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THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM CHEROKEE COUNTY
J. Derham Cole, Circuit Court Judge

Appellate Case No: 2016-001633

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SC COURT OF APPEALS

THE STATE

RESPONDENT,

v.

DOSSIE FAISON, JR.

APPELLANT.

SUPPLEMENTAL RECORD ON APPEAL

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INDEX

AUGUST 2, 2016 TRANSCRIPT PAGES 42-50..... 1-9

CERTIFICATE OF COUNSEL.....10

1 the last 240 years to ensure that you can arrive at a
2 fair and just decision in any case. So I do want to
3 thank you in advance for your participation, as well as
4 for your careful attention. Please give the lawyers
5 your attention now as they give you their opening
6 statements.

7 Ms. Leskanic.

8 MS. LESKANIC: May it please the Court?

9 THE COURT: Yes, ma'am.

10 MS. LESKANIC: Thank you, Your Honor.

11 **OPENING STATEMENT BY THE STATE:**

12 MS. LESKANIC: Good afternoon, ladies and
13 gentlemen. I'm Kim Leskanic and I'm one of the
14 prosecutors here in Cherokee County. My job as the
15 State, as the judge told you, the State goes first and
16 we present the evidence in the case. This opening
17 statement is just an opportunity for me to give you a
18 little bit of a road map about what I think you're going
19 to hear on the witness stand so you have some idea of
20 why you're here.

21 As you know, Mr. Faison has been charged with the
22 crime of indecent exposure. In this case it's exposing
23 his penis at a convenience store in Blacksburg known as
24 the Quick Quack or Harry's Food Mart, if you're familiar
25 with that. And he did that to Barbara Humphries. She

1 stood up. She's the victim in this case.

2 It was around 10 o'clock back in September of
3 2014. It was on September 1st. Barbara was working at
4 Sumino Textile, third shift at the time, and she was
5 stopping by the Quick Quack to pick up a pack of
6 cigarettes and go to work. And as she gets out of her
7 car, the defendant is there and he is talking with
8 another man.

9 She walks by him, she goes into the store, she
10 makes a purchase. And as she is leaving the store,
11 walking back to her car, the defendant gets her
12 attention and asks her for a cigarette. So she's gonna
13 give him a cigarette. And then he says, well, that's
14 not my brand. And she says, okay, I'll give you a
15 dollar and you can go in the store and just buy a single
16 cigarette, trying to be nice, trying to help him out.

17 She gives him a dollar. She goes into her purse
18 looking for a lighter, she wants to smoke a cigarette on
19 the way to work. At that point the defendant then pulls
20 his penis out and he starts, according to Barbara and
21 the way I believe she'll describe it to you, is flopping
22 it in and out of his pants and says my name is Dick or
23 Dicky and I do work for people, I do work for women.

24 You're gonna have a video and I'm gonna let you
25 see how she responds, but I want you to know that this

1 is, this is what she went through. She is able then, as
2 he walks off, to get in her vehicle and she sits there
3 for a minute because she's a little bit in shock. She
4 didn't expect that to happen when she goes to get a pack
5 of cigarettes, but she decides I need to go tell
6 somebody.

7 So she gets out of her vehicle, she walks back
8 into the store, and she goes to see Mr. Patel who owns
9 the store. And it's explained to him what happened
10 outside and he offers to call 911 for her. He walks
11 outside with her to approach the defendant and then she
12 just says I'm not gonna call 911 now, I've got to go to
13 work.

14 So she gets to work and her friend, Lori
15 Culbreath, who you're also gonna hear from, says when
16 Barbara got to work that night she was a mess. She was
17 shaking, she was upset. And Lori had to ask her what
18 has happened. She explained to her what happened and
19 they decided at that time to call the police together.

20 So they called on September 1st, make a report
21 over the phone. Barbara goes to the police department
22 the next morning when she gets off of work on September
23 the second and files a formal report. She doesn't know
24 who the defendant is, so she can't say Dossie Faison did
25 this. She gives a description of him. She gives a

1 description of the vehicle she thinks she is -- he was
2 riding in because he was standing next to that vehicle.
3 And she gives this information to Detective Vanderburg
4 of the Blacksburg Police Department.

5 Based on that information, they get an idea of
6 who it may be and they put the defendant in a lineup.
7 They bring her back on September the 11th, nine days
8 later, and they show her the lineup and she is able to
9 immediately pick the defendant out as the person that
10 exposed himself to her. She was also able to identify
11 the vehicle that he was driving. Police took
12 photographs of his vehicle and she was able to say, yes,
13 that's the vehicle that was there and this was the man
14 that pulled his penis out in front of me at the
15 convenience store.

16 Those are the facts of the case. It is the
17 State's job to convince you beyond a reasonable doubt.
18 That's our standard of proof in this case. And we'll
19 talk more about that at the closing and at the close of
20 the case, but the question will be are you firmly
21 convinced of what happened that night.

22 And we have video from the convenience store.
23 There are several different angles. There is a video
24 camera outside and there's a video camera inside. And I
25 will show you those portions of the video. But I'm

1 gonna tell you the indecent exposure is not on there.
2 There is an angle of the video where you cannot see the
3 defendant and where he is standing. So you're gonna
4 have to listen to Barbara and you're gonna have to
5 listen to what she tells you happened that night.

6 But what you will be able to see on that video is
7 her reaction. You will be able to watch whether you
8 think she knew him, whether you think he called her over
9 to him, and how she reacts when he starts walking
10 towards her.

