

ORIGINAL

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM RICHLAND COUNTY

R. Knox McMahon, Circuit Court Judge

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SC Court of Appeals

THE STATE,

RESPONDENT,

V.

DAQWAN M. JOHNSON,

APPELLANT

APPELLATE CASE NO. 2012-212696

SUPPLEMENTAL RECORD ON APPEAL

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1 circle back.

2 MS. CAMPBELL: I am hopeful.

3 THE COURT: Anything further?

4 MS. CAMPBELL: No, Your Honor.

5 THE COURT: Mr. Collins?

6 MR. COLLINS: Nothing further, Your Honor.

7 THE COURT: Court will be in recess as far as
8 this case is concerned until 10:00 o'clock in the
9 morning. The solicitor, you say I have a bond hearing
10 at 9:30 in another matter.

11 MS. CAMPBELL: It's my understanding it is a
12 bond hearing at 9:30.

13 THE COURT: Make sure they are prompt. Thank
14 you.

15 MS. CAMPBELL: Yes, sir.

16 (whereupon the proceedings are concluded for
17 July 31, 2012.)

18 (The following proceedings reported on
19 August 1, 2012.)

20 THE COURT: Solicitor, will the next witness
21 be introducing any firearms?

22 MS. CAMPBELL: Yes, sir.

23 THE COURT: Yesterday we generally reviewed
24 the guidelines for the safe handling of firearms as
25 evidence in the courtroom, and further the procedures

1 for the safe handling of firearms in the courtroom. Is
2 the officer familiar with those?

3 MS. CAMPBELL: Your Honor, I have talked to
4 Mr. Rose this morning. He did put gun locks -- if the
5 Court wants to look at them or if the defense wants to
6 ensure it -- on the weapons that we are introducing with
7 the next witness to ensure that. They are also in a
8 box, and he has also checked them to make sure there is
9 no ammunition in the actual guns themselves.

10 THE COURT: Why don't you have the officer
11 placed under oath and ask him those questions about the
12 condition of the firearms at this time.

13 MS. CAMPBELL: Yes, sir. The State calls
14 Buddy Rose.

15 WALTER ROSE, being
16 first duly sworn, testifies as follows:

17 CLERK: State your full name.

18 THE WITNESS: Walter Rose.

19 **IN CAMERA DIRECT EXAMINATION**

20 **BY MS. CAMPBELL:**

21 Q Sir, where are you employed?

22 A The City of Columbia.

23 Q What do you do there?

24 A I am the crime scene supervisor.

25 Q Crime scene supervisor?

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1 A At this time, yes, ma'am.

2 Q At my request yesterday or this morning actually,
3 did you check the three weapons that you collected,
4 three of the four weapons you collected, in this
5 case?

6 A Yes, ma'am.

7 Q At my request do you also put gun locks on those
8 weapons?

9 A I did.

10 Q Did you also check the weapons to see if there was
11 any ammunition or any capability of being fired?

12 A I did. There is no ammunition.

13 Q So all three of the weapons that we are intending
14 to introduce today have been cleared by you and
15 have gun locks on them?

16 A Yes, ma'am.

17 THE COURT: Any other questions, Your Honor?

18 MS. CAMPBELL: No. Thank you very much.

19 THE COURT: Thank you, Officer. You may step
20 down.

21 (Witness leaves the witness stand.).

22 THE COURT: Mr. Collins, the guidelines
23 indicate the information regarding the condition of the
24 firearms as being unloaded and safe, should be offered
25 into evidence and how the firearms would be handled

1 while in court should be instructed to the jury. Do you
2 request that I do that when the jury comes out this
3 morning?

4 MR. COLLINS: Your Honor, at whatever time you
5 please.

6 THE COURT: Some lawyers have different
7 opinions about it, whether or not you do it right at the
8 time the firearm is displayed or do it upfront. Quite
9 frankly, I think doing it upfront, that there may be
10 firearms and they will also be safe -- this, that, and
11 the other.

12 MR. COLLINS: That's fine with us.

13 THE COURT: If that suits you. Thank you.
14 Thank you very much. Anything further before we bring
15 in our jury, Solicitor?

16 MS. CAMPBELL: Nothing from the State, Your
17 Honor.

18 THE COURT: Mr. Collins, anything further?

19 MR. COLLINS: No, Your Honor.

20 THE COURT: The only other thing I would place
21 on the record is I understand that the defense was given
22 some parameters to CrimeStoppers to attempt to locate
23 any other reports that may be related to the incident of
24 19 June of 2010. That is being researched now; is that
25 correct, Solicitor?

1 MS. CAMPBELL: Yes, Your Honor. An agent from
2 S.L.E.D. came this morning. We met with defense counsel
3 with her as far as how she would actually run the
4 information he is seeking.

5 He provided us with parameters, starting with
6 a start date of June 19th of 2010, through July -- I'm
7 sorry -- the 29th of 2010. She is running any
8 information she got on the [REDACTED] shooting or [REDACTED]
9 [REDACTED]. Is that correct?

10 MR. COLLINS: That's correct, Your Honor.

11 THE COURT: Thank you. Thank you very much.
12 Is our jury present?

13 BAILIFF: They are, Your Honor.

14 THE COURT: If you would bring our jury,
15 please.

16 (The jury returns to the courtroom at
17 10:07 A.M.)

