was tried before the Honorable Christopher D. Taylor and a jury on January 5th and 6th, 2026. R. 1. Melissa Rigers and Fred Davis represented Appellant and Heather Burdette and Marina Hamilton appeared on behalf of the state. The jury convicted Appellant as indicted. R. 324. T. 24-325, L.4. Judge Taylor sentenced Appellant to life under the provisions of S.C. Code Ann § 17-25-45.

Appellant was denied fundamental fairness and initiated a criminal proceeding and that proceeding ended in the state's favor and the state witness acted maliciously or for a purpose other than bring Appellant to justice.

Appellant suffered deprivation of liberty consistent with the concept of search or seizure as a consequence of a legal proceeding. The trial court's Ruling to limit McIlwain cross-examination which his rulings were not reasonable or logical and the courts preconceived judgment or opinion an adverse opinion was formed without just grounds or before sufficient knowledge which had a harmful effect on a legal case.

"Statement of Issue on Appeal:"

Did the trial court abuse its discretion in restricting cross-examination of state's key witness concerning his pending criminal charges in south carolina when his credibility as a confidential informant testifying on behalf of the state was prejudice as well as critical to conviction?

The trial court "Abused its Discretion" In restricting cross-examination of the states key witness concerning his pending criminal charges and criminal background in south carolina and his legal problems arising out of North carolina when his credibility as a confidential informant testifying on behalf of the state was prejudiced as well as critical to conviction.

I would therefore claim that the trial courts decision and rulings prejudiced the trial. There wasn't any direct or physical evidence against appellant and the state relied on confidential informant's testimony which had an substantial influence on the jury which left them to form an opinion about the details without the evidence. By the states failure to support allegations.

Evidence obtained by police and D.E.C. must be sufficient to meet the element of the crime charged. The trial court judge was prejudice by failing to take in consideration that there wasn't any reliable or credible information, nor was there sufficient evidence to support informants testimony. which was prejudice.

The State did not present sufficient evidence to create a question of "fact" for the jury beyond an reasonable doubt and the case was built wholly on circumstantial evidence and there was absolutely no credible evidence upon which to support and sustain a judgment of conviction.

By the courts allowing confidential informant's self-serving testimony to be accepted as credible was prejudice and that legal error had deprived Appellant out of a fair trial and treatment. Appellant suffered deprivation of liberty consistent with the concept of "seizure" as a consequence of a legal proceeding. All evidence "must" be documentated properly, Recorded, and sufficient to be considered reliable

or trustworthy. The allege control buy was not properly documentated and the collecting of evidence all had affected the results of the case. The D.E.U. deficiency in collecting of evidence and failure to "throughly" document the evidence was a demonstration of mitigating steps that had salvage appellant out of an fair trail.

ARGUMENT:

The trial court abused its discretion in restricting cross-examination of the state key witness concerning his pending criminal charges in south carolina and his legal problems arising out of North carolina when his credibility as a confidential informant testifying on behalf of the state was prejudiced as well as critical to conviction.

Issue's raised at trial:

A). The states case relied around a controlled buy of a substance by its confidential informant Kendrick McIlwain. R. 162. T. 22-163, L. 12, McIlwain carried an extensive criminal history to the stand, as well as expectations of receiving help from the state with his pending charge's. Trial counsel put in an motion to determine the prior record of the defendant that the state would intend to introduce should he choose

to testify. R. 50. (12-14). Counsel put in an motion to determine the existence and admissibility of any prior bad acts the state intend to introduce whether as bad testimony or for other purposes. R. 54. (5-6). Counsel then moves for an motion to preclude the state from using language in its opening or closing regarding searching for the truth as prohibited by State V. Beatty. R. 55. (1-4). A motion to determine the out of court identification of the defendant pursuant to Neil V. Biggers. R. 55 (7-9) A Biggers hearing was necessary to prove that the C.I. had prior knowledge of the defendant and to determine how the confidential informant knew the defendant beforehand. Appellants trial

Counsel asserted that Rule 608, 608(b) and 608(c) SCRE, was applicable since it showed motive to misrepresent and bias. Any motive to misrepresent may be shown to impeach the witness. It was relevant to the case that McIlwain convictions, pending charges and motive to challenge the credibility which goes to his motivation to lie and bias. Specific instances of conduct in the discretion of the court if probative of truthfulness and untruthfulness be inquired into on cross-examination of the witness character for truthfulness or untruthfulness, any motive to misrepresent may be shown to impeach the witness. It's always relevant because the jury is the finder of facts and weigher of credibility, has historically been

entitled to assess an evidence which might bear on the accuracy and truth of a witness testimony, because of the number of charges pending against Mr. McIlwain and the severity of the potential sentences.

