

ORIGINAL

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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Appeal from Greenville County

AUG 16 2017

Honorable Robin B. Stilwell, Circuit Court Judge

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

RODRIGUS RATRON WILLIAMS,

APPELLANT

APPELLATE CASE NO. 2016-002174

ANDERS BRIEF OF APPELLANT

LARA M. CAUDY  
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**STATEMENT OF ISSUE ON APPEAL**

Did the trial judge err by failing to direct a verdict for strong armed robbery and first degree assault and battery when there was no direct evidence or substantial circumstantial evidence that Appellant committed a robbery or theft which is a material element of both offenses?

### STATEMENT OF THE CASE

A Greenville County Grand Jury indicted Appellant on August 23, 2016 for strong arm robbery and two counts of first degree assault and battery. R. 106-111. His case was called to trial on October 12, 2016 before the Honorable Robin B. Stilwell, and a jury. R. 1. Assistant Solicitors Andrew Heitman and Jonathan Gregory represented the state, and Amanda Wicker represented Appellant. R. 1.

On October 13, 2016, the jury found Appellant guilty as indicted. R. 98, ll. 2-16. Judge Stilwell sentenced Appellant to eight years' imprisonment for strong arm robbery and eight years concurrent on each count of first degree assault and battery. R. 103, l. 19 – 104, l. 6.

This appeal follows.

## ARGUMENT

The trial judge erred by failing to direct a verdict for strong armed robbery and first degree assault and battery when there was no direct evidence or substantial circumstantial evidence that Appellant committed a robbery or theft which is a material element of both offenses.

The state alleged at trial that Appellant attempted to shoplift from a Greenville County Kmart and sprayed two loss prevention employees with pepper spray when they confronted him as he was leaving the store. Henry Homesley, the loss prevention manager at Kmart, claimed he was watching footage from the store's security cameras for suspicious activity on the evening of July 22, 2015 when he observed Appellant walk into the store carrying a large empty bag. R. 35, l. 10 – 37, l. 3. Because he found the large empty bag to be suspicious, Homesley began watching Appellant on the cameras. He said Appellant got a shopping cart and, after walking to the pantry section, placed items in his cart. Homesley claimed Appellant stacked the items as if he was attempting to shield his cart from the view of others. R. 37, l. 11 – 38, l. 2.

From the pantry, Appellant walked to the toy department. Homesley claimed Appellant “selected five games and laid them on his bag in the buggy.” R. 38, ll. 3-9. Based on this observation, Homelsey instructed his coworker, Russell Myer, to go outside and wait near the exit. Homesley continued to watch Appellant on the cameras until he was about to leave the store. He then followed Appellant to the exit. Once near the exit door, Homesley and Myer confronted Appellant and tried to detain him. R. 38, l. 10 – 39, l. 1; R. 49, ll. 17-20; R. 58, ll. 12-18. During the confrontation, both men claimed Appellant sprayed them with pepper spray. R. 39, ll. 5-6; R. 53, ll. 2-8. He then fled the store. R. 49, ll. 14-16.

Appellant allegedly abandoned his shopping cart in the store before leaving. Homesley claimed Appellant “mess[ed] with” the games on top of his bag before he picked up the bag and placed it on his shoulder. When he left the store, the games were not in the shopping cart. R. 46, l. 25 – 47, l. 13.

Both Homesley and Myer identified Appellant in a photographic lineup shortly after the incident and later during trial as the man who allegedly shoplifted that day. R. 42, l. 3 – 44, l. 5; R. 54, l. 1 – 57, l. 20.

The judge admitted a copy of the surveillance footage capturing the encounter as State’s Exhibit No. 2 without objection. R. 44, l. 9 – 45, l. 17. The state played the footage for the jury. R. 45, l. 20. The footage does not corroborate Homesley or Myer’s testimony that Appellant concealed games in his bag. It also does not show Appellant stealing anything from the store. See State’s Exhibit No. 2.

At the conclusion of the testimony, Appellant moved for a directed verdict. R. 67, ll. 20-21. In denying the motion, the judge stated, “I find that there is evidence in the record, without commenting on the quality of the evidence or the weight of the same, there’s evidence in the record upon which a jury could find that the State has met its burden of proof.” R. 67, l. 22 – 68, l. 4. This was error.

The judge should have directed a verdict for strong armed robbery and both counts of first degree assault and battery because there was no evidence Appellant committed a robbery or theft, which is a material element of both offenses. Because the state failed to present any evidence on a material element of each of the offenses charged, Appellant was entitled to a directed verdict.

“The accused is entitled to a directed verdict when the evidence merely raises a suspicion of guilt.” State v. Brown, 360 S.C. 581, 586, 602 S.E.2d 392, 395 (2004) (citing State v. Schrock, 283 S.C. 129, 322 S.E.2d 450 (1984) and State v. Brownlee, 318 S.C. 34, 455 S.E.2d 704 (Ct. App. 1995)). “The accused also is entitled to a directed verdict when the State fails to present evidence on a material element of the offense charged.” Id. (citing State v. McHoney, 344 S.C. 85, 544 S.E.2d 30 (2001); State v. Brown, 103 S.C. 437, 88 S.E. 21 (1916); State v. Gore, 318 S.C. 157, 456 S.E.2d 419 (Ct. App. 1995)). “However, if there is any direct or substantial circumstantial evidence reasonably tending to prove the guilt of the accused, an appellate court must find the case was properly submitted to the jury.” State v. Odems, 395 S.C. 582, 586, 720 S.E.2d 48, 50 (2011) (citing State v. Pinckney, 339 S.C. 346, 349, 529 S.E.2d 526, 527 (2000)).

