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**SC SUPREME COURT**

THE STATE OF SOUTH CAROLINA

APPEAL FROM AIKEN COUNTY  
Court of Common Pleas

Craig Brown, Circuit Court Judge

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Appellate Case 2015-001798

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Shawn Madison, #328499

Petitioner,

v.

State of South Carolina,

Respondent.

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SUPPLEMENTAL APPENDIX

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State of South Carolina )  
County of Aiken ) Court of General Sessions  
08-GS-02-89

The State of South Carolina )  
Plaintiff )  
vs. ) Transcript of Record  
Shawn Madison )  
Defendant )

May 19, 2008  
Aiken, South Carolina

B E F O R E:

The Honorable Doyet A. Early, III, Judge.

A P P E A R A N C E S:

Elizabeth B. Young, Assistant Solicitor  
Attorney for the Plaintiff

Everett K. Chandler, Esq.  
Attorney for the Defendant

Lisa H. Davenport  
Official Court Reporter

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E X H I B I T S

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>
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(None offered)

1 (Whereupon, on May 19, 2008 the following proceedings  
2 were held:)

3 MR. CHANDLER: This is the matter of indictment  
4 number 2008-GS-02-89, the State of South Carolina versus  
5 Shawn A. Madison. This is a motion on behalf of the  
6 Defendant for a suppression on the basis that there was an  
7 illegal stop. This motion is made that some cocaine that  
8 was found --

9 THE COURT: Stephanie?

10 (Whereupon, a break was taken.)

11 THE COURT: Mr. Chandler, I apologize.

12 MR. CHANDLER: I certainly understand.

13 THE COURT: Motion to suppress.

14 MR. CHANDLER: Yes, it is a motion to suppress. The  
15 particular evidence is specifically roughly 27 grams of  
16 cocaine that was --

17 THE COURT: 27 grams of cocaine?

18 MR. CHANDLER: It was approximately. It might have  
19 been 27.7 grams of cocaine that was found as a result of  
20 our position an illegal stop. Your Honor, more  
21 specifically, the facts surrounding this case is that  
22 officers with North Augusta Department of Public Safety  
23 were called to North Augusta Gardens which is an apartment  
24 complex located in the city of North augusta for the  
25 purpose of investigating a complaint regarding a Sheika

1 Key who was smoking marijuana in North Augusta Gardens.

2 At the time that officers pulled into the complex our  
3 officer -- My client Mr. Shawn Madison was walking to his  
4 car, got in his car and drove off. They immediately  
5 followed him, pulled him over, discussed with him --

6 THE COURT: Why did they pull him over?

7 MR. CHANDLER: Well, Your Honor, later on after he is  
8 arrested after the drugs are found well after the stop  
9 there was a warning for tinted license tag for illegal  
10 license tag that was only handed to him at the time -- at  
11 the station. The officer -- the investigative officer at  
12 the preliminary hearing has already admitted that never  
13 during the stop was there any discussion of an illegal  
14 tag. Never was there any --

15 THE COURT: Is the tag illegal or the thing that goes  
16 over the tag? I mean, is it just a tinted color?

17 MR. CHANDLER: Yea, it is an illegal tag cover.

18 THE COURT: Is that illegal?

19 MR. CHANDLER: Your Honor, apparently, there must be  
20 a North Augusta City citation for illegal tag cover. Your  
21 Honor, during the stop there was never any discussion of  
22 the illegal tag cover. It was only discussion --

23 THE COURT: How tinted was it?

24 MR. CHANDLER: Your Honor, I just know it was dark,  
25 but, again, my client. No one said anything about it

1 during the stop -- no one said anything about it during  
2 the stop. No one said anything about it during the  
3 investigation. It was only passed to him as a warning  
4 ticket after he had been arrested for the trafficking of  
5 the cocaine which was found based on the illegal stop.  
6 During the stop -- I will say this, Your Honor, just for  
7 completeness -- at the time that his -- at the time of the  
8 stop they did begin to question him regarding what was  
9 going on at the apartment complex. My client did indicate  
10 that he didn't have anything on him and he did at the  
11 time --

12 THE COURT: Hold on a second. Y'all go ahead and  
13 finish your talking. Don't worry about us. Go ahead and  
14 talk. Hold on a second and let them finish their  
15 conversation. Through?

16 MR. CHANDLER: Your Honor, after the illegal stop my  
17 client did, in fact -- He did tell them that he did not  
18 have anything on him and, actually, volunteered to be  
19 searched. He said y'all can search me. He got out of the  
20 car. I know. He got out of the car, Your Honor, and it  
21 was at that time he was holding something in his crotch  
22 area he was kind of holding. They asked him to release it  
23 and it was at that time that the drugs did fall out.

24 Your Honor, it is our argument that the -- because  
25 the stop was illegal any subsequent discussions or

1 interrogations regarding his --

2 THE COURT: Well, let's assume that it is against the  
3 law to -- I assume it is a law that says you can't have a  
4 tinted tag cover.

