

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENWOOD)

IN THE EIGHTH JUDICIAL CIRCUIT COURT

STATE OF SOUTH CAROLINA)
)
vs.)
)
MATTHEW CAPLEY)
)
Defendant)

ORDER
2015-GS-24-209, 210

RECEIVED
JUN 15 2016
SC Court of Appeals
FILED
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GREENWOOD COUNTY
SOUTH CAROLINA

The Defendant was indicted on Burglary First Degree (#209) and Common Law Robbery (#210) by the Greenwood County Grand Jury. He was tried on these two offenses and a jury acquitted him of the Common Law Robbery charge but was unable to reach a unanimous verdict on the Burglary First charge resulting in a mistrial being declared. This took place on January 14, 2016.

The Defendant filed a Motion for Judgment of Acquittal as concerns the Burglary First Degree charge and oral argument was received from the attorneys on April 21, 2016.

The State is represented by Elizabeth P. White, Esq. and Wade Downtin, Esq., both with the Eighth Judicial Circuit Solicitor's Office and the Defendant is represented by Carson M. Henderson, Esq. and Robert J. Tinsley, Sr., both of the Greenwood County Bar.

The Defendant claims that double jeopardy prohibits the State from prosecuting the Defendant again on the Burglary First Degree charge relying on the case of Yeager vs. US, 557 U.S. 110 (2009). He relies on the collateral estoppel component of the double jeopardy claim. In Yeager, as in this case, the question arises whether double jeopardy bars the State from re-

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GREENWOOD COUNTY
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prosecuting a Defendant where a jury had acquitted the Defendant on some count(s), but deadlocked on other count(s)—thus resulting in a mistrial on the deadlock count(s)-and whether or not it could be shown that an "ultimate issue of fact" in the acquitted count(s) was also an essential issue of fact in the deadlocked count(s). See, State ex rel. Taylor v. Janes, 693 S.E.2d 82 (2010). The above Taylor case does an excellent job in providing an analysis of the Yeager case and the distinction between traditional principles of double jeopardy and collateral estoppel. It states as to double jeopardy, traditional principles bar repeated "prosecution for the same identical act and crime. Consequently, the State may not re-prosecute a defendant on a charge after being found not guilty. Conversely, if a jury is deadlocked on a charge and a mistrial is declared, absent other circumstances, the State is at liberty to try the Defendant again on the same charge.

On the other hand, the Taylor case, also discusses collateral estoppel and provides the following summary. "Issues relevant to collateral estoppel in criminal cases generally arise where a jury has acquitted a defendant on some charges but has deadlocked on other charges and where the acquitted charges and the deadlocked charges arise from the same or similar conduct and depend on the same or similar proof." The case goes further and cites the Yeager case which held that collateral estoppel precludes "relitigating any issue that was necessarily decided by a jury's acquittal in a prior trial." Yeager, 129 S.Ct. at 2366, 2367 (citing Ashe v. Swenson, 397 U.S. 436 (1970)). Once more, the Court found "When an issue of ultimate fact has once been determined by a valid and final judgment of acquittal, it cannot be re-litigated in a second trial for a separate offense." Id.

So the task here is to determine if there was a fact connected to both offenses that was


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necessarily decided by the jury. Yeager says this analysis is case specific. Yeager also said: "...To decipher what a jury has necessarily decided...courts should examine the record of the prior proceeding, taking into account the pleadings, evidence, charge and other relevant matter, and conclude whether a rational jury could have grounded its verdict upon an issue other than which the Defendant seeks to foreclose from consideration". Page 2367. Finally, Yeager is clear that the analysis is fact driven and no consideration should be given to the apparent inconsistencies between the verdict of acquittal and the fact they could not reach a verdict on the other charge.

The Defendant argues that the one issue that was decided in his favor is that he was not one of the robbers and this, therefore, precludes prosecution again on the Burglary charge. The thinking here is that if the Defendant was not one of the robbers then he could not be one of the ones who committed the Burglary. The Court is inclined to disagree.

The case of State vs. Peterson, 336 S.C. 6 (Ct.App. 1999) is helpful here. The question in that case was whether the Defendant could be convicted of burglary because the jury failed to convict him of assault with intent to commit criminal sexual conduct. While this was not a collateral estoppel case, the reasoning is important. The Defendant was accused of breaking into the victim's home and assaulting her. The Peterson case recognized that burglary does not require that the intended crime be committed but that the Defendant simply had the intent to commit a crime. This case also cited to other cases of a similar type such as being found guilty of Breaking and Entering and acquitted of Larceny.

The above logic can be extended to this present case. The elements of both subject offenses are as follows:

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Common Law Robbery:

1. Use of force, threats, intimidation
2. To take personal property
3. From the person of another
4. With intent to deprive
5. Carrying away

Burglary First: (This case)

1. Entering a dwelling without consent and with the Intent to commit a crime

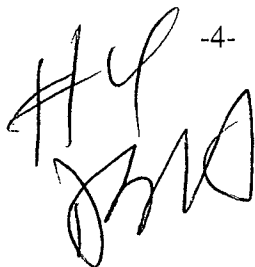
And

2. Causing physical injury or entering at night.

The allegations in this case are essentially this; that the Defendant and others forced their way into victims' home, assaulted them and took away a wallet, cell phone and the like.

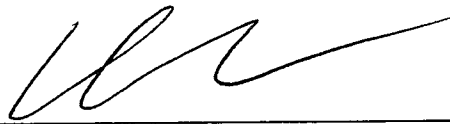
Even if the jury concluded that the Defendant was not one of the robbers, as the Defendant argues, nothing prevents a jury from determining that the Defendant was one of the ones to commit the Burglary. In other words, one can be a burglar and not a robber. It only has to be shown that the Defendant had the intent to a crime (i.e. burglary) not that he was successful with committing the crime (i.e. robbery). Or to look at it from another angle, the jury simply could have not believed the victims that the cell phone and wallet were taken or that these items were carried away thus preventing the state from proving all of the elements of the common law robbery.

Simply stated, this Court cannot find one ultimate issue or fact that was decided in the

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Defendant's favor that would automatically preclude the State from prosecuting the Defendant again on the Burglary First charge.

The Defendant's Motion is respectfully denied.



DONALD B. HOCKER
CIRCUIT COURT JUDGE

Laurens, South Carolina

Date: 6-8-16

