

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Charleston County

G. Thomas Cooper, Circuit Court Judge

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S.C. Supreme Court

JEREMIAH TURNER,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2015-000127

SUPPLEMENTAL APPENDIX

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STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Charleston County

J. C. Buddy Nicholson, Jr., Circuit Court Judge

THE STATE,

RESPONDENT,

v.

JEREMIAH TURNER,

APPELLANT

FINAL ANDERS BRIEF OF APPELLANT

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STATEMENT OF ISSUE ON APPEAL

Did Detective Ramsey's interrogation tactics that were designed to illicit confessions from defendant's suffering from pedophilia, and his promises of leniency render Appellant's statement involuntary?

STATEMENT OF THE CASE

Appellant was indicted by the Charleston County Grand Jury for four counts of Criminal Sexual Conduct with a minor and one count of lewd act on a child. On April 5, 2010 Appellant was called to trial before the Honorable J.C. Nicholson and a jury. R. 1. Appellant was represented by Andrew Grimes and Megan Ehrlich. R. 1. The State was represented by Debbie Herring-Lash and Rutledge Durant. R. 1.

At the conclusion of the trial Appellant was found guilty of all charges. Appellant was sentenced to thirty years on each of the criminal sexual conduct charges and fifteen years for lewd act on a child. R. 673, ll. 2-19. The trial court ordered that all of his sentences run concurrent. R. 673, ll. 2-21. This appeal follows.

ARGUMENT

Detective Ramsey's interrogation tactics that were designed to illicit confessions from defendant's suffering from pedophilia, and his promises of leniency rendered Appellant's statement involuntary.

Relevant Facts

On August 27, 2008, Appellant reported that his girlfriend had been physically abusing and neglecting her daughter, Minor 1. R. 433, ll. 7-15. After reporting this abuse to the church, the church called the police, and Detective Ramsey responded. Ramsey spoke with Appellant about the abuse. R. 433, ll. 18-19.

On September 8, 2008, the Department of Social Services (DSS) went to the Minor 1's school to investigate the abuse and neglect allegations. R. 287, ll. 17-18. Delilah Coverdale of DSS interviewed Minor 1. Minor 1 told Coverdale that Appellant had been sexually abusing her. Coverdale then called the police, who interviewed Minor 1. R. 289, ll. 1-9.

Once again Ramsey met with Appellant, but this time to discuss the alleged sexual abuse. Ramsey took Appellant back to the police station for questioning. R. 441, ll. 1-20 In a cramped interview room, Ramsey gave Appellant a sheet with his Miranda rights on it. R. 446, ll. 1-24.

Initially, Appellant denied the allegations. R. 132, ll. 13-21. Then, Ramsey began to buddy up to Appellant. R. 134, ll. 23-24. He told appellant that they were both men and had hormones. R. 158, ll. 1-8. He began to minimize and empathize with pedophiles in hopes of eliciting a confession. He offered Appellant scenarios that would mitigate

Appellant's alleged guilt. R. 158, ll. 3-4; R. 171, ll. 1-3. Ramsey's primary objective was to get Appellant to admit to sexually assaulting Minor 1.

Ramsey also told Appellant that "the truth would set him free." R. 170, ll. 4-6. During the interview Ramsey warned Appellant that he could get a lot of time for sexually abusing the girl, but he told Appellant he would talk to the judge for him. R. 171, ll. 21-23. Eventually, Appellant broke down and gave a false statement claiming to sexually assaulting Minor 1. R. 174, ll. 14-19.

Appellant was charged with four counts of criminal sexual conduct with a minor and one count of lewd act on a child. The trial court found the confession voluntary and admitted it over Appellant's objection. R. 182, l. 7 – R. 187, l. 19. At the end of trial, Appellant was found guilty.

