

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

STATE OF SOUTH CAROLINA

RESPONDENT

V.

JARRET GRADDICK

APPELLANT

APPELLATE CASE NO.: 2014-001557

APPELLANT'S GUILTY PLEA EXPLANATION

RECEIVED

JUL 13 2016

SC Court of Appeals

TO: THE SOUTH CAROLINA COURT OF APPEALS

The Appellant, Jarret Graddick (hereinafter referred to as "Appellant") responding with an "Guilty Plea Explanation" as follows.

FACTUAL BACKGROUND

On July 25, 2011 three (3) unidentified males robbed at gun point a Piggly Wiggly grocery store located at 1981 Riviera Drive, Mt. Pleasant, SC at approximately 10:00 in the evening. The culpable party successfully pillaged the stores safe with the assistance of two employees, "Donald Hair and Kathy McDonald". Unfortunately the culprits did not leave any traceable evidence behind.

The witnesses did not provide any description of the suspects ethnicity or means of transportation.

On July 28, 2011 Sergeant Justin Herdree arrested an individual, from a separate incident, who claimed to be Appellant's accomplice during the incident. After verbally repeating the inadmissible hearsay to Captain McCarthy, Sergeant Herdree maliciously swore under oath that this information provided him with probable cause to believe that Appellant was a willing participant in the robbery and thereafter a 'rubber stamp' for the police issued the 'bare bones' warrant 1-112194 based on

Sergeant Hembree's deplorable beliefs which are redundantly embodied in his affidavit OCA # 2011-P-09173 dated August 2, 2011,

In 2012 the Charleston County Grand Jury indicted Appellant for armed robbery and two counts of kidnapping based upon impermissible hearsay, indictment # 2012-GS-10-2370, 2371 and 2372.

On July 7, 2014 after being dexterously insinuated by the trial court, Appellant was entangled by the inveiglement of the trial court's peroration by erroneously listening to trial counsel's repugnant advise when Appellant capitulated Appellant's rightful entitlements and "free will" unknowingly. R. 2, 22-R. 7, 25, R. 8, 1-R. 10, 13, R. 14, 13-14, R. 15, 12-15. Thereafter the trial court imperturbably said that the courts would accept the Alford Plea if there were a substantial factual basis for the plea. R. 16, 20-21. Respondent having a malicious intent to prosecute with the usage of motivated witnesses and misstatements of material facts knew that the case suffered meritorious infirmities. R. 17, 25, 7-9, R. 18, 15-16, 21-22, R. 19, 12.

ARGUMENT

Due process clause requires that guilty pleas are entered in a voluntarily, knowingly and intelligently by defendants, Boykin v. Alabama, 395 U.S. 238 S.Ct. 1709, 23 L.Ed. 2d 274 (1969). A guilty plea may be invalid if it was induced by threats or misrepresentation. Brady v. U.S. 90 S.Ct. 1463. Agents of the state may not produce a guilty plea by actual or threatened physical harm or by mental coercion overbearing the will of the defendant nor by the exercise of any improper influence, U.S.C.A. Const. Amend 5.

When determining issues relating to guilty pleas, the court will consider the entire record, including the transcript of the guilty plea and evidence presented at the hearing. Harris v. Keelce, 282 S.C. 131 318 S.E. 2d 360 (1984).

The dispositive issue is whether sufficient information was given to the magistrate to perform his 'neutral and detached' function rather than serve as a 'rubber stamp for the police'. Johnson, 302 S.C. at 248, 395 S.E. 2d at 170.

In Johnson, as here, the affidavit did not contain any information regarding the reliability of the purported accomplice/informant nor was there any corroboration. See also State v. Austin, 306 S.C. 9, 409 S.E. 2d 811 (Ct. App. 1991) (stating the holding in Johnson).

Appellant aver that the affidavit of Sergeant Justin Hembre is replete with 'bare bones'.

A 'bare bones' affidavit is similar to, if not the same as a, conclusory affidavit. It is one which states only the affiant's belief that probable cause existed. It is also one that contains wholly conclusory statements, which lacks the facts and circumstances from which a magistrate can independently determine probable cause.

