

5

2015CP4603179

SIXTEENTH JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA)

COUNTY OF YORK)



CITY OF ROCK HILL)

NOTICE OF APPEAL

VS.)

TRIANDO STROUD)

TO THE COUNTY OF YORK, CITY OF ROCK HILL AND MUNICIPAL COURT

PLEASE TAKE NOTICE that the Defendant hereby gives notice of intention to appeal from the judgement which was received on the 7th day of November , 2016

Dated 12.9.16

Triando Stroud

912 Pebble Road

Rock Hill, SC 29730

Stroud85@live.com

RECEIVED

DEC 13 2016

SC Court of Appeals

Anna Timothy Thomas

201 E.Main St. 3rd Floor

Rock Hill, SC 29730

APPEAL FROM A JUDGEMENT ON 7TH OF NOVEMBER, 2016

OF THE COURT OF COMMON PLEAS, COUNTY OF YORK JOHN C. HAYES, III CIRCUIT COURT JUDGE

2015CP46 - 3179

STATE OF SOUTH CAROLINA)
)
COUNTY OF YORK)
)
CITY OF ROCK HILL)
)
)
V.)
)
TRIANDO MARQURAY STROUD,)
)
Defendant.)
_____)

IN THE COURT OF COMMON PLEAS
16th CIRCUIT

RETURN TO APPEAL

RECEIVED

DEC 13 2016

SC Court of Appeals

This matter is on Appeal from a Jury Trial on October 18, 2015 in the Rock Hill Municipal Court, Jane Pittman Modla, presiding Judge.

CHARGES: CDV 1ST Offense
Warrant# 2015A4620306235

Assault and Battery 3rd Degree
Warrant: 2015A4620306236

Assault and Battery 3rd Degree
Warrant# 2015A4620306237

Date of Incident: March 9, 2015

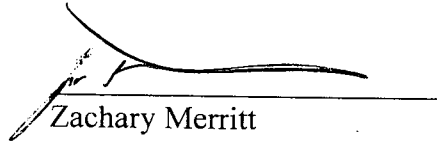
FILED-RECEIVED
2016 MAR 15 AM 11:47
DAVID HAMILTON
C.C.C.P. & G.S.
YORK COUNTY, SC

APPEARANCES:

For the City: Anna Thomas - City Solicitor
Matthew Beach - Rock Hill Police Department
Shaquita Frazier
Alvania Frazier
Patricia Brown

For the Defense: Zachary Merritt - Defense Attorney
Triando Stroud - Defendant
Nakiesha Barnette
Jakobe McCall

For the reasons stated above, the Defendant requests that his conviction for criminal domestic violence first degree and assault and battery in the third degree be reversed.



Zachary Merritt
Assistant Public Defender
P.E. Box 691
York, SC 29745
(803)628-3031

This 29th day of March, 2016
Attorney for Appellant
York, South Carolina

PROCEEDINGS: Pre-Trial Motion - Denied.

TESTIMONY:

For the City:

- Witness #1: Officer Matthew Beach of the Rock Hill Police Department testified that he was dispatched to 2743 Roundhill Court around 1:00 a.m. on March 9, 2015 in regards to a domestic situation. Upon arrival he spoke to Shaquita Frazier who was "obviously upset, shaking, distraught, drawn face, very agitated. Obviously something had just happened. I tried to calm her down, get her to breath." She said her child's father had been hitting her and causing a disturbance, that they had previously been trying to find a place to exchange the children and that he showed up out of the blue, unexpectedly to drop the children off around 1:00 in the morning. His girlfriend Nakiesha Barnette and her son, Jakobe McCall, were in the car with him. Her sister, Alvania Frazier, and her mom, Patricia Brown, were in the house. All were witnesses and involved in the incident.
- Witness #2: Shaquita Frazier - testified that the defendant is the father of her 2 children and that he suddenly brought them from Concord, NC to her home in Rock Hill at about 1:00 in the morning. She said her mom had been sleeping on the living room couch and got between them at the front door. She said, "defendant did something that I never thought he'd do. He pulled my mom to the floor hard." I went to him. He jerked me outside by my hair. I ran down the porch. He came after me and I ended up on the ground with him kicking and hitting me. My sister ran down from upstairs and defendant pushed my sister's face against the wall." He said he was going to get the gun and kill all of them."
- Witness #3: Alvania Frazier - testified that she lived with her sister and was asleep upstairs when she heard noise. "I came downstairs. He had mom by the neck saying something in her ear. He pushed me. I go get phone. My sister is in the street. He is hitting her. I ran to help. He pushed me again. I call 911. I already had a broken hand so I could not fight."
- Witness #4: Patricia Brown - testified that she is the mother of both girls and was visiting from California. "When Shaquita asked defendant why he was dropping off the kids so late, I jumped off sofa and got between them. He elbow pinned me against the door and slammed me to the floor. Shaquita went to him and he pulled her braid and out into the yard. I'm on the floor in shock and asleep. Alvania ran down the stairs. He at the door, swung at and hit her and chipped the wall paint on the wall. Shaquita was in a fetal position. I said 'stop hitting her'. He shoves me again. He's wallering on her. He say, ' Y'all got me kicked out. I got nowhere to stay!'