5 MR. CHANDLER: Well, Your Honor, even if it is  
6 against that, it would be our position that in light of  
7 the circumstances during the stop there was no discussion  
8 of that violation. You know, normally when people stop  
9 -- not that it's required by law, but the first thing  
10 they say is, You know why I stopped you? In this case  
11 nobody even mentions anything about a tinted tag. In  
12 fact, what happens is at the very end it's only the  
13 citation which is a warning citation is later handed to my  
14 client after they -- after they had arrested and charged  
15 him with the trafficking --

16 THE COURT: So, you're arguing it is sort of a  
17 pretextual stop?

18 MR. CHANDLER: It is a exactly a pretextual stop and  
19 I'll go to further to say this particular citation was  
20 only issued to justify an illegal stop because it was only  
21 offered later on. There was no 10 codes, there was the  
22 call in of the illegal tag -- none of that happened at the  
23 time of the video, and, actually, during the prelim the  
24 investigating officer testified to that fact.

25 MRS. YOUNG: Your Honor, it is the state's contention

1 this is a lawful stop. There is a state statute regarding  
2 proper display of license plates and what is and what is  
3 not allowed. The state has the officer here and we're  
4 ready to proceed and present evidence surrounding the  
5 facts of the stop that we believe will show that it was  
6 reasonable, lawful, and that all the surrounding --

7 THE COURT: Hold on one second. Mr. Chandler has got  
8 so upset at your argument that he turned over the water  
9 pitcher. Just go ahead and clean it up.

10 Thank you, officer.

11 Okay. So, there is a law that says I can't have a  
12 tinted cover over my license tag?

13 MRS. YOUNG: Yes, Your Honor, additionally under the  
14 case --

15 THE COURT: Is that a big serious problem in our area  
16 that we have to stop everybody riding around --

17 MRS. YOUNG: Well, Your Honor, the facts will come  
18 out that's not the only reason for the stop, but --

19 THE COURT: What was the reason?

20 MRS. YOUNG: The reason was that the officers were  
21 called to an area that's known to have high drug activity  
22 for an anonymous complaint of possible drug transaction  
23 occurring between specific buildings. When officers  
24 approached the location a car was coming from the area  
25 that the complainant indicated. The car struck the

1 officer's attention. It was 10 o'clock at night. It was  
2 the only activity occurring.

3 The first officer indicated to the second officer  
4 that there was a car coming out. The second officer  
5 observed the car and additionally at that time observed  
6 that the plate was obscured and that that was a traffic  
7 violation so he pulled him over for that and then he  
8 approached him to discuss the matter and shortly  
9 thereafter the drugs were discovered during the course of  
10 the stop. We have the officers here to testify. We also  
11 have the video that we can offer which is 15 minutes if  
12 Your Honor wishes to watch it. It's not very long.

13 It is the state's position that under the case of  
14 State v Adams that when probable cause exists that a  
15 traffic violation has occurred the decision to stop the  
16 automobile is reasonable, per se.

17 THE COURT: How do you find a traffic violation? Is  
18 having a tinted tag a traffic violation? I am not trying  
19 to pick on you, ma'am. I don't know the answer to that  
20 question.

21 MRS. YOUNG: I don't know off the top of my head,  
22 Your Honor. I'd have to look at it. It is in the traffic  
23 code.

24 THE COURT: You don't have to answer that.

25 MRS. YOUNG: But even if it for some reason wasn't,

1 Your Honor, it would be the state's position that they had  
2 reasonable suspicion based on the report that was made to  
3 them to stop the car to see if any criminal activity had  
4 occurred and in the course of briefly speaking with the  
5 driver that he, in fact, gave them consent to search the  
6 vehicles, stepped out and the drugs fell out from the  
7 crotch of his pants. The reason that the warning was not  
8 issued at the time according to the officers is that he  
9 was then placed under arrest for trafficking cocaine. He  
10 was transported to the North Augusta Department of Public  
11 Safety where all of the paperwork was completed including  
12 the warrant regarding trafficking as well as the warning  
13 and that that is the practice of the Department to not  
14 spend inordinate amounts of time on the side of the road  
15 writing tickets when a person is already under arrest for  
16 another offense.

17 THE COURT: There is a case called State versus  
18 Padgett which says a traffic stop is proper without a  
19 license plate. So, I guess if the license plate is  
20 missing it is reasonable to say if it's tinted it could  
21 also be a traffic stop.

