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S.C. Supreme Court

THE STATE OF SOUTH CAROLINA

In the Supreme Court

APPEAL FROM AIKEN COUNTY

Common Pleas Court

The Honorable Doyet A. Early, III, Circuit Court Judge

Appellate Case No. 2013-002188

The City of Aiken Respondent,

v.

Larry D. Smith.....Appellant.

SECOND APPENDIX TO THE
RECORD ON APPEAL

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Attorney for Appellant

APPENDIX

JURY TRIAL TRANSCRIPT.....A-2

JURY TRIAL TRANSCRIPT.....A-3

1 address it. There has been no...
2
3 COUNSEL FOR DEFENSE Can I address that?
4
5 THE COURT Certainly.
6
7 COUNSEL FOR DEFENSE Your Honor if Mr. Smith was only charged with
8 failure to comply, but he was charged with other
9 criminal charges that were taken care of in
10
11 General Sessions. So the issue of the gun that was dealt with.
12
13 We're here to say was did he comply to a lawful order.
14
15
16 THE COURT I understand.
17
18 COUNSEL FOR DEFENSE He didn't have a gun when they approached the
19 house. They saw his hands and a machine gun
20 you're not going to hide. So if ..and the issue is
21
22 you know I'm not even sure if he really did fail to comply but I'm
23 saying on the face, without any of these facts of this case, because
24 that's not what this motion is about.
25
26
27
28
29
30 THE COURT Understood.
31
32 COUNSEL FOR DEFENSE Um...I'm asking that this statute is invalid on its
33 face because it's unconstitutional.
34
35
36 THE COURT It is a sound argument. I understand. I in fact it's
37 caused some issues before but I'm going to deny
38 the motion based upon the lawful order. Anything
39
40
41
42 else?
43
44 COUNSEL FOR DEFENSE Nothing from the defense, Your Honor.
45
46

1
2 set my bond he told me uh..not to have any contact
3
4 with the witnesses in my case, not even through a
5
6 third party, or I'd be subject to more charges, but I don't understand
7
8 uh...they were basically the City's witnesses and they didn't appear in
9
10 court but I know that if they would have appeared they would have told
11
12 the judge the same thing that I told him and the case wouldn't have held
13
14 water. So that's why I'm asking for an appeal.
15
16 THE COURT All right.
17
18 MR. SMITH And I kinda think this should have actually been a
19
20 mistrial because of the fact it was like the judge was
21
22 suppressing evidence when he said not to have any
23
24 contact with the witnesses in the case because they could have helped my
25
26 case if I could have contacted them.
27
28 THE COURT All right. Well, that will be something for you to
29
30 bring up on your appeal Mr. Smith.
31
32 MR. SMITH Yes, sir.
33
34 THE COURT This jury has found you guilty of disorderly
35
36 conduct and failure to comply with a police officer.
37
38 MR. SMITH Right.
39
40 THE COURT The sentence of this court is 30 days on each count,
41
42 but I will order for you to be given credit of time
43
44 served and this will end this. Ms. Shelley if you'll
45
46 prepare a release with these two I'll be more than glad to sign it off. Court

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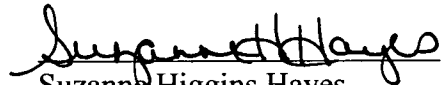
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PROOF OF SERVICE

I hereby certify that I have served the Appendix to the Record on Appeal on the Respondent City of Aiken, addressed to the attorney of record, Paige Tiffany, P.O. Box 1177, Aiken, SC 29802, via United States Mail, postage prepaid, on this 20 day of August, 2014.



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