

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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APR 30 2014

SC Court of Appeals

Appeal from Darlington County

J. Michael Baxley, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

RUDOLPH ISREAL EDWARDS,

APPELLANT

APPELLATE CASE NO. 2013-001681

ANDERS BRIEF OF APPELLANT

LANELLE CANTEY DURANT  
Appellate Defender

South Carolina Commission on Indigent Defense  
Division of Appellate Defense  
PO Box 11589  
Columbia, SC 29211-1589  
(803) 734-1343

ATTORNEY FOR APPELLANT

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**STATEMENT OF ISSUE ON APPEAL**

Did the trial court err in denying appellant's motion to suppress the search warrant because the warrant lacked sufficient facts for probable cause due to the vagueness of the information; the lack of reliability of the two individuals who purchased drugs and provided statements to the officers; and the lack of description and reliability of the undercover informants who made the multiple buys?

STATEMENT OF THE CASE

On August 30, 2012, the Darlington County Grand Jury indicted Rudolph Isreal Edwards on the charge of possession with intent to distribute marijuana (PWID). On April 1-2, 2013, a trial was held before the Honorable J. Michael Baxley and a jury in the absence of Edwards. Edwards was represented by Richard Jones and Christy Wise. The state was represented by Patti Parker and John Holt IV. The jury found Edwards not guilty of PWID but found him guilty of the lesser offense of possession of marijuana. R. 131, ll. 1 – 25. The sentence was sealed.

On July 29, 2013, Edwards appeared before the Honorable Paul M. Burch for the reading of the sentence. Judge Burch unsealed the sentence handed down by Judge Baxley on April 2, 2013. The sentence was one year with credit for sixty days served. July 29, 2013 R. 140 – 6. Edwards' attorney filed a notice of appeal. This appeal follows.

## STATEMENT OF THE FACTS

On January 13, 2012, law enforcement executed a search warrant on the home of Rudolph Edwards looking for drugs and drug related items. R. 54, ll. 15 – R. 55, ll. 21. John Specht of the Hartsville Police Department who was assigned to the Darlington County Sheriff's Drug Enforcement Unit, testified that he obtained the search warrant for the home of Edwards. In addition to drugs and drug related items, he was looking for money that originated from the Drug Enforcement Unit. R. 60, ll. 1 – R. 62, ll. 8.

When the officers entered the residence, three people were inside. They learned that Edwards was the person in charge. They Mirandized him and questioned him about the drug items that were in plain view which included a digital scale. Edwards then claimed ownership of the drugs exclusively and said the other two people were not involved. Edwards was cooperative with the officers and pointed out where the drugs were located in the house. R. 64, ll. 1 – R. 66, ll. 23.

Ben Weatherford with the Drug Enforcement Unit helped execute the search warrant on Edwards' home. R. 76, ll. 9 – R. 77, ll. 10. He found the marijuana packaged in nine baggies each containing one gram. R. 78, ll. 12 – R. 79, ll. 23. The expert in marijuana analysis testified that the total weight was 5.2 grams. R. 84, ll. 16-25; R. 88, ll. 21 – R. 89, ll. 18.

In a pretrial motion, defense counsel moved to suppress the search warrant based on a lack of probable cause. Counsel argued that the affidavit for the search warrant was vague and did not set forth the necessary facts. There was no evidence that the alleged drug buys were controlled buys or properly conducted. There was nothing about the reliability or veracity of the two individuals who were arrested leaving Edwards' residence after they

purchased the drugs. The time of the incident was not provided in the affidavit. R. 26, ll. 1 – R. 27, ll. 25.

When the judge asked how the credibility of the two individuals would impact the sufficiency of the warrant after Detective Specht said they had conducted surveillance, counsel argued that the incident report indicated that these two people provided information to law enforcement in order to help themselves. Counsel argued there may have been a deal or negotiation, and therefore, their credibility and truthfulness needed to be in the affidavit. R. 28, ll. 1 – R. 29, ll. 22.

The state argued that Detective Specht conducted surveillance himself outside the residence, and Specht mentioned in the affidavit that there had been multiple undercover purchases from this residence. This was a sufficient basis for probable cause. R. 29, ll. 23 – R. 31, ll. 24.

