

South Carolina Court of Appeals
P.O. Box 11629
Columbia, S.C. 29211

Reference: 2014-000-293

Cover Letter

State of South Carolina

v.

Christopher W. Brown
Appellant

Dear Honorable Clerk,

Please find enclosed arguable Legal Grounds
For Direct Appeal to be placed on record pertaining to #
2014-000-293.

Please return me a clock stamped copy.

Christopher W. Brown # 358700
Evans Correctional
610 Hwy. 9 West
Bennettsville, S.C. 29512

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MAY 12 2014

SC Court of Appeals

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P.O. Box 11629
Columbia, S.C. 29211

Reference No: 2014-000-293

State of South Carolina

Arguable Legal Grounds
For Direct Appeal

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Christopher W. Brown
Appellant

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Procedural History

Appellant is currently incarcerated within the South Carolina Department of Corrections pursuant to the Charleston County Clerk of Court's order of commitment.

Appellant was indicted during the October 2011 term before the Charleston County Grand Jury on charges of Trafficking In Cocaine. Appellant was represented by Public Defender Jason T. King on indictment number 2011GS1006482.

On the date of Feb. 5, 2014 appellant was found guilty of the charge and sentence was imposed by Honorable W. Jeffery Young. The Honorable Judge sentenced appellant pursuant to recommendations by the state to confinement for 8 years violent.

Public defender King did appeal appellant's conviction within (10) days of verdict, appeal was filed on Feb. 10, 2014.

Statement of Facts

The grounds being put forth in this direct appeal are:

1. Prejudice by the Circuit Court Judge and Solicitor

2. Coercion
3. Entrapment
4. Ineffective Assistance of Counsel
5. Reliability And Credibility of State's Witnesses

Ground one:

Issue one: The Solicitor did not have sufficient evidence to obtain a True Bill Indictment by the Grand Jury of Charleston County.

- a). Brown could not be identified in the State video,
- b). Statements were inconsistently made by informant,
- c). The State could not prove the allegations as stated in the warrant.
- d). They could not identify the motor vehicle that was used 'allegedly' in Trafficking Cocaine,
- e). There were no co-defendants nor conspirators,
- f). The State did not have any material or physical evidence such as marked money linking Brown to any exchange regarding trafficking in cocaine.

The elements of every crime committed in the State of South Carolina is intent in which the State in this case can not prove, but merely makes ungrounded assumptions and allegations with no supportive facts to have charged, convicted and sentenced Christopher W. Brown to a prison term of 8 years violent.

There is no supportive law that can validate presumptive guilt backed up and enforced through prejudicial meandering the invalid facts before a jury, without having the fair due

process to challenge such judicial inproprieties.

Defendant Brown (appellant) was deprived of the right to review evidence that was to be presented by the State at each stage, according to S.C. Constitution, Art. I, Section 14.

Ground two

Issue one: Judge forced the hand of the Jury

a). In the State's assertions during the trial, the Judge stated that "the hand of one is the hand of all," based on the Judge's personal prejudicial finding.

Ground three

Issue one: Appellant asserts, through entrapment, by the nature of the police actions, appellant experienced a fabrication by the police of a charge, in their preparation for a warrant, as there was no real probable cause to initiate that procedure, whereas they relied upon false testimony to enact their actions.

Ground four

Issue one: The attorney failed to entertain a counter argument against the wrongly applied statement of "hand of one, hand of all," by the Judge.

a). "[a] criminal defense attorney has the duty to conduct a reasonable investigation to discover all reasonably available mitigation evidence and all reasonably available evidence tending to rebut any aggravating evidence introduced by the state."