MOTION FOR DIRECTED VERDICT - DENIED

For the Defense:

Witness #1: Triando Stroud - the Defendant, testified that he was the father of the children and he was dropping them off at their mom's because Shaquita refused to meet him to come get them earlier. Defendant testified that he did push mom, that she overreacted, that she jumped over the couch into his face. Then he said Shaquita struck him. "I pushed Shaquita back, I defended myself." Mom came out to break it up. I pushed mom back. Alvania came out with phone. 3 coming at me. Defendant denied the allegations about the gun. Defendant said, "That is new to me. I have a gun. I have a right. I didn't mention that."

Witness #2: Nakiesha Barnette - testified that she and her son were in the car when defendant returned his children to Ms. Frazier. Shaquita Frazier smacked Triando on the face. She swung, he backed up. He shoved her. Mom came, sister came out. He was backing up. Shaquita Frazier was going to him. Mom was going to him and she fell. He did not assault anyone. It was reaction. He never went toward them. Shaquita Frazier initiated the first physical contact. She said he did not ask anyone to get a gun and it was never taken out.

Witness #3: Jackobe McCall - testified that he is 17 years old and the son of Ms. Walker. He was in the car. I saw Shaquita Frazier and defendant talking. I laid down. I heard a pop. They started fighting. I got out. Everybody was rushing him. Defendant was backing up away from house. I picked Shaquita Frazier up when she fell.

EXHIBITS: City's Exhibit #1 - DVD (redacted during trial by consent)

FINDINGS:

The Jury found the defendant guilty of each charge and he was sentenced to \$500 or 30 days respectively which he paid.

POST TRIAL: MOTIONS RENEWED - DENIED

On October 16, 2015, the defendant filed Appeal #1 with the Rock Hill Municipal Court. As to this Appeal, Defendant has stated no legal claims upon which relief may be granted.

On October 19, 2015, the Public Defender filed Appeal #2 with the Rock Hill Municipal Court. As to (1.) The defendant has stated no legal claim upon which relief may be granted.

(2.) As to the second ground for appeal, the question from the jury was as follows: "Is the relationship the only difference between Assault and CDV charge?" The court responded, over objection, "Basically, yes." and then reread both of the following charges as before:

"An assault and battery is an unlawful act of injury to another person. The assault is the offer or attempt to do an unlawful act of injury. The battery is the injury itself. The court instructs the jury that an assault is an attempt or offer with unlawful force or violence to do a bodily hurt or physical injury to another. A battery is the actual doing of any unlawful hurt, however slight, to another."

"16-25-20. Criminal Domestic Violence

(A) It is unlawful to:

- (1) Cause physical harm or injury to a person's own household member, or
- (2) offer or attempt to cause physical harm or injury to a person's own household member with apparent present ability under circumstances reasonably creating fear of imminent peril."

"16-25-10 defines "household member" as

- (1) a spouse;
- (2) a former spouse;
- (3) persons who have a child in common; or
- (4) a male and female who are cohabiting or formerly cohabited."

On October 19, 2015 the defendant filed Appeal #3 with the Rock Hill Municipal Court. The defendant has stated no legal claim upon which relief can be granted.