Defense counsel argued that there was no mention of personal knowledge of Detective Specht in the affidavit. Counsel argued there was no explanation of the undercover buys nor that they were properly conducted. The judge denied the motion to suppress the search warrant. R. 32, ll. 1 – R. 34, ll. 10.

## ARGUMENT

The trial court erred in denying appellant's motion to suppress the search warrant because the warrant lacked sufficient facts for probable cause due to the vagueness of the information; the lack of reliability of the two individuals who purchased drugs and provided statements to the officers; and the lack of description and reliability of the undercover informants who made the multiple buys.

In criminal cases, an appellate court sits to review only errors of law, and it is bound by the trial court's factual findings unless they are clearly erroneous. State v. Brown, 401 S.C. 82, 736 S.E.2d 263, 265 (2012). The trial court in Edward's case made an error of law in not suppressing the search warrant based on the law.

The South Carolina Supreme Court held in State v. Herring, 387 S.C. 201, 212, 692 S.E.2d 490, 496 (2009):

The task of the issuing magistrate is simply to make a practical, common-sense decision whether, given all the circumstances set forth in the affidavit before him, including the "veracity" and "basis of knowledge" of persons supplying hearsay information, there is a fair probability that contraband or evidence of a crime will be found in a particular place.

In State v. Adolphe, 314 S.C. 89, 92, 441 S.E.2d 832, 833 (Ct. App. 1994), the Court of Appeals held that the task of a magistrate when determining whether to issue a warrant...includes consideration of the veracity of the person supplying the information and the basis of his or her knowledge. In State v. Johnson, 302 S.C. 243, 248, 395 S.E.2d 167, 170 (1990), the affidavit did not set forth any information as to the reliability of the informant although the informant told that he had seen drugs in Johnson's home just hours before. The Supreme Court held:

Without any information concerning the reliability of the informant, the inferences from the facts which lead to the complaint will be drawn not by a neutral and detached magistrate, as the Constitution requires, but instead, by a police officer engaged in the often competitive enterprise of ferreting out crime, or as in this case, by an unidentified informant.

The Court also wrote that “sufficient information must be presented to the magistrate to allow that official to determine probable cause; his action cannot be a mere ratification of the bare conclusions of others.”

The affidavit for the search warrant for Edwards’ residence provided as the “reason for the affiant’s belief that the property sought is on the subject premises:”

The petitioning officer is assigned to the Darlington County Drug Enforcement Unit, and is assigned specifically to purchase illegal narcotics/contraband in an undercover capacity. During recent months, there have been multiple undercover purchases of illegal drugs made from this residence at \_\_\_\_\_. More recently, agents with DEU have conducted surveillance and made two arrests of persons leaving this location after having purchased illegal drugs. Those individuals provided statements to officers, which corroborated the observations made by law enforcement.

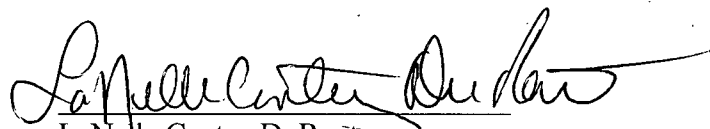
As the defense counsel argued, there was no evidence of the veracity and credibility of the two individuals whose statements were relied on in obtaining the search warrant. There was no description of the multiple undercover drug purchases as to whether confidential informants were used or undercover police officers. No dates of these drug purchases were provided. The word “multiple” was too vague as to how many times the purchase occurred. Detective Specht provided no testimony that he had purchased drugs from Edwards as an undercover officer so there was a lack of personal knowledge.

The evidence from the execution of the search warrant should have been suppressed because the search warrant did not provide probable cause for the search as the information was unreliable.

CONCLUSION

Based on the above, Edwards' conviction and sentence should be vacated, and the charge dismissed.

Respectfully submitted,

A handwritten signature in cursive script, reading "LaNelle Cantey DuRant". The signature is written in black ink and is positioned above the printed name and title.

LaNelle Cantey DuRant  
Appellate Defender

ATTORNEY FOR APPELLANT

This 30th day of April, 2014.

