

STATE OF SOUTH CAROLINA  
In The Supreme Court

---

**RECEIVED**

OCT - 9 2014

**S.C. Supreme Court**

CERTIORARI TO YORK COUNTY  
Court of Common Pleas

The Honorable John C. Hayes, III, Circuit Court Judge

---

Hashin Allie Oneil,.....Appellant,

v.

State of South Carolina,.....Respondent.

Appellate Case No. 2013-02126

---

**BRIEF OF RESPONDENT  
PURSUANT TO WHITE V. STATE**

---

ALAN WILSON  
Attorney General

J. RUTLEDGE JOHNSON  
Assistant Attorney General  
S.C. Bar #78871

Post Office Box 11549  
Columbia, S.C. 29211  
(803) 734-3737

ATTORNEYS FOR RESPONDENT

**TABLE OF CONTENTS**

QUESTION PRESENTED.....2

STATEMENT OF THE CASE.....3

STANDARD OF REVIEW.....4

ARGUMENT.....4

**The trial judge properly declined to suppress Appellant’s statement to law enforcement because Appellant was arrested pursuant to probable cause based on the totality of the circumstances.**

CONCLUSION.....9

## **QUESTION PRESENTED**

Did the trial judge properly decline to suppress Appellant's statement to law enforcement because Appellant was arrested pursuant to probable cause based on the totality of the circumstances?

## STATEMENT OF THE CASE

Appellant is incarcerated with the South Carolina Department of Corrections pursuant to the York County Clerk of Court's order of commitment. Appellant was indicted by the April 2012 term of the York County Grand Jury for Attempted Murder (2012-GS-46-0977) and Possession of a Firearm during the Commission of a Violent Crime (2012-GS-46-0977A). Robert Muckenfuss, Esquire, represented him. On April 18, 2012, Appellant proceeded to a jury trial pursuant to which he was found guilty of Assault and Battery, 1<sup>st</sup> degree as a lesser included offense of Attempted Murder. The Honorable John C. Hayes, III sentenced Appellant to confinement for ten (10) years for Assault and Battery, 1<sup>st</sup> degree. Appellant did not appeal his conviction or sentence.

Appellant filed an Application for Post-Conviction relief on October 8, 2012. Respondent filed its return on or about April 25, 2013. An evidentiary hearing was convened on August 16, 2013 at the Moss Justice Center in York, SC. Appellant was represented by Charles T. Brooks, III, Esquire. Respondent was represented by J. Rutledge Johnson, Esquire of the South Carolina Office of the Attorney General. The Honorable Edward G. Welmaker, granted Appellant a belated review of direct appeal issues pursuant to White v. State, 236 S.C. 110, 108 S.E.2d 35 (1974) and denied the rest of Appellant's PCR claims. On June 12, 2014, Appellant, through counsel, Laura M. Caudy, Esquire, filed a Brief of Appellant pursuant to White v. State. This Brief of Respondent pursuant to White v. State follows.

## STANDARD OF REVIEW

In criminal cases, the appellate court sits to review errors of law only. State v. Wilson, 345 S.C. 1, 5–6, 545 S.E.2d 827, 829 (2001); State v. Butler, 353 S.C. 383, 388, 577 S.E.2d 498, 500 (Ct.App.2003). The appellate court is limited to determining whether the trial court abused its discretion. State v. Reed, 332 S.C. 35, 43, 503 S.E.2d 747, 751 (1998); State v. Bowie, 360 S.C. 210, 216, 600 S.E.2d 112, 115 (Ct.App.2004). An abuse of discretion occurs when the trial court's ruling is based on an error of law. State v. Foster, 354 S.C. 614, 621, 582 S.E.2d 426, 429 (2003); State v. Adams, 354 S.C. 361, 378, 580 S.E.2d 785, 793–94 (Ct.App.2003).

## ARGUMENT

**The trial judge properly declined to suppress Appellant's statement to law enforcement because Appellant was arrested pursuant to probable cause based on the totality of the circumstances.**

Appellant argues "the [trial] court erred in failing to suppress Appellant's statement to law enforcement where Appellant was arrested without probable cause and without a warrant in violation of the Fourth Amendment." (Appellant Brief p. 5). This argument is without merit.

During a pre-trial hearing, Detective Eddie Strait of the York County Sherriff's Office testified he met Victim (Crystal Caldwell) at the Piedmont Medical Center in Rock Hill, SC around four o'clock in the morning on November 12, 2010. At that time, Victim was being treated for a gunshot wound. (App. p. 68 lines 21-23). According to the "Incident Interview Report" written by Strait, "[Victim] stated she left the residence around 7:30 or 8:00 p. m., because [Appellant] had said nasty things to her." (App. p. 69 lines 7-8). Strait then testified that "[Victim] stated she then went to walk out of the apartment and heard a noise and felt like she could not walk. [Appellant] then said it looks like you have been shot. [Appellant] then brought her to [Piedmont Medical Center] to be treated." (App. p. 69 lines 12-15). Strait further testified Victim stated "[t]hey (Victim and Appellant) were the only two in the apartment." (App. p. 69 lines 22-23).

On re-direct examination, Strait testified that he reviewed threatening text messages from Appellant to Victim prior to Appellant's arrest. (App. pp. 79-80; pp. 626-655). Then, the following colloquy occurred:

Q: Prior to your arrest of [Appellant], what was the last thing that [Victim] had told you in regard to what had happened resulting in her being shot.