Argument

South Carolina has a long history of making sure that confessions are suppressed when they result from the police offering one some advantage to making a confession. *See State v. Peake*, 291 S.C. 138, 139, 352 S.E.2d 487, 488 (1987) (holding the defendant's statement was involuntary when it was the result of the officer's promising him that the State would not seek the death penalty if he confessed); *See also State v. Angel*, 93 S.C. 149, 76 S.E. 190, 194 (1912) (Fraser, J., dissenting in part) ("The reason for guarding confessions so jealously is that those under suspicion of crime will, for some temporary supposed advantage, confess the commission of crimes that they did not commit.").

In determining whether a statement is voluntarily made, courts look to see whether a defendant's will was overborne by the circumstances surrounding the giving of

a confession. *See State v. Goodwin*, 384 S.C. 588, 601, 683 S.E.2d 500, 507 (Ct. App. 2009). When deciding if a defendant's statement was voluntary the court and jury should consider several factors including police coercion and the defendant's mental health. *Id.* (citing *Withrow v. Williams*, 507 U.S. 680, 693 (1993)). The court should view the police behavior from the defendant's prospective. *State v. Miller*, 375 S.C. 370, 386, 652 S.E.2d 444, 452 (Ct. App. 2007).

A. Ramsey's interrogation tactics were coercive.

Ramsey's interrogation tactic was to "buddy up" to Appellant, was coercive. By telling Appellant, "the truth will set you free", Ramsey was inducing a statement by a promise of leniency. *See State v. Peake*, 291 S.C. 138, 139, 352 S.C. 487, 487 (1987) (holding that eliciting a confession by promising not to seek the death penalty was coercive).

Additionally by offering to talk to the judge and telling Appellant that he could be in prison for a long time, Ramsey implied that there was some benefit to giving a statement. In *State v. Williams*, 33 N.C. App. 624, 235 S.E.2d 869 (1977), the arresting officer advised Williams of his rights, but then told him "he appeared to be cooperative and when and if this went to court, that all [the officer] could say on his behalf was that he was cooperative at the time." *Id.* at 626, 235 S.E.2d at 870. The North Carolina Court of Appeals held that the defendant's statement was inadmissible because the statement was involuntary; concluding that the officer's statement "were such that defendant 'could gather hope of benefit by confessing.'" *Id.* at 627, 235 S.E.2d at 871.

In Appellant's case, Ramsey threatened that Appellant could go away for a long time and then told him that the truth would set him free. R. 170, ll. 4-6. Finally, Ramsey

implied he would talk to the judge for Appellant. R. 171, ll. 21-23. These were coercive tactics which induced Appellant to make an involuntary statement.

B. Ramsey's tactics were designed to be coercive to pedophiles.

The trial judge found that the defendant's statement describing an act of pedophilia as being voluntary. *If this statement were true*¹, then the judge would have had substantial evidence that Appellant was a pedophile. Therefore the judge should have considered the mental disease of pedophilia in its determination of the voluntariness of the statement.

Pedophilia is a disorder that involves sexual activity with a prepubescent child. Diagnostic and Statistical Manual of Mental Disorders Fourth Edition § 302.2; *see also State v. Nelson*, 331 S.C. 1, 5, 501 S.E.2d 716, 718 (1998). Some pedophiles have "distorted ways of thinking about their offending that justify or minimize the severity of their offences." *Cf. Mark Kebbell et al, How do sex offenders think the police should interview to elicit confessions from sex offenders*, 16 *Psychology, Crime & Law* 7, 567, 569 (September 2010). When officers display an understanding of the pedophiles distorted views, a pedophile is more likely to confess because "an officer displaying this understanding of sex offending without becoming aggressive may make them feel understood and also indicates that the officer is not likely to become aggressive if the offender confesses." *See id.*, at 577.

Ramsey's tactics would overbear the will of a pedophile. *See Kebbell et al*, at 569. By his own admission Ramsey tried to buddy up to Appellant and avoid talking about court or judges which would scare appellant into not talking. R. 161, ll. 4-11.