See Nathanson v. United States, 290 U.S. 41, 78 L. Ed 159, 54 S. Ct. 11 (1933) (rejecting warrant based on "mere affirmations of suspicion and belief without any statement of adequate supporting facts"); Aguilar v. Texas, 378 U.S. 108, 12 L. Ed 723, 84 S. Ct. 1589 (1964) (rejecting warrant where magistrate "necessarily accepted 'without question' the informant's 'suspicion', 'belief' or mere conclusion"), Groes, 462 U.S. at 239.

To further support Appellant's position, see Fagin v. State, 402 S.E.2d 80 (Hearsay evidence is without probative value and will not establish fact in issue even in the absence of a timely objection).

To make a confession admissible it must have been made voluntarily, without being induced by another by the slightest hope of benefit or remotest fear of injury. OCGA § 24-3-50. A record of lighter punishment is generally the 'hope of benefit' to which [OCGA § 24-3-50] refers. Piscini v. State, 241 Ga. 49 (243 S.E.2d 490) (1978) reversed on other grounds. See U.S. v. Bartka, 728 F.3d 327 (4th Cir. 2013) (Government may not knowingly use false evidence including false testimony, to obtain a fruit conviction, regardless of whether the government solicited false testimony it knew or should have known to be false or simply allowed such testimony to pass uncorrected. Riddle v. Ortiz, 631 S.E.2d 70

Appellant aver had he been cognizant of the contents herein, Appellant would have requested a Jackson v. Devo hearing to determine the admissibility of the statements, then move to suppress the states pervert evidence and the insisted one going to trial and there is a reasonable probability that the ~~same~~ outcome would have been different. A reasonable probability is a probability sufficient to undermine the outcome. Strickland v. Washington, R. 2011-12,

CONCLUSION

Based on the above argument Appellant submits his Plea and sentence should be vacated and remanded for a new trial.

Respectfully Submitted

SI Jarod Maddipati
Appellant

July 3, 2016

ARREST WARRANT

I-112194

STATE OF SOUTH CAROLINA

County/ Municipality of

Town of Mount Pleasant

2011-P-09173 THE STATE against

Jarret Eric Graddick

Address 2627 Linnen Lane Mt Pleasant, SC 29464-

Phone (843)884-5046 SSN 247-77-9240 Sex M Race B Height 5 11 Weight 185

DL State: SC DL# 100118684 DOB 9/10/1987 Agency ORI # SC0100300

Prosecuting Agency Mount Pleasant Police Department

Prosecuting Officer Justin Hembree

Offense Armed Robbery Offense Code 16-11-0330

Code/Ordinance Sec 16-11-0330

This warrant is CERTIFIED FOR SERVICE in the County/ Municipality of

The accused is to be arrested and brought before me to be dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to defendant Jarret Graddick on 8/5/11

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

Mt. Pleasant Municipal Court 100 Ann Edwards Lane P. O. Box 457 Mt. Pleasant, SC 29464

STATE OF SOUTH CAROLINA

County/ Municipality of

Town of Mount Pleasant

Personally appeared before me the affiant Justin Hembree who

being duly sworn deposes and says that defendant Jarret Eric Graddick

did within this county and state on 07/25/2011 violate the criminal laws of the

State of South Carolina (or ordinance of County/ Municipality of Town of Mount Pleasant) in the following particulars

DESCRIPTION OF OFFENSE: Armed Robbery

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts

SEE ATTACHED AFFIDAVIT

Signature of Affiant

STATE OF SOUTH CAROLINA County/ Municipality of Town of Mount Pleasant

Affiant's Address 100 Ann Edwards Lane Mount Pleasant, SC 29464-

Affiant's Telephone (843)478-7620

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

on 07/25/2011 defendant Jarret Eric Graddick

did violate the criminal laws of the State of South Carolina (or ordinance of

County/ Municipality of Town of Mount Pleasant) as set forth below:

DESCRIPTION OF OFFENSE: Armed Robbery

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable

Sworn to and subscribed before me

on 08/02/2011

Signature of Issuing Judge (L.S.)

