

STATE OF SOUTH CAROLINA)
COUNTY OF BERKELEY)

TAWANA YVETTE GADSDEN)

Plaintiff,)

v.)

STATE OF SOUTH CAROLINA)

Defendant.)

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT

CASE NO.: 2017-CP-08-01501

ORDER

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JAN 09 2018

SC Court of Appeals

MARY P. BROWN
CLERK OF COURT
BERKELEY COUNTY, S.C.

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THIS MATTER COMES BEFORE THE COURT following a bench trial held on April 11, 2017, in the City of Goose Creek Municipal Court where the Honorable Colleen Taylor presided. The Appellant initially filed an appeal of the judgment in this matter on June 20, 2017. The Appellant was not present for her appeal hearing on October 25, 2017, thus her appeal was dismissed. The Appellant filed a Petition for Rehearing which was granted on November 8, 2017. This Court heard the Appellant's appeal on Monday, November 27, 2017. Present, before this court were the Appellant, Tawana Yvette Gadsden, representing herself *pro se* in the matter and the Respondent, the State of South Carolina, represented by Ninth Circuit Assistant Solicitor Wilton McNeely.

Factual Background

The Appellant was arrested at Wal-Mart in Goose Creek for Disorderly Conduct on February 17, 2017. When the Appellant appeared in court on April 11, 2017, she was advised of her *Faretta* Warnings, and initially requested a continuance to hire an attorney. The Appellant, during the same court session, waived her rights to a jury trial, waived her rights to an attorney, and decided to proceed *pro se* with a bench trial. The officer, under oath, then testified that he was sent to Wal-Mart in Goose Creek in response to an individual that refused to leave the store and was being "disorderly." The Appellant, identified by the officer, was asked to leave the premises, and then stated an expletive loudly. At that time, the officer proceeded to place the Appellant into custody and charged her with Disorderly Conduct in violation of Goose Creek City Ordinance

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132.02. The Appellant was convicted on April 11, 2017, for Disorderly Conduct in the State of South Carolina, County of Berkeley, and City of Goose Creek, in the Municipal Court.

In the pleadings, the Appellant asserts that the Municipal Court erred in her conviction on the following grounds:

- 1.) There was a lack of evidence and witnesses in the arresting officer's presentation of the case,
- 2.) Discrepancy between the arresting officer's report of investigation and the testimony given by the officer at the trial concerning the recording of the incident,
- 3.) Discrepancy between the arresting officer's report of investigation and the testimony given by the officer at trial concerning the explicative statement made by the appellant,
- 4.) The non-appearance at trial of the second on-scene officer,
- 5.) A violation of the Appellants First Amendment rights, and
- 6.) The scenario did not occur.

Law and Analysis

As to the first ground, the Appellant asserts that there was a lack of evidence during the Appellant's bench trial. However, during the appeal hearing, the Appellant conceded that the arresting officer testified at trial. The Appellant also conceded that she was given the opportunity to cross examine the officer at trial. Since the officer was under oath when testifying, the officer's testimony is considered evidence. Further, "the admission or exclusion of testimonial evidence falls within the sound discretion of the trial court, whose decision will not be disturbed on appeal absent abuse resulting in prejudice." *State v. Brannon*, 341 S.C. 271, 533 S.E.2d 345 (2000). Therefore, based on the evidence presented, this court finds that there has been no error of law or evidence of prejudice regarding this claim.

As to the second ground, the Appellant asserts that the officer did not have the recording available during the bench trial. The Appellant further asserts that she had a recording of the incident at the time of the trial but was unable to play the incident due to a lack of the technology available to do so. Since the Appellant had one continuance prior to her bench trial, the Court notes that the Appellant had ample time to ensure that the correct and necessary technology was in place in order for her video of the incident to be played. Additionally, the Appellant, knowing that the


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technology was not available to play her video, waived a continuance and elected to proceed with the bench trial. Therefore, based on the evidence presented, this court finds that there has been no error of law regarding this claim.

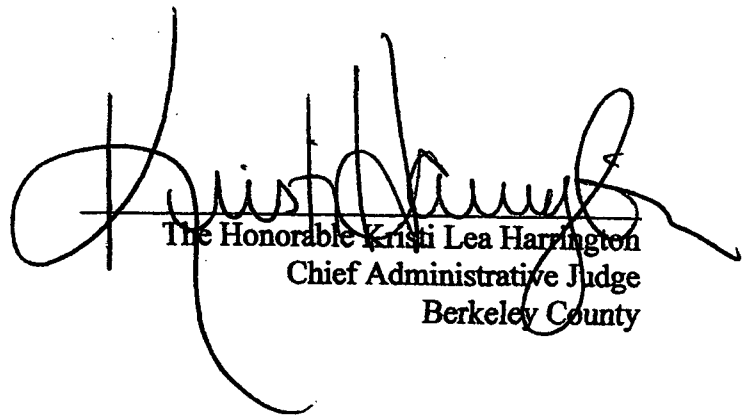
As to the third ground, the Appellant, during her cross-examination of the officer, had the opportunity to impeach the officer as to any alleged discrepancy of the report of investigation versus the testimony given in person on that day. Therefore, based on the evidence presented, this court finds that there has been no error of law regarding this claim.

As to the fourth ground, the Appellant did not subpoena the second officer to appear before the trial court. "A party cannot complain about an error induced by the party's own conduct." *State v. Whipple*, 324 S.C. 43, 476 S.E.2d 683 (1996). Therefore, based on the evidence presented, this court finds that there has been no error of law regarding this claim.

As to the fifth ground, the Appellant has not presented any evidence to show that there was an incident of a violation of First Amendment rights. Further, the Appellant presented no evidence that the trial court ignored a violation of her First Amendment rights. Therefore, based on the evidence presented, this court finds that there has been no error of law regarding this claim.

As to the sixth ground, the Appellant concedes that the incident which led to her arrest occurred. Therefore, based on the evidence presented, this court finds that there has been no error of law regarding this claim.

It is hereby ORDERED, ADJUDGED, AND DECREED that the Appellant's conviction be AFFIRMED.



The Honorable Kristi Lea Harrington
Chief Administrative Judge
Berkeley County

December 1, 2017
Moncks Corner, South Carolina