11 And as the judge said, at the conclusion of the
12 case we're gonna ask that you use your good judgment and
13 your common sense and you weigh the credibility of the
14 witnesses on the stand, listen carefully to their
15 testimony. Listen to Barbara. Listen to her friend
16 Lori, the officer who investigated the case. And I
17 believe that at the conclusion of the case you will be
18 firmly convinced that back in September of 2014 Dossie
19 Faison exposed himself to Barbara Humphries. Thank you.

20 MR. SMITH: Your Honor, may it please the Court?

21 THE COURT: Mr. Smith.

22 MR. SMITH: Thank you, Your Honor.

23 **OPENING STATEMENT OF THE DEFENSE:**

24 MR. SMITH: Mr. Foreman, ladies and gentlemen of
25 the jury, my name is Smith, Fletcher Smith. I have the

1 distinct honor and the pleasure to represent Mr. Dossie
2 Faison in this case of State versus Dossie Faison, who's
3 been charged with the criminal offense of indecent
4 exposure.

5 Members of the jury, right off we're gonna prove
6 to you in this case that that is a false charge and at
7 no time did he expose his private parts to that lady on
8 the date and time that they accuse him of. We're gonna
9 prove that to you right from the prosecution's own file
10 because what the prosecution just told you in this case,
11 she said that Mr. Faison exposed himself, exposed
12 himself now, when he -- when she was walk -- he was
13 walking off camera with him (sic).

14 But that's not what this lady said in her
15 statement. She said in her statement: (Begins
16 reading.) That he asked me for a cigarette, I handed
17 him a cigarette. He said it wasn't his brand, so I gave
18 him a dollar, which he took. I got in my car. (Ends
19 reading.) That was not walking. She's in her car.

20 Then she says: (Begins reading.) I got in my
21 car and then I rolled down the window to smoke. I was
22 looking down for a lighter when I noticed movement.
23 When I looked up he said my name is Dicky I do work
24 here. He had his penis in his hand out of his pants and
25 he was flopping his penis in and out. (Ends reading.)

1 Now, why is that important? Because you can see
2 her car in the video absolutely. Now, Ms. Leskanic says
3 in her opening statement that they were walking when he
4 flopped his penis out, but in her own written statement
5 to this police officer she said he flipped his penis out
6 while she was sitting in her vehicle. Flipped his penis
7 out while he's -- while she was sitting in her vehicle
8 after she rolled her window down to let the smoke out.
9 That's exactly what her statement is. And we're gonna
10 introduce this statement into evidence. When she
11 testifies, we're gonna question her on this. Totally
12 different than what the prosecution just told you.

13 So, therefore, what is the best evidencé in this
14 case as to what happened out there that night? It's
15 definitely not going to be Ms. Barbara Humphries, but it
16 will be that video because you'll be able to see the
17 car. You'll be able to see whether she rolled that
18 window down. You'll be able to see from that video
19 whether or not he flopped his penis out at her.

20 And then at the conclusion of this case if he did
21 not to your satisfaction look at the evidence where they
22 have to prove his guilt beyond a reasonable doubt, if
23 you have a doubt based on what her statement is and what
24 the prosecution just told you, you have a duty to find
25 him not guilty.

1 Now, the other thing about this, too, is she said
2 that there was an individual that's running. When we
3 put Mr. Faison on the stand, he'll show you he has a
4 T.E.N.S. unit on his hand -- on his, on his leg because
5 he was injured in an on-the-job accident, so he can't
6 run. But this lady told the police, Mr. Vanderburg,
7 that the man was running.

8 And she also said that two of the employees who
9 were out there that night went out and talked to Mr.
10 Faison. There's a statement of this police officer.
11 When they put him up there, we're gonna ask him these
12 questions. He said that the people who worked at the
13 store denied going out there talking to Mr. Faison.

14 So, members of the jury, this is what we believe
15 happened. The lady got mad at him when he turned down
16 the cigarette and she had to give him a dollar because
17 she didn't want to give any money but she was scared of
18 this black man coming up to her at night. And she
19 didn't think she should have been able to give him that
20 dollar.

21 We believe that the evidence will show she
22 created this story because of his aggressivity. And
23 you'll see Mr. Faison when we put him up on the stand,
24 but we believe -- we don't have to prove anything now.
25 Once and for all, this is the key, we don't have to

1 prove nothing in this case. They've got to prove his
2 guilt beyond a reasonable doubt. And if they can't do
3 it beyond a reasonable doubt, it is up to you with your
4 own conscience, after the judge gives you the
5 instructions, to find him not guilty as charged. Thank
6 you very much. Thank you very much.

7 THE COURT: Ms. Leskanic.

8 MS. LESKANIC: Thank you, Your Honor. Barbara
9 Humphries.

10 THE COURT: Let me see the lawyers just a minute,
11 please.

12 MR. SMITH: Yes, sir.

13 (Whereupon, a bench conference was held off the
14 record.)

15 MS. LESKANIC: Ms. Humphries.

16 THE CLERK: If you'll come around to me, Ms.
17 Humphries. Please raise your right hand. Place your
18 left hand on the Bible. (Complies.)

19 Do you solemnly swear or affirm the testimony you
20 give to this Court to be the truth, the whole truth and
21 nothing but the truth so help you God?

22 THE WITNESS: Yes.

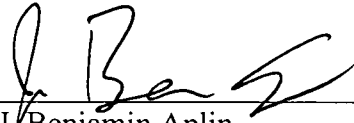
23 THE COURT: Okay. Have a seat.

24 MS. LESKANIC: May it please the Court?

25 THE COURT: Yes, ma'am.

CERTIFICATE OF COUNSEL

The undersigned hereby certifies that the Supplemental Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

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