Signature of Issuing Judge

Judge Code 006

Judge's Address 100 Ann Edwards Lane Mt Pleasant, SC 29464-

Judge's Telephone (843)884-6796

Issuing Court. Magistrate Municipal Circuit

ORIGINAL

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

OCA # 2011-P-09173
AFFIDAVIT

Personally appeared before me, a Municipal Judge, one SERGEANT JUSTIN HEMBREE
(Affiant)

who, first being duly sworn, deposes and says that JARRET ERIC GRADDICK
(Defendant)

did, within the Town of Mount Pleasant, County of Charleston, State of South Carolina, on or about July 25, 2011 violate the criminal laws of the State of South Carolina, namely, ARMED ROBBERY at the following location, 1981 Riviera Drive, Mt. Pleasant, SC in Violation of SECTION 16-11-330 of the South Carolina Code of Laws, as amended 1976.

The Affiant states that there is probable cause to believe that the Defendant named above did commit the crime(s) set forth and that such probable cause is based on the following facts:

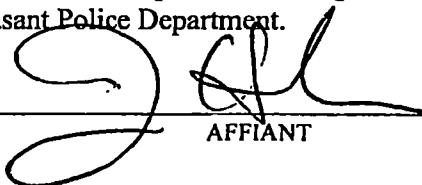
In that on July 25, 2011, at approximately 22:00 hours, Officers of the Mount Pleasant Police Department responded to the Piggly Wiggly Grocery Store at 1981 Riviera Drive, in reference to an Armed Robbery.

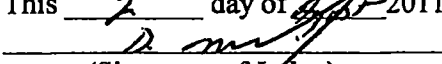
That during the incident, there were three separate defendants, that were captured by video recording. That a fourth defendant was positioned at a nearby location to serve as a driver in the armed robbery.

In that on July 28, 2011, at approximately 13:00 hours, a co-defendant was arrested by Sgt. Justin Hembree during the execution of a lawful search warrant from a separate incident.

That based on an ongoing investigation into the Armed Robbery at the 1981 Riviera Drive, and information indicating involvement of a co-defendant, Sergeant Hembree did conduct an interview of the co-defendant, whereby the that subject did name the defendant as a suspect in this incident. That the witness did verbally state to Captain McCarthy and Sergeant Hembree that the defendant was a willing participant in the armed robbery, and that a co-defendant did provide a post Miranda written statement of the same facts to Sergeant Hembree and Captain McCarthy.

That all of the above is against the law, peace, and dignity of the Town of Mount Pleasant and the State of South Carolina and is believed to be true based upon the investigation of Sergeant Hembree and Captain McCarthy of the Mt. Pleasant Police Department.


AFFIANT

Sworn to and Subscribed before me
This 2 day of April 2011.

(Signature of Judge)

100 Ann Edwards Lane
Mount Pleasant, SC 29464
(843) 884-4176

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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RESPONDENT

V.

JARRET GRADDICK
APPELLANT

APPELLATE CASE NO.: 2014-001557

CERTIFICATE OF SERVICE

RECEIVED

JUL 13 2016

SC Court of Appeals

I, Jarret Graddick, hereby certify that on this 8 day of July 2016 I caused a true and correct copy of Appellant's 'Guilty Plea Explanation', Warrant # 1-112124 and affidavit OCA # 2011-P-09173 dated August 2, 2011 to be mailed with postage prepaid through Lieber Corr. Inst. Mail room addressed as follows:

Robert M. Dudek
Chief Appellate Defender
South Carolina Commission on Indigent Defense
Division of Appellate Defense
Columbia, South Carolina 29211-1582

Attorney General Office
P.O. Box 2115
Columbia SC 29211

South Carolina Court of Appeals

Jenny Abbott Kitchens, Clerk

P. O. Box 11629

Columbia, SC 29211

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SC Court of Appeals

Re: State v. Braddick, 2014-001557

Dear clerk

Please find enclosed for filing in your office Appellant's 'Guilty Plea Explanation', arrest warrant 1-112194, affidavit OCA # 2011-P-09173 date August 2, 2011 and a certificate of service all of which is in support of Appellant's 'Guilty Plea Explanation' dated July 3, 2016.

Would you please notify Appellant via mail with a clock stamped copy of the material when the filing is complete for Appellant's records. Thank you in advance and good day.

Sincerely

Sl. Jarrut Mandelick

Appellant

July 4, 2016

Jarret Graddick #358060
Lieber Correctional Institution
PO Box 205
Ridgeville, SC 29472

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JUL 11 2016

MAILROOM
LIEBER CI

South Carolina Court of Appeals
Jenny Abbott Kitchen's, clerk
P.O. Box 11629
Columbia, SC 29211

FOR LEGAL USE ONLY