

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

 ORIGINAL

Appeal from Charleston County

Honorable R. Markley Dennis, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

ALEXANDER REID,

APPELLANT

APPELLATE CASE NO 2017-002193

ANDERS BRIEF OF APPELLANT

RECEIVED
MAR 19 2018
SC Court of Appeals

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STATEMENT OF ISSUE ON APPEAL

The trial judge erred in accepting appellant's guilty pleas because appellant was not advised that he would waive his right to cross-examine his accusers by pleading guilty to the state's charges against him.

STATEMENT OF THE CASE

Appellant Alexander Reid entered Alford¹ guilty pleas to trafficking in cocaine,² possession with intent to distribute crack cocaine, and two counts of unlawful conduct towards a child during the October 2017 term of the Charleston County General Sessions Court before Judge R. Markley Dennis. Appellant was sentenced to imprisonment for an aggregate period of twenty years. Aaron Cole Mayer represented appellant at the plea proceeding and Assistant Solicitor Stephanie Bianco Linder appeared on behalf of the state.

Appellant appealed his guilty pleas and sentences.³ This brief follows.

¹ Alford v. North Carolina, 397 U.S. 952 (1965).

² Appellant was indicted for trafficking in cocaine, third offense, but per plea negotiations pled guilty to trafficking, second offense. See ROA p. 101, lines 6-23.

³ Appellant hereby provides an explanation showing there are issues which can be reviewed on appeal, pursuant to Rule 203(d)(1)(B)(iv) of the South Carolina Appellate Court Rules. On or about October 12, 2017, the Circuit Court ruled on three motions, at least one of which was dispositive: a motion to suppress an illegal automobile stop and search (Exhibit 1); a motion to obtain the name of a confidential informant (Exhibit 2); and a motion to suppress a search of a residence (Exhibit 3). On all three motions the Circuit Court ruled against the Appellant. The clearly dispositive motion was to suppress the search of the residence where cocaine was found. This search was the only way the authorities would have encountered the cocaine; there was no other avenue to this discovery. Therefore, pursuant to the Fruit of the Poisonous Tree Doctrine, had a search been suppressed the evidence located therein would have been inadmissible, and the operative charge, Trafficking Third Offense, would not have been prosecutable. ROA 121-139.

ARGUMENT

The trial judge erred in accepting appellant's guilty pleas because appellant was not advised that he would waive his right to cross-examine his accusers by pleading guilty to the state's charges against him.

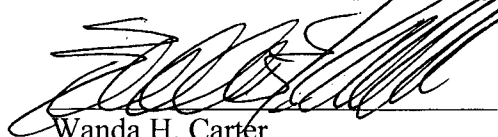
During the plea proceeding, the plea judge advised appellant that his pleas would waive his right to have the state prove his guilt beyond a reasonable doubt, and to have a jury trial, and to confront the witnesses against him, and to remain silent at trial. ROA 106, lines 11-19; ROA 113, lines 7-25. However, the plea judge failed to advise appellant that his pleas would waive his right to cross-examine his accusers. Therefore, appellant did not voluntarily and understandably enter his guilty pleas because he was unaware of all of the constitutional rights he waived by pleading guilty in the case. In Boykin v. Alabama, 395 U.S. 238 (1969), the United States Supreme Court outlined the rights a defendant waives at a guilty plea proceeding in order to assess the voluntariness of a plea as follows:

Several federal constitutional rights are involved in a waiver that takes place when a plea of guilty is entered in a state criminal trial. First, is the privilege against compulsory self-incrimination guaranteed by the Fifth Amendment and applicable to the States by reason of the Fourteenth. Malloy v. Hogan, 378 U.S. 1, 84 S.Ct. 1489, 12 L.Ed.2d 653. Second, is the right to trial by jury. Duncan v. Louisiana, 391 U.S. 145, 88 S.Ct. 1444, 20 L.Ed.2d 491. Third, is the right to confront one's accusers. Pointer v. Texas, 380 U.S. 400, 85 S.Ct. 1065, 13 L.Ed.2d 923.

The right to cross-examine witnesses also falls under the Sixth Amendment right to confront witnesses. See California v. Green, 399 U.S. 149 (1970). Appellant was not advised regarding this right that he waived, which in turn meant that his guilty pleas entered at his plea proceeding were not voluntarily given in the case.

CONCLUSION

Based on the foregoing argument, counsel would request that appellant's convictions and sentences be reversed and this case remanded to the lower court for a new proceeding.



Wanda H. Carter
Deputy Chief Appellate Defender

ATTORNEY FOR APPELLANT

This 19th day of March, 2018.

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PETITION TO BE RELIEVED AS COUNSEL

Counsel for Alexander Reid states that:

1. She is Deputy Chief 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 trial before Judge R. Markley Dennis, which was held on October 12, 2017, 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 Alexander Reid.

Respectfully Submitted,



Wanda H. Carter

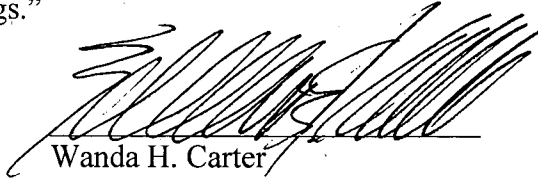
Deputy Chief Appellate Defender
ATTORNEY FOR APPELLANT

This 19th day of March, 2018.

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."

March 19, 2018.



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