The evidence was probative on the issue of bias and should have been admitted. There was an substantial possibility Mr. McIlwain would give bias testimony or lie in an effort to have the state highlight to his future Judge how he had cooperated in the instant case. McIlwain testified that he was operating under the impression that he would receive "Grace" with his pending charges and using Appellant was a way to get "Grace" on his sentencing. R. Vol. (17-20). 181. (7-10). 185. (5-25). 186. (1-20). The reason McIlwain became an confidential informant was

to receive "Grace" on his pending charges, which also was his motive for working with D.E.A. In the particular instance McIlwain is facing an significant amount of time and was working with the state to try to avoid prison and get "Grace" on his charges. R. 187 (1-22) - 188. (4-22) which could have been McIlwain motive to slant/unconsciously or otherwise, the truth for his self. interest. Rule 405 SCRE. (a) Reputation or opinion. In all cases in which evidence of character or a trait of character of person is admissible, proof may be made by testimony as to reputation or by testimony in the form of an opinion on cross-examination. inquiry is allowable into relevant specific

instances of conduct. The trial court committed error under Rule 608, 608(b), 608(c) SCRE, by improperly limiting the scope of ~~Appellant's~~ McIlwain cross-examination. The trial court committed error in limiting ~~Appellant's~~ McIlwain cross-examination on the pending significant charges he faced.

B) Prejudice

The State relied upon McIlwain to identify appellant as the source of the illegal drug buy. McIlwain was the only witness who claim to know appellant from any other source than the undercover buy video. R. 163. 11. (1-8). Trial counsel had disputed that McIlwain was not thoroughly search and the controlled buy entire process was not properly documentated on the

record. officers described the searches as very "thorough" R. 194. 11. (1-22) However, the officers failed to video any of these alleged thorough searches despite clearly being capable of documenting the thorough nature of the search to verify McIlwain did not have any access to narcotics during the period he was alone inside his own vehicle both before and after the alleged buy. R. 201. 1 (23)-202, 1.9 Improper limitation on impeachment would be subject to a harmless error analysis

Appellants confrontation rights were violated under the sixth and fourteenth Amendments to U.S. const Amend. The admission of confidential informant

identification testimony violated the Fifth, Sixth, and Fourteenth Amendments. The state rely upon the credibility of a critical witness, which was convicted for involuntary manslaughter and at that time on probation. McIlwain also had pending possession with intent to distribute fentanyl third offense, which he was facing an significant amount of time for, possession of marijuana and Ecstasy, Alprazolam and on pending armed robbery with a deadly weapon. McIlwain stated that he would do anything to avoid prison and prior to the line up McIlwain reached out to D.E.A. and told them he could get information on appellant, and in return

(16)

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was expecting to receive benefits.

R. Vol (17-20) R. 181. (7-10). 185. (5-25). 186. (1-23)

The reason McIlwain and his defense attorney contacted the commander of the drug unit was because they were trying to find a way to get "Grace" with McIlwain charges: R. Vol. (17-20). 181. (7-10)

It was clear from McIlwain testimony that the basic for making contact with D.E.A. and agreeing to work as an informant to entrap appellant in this particular instance was because he was facing an significant amount of time and he wanted "help" from the state with his charges: McIlwain was operating under the impression that he would

receive help from the state. R. 187 (1-22) 188. (4-22). Therefore McIlwain credibility was questionable which goes to his motivation to lie and bias, his desire to be helpful to the state in return for their assistance, with his pending charges.

Here, the testimony of McIlwain and his credibility that he did nothing to change or alter the substance he received on video was critical to the states case, the evidence was not cumulative. The host of factors which the state depended upon, included the importance of the witness testimony in the prosecutions case, the presence or

that he made contact with D.E.A. and agree to work with them and the solicitor's office to convict Mr. McConnell in the particular instance was because he was facing an significant amount of time and he wanted help from the state with his charges. McIlwain was operating under the impression that he would receive "Grace" with his charges. R. 187 (1-22) 188. (4-22). Therefore McIlwain credibility ~~stand~~ was not credible which goes to his motivation to lie and bias, his desire to be helpful to the state ~~to~~ in return for "Grace" with his pending charges. Here, the testimony of McIlwain and his credibility that he did nothing to change or alter the substance he received on video was critical to the state's case. ~~The~~ evidence was not cumulative, ~~the~~ best of factors which the state depended upon, included the importance of the witness testimony in the

prosecution's case, the presence or absence of evidence corroborating or contradicting the testimony of the witness on material points, the extent of cross-examination otherwise permitted, and, of course, the overall strength of the prosecution's case. Since the states case against Appellant rested on the credibility of McIlwain, this court should not find the error harmless beyond a reasonable doubt. The entire process of the control buy was not properly documentated, there's no body camera footage of the search of McIlwain person or vehicle. The identifiable funds were never recover, the state failure to get an search warrant in order to gain evidence is an violation of Appellants fifth, sixth and fourteenth Amendment rights of the U.S. Const. Amendment In the circumstances there was an need to get an search warrant in this case. The ~~facts~~ state fail to produce sufficient evidence

absence of evidence corroborating or contradicting the testimony of the witness on material points, the extent of cross-examination otherwise permitted, and of course the overall strength of the prosecutions case. since the state's case against appellant rested on the credibility of McIlwain, this court should not find the error harmless beyond a reasonable doubt. The entire process of the control buy was not properly documented, there's no body camera footage of the alleged ~~[illegible]~~ search of McIlwain person or vehicle. The identifiable funds were never recover. The state failure to get an search warrant in order to gain