A: That her and [Appellant] were the only two in the apartment.

Q: Okay. That her and [Appellant] were the only two in the apartment?

A: Correct.

Q: At the time [Victim] was shot?

A: That's correct.

Q: And did you ask her who shot her?

A: I did.

Q: And her response was?

A: That she did not see who shot her.

Q: And then she said that they-

A: That they were the only two in the apartment.

(App. p. 81 line 25- p. 82 line 15).

The trial court then held:

I find there is probably cause- was probable cause for an arrest. I find that the moment the arrest was made the officers had probable cause to make the arrest. At the time they had facts and circumstances within their knowledge which they had reason to consider as trustworthy information at the time and that they were sufficient to warrant a prudent man to believe that [Appellant] had committed an offense. I'm looking at this through the totality of the circumstances. I'm looking at this based on the totality of the circumstances surrounding all the information that the officers had at their disposal. I find that the officers had reason to believe that a felony had been committed and committed by the defendant and such information and belief would have induced an ordinary person and cautious person to(sic) man under the circumstances to believe likewise. I find that the arrest was justified.

(App. p. 92 lines 3-19).

“[A] warrantless arrest by a law officer is reasonable under the Fourth Amendment where there is probable cause to believe that a criminal offense has been or is being committed.”

Devenpeck v. Alford, 543 U.S. 146, 152, 125 S. Ct. 588, 593 (2004); see also State v. Jones, 273

S.C. 723, 727-28, 259 S.E.2d 120, 123 (1979) (“It is well settled that a police officer may conduct a warrantless arrest if, at the time of the arrest, the officer has reliable information or reasonable grounds that would justify his belief that a felony has been committed and that the arrestee is the perpetrator.”); State v. Baccus, 367 S.C. 41, 49, 625 S.E.2d 216, 220 (2006) (“Probable cause for a warrantless arrest exists when the circumstances within the arresting officer’s knowledge are sufficient to lead a reasonable person to believe that a crime has been committed by the person being arrested.”). Courts must determine whether “at the moment the arrest was made, the officers had probable cause to make it—whether at that moment the facts and circumstances within their knowledge and of which they had reasonably trustworthy information were sufficient to warrant a prudent man in believing that the petitioner had committed or was committing an offense.” Beck v. State of Ohio, 379 U.S. 89, 91, 85 S. Ct. 223, 225 (1964).

When Strait met with Victim at Piedmont Medical Center, Victim was being treated for a gunshot wound. Victim then explained to Strait that prior to her being shot, she and Appellant were in a heated argument. Victim told Strait that while she did not see Appellant shoot her, when she attempted to leave her apartment, she heard a “noise” and then felt like she could not walk. Immediately after this, Appellant stated, “[I]t looks like you have been shot.” (App. p. 69 lines 12-15). Victim also told Strait that she and Appellant were the only two people in the apartment at the time she was shot. (App. p. 69 lines 22-23). Strait then viewed Victim’s cell phone and read text messages from Appellant which included messages such as, “I hope the day that I die, you die too.” (App. p. 655).

Based on the aforementioned facts which were articulated during the pre-trial hearing, the

trial court correctly found Detective Strait had probable cause to arrest Appellant based on the information available to him and the totality of the circumstances. Any ordinarily prudent man or reasonable person would find that there was sufficient information to believe that Appellant had committed the offense. The combination of Victim's account of the incident, the gunshot wound, Appellant's statement that Victim had been shot and the text messages clearly create probable cause for Appellant's arrest. Therefore, the trial court properly found there was probable cause based on the totality of the circumstances for Detective Strait to arrest Appellant without a warrant. And because there was probable cause to arrest Appellant, his statements to law enforcement after his arrest were admissible at trial<sup>1</sup>, contrary to Appellant's assertion.

---

<sup>1</sup> Subject to a Jackson v. Denno, 378 U.S. 368 (1964) hearing, which was also conducted along with the suppression hearing.

**CONCLUSION**

For the foregoing reasons stated above, Respondent respectfully requests the judgment of the lower court be affirmed.

Respectfully submitted,

ALAN WILSON  
Attorney General

J. RUTLEDGE JOHNSON  
Assistant Attorney General  
S.C. Bar #78871

Post Office Box 11549  
Columbia, S.C. 29211  
(803) 734-3737

By:   
ATTORNEYS FOR RESPONDENT

October 9, 2014

STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

\_\_\_\_\_  
Certiorari to York County

The Honorable John C. Hayes, III, Circuit Court Judge

HASHIN ALLI ONEIL, #350619

Petitioner,

STATE OF SOUTH CAROLINA

Respondent.

\_\_\_\_\_  
**PROOF OF SERVICE**  
\_\_\_\_\_

I, CHANDRA E. YOUNG, certify that I have served the Brief of Respondent pursuant to White v. State on opposing counsel by depositing two copies of the same in the United States mail, postage prepaid, addressed to:

Lara M. Caudy, Esquire  
South Carolina Office of Indigent Defense  
Post Office Box 11589  
Columbia, South Carolina 29211

I further certify that all parties required by Rule to be served have been served.

This 9<sup>th</sup> day of October 2014.

  
\_\_\_\_\_  
CHANDRA E. YOUNG  
Legal Assistant  
Office of Attorney General  
Post Office Box 11549  
Columbia, SC 29211  
(803) 734-3737