¹ At trial, Appellant asserted that this was actually a false confession.

Ramsey also humanized pedophilic desires by telling Appellant, "Look, you know, you're a man. I'm a man. We both have Hormones and emotions. Did she come on to you?" R. 158, ll. 2-3.

Assuming *the trial court believed* that Appellant was a pedophile²; the trial court should have found that Ramsey's tactics overborne Appellant due to his suspected pedophilia. *See Goodwin, Supra* (noting that when determining voluntariness of a statement the trial court should consider the defendant's mental health). Therefore this Court should reverse the trial court's finding that the statement was voluntary and grant Appellant a new trial.

² Appellant has not claimed to be a pedophile. This argument is based upon the trial court's belief and the State's assertion that Appellant was a pedophile. Appellant *does not* intend this argument to be a comment on whether or not he is a pedophile.

CONCLUSION

For the foregoing reasons, Appellant respectfully requests that this Court grant him a new trial.

Respectfully submitted,



Tristan M. Shaffer
Appellate Defender

ATTORNEY FOR APPELLANT

This 30th day of August, 2011.

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Charleston County

J. C. Buddy Nicholson, Jr., Circuit Court Judge

THE STATE,

RESPONDENT,

V.

JEREMIAH TURNER,

APPELLANT

PETITION TO BE RELIEVED AS COUNSEL

Counsel for Jeremiah Turner states:

1. He is Appellate Defender for the South Carolina Office of Appellate Defense, and was appointed to represent appellant.

2. He has reviewed the record of appellant's trial before Judge J. C. Buddy Nicholson, Jr., which was held on April 5-8, 2010, and, in his opinion, the appeal is without legal merit sufficient to warrant a new trial.

3. He has, pursuant to Anders v. California, 386 U.S. 738, 87 S.Ct. 1396 (1967), briefed an arguable legal issue which arose during the course of the trial.

WHEREFORE, he asks the Court to relieve him as counsel for Jeremiah Turner.

Respectfully submitted,



Tristan M. Shaffer
Appellate Defender

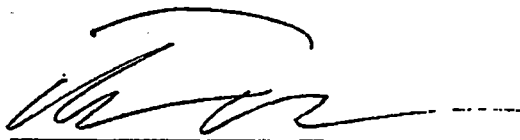
ATTORNEY FOR APPELLANT

This 30th day of August, 2011.

CERTIFICATE OF COUNSEL

The undersigned certifies that to the best of my ability 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."

August 30th, 2011



Tristan M. Shaffer
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THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.

**THE STATE OF SOUTH CAROLINA
In The Court of Appeals**

The State, Respondent,
v.
Jeremiah Turner, Appellant.

Appeal From Charleston County
J. C. Nicholson, Jr., Circuit Court Judge

Unpublished Opinion No. 2012-UP-362
Submitted June 1, 2012 – Filed June 13, 2012

APPEAL DISMISSED

Appellate Defender Tristan M. Shaffer, of Columbia,
for Appellant.

Attorney General Alan Wilson, Chief Deputy
Attorney General John W. McIntosh, and Senior
Assistant Deputy Attorney General Salley W. Elliott,

all of Columbia; and Solicitor Scarlett Anne Wilson,
of Charleston, for Respondent.

PER CURIAM: Jeremiah Turner appeals his convictions of four counts of first-degree criminal sexual conduct with a minor and one count of lewd act upon a minor, arguing the trial court erred in finding Turner's statement to police was voluntary. After a thorough review of the record and counsel's brief pursuant to Anders v. California, 386 U.S. 738 (1967), and State v. Williams, 305 S.C. 116, 406 S.E.2d 357 (1991), we dismiss the appeal and grant counsel's motion to be relieved.¹

APPEAL DISMISSED.

WILLIAMS, THOMAS, and LOCKEMY, JJ., concur.

¹ We decide this case without oral argument pursuant to Rule 215, SCACR.