

The South Carolina Court of Appeals

The State, Respondent,

v.

Keenan Coakley, Appellant.

Appellate Case No. 2013-002659

The Honorable R. Markley Dennis, Jr.
Charleston County
Trial Court Case No. 2011GS1002078

BRIEF OF APPELLANT

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SC Court of Appeals

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State v. Mayor 391 S. E. 2d 235 (1990)..... 1
State v. Sullivan 282 S. E. 2d 838 (1981)..... 1

Issues on Appeal

- A. It was reversible error to allow the alleged statement as it introduced other alleged acts in violation of Rule 404B of the South Carolina Rules of Evidence.

Statement of the Case

A cellular telephone store in the Mt. Pleasant area of Charleston County was robbed by two (2) men with a weapon who escaped on foot. The authorities immediately commenced an investigation and search. Within a short time they effected a stop on an automobile carrying four (4) passengers. At the Trial of three of the occupants which included the Appellant, the State sought to elicit from a testifying codefendant, who was not on Trial, an alleged statement by the Appellant during the police stop that he "was not going back to jail." Timely objection was made but the Trial Court allowed the statement to come in and be considered by the jury. The jury found this appellant guilty and this appeal followed.

Argument

- A. It was reversible error to allow the alleged statement as it introduced other alleged acts in violation of Rule 404b of the South Carolina Rules of Evidence.

During the testimony of Mazyk the State was allowed to elicit the alleged statement by the appellant:

“Go! I’m not going back to jail, go!” Transcript at Page 520 – Lines 12 and 13 recorded on Appeal P 153 line 12-13.

This statement was recorded Appeal P.144 line 9 ET Seq. the subject of timely objection (Transcript of Record Page 511 – Lines Nine (9) Et. Seq.) and the basis for a new Trial. new Trial. Transcript of Record Pages 952); Transcript of Record P. 165 lines Six through Eleven (6-11)

This statement clearly conveys to any juror that the Appellant had been in jail. People rarely if ever go to jail unless there has been some accusation of serious wrongdoing. The South Carolina Rules of Evidence, specifically Rule 404 (b) says plainly that “evidence of other crimes, wrongs or acts is not admissible to prove the character of a person in order to show action in conformity therewith”..... South Carolina Rules of Evidence Rule 404 (b). The statement does not show any of the circumstances that the Rule goes further to state when such evidence may be admissible.

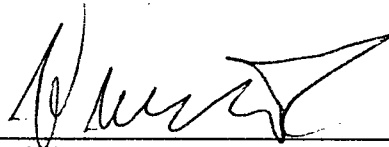
Here it is nothing more than a gratuitous gift to the prosecution to state that the Appellant has some other bad act or acts. Here the Defendant did not put into evidence his “Good” character and the Defendant did not testify to same. (Eg. Please see **State v. Lyles** 41 S.E.2d 625 (1947); **State v. Major**, 391 S. E. 2d 235 (1990)).

The prejudicial effect alone in this case warranted exclusion under Rule 403. South Carolina Rules of Evidence Rule 403 Eg **State v. Garner** 40 S.E. 2d (1991). Interestingly the Court seemed to rely on Rule 801 (d) (2) as a justification for allowing the statement. Transcript of Record Page 513 at Lines 24 and 25. Specifically it is respectfully submitted that the Court must have been relying on 801(d) (2)E as justification for overlooking the otherwise prejudicial effect. South Carolina Rules of Evidence Rule 801(d) (2) (E). However the alleged statement was not in furtherance of the conspiracy between the parties. Please see **State v. Sullivan** 282 S. E. 2d 838 (1981).

In this case the jury had a car with four people in it. The State contended the Appellant and one other occupant went into the store. This statement alone could have been the factor that the jury used in analyzing the evidence to find him guilty.

Conclusion

Accordingly it is respectfully submitted that the elicited testimony was prejudiced and reversible error and the Appellants conviction and sentence should be reversed.



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Respondent,,

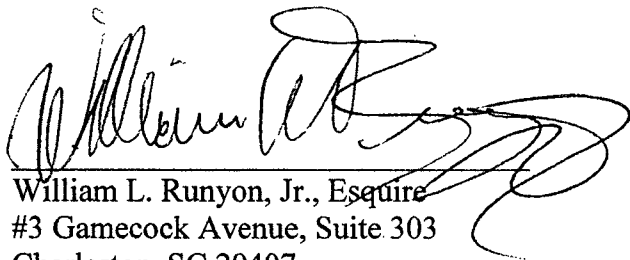
v.

KEENAN COAKLEY,

Appellant,

CERTIFICATE OF COUNSEL

The undersigned certifies that this Final brief of Appellant complies with Rule 211(b), SCACR and the August 13, 2007, Order from the South Carolina Supreme Court entitled "Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings".



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March 12, 2015

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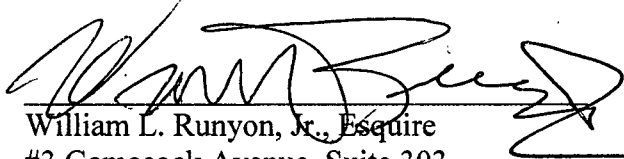
Appellant,

PROOF OF SERVICE

I, William L. Runyon, Jr., do hereby certify that on the ^{18th} day of March, 2015, I served a copy of the Appellant's **FINAL BRIEF OF APPELLANT** on Honorable Deborah R. J. Shupe, South Carolina Attorney General in the within matter, by mailing a copy to her by way of the United States mail, with sufficient postage attached thereto and addressed as follows:

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^{18th}
Dated this day of March, 2015
At Charleston, South Carolina