18 THE COURT: Thank you. Thank you very much.
19 Has any member of the jury panel heard or read anything
20 about this case from any source whatsoever?

21 (There is no response.)

22 THE COURT: Has any person attempted to talk
23 to any member of the jury panel about this case? If so,
24 please stand.

25 (There is no response.)

1 THE COURT: Ladies and gentlemen, before we
2 continue with the trial of this case, I would advise you
3 that there may be firearms introduced into evidence in
4 this case. All firearms are in an unloaded and safe
5 condition when they are offered into evidence. They
6 have either gun locks or cables throughout the barrels
7 of the weapon.

8 Further, they are not to be pointed at any
9 individual in the handling of the firearms in the
10 courtroom. They will be handled by the barrel or
11 pointed towards the floor or towards the ceiling. At no
12 time will the firearm and/or any ammunition be in the
13 possession of any witness at the same time.

14 If I allow firearms and ammunition into
15 evidence, it will always be maintained separately, even
16 as far as deliberations of the jury. The firearms can
17 be in the jury room; however, they may not be in the
18 jury room at the same time any ammunition is in the jury
19 room.

20 If the jury requests to see the ammunition,
21 the firearms would then come out. They are always
22 separated. They are also safe. They are always in an
23 unloaded position.

24 With that being said, we are continuing the
25 trial of the case by the presentation of evidence and

1 under State versus Tapp in that regard?

2 MR. COLLINS: Yes, Your Honor.

3 THE COURT: Mr. Foreman, ladies and gentlemen
4 of the jury, if you would step out, please. Do not
5 discuss this case during this brief recess.

6 (The jury retires to the jury room.)

7 THE COURT: Solicitor, my understanding of
8 State versus Tapp, which was a case that was actually
9 reported in the advance sheets just above State versus
10 Liverman II, involved the offer of testimony of an Agent
11 Prodan of the State Law Enforcement Division.

12 It also outlined the requirements of the
13 gatekeeper for certain judges' determination as to
14 expert testimony, citing State versus White, which I
15 believe is a Richland County case on dog handling if I'm
16 not mistaken. I didn't reread White.

17 The specific language I was referring to is --
18 give me just a moment -- of course, Tapp involved crime
19 scene analysis, not crime scene investigation. I take
20 it that Mr. Collins' objection is it's too broad an
21 area. I think if you would question the officer in
22 regard to the area of crime scene investigation for me
23 to determine the various factors I need to look at.

24 MS. CAMPBELL: I would be glad to follow up
25 with some questions, Your Honor. May it please the

1 Court.

2 THE COURT: Yes, ma'am.

3 IN CAMERA DIRECT EXAMINATION

4 BY MS. CAMPBELL:

5 Q Sergeant Rose, specifically what kind of training
6 have you had as far as the collection and
7 documentation of evidence at a crime scene?

8 A Formal training from outside the department.

9 Q Including where?

10 A It was S.C.L.E.O.A. had a school, and I cannot
11 remember the name of the instructor.

12 Q You have to speak into the microphone.

13 A Her name is McCleary (phonetic), the instructor
14 that taught the class, and it was once a week.

15 Q What kind of information were you taught as far as
16 how to properly process a crime scene?

17 A Everything from collecting it, finding it,
18 documenting it, collecting it, preserving it.

19 Q Including photographing?

20 A Yes, ma'am.

21 Q And collection?

22 A Yes.

23 Q Of evidence that may be tested at a later time?

24 A Yes.

25 Q And in processing crime scenes, is that information

1 read, or listen to any news reports. Do not do any
2 investigation on your own or on the internet.

3 Remember to keep an open mind. Do not begin
4 your deliberations until you are instructed to do so.
5 If you would please be back at 9:30 in the morning. If
6 you would please be back promptly at 9:30 in the
7 morning.

8 I will release all of you but one. I would
9 like to ask juror 131 -- juror 131 -- if you would
10 remain for me a few minutes. The rest of y'all are
11 excused for the evening.

12 Sheriffs, if y'all would take care of the jury
13 for me. I hope y'all have a pleasant evening.

14 (The jury is excused for the day at 6:20 P.M.)

15 THE COURT: Step up here to my court reporter
16 for me, Mr. Juror.

17 Mr. Collins, Mr. Newton, Ms. Campbell, you can
18 step up here also.

19 (Whereupon the following bench conference with
20 the Court, counsel, and the juror is reported.)

21 THE COURT: You are juror 131?

22 JUROR: Yes, Your Honor.

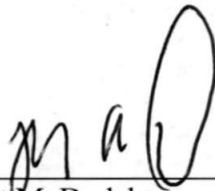
23 THE COURT: Tell me what your situation is.

24 JUROR: I wasn't aware that this could go into
25 next week. I have -- I am going to be out of town on

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Supplemental Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

November 12th, 2014



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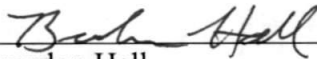
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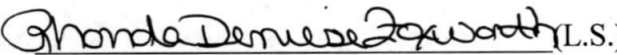
CERTIFICATE OF SERVICE

I certify that a true copy of the Supplemental Record on Appeal in the above referenced case has been served upon Donald J. Zelenka, Esquire, at Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, this 14th day of November, 2014.



Brandon Hall
Administrative Specialist

SUBSCRIBED AND SWORN TO before me
this 14th day of November, 2014.

 (L.S.)
Notary Public for South Carolina
My Commission Expires: October 17, 2021