

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

APPEAL FROM GREENVILLE COUNTY
C. VICTOR PLYE, JR., CIRCUIT COURT JUDGE

STATE OF SOUTH CAROLINA,

RESPONDENT,

v.

MICHAEL ROBERT BISHOP,

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JAN 23 2015

SC Court of Appeals

APPELLANT.

APPELLATE CASE NO. 2014-001616

Pro se SUPPLEMENTAL BRIEF
OF APPELLANT

MICHAEL ROBERT BISHOP
SCDC # 163177
MANNING CORRECTIONAL
INSTITUTION
COLUMBIA, SOUTH CAROLINA

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TABLE OF AUTHORITIES

NO CITATIONS OF AUTHORITY PRESENTED AT THIS
TIME.

STATEMENT OF ISSUE ON APPEAL

DID THE TRIAL JUDGE ERR IN RULING
THE ADMISSABILITY INTO THE EVIDENCE
THE RECORDED CONVERSATION OF APPELLANT
AND THE PRIVATE INDIVIDUAL OUTSIDE
THE PRESENCE OF THE POLICE ?

STATEMENT OF CASE

APPELLANT WAS CONVICTED OF GRAND LARCENY BY JURY TRIAL HELD DURING THE JULY 2014 TERM OF THE GREENVILLE COUNTY COURT OF GENERAL SESSIONS BEFORE THE HONORABLE C. VICTOR PYLE, JUNIOR, 13TH CIRCUIT COURT JUDGE. APPELLANT WAS SENTENCED TO IMPRISONMENT FOR A PERIOD OF TEN YEARS OF ACTUAL SCDC INCARCERATION. TIMOTHY SULLIVAN, ESQUIRE REPRESENTED APPELLANT AT TRIAL AND 13TH CIRCUIT ASSISTANT SOLICITOR SLOAN ELLIS REPRESENTED RESPONDENT AT TRIAL ACCORDINGLY. APPELLANT APPEALED HIS CONVICTION AND SENTENCE. THIS BRIEF FOLLOWS.

ARGUMENT

THE TRIAL JUDGE ERRED IN RULING THE ADMISSABILITY INTO EVIDENCE THE RECORDED CONVERSATION OF APPELLANT AND THE PRIVATE INDIVIDUAL OUTSIDE THE PRESENCE OF THE POLICE .

IN THE CASE AT BAR , THE RESPONDENT USED EVIDENCE IN THE FORM OF A COMPACT DISC (CD) WHICH CONTAINED A RECORDED CONVERSATION BETWEEN A PRIVATE INDIVIDUAL , MATTHEW CHAVIS , AND THE APPELLANT , MADE OUTSIDE THE PRESENCE OF THE POLICE , AND USED BY THE RESPONDENT AS EVIDENCE THAT APPELLANT PURPORTEDLY COMMITTED THE CRIME OF GRAND LARCENY . COUNSEL FOR THE APPELLANT STATED HIS OBJECTION TO THE INTRODUCTION OF THE CD INTO EVIDENCE AT THE PRETRIAL ARGUMENT OF THE CASE ON THE BASIS THAT HE BELIEVED THAT APPELLANT HAD AN EXPECTATION TO THE PRIVACY OF THE CONVERSATION AND THAT APPELLANT DID NOT KNOW THAT THE PRIVATE INDIVIDUAL , Mr. CHAVIS , WAS RECORDING THE CONVERSATION IN ORDER TO BE USED AGAINST APPELLANT IN A COURT OF LAW .
R. 46 , L. 25 - R. 57. 1-10 .

THE Corpus delicti (THE SUBSTANCE OF THE FAULT) OR THE FACT THAT A CRIME HAS BEEN COMMITTED, MUST CLEARLY SHOWN BY THE RESPONDENT. CIRCUMSTANTIAL EVIDENCE IS INSUFFICIENT TO CONVICT AND THE BURDEN OF PROOF IS BY THE GREAT WEIGHT OF AUTHORITY, UPON THE RESPONDENT AT ALL TIMES TO SHOW UPON THE SUM OF THE EVIDENCE, WITH REFERENCE TO ALL THE NECESSARY ELEMENTS OF THE CRIME THAT THE APPELLANT IS GUILTY BEYOND A REASONABLE DOUBT. BECAUSE NO AUTHORIZATION BY A VALID COURT ORDER ALLOWING THE USE OF THE RECORDED CONVERSATION AS EVIDENCE IN THE CASE AT BAR, THE TRIAL JUDGE ERRED IN ALLOWING THE RECORDED CONVERSATION TO BE ADMITTED INTO EVIDENCE IN VIOLATION OF APPLICABLE FEDERAL AND STATE LAW.

CONCLUSION

BASED ON THE ABOVE ARGUMENT, NOTWITHSTANDING THE ABSENCE OF NOTED CITATIONS OF AUTHORITY IN SUPPORT OF THE ARGUMENT, THE CASE SHOULD BE RESERVED AND REMANDED TO THE LOWER COURT FOR A NEW TRIAL ON THE MERITS.

CERTIFICATE OF SERVICE

I, MICHAEL ROBERT BISHOP, DID SERVE A TRUE COPY OF THE Pro Se SUPPLEMENTAL BRIEF OF APPELLANT UPON THE CLERK OF THE SOUTH CAROLINA COURT OF APPEALS, ON THIS 21st DAY OF JANUARY 2015 BY DEPOSITING SUCH IN THE INSTITUTIONAL MAIL ROOM SYSTEM TO BE FORWARDED TO THE UNITED STATES POSTAL SERVICE TO BE DELIVERED BY FIRST CLASS UNITED STATES MAIL ON THE ABOVE REFERENCED DATE.

RESPECTFULLY SUBMITTED,
St Michael R Bishop
MICHAEL ROBERT BISHOP
SCDC # 163177
APPELLANT, Pro Se

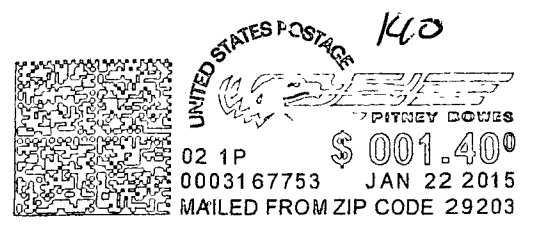
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S.C. Court of Appeals Co. V. Claire Allen
1015 Sumter Street
Columbia S.C. 29201

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