22 Anything in response?

23 MR. CHANDLER: Absolutely, Your Honor. I mean, the  
24 whole basis of this particular -- this particular motion,  
25 Your Honor, is that the state and they've correctly --

1 they rest their entire case on the fact that they had a  
2 valid traffic stop based on an illegal tag. We know that  
3 that is the basis of it as she's quoted the law on it.  
4 The reality of it is that it wasn't that they just didn't  
5 spend an inordinate amount of time writing a ticket. It  
6 was never discussed by the officers throughout the -- the  
7 officers when they were initiating the stop. It never was  
8 discussed in any discussion with the officers and my  
9 client, and, Your Honor, this idea of a charge only came  
10 about once they went into -- once they went to the North  
11 Augusta --

12 THE COURT: Well, what she's saying, though, is once  
13 they found the dope -- the drugs -- they knew they had to  
14 arrest him for that and so they take him down to the  
15 station and sign a warrant for that and then issue the  
16 warrant for the tag. The fact that they delayed it a  
17 little bit, I don't see where that's significant.

18 MR. CHANDLER: Your Honor --

19 THE COURT: What bothers me is just stopping somebody  
20 for a tinted tag like we see so many stopping them for  
21 allegedly the taillight burned out or the license tag  
22 light burned out. It seems like some people get picked on  
23 more than others. But it bothers me that he gave consent  
24 to search.

25 MR. CHANDLER: Yea.

1 THE COURT: You got a whole different story there  
2 with that.

3 MR. CHANDLER: Yes, Your Honor, and beyond that point  
4 our argument is only against the stop in this particular  
5 case, Your Honor. The reality of it is that our problem  
6 is not just that there was a delay in writing the ticket.  
7 The fact of the matter is that it's our position that the  
8 ticket or this charge was only made as justification later  
9 on because there was not even the sheer mention of it and  
10 we're not saying that the law enforcement was required to  
11 say, you know, why we stopped you, but I'm talking about  
12 no mention of an illegal tag, and if that's the basis of  
13 any stop, certainly, that would have been even mentioned.  
14 I can understand maybe not going through --

15 THE COURT: Do you have any law that says they have  
16 to mention it?

17 MR. CHANDLER: No, Your Honor. In fact, the law is  
18 clear that they are not required to mention it.

19 THE COURT: All right. Anything else?

20 MR. CHANDLER: None from the defense, Your Honor.

21 THE COURT: Any other motions we need to deal with  
22 pretrial before tomorrow?

23 MRS. YOUNG: No, Your Honor. I would just like to  
24 respond to Mr. Chandler's argument regarding the officer's  
25 motives. That Padgett case that you just mentioned also

1 stands for the fact that based on the United States  
2 Supreme Court of Wrenn v United States an officer's  
3 subjective motive doesn't invalidate behavior that's  
4 objectively justified under the fourth amendment.

5 THE COURT: All right. Anything else? We don't have  
6 a Jackson v Denno or anything?

7 MR. CHANDLER: Not in this case, Your Honor.

8 THE COURT: What else we got, Mr. Weeks? Anything?

9 MR. GIBBONS: We got some pleas.

10 THE COURT: My girls are tired. It's a quarter 'til  
11 five. And my guys are tired, too. I'm not singling y'all  
12 out.

13 Let me see y'all in chambers.

14 (Whereupon, a break was taken.)

15 THE COURT: Let the record reflect that we've had an  
16 in-camera in-chambers discussion with Mr. Chandler and  
17 members of the Solicitor's office. I had an opportunity  
18 to observe approximately three to four minutes of the  
19 video that was mentioned in the presence of Mr. Chandler  
20 on my computer. After considering the arguments of both  
21 the State and the Defendant, reviewing section 56-3-1240,  
22 and the case of State versus Padgett, and, of course, the  
23 general caselaw dealing with searches, the fact that he  
24 gave consent, I will respectfully deny your motion,  
25 Mr. Chandler.

1           The case will be ready to start in the morning or  
2 Wednesday morning, and because of the seriousness of this  
3 situation I am going to require your client to remain in  
4 custody. Anything else before we break for the evening?

5           MRS. YOUNG: Not on this case, Your Honor.

6           (End of Transcript of Record.)

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CERTIFICATE OF REPORTER

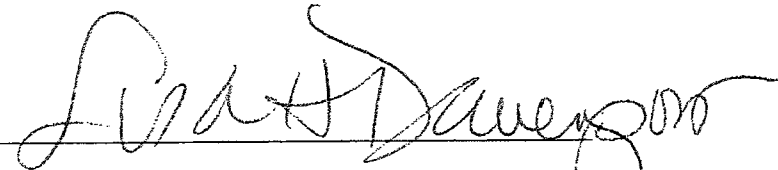
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State of South Carolina        )  
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I, Lisa H. Davenport, Official Court Reporter for the  
Second Judicial Circuit of the State of South Carolina, do  
hereby certify that the foregoing is a true, accurate and  
complete Transcript of Record of the proceedings had and  
evidence introduced in the trial of the captioned case,  
relative to appeal, in the Court of General Sessions for  
Aiken County, South Carolina, on the 19th day of May,  
2008.

I do further certify that I am neither of kin,  
counsel nor interest to any party hereto.

October 22, 2009



Lisa H. Davenport, Court Reporter