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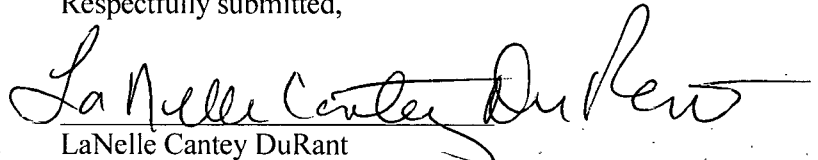
PETITION TO BE RELIEVED AS COUNSEL

Counsel for Rudolph Isreal Edwards states:

1. She is Appellate Defender for the South Carolina Office of Appellate Defense, and was appointed to represent appellant.
2. She has reviewed the record of appellant's trial before Judge J. Michael Baxley, which was held on July 29, 2013, and, in her opinion, the appeal is without legal merit sufficient to warrant a new trial.
3. She has, pursuant to Anders v. California, 386 U.S. 738, 87 S.Ct. 1396 (1967), briefed an arguable legal issue which arose during the course of the trial.

WHEREFORE, she asks the Court to relieve her as counsel for Rudolph Isreal Edwards.

Respectfully submitted,

  
LaNelle Cantey DuRant  
Appellate Defender

ATTORNEY FOR APPELLANT

This 30th day of April, 2014.

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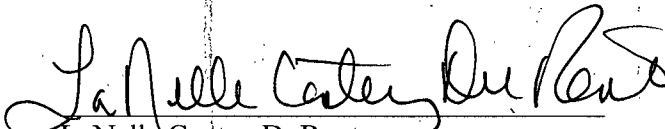
**DESIGNATION OF MATTER TO BE  
INCLUDED IN RECORD ON APPEAL**

Appellant proposes the following be included in the Record on Appeal:

- (1) True-billed indictment(s);
- (2) Trial Transcript April 1-2, 2013
- (3) Sentencing Transcript July 29, 2013
- (4) Court's Exhibit 1: Search Warrant & Affidavit

I certify that this designation contains no matter which is irrelevant to this appeal.

April 30th, 2014

  
LaNelle Cantey DuRant  
Appellate Defender

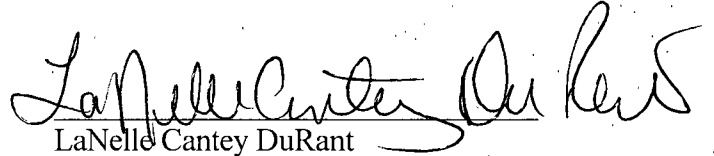
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Columbia, SC 29211-1589  
(803) 734-1343

Attorney for Appellant

CERTIFICATE OF COUNSEL

The undersigned certifies that to the best of my ability this Anders Brief of Appellant complies with Rule 211(b), SCACR, and the August 13, 2007, order from the South Carolina Supreme Court entitled "Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings."

April 30<sup>th</sup>, 2014



LaNelle Cantey DuRant  
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Division of Appellate Defense  
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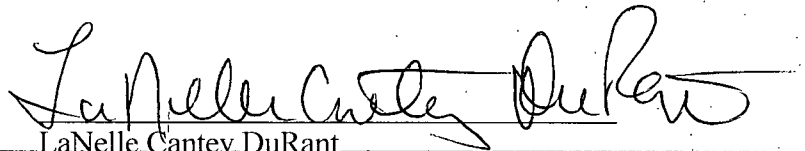
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RUDOLPH ISREAL EDWARDS,

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CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that a true copy of the Anders Brief of Appellant and Designation of Matter and a copy of the Record on Appeal in the above referenced case has been served upon Salley W. Elliott, Esquire, at the Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, and on Mr. Rudolph Isreal Edwards, 226 Bills Circle, Hartsville, SC 29550-2840, this 30th day of April, 2014.

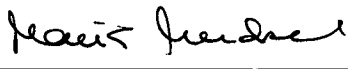


LaNelle Cantey DuRant

Appellate Defender

ATTORNEY FOR APPELLANT

SUBSCRIBED AND SWORN TO before me  
this 30th day of April, 2014.

 (L.S.)

Notary Public for South Carolina

My Commission Expires: July 30, 2023.