Appellant was indicted for strong armed robbery and first degree assault and battery. R. 106-111. “Strong armed robbery is defined as the felonious or *unlawful taking of money, goods, or other personal property* of any value from the person of another or in his presence by violence or by putting such person in fear.” State v. Rosemond, 356 S.C. 426, 430, 589 S.E.2d 757, 758 (2003) (citing State v. Gourdine, 322 S.C. 396, 472 S.E.2d 241 (1996)) (emphasis added). Therefore, a taking or theft is a material element of strong armed robbery.

On the other hand, “[a] person commits the offense of assault and battery in the first degree if the person unlawfully: (a) injures another person, and the act: . . . (ii) *occurred during the commission of a robbery, burglary, kidnapping, or theft.*” S.C. Code Ann. § 16-3-600(C)(1)(a) (emphasis added). Therefore, a robbery or theft is also a material element of first degree assault and battery.

The state failed to present any evidence that Appellant committed a robbery or theft. The surveillance footage simply does not support Homesley and Myer's allegations that Appellant placed the games in his bag before leaving the store. See State's Exhibit No. 2. As defense counsel argued at trial, "What you see in the video is, yes, he picks up some merchandise, which is around the cart and leaves the store without the cart. You just don't see him put anything in the purse." R. 81, ll. 1-4. Therefore, the surveillance footage failed to provide any evidence Appellant committed a robbery or theft.

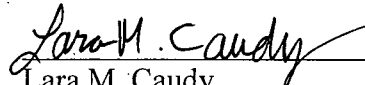
Significantly, Homesley merely testified that Appellant "laid [the games] on his bag in the buggy" and then later "mess[ed] with" the games before picking up the bag and placing it on his shoulder. R. 38, ll. 7-9; R. 46, l. 25 – 47, l. 9. Homesley never actually stated Appellant put the games in his bag before leaving.

Because the state failed to present evidence on a material element of both strong armed robbery and first degree assault and battery, the trial judge should have directed a verdict on all three charges. Appellant respectfully requests this Court direct a verdict of acquittal for strong armed robbery and both counts of first degree assault and battery.

**CONCLUSION**

Based on the foregoing argument, Appellant respectfully requests this Court direct a verdict of acquittal in his favor on all charges.

Respectfully submitted,

  
\_\_\_\_\_  
Lara M. Caudy  
Appellate Defender

ATTORNEY FOR APPELLANT

This 16th day of August, 2017.

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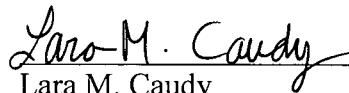
PETITION TO BE RELIEVED AS COUNSEL

Counsel for Rodrigus Ratron Williams states:

1. She is an appellate defender for the South Carolina Office of Appellate Defense, and was appointed to represent Appellant.
2. She has reviewed the record of Appellant's jury trial before the Honorable Robin B. Stilwell, which was held on October 12-13, 2016, and, in her opinion, the appeal is without legal merit sufficient to warrant a new trial.
3. She 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, she asks the Court to relieve her as counsel for Rodrigus Ratron Williams.

Respectfully Submitted,

  
Lara M. Caudy  
Appellate Defender

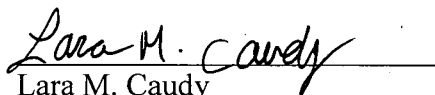
ATTORNEY FOR APPELLANT

This 16th day of August, 2017.

**CERTIFICATE OF COUNSEL**

The undersigned certifies that to the best of my ability this Anders Brief of Appellant complies with Rule 211(b), SCACR, and the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

August 16, 2017.



Lara M. Caudy  
Appellate Defender

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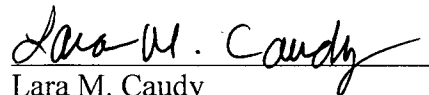
V.

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CERTIFICATE OF SERVICE

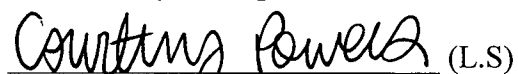
The undersigned hereby certifies that a true copy of the Anders Brief of Appellant, Designation of Matter, and Record on Appeal in the above referenced case have been served upon J. Benjamin Aplin, Esquire, at the Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201; and a copy of the Anders Brief of Appellant, Designation of Matter, and Record on Appeal have been served upon Rodrigus Ratron Williams, #321183, at Ridgeland Correctional Institution, P.O. Box 2039, Ridgeland, SC 29936, this 16th day of August, 2017.



Lara M. Caudy  
Appellate Defender

ATTORNEY FOR APPELLANT

SUBSCRIBED AND SWORN TO before me  
this 16th day of August, 2017.

 (L.S)

Notary Public for South Carolina  
My Commission Expires: May 2, 2027.