ATTACHMENTS:

1. CDV Warrant#20154620306235
2. A&B Warrant#20154620306236
3. A&B Warrant#20154620306237
4. City's Exhibit #1 - DVD
5. Jury Question
6. Verdict from CDV
7. Verdict from A&B
8. Verdict from A&B
9. Appeal #1
10. Appeal #2
11. Appeal #3

Respectfully submitted,

March 7th, 2016



Jane Pittman Modla,
Rock Hill Municipal Court Judge

M I I M C M C M I I

STATE OF SOUTH CAROLINA)
)
COUNTY OF YORK)

FILED-RECEIVED
CLERK'S OFFICE
IN THE COURT OF COMMON PLEAS
OCT 19 AM 9:10 4:00 PM
ROCK HILL MUNICIPAL COURT
SIXTEENTH JUDICIAL CIRCUITOLINA

~~STATE OF SOUTH CAROLINA~~)
VS City of Rock Hill)
ZM

NOTICE OF APPEAL

WARRANT NO: 2015A4620306235;
2015A4620306236; 2015A4620306237

TRIANDO STROUD)

CHARGE: CRIMINAL DOMESTIC VIOLENCE 1ST

)
) ASSAULT AND BATTERY 3RD AND ASSAULT AND
BATTERY 3RD

DEFENDANT

SHAQUITA FRAZIER , ALVANIA FRAZIER ,
PATRICIA BROWN

RECEIVED

DEC 18 2016

SC Court of Appeals

TO THE CITY OF ROCK HILL AND THE MUNICIPAL COURT


PLEASE TAKE NOTICE that the Defendant herein appeals his conviction on the above captioned warrants that was rendered on March 11, 2015.

The Defendant appeals his conviction and sentence and requests reversal on the following ground objected to during trial as follows:

1. The court erred by denying the defendant's motion to dismiss the charge of criminal domestic violence pursuant to S.C. Code Ann / 16-25-70 because the officer failed to follow the required procedure to determine the primary aggressor when the defendant testified that the victim attacked him first and the officer testified that the victim exhibited no physical signs of injury in either the initial investigation or subsequent meetings, the officer never spoke with the defendant about any of the factors stated in 16-25-70(D), the defendant turned himself in upon hearing the arrest warrant was issued, and the victim and defendant did not reside together during, after or recently before the incident.
2. The court erred by failing to disqualify a juror who, during qualification, stated that she and a close family member had been a victim of domestic violence.
3. The court erred by failing to narrowly tailor its response to a jury question by responding affirmatively to the question of whether assault and battery in the third degree proscribed essentially the same conduct as assault and batter in the first degree other than the relationship between the defendant and victim. See State v Smith 304 S.C. 129 , 132, 403 S. 2d 162, 164 (Ct. App. 1991)
4. The decision was not in accordance with the facts;

5. The decision was not in accordance with the law;
6. The victims conceded that I had a reason to come to their home
7. First and foremost, the victims failed to be consistent with their statements they filed on March 11th, 2013 from the incident that occurred on March 9th, 2013
8. In addition, the officer didn't find any bruises on all three women the day of and when they filed charges on defendant
9. The victim Shaquita Frazier stated she had braids that evening and the officer stated he did not see any visible injuries or damage in the house as well
10. The victim Alvania Frazier stated when she came downstairs I was choking or had my hand around her mom neck and whispering in her ear. She also said she went back upstairs to contact police. The victim Patricia Brown admitted to getting into my face, but never stated I grabbed her neck
11. Shaquita Frazier also stated I told my girlfriend to get my gun "I'm going to shoot the house up Shaquita, Alvania, and Patricia never stated that in their testimony
12. Patricia was asked by prosecutor did she get subpoena from California she stated she didn't that was untruthful under oath to convince the jury to think it was a serious matter she flew over for justice out of own pocket expenses.
13. With regards to the three charges CDV 1st, assault, assault, the victims failed to meet its burden of producing competent evidence to establish I assaulted and intentionally tried to hurt them. Accordingly, the decision with regards to myself being charged with Criminal Domestic Violence and two assaults and taking my gun away should be reversed and I should not have been fined \$1500 and charged for CDV 1st assault and assault.
14. As the court was afforded procedural due process and had a reasonable opportunity to present all relevant and material evidence to prove its case, the victims or city court of Rock Hill and the Municipal Court not entitled to another hearing to present additional evidence in this matter. Moreover, to allow the victims or city court of Rock Hill and the Municipal Court an opportunity to present additional evidence at this point would substantially prejudice defendant.

Respectfully submitted



self represented