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evidence is an violation of appellants fifth, sixth, and fourteenth Amendment rights of the U.S. Const." In the circumstances there was/ an need to get an search warrant in this case and the state fail to produce sufficient evidence and substantial circumstantial evidence before the court beyond an reasonable doubt,

The fact that 1) the control buy process was not properly documentated 2) there was not recording of the alleged searches, of informants person or vehicle. 3). the identifiable funds used in the control buy was never recover. 4). there was no warrant for the use of Recording equipment 5) No additional testing on packaging materials, No DNA testing or

an significant amount of time, ~~more than~~ in which Rule 608(b) specific instances of truthfulness, Rule 608(c) evidence of bias, prejudice, Rule 608 is permissible to impeach a witness by showing his bias under the [FRE's]. evidence must be properly and timely documented, corroborated, investigated to be consider trustworthy. since the state case against appellant rested on the credibility of McIlwain, this court should not find the error harmless beyond a reasonable doubt. therefore this court should reverse Appellants conviction and remand this matter for a new trial

Appellant outside of the incident that took place. Neil v. Biggers is to determine the out of court identification of Appellant and do question McIlwain's knowledge of Appellant about knowing him very well firsthand, which would speak for his ability to identify Appellant. The quality of the photo's line up were poor, dark which made it tough to make a ~~fa~~ reliable identification. McIlwain had the tendency to lie regarding Appellant's identity due to being eager to please the D.E.U. in order to get "Grace" from them on his charges. The identity of Appellant could not be substantially proving beyond a reasonable doubt, the charges were relevant and it goes to McIlwain motivation to lie or be bias regarding Appellants ~~identity~~, ~~and~~ being identified and the line up. McIlwain's desire to be helpful to the state in hopes of "Grace" with his pending charges which carries

the state had no knowledge of whose prints or DNA was on the packaging materials.

D) unduly suggestive

The procedure was unduly suggestive & prejudicial to appellant when McIlwain was shown a line up and suggested "to pick out appellant. R. 91 (22-25). 92. (1-12) McLaughlerty had suggested that appellant was actually in the line up, which violates the suggestiveness portion of Neil V. Biggers. The burden was met from the preponderance of the evidence which show that the procedure itself was impermissibly suggestive and under the totality of the circumstances there was a very substantial likelihood of irreparable misidentification. There was no substantial circumstantial evidence the McIlwain known

a confirmation test which means, a color test can give off false positive. A ~~presumptive~~ presumptive test is not always accurate and the lab where the drugs was tested was not an accredited lab. The error rate associated with the test is unknown and the test could call a substance something that its not. The instrument could label a substance as fentanyl when its not. The technician intervenes to produce a result and it was clear that they wanted it to be fentanyl. The drugs should had been tested and confirmed by another source, and the drug packaging material should had been tested for fingerprints or DNA which was necessarily for identification.

equipment. R- 1146. There wasn't any direct or physical evidence against appellant and the state relied on McIlwain testimony which was not credible or supported by sufficient evidence.

C) The evidence was not consistent and credible and obtaining an search warrant could have led to other evidence, by denying appellant right to due process is an invalid search and seizure which deprived appellant out of an fair and just trial. The forensic drug chemist in this case used an "color test" or "presumptive test" which is not a confirmatory test to determine the substance. A chemical test was done which only gives an idea of what substance it could be. The test is not

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fingerprint testing. 6) surveillance team did not maintain visual on McIlwain vehicle during the entire duration of the ~~flight~~ deal. 7) Appellant was never physically ~~seen~~ seen on the night in question. 8). At the scene right before the meet appellant was never personally observe getting out of his vehicle and into McIlwains vehicle. In this situation there was insufficient evidence which was necessarily to prove the identity of appellant else were the alleged drugs came from. The equipment used was not reliable due to the states witness testifying that on occasions the signal could be lost while using recording

Certificate of Service

I DonquAvis McConnell, hereby Certify that on 9/11/26 I did place my Brief for appellate review by Placing Such in mcCormick Postal mail box under penalty of purjury

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enclosed is an copy of my brief that I wish to submit to the courts for my direct appeal; I'm requesting that the enclose brief be placed on the record and attached with any documents 'briefs etc. that my counsel filed on my behalf, regarding my direct appeal in the courts. I'm also requesting that I receive notice that my brief was timely file and placed on the record for review. Thank you.

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