McKnight v. State, 378 S.C. 33, 46, 661 S.E. 2d 354, 360 (2008): see also Ard v. Catoe, 372 S.C. 318, 642 S.E. 2d 590 (2007) ("without a doubt, '[a] criminal defense attorney has a duty to investigate, but this duty is limited to reasonable investigation.'") (quoting

Thompson v. Wainwright, 787 F. 2d 1447, 1450 (11th Cir. 1986). [W]hile the scope of a reasonable investigation depends on a number of issues, at a minimum, counsel has the duty to interview potential witnesses and to make an independent investigation of the facts and circumstances of the case." Lounds, 380 S.C. at 460, 670 S.E. at 649 (quoting Ard, 372 at 331-32, 642 S.E. 2d at 597); see also Sneed v. Smith, 670 F. 2d 1348, 1353 (4th Cir. 1982) ("To meet this standard, an attorney must at a minimum, 'conduct appropriate investigations, both factual and legal, to determine if matters of defense can be developed, and to allow himself enough time for reflection and preparation for trial.") (quoting Coles v. Peyton, 389 F. 2d 224, 226 (4th Cir. 1968).

Ground five

Reliability and credibility - Fact Finder

Issue one: Counsel was negligent in his duty to validate the facts asserted by the State's witness.

Issue two: Hearsay, is inadmissible when it is not based on personal knowledge, nor physical or material evidence.

Issue three: Counsel failed to establish grounds for the prejudicial nature of the state's material evidence, and witness.

Issue four: Appellant cannot be identified in video or audio with informant. Counsel did not establish these facts.

The question to determine is whether or not a witness is biased or prejudiced.

Id. at 182, 638 S.E. 2d at 63-64. Analogously, all of the witnesses in the present case had significant involvement with illegal drugs and other criminal activities, and cooperated following arrest and the possibility of long prison terms. In a case built on circumstantial

evidence, including testimony from witnesses with such suspect credibility, a ruling preventing a full picture of the possible bias of those witnesses cannot be harmless. Based on the record before this Court, it is impossible to conclude that the trial court's error did not contribute to the verdict beyond a reasonable doubt. *State v. Clark*, 315 S.C. 478, 445 S.E. 2d 633, 636 (1994) ("The reviewing court must review the entire record to determine what effect the error had on the verdict.") (Toal J. dissenting). Thus a reversal is required.

In the instant case, the State presented cumulative testimony regarding Appellant's involvement in trafficking four hundred or more grams of methamphetamine. However, the testimony presented only corroborated other testimony, and the State chose not to present any physical evidence tying Appellant to the activities charged.

Ground six

Whether the trial court improperly limited the scope of defense counsel's examination of the State's witnesses.

Issue one: Cross Examination

a). The Confrontation Clause provides "in all criminal prosecutions, the accused shall enjoy the right to... be confronted with the witnesses against him." U.S. Const. amend. VI. The Confrontation Clause guarantees a defendant the opportunity to cross-examine a witness concerning bias. *State v. Clark*, 315 S.C. 478, 481, 445 S.E. 2d 633, 634 (1994) (citing *State v. Brown*, 303 S.C. 169, 171, 399 S.E. 2d 593, 594 (1991)). A defendant demonstrates a Confrontation Clause violation when he is prohibited from "engaging in otherwise appropriate cross-examination designed to show a prototypical form of bias... from which jurors... could draw inferences

relating to the reliability of the witnesses. "State v. Stokes, 381 S.C. 390, 401-02, 673 S.E. 2d 434, 439 (2009) (citing Delaware v. Van Arsdall, 475 U.S. 673, 680, 106 S.Ct. 1431, 89 L. Ed 674 (1986) (alteration in original)).

b) Standard of Review

This Court will not disturb a trial court's ruling concerning the scope of cross-examination of a witness to test his or her credibility, or to show possible bias or self-interest in testifying, absent a manifest abuse of discretion. State v. Johnson, 338 S.C. 114, 124-25, 525 S.E. 2d 519, 524 (2000) (citing State v. Smith, 315 S.C. 547, 551, 446 S.E. 2d 411, 413-14 (1994)).

Sworn and subscribed before me
this day of 2nd, May, 2014

S. Oulton

Notary Public

2/24

My Commission Expires

Christopher Wayne Brown

signed

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MAY 12 2014

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