

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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JUN 12 2018

SC Court of Appeals

Appeal From Berkeley County
Honorable Kristi Lea Harrington, Circuit Court Judge

THE STATE

v.
CHRIS NATHANIEL WILLIAMS

RESPONDANT,

APPELLANT

APPELLATE CASE NO. 2017-001668

ANDERS BRIEF OF APPELLANT

CHRIS NATHANIEL WILLIAMS
PRO SE APPELLANT
430 OAKLAWN ROAD
PETZER, S.C. 29669

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Rule 608(C), SCRE	
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STATEMENT OF ISSUE ON APPEAL

WHETHER THE TRIAL COURT ERRED IN REFUSING TO ALLOW APPELLANT TO CROSS-EXAMINE THE STATE'S KEY WITNESS ABOUT THE POTENTIAL SENTENCES SHE FACED FOR HER ORIGINAL CHARGES AND DEMONSTRATING THAT SHE AVOIDED A MANDATORY MINIMUM SENTENCE?

STATEMENT OF THE CASE

IN SEPTEMBER 2016, A BERKELEY COUNTY GRAND JURY INDICTED APPELLANT FOR ARMED ROBBERY, FIRST-DEGREE ASSAULT AND BATTERY, TWO COUNTS OF KIDNAPPING, ORIGINAL CONSPIRACY, ATTEMPTED ARMED ROBBERY, AND WEAPONS CHARGES. R. 491-584 ON JULY 24, 2017. APPELLANT WAS TRIED BEFORE THE HONORABLE KRISTI HARRINGTON AND A JURY. R. 1. CHIEF CANNON AND KAMILA SZYMENSKA-SAS REPRESENTED THE STATE. R. 2. GRANT SMALLDONE REPRESENTED APPELLANT. R. 2. THE JURY CONVICTED APPELLANT ON ALL CHARGES BASED ON MISLEADING INFORMATION FROM THE STATE THAT RAVENELL'S TESTIMONY WAS UNQUESTIONABLE, EVEN THOUGH SHE HAD A PRIOR 2ND DEGREE BURGLARY THAT WAS NEVER PRESENTED AT TRIAL BUT WAS A PART OF THE DISCOVERY PACKAGE. AND JUDGE HARRINGTON SENTENCED APPELLANT TO FOUR TERMS OF LIFE IMPRISONMENT WITHOUT THE POSSIBILITY OF PAROLE PURSUANT TO SOUTH CAROLINA'S RECIDIVIST STATUTE AND CONCURRENT TERMS ON THE OTHER CHARGES. R. 416, 476, 1, 19-478, 1, 17, R. 488, 11, 9-20.

ARGUMENT

THE TRIAL COURT ERRED IN REFUSING TO ALLOW APPELLANT TO CROSS-EXAMINE THE STATE'S KEY WITNESS ABOUT THE POTENTIAL SENTENCES SHE FACED FOR HER ORIGINAL CHARGES AND DEMONSTRATING THAT SHE AVOIDED A MANDATORY MINIMUM SENTENCE.

STANDARD OF REVIEW

THE TRIAL COURT COMMITTED AN ERROR OF LAW AND THIS COURT REVIEWS ERRORS OF LAW DE NOVO. JORDAN V. STATE, 406 S.C. 443, 448, 752 S.E.2D 538, 540 (2013).

DISCUSSION

THIS CASE INVOLVES AN ARMED ROBBERY AND AN ALLEGED ATTEMPTED ARMED ROBBERY A MONTH LATER. SHO AND LILI LORD, HUSBAND AND WIFE, RAN A CONVENIENCE STORE IN THE CHARLESTON AREA. R. 72, 1.3-13, 1.23. EVERY DAY MS. LORD TOOK HOME TWO BAGS FROM THE STORE. R. 106, 11.17-23. IN ONE BAG, MS. LORD KEPT A COMPUTER AND IN THE OTHER BAG SHE KEPT THE MONEY FROM THE STORE'S DAILY BUSINESS. R. 106, 1.24-107, 1.1.

TWO DOORS DOWN FROM THE LORDS STORE WAS A TEMP SERVICE CALLED STAFFING ZONE. R. 74, 11.5-13. TIFFANY RAVENELL DROVE A VAN FOR STAFFING ZONE. R. 74, 11.17-25. SHE ALSO SOMETIME CASHED CHECKS AND SHOPPED AT THE LORDS STORE. R. 133, 11.14-19. RAVENELL TESTIFIED AGAINST APPELLANT AND CLAIMED THE STATE DID NOT PROMISE HER ANYTHING FOR HER TESTIMONY. R. 160, 1.16-161, 1.18. SHE WAS INITIALLY CHARGED WITH ARMED ROBBERY.

But pled guilty to criminal conspiracy and attempted armed robbery and completely avoided appellant's kidnaping and assault charges. R. 161, 11.6-15, R. 162, 11.3-21. Her AUDIENCE AND TESTIMONY ALSO SOMEHOW ALLOWED HER TO BYPASS TESTIMONY OF A PRIOR FELONY LESS THAN 10 YRS. OLD.

RAVENELL CLAIMED SHE OVERHEARD "SOME GUYS" AT STAFFING ZONE DISCUSSING A PLAN TO ROB THE LORDS. R. 134, 11.2-24. YET SHE NEVER FELT COMPELLED TO FORWARN THE LORDS BECAUSE SHE DIDN'T STAND TO GAIN ANYTHING AS SHE DID FROM HER TESTIMONY. IN APRIL 2016, STAFFING ZONE TERMINATED RAVENELL BECAUSE OF HER POOR DRIVING RECORD AND SHE FELL ON HARD TIMES. R. 136, 11.5-18. R. 133, 11.2-7. RAVENELL TOOK THE PLAN TO ROB THE LORDS TO APPELLANT AND SAID "HE WAS DOWN FOR IT." R. 134, 1.25-135, 1.22.

RAVENELL AND APPELLANT BEGAN WATCHING THE LORDS' CONVENIENCE STORE. R. 136, 11.6-18. THEY FOLLOWED THE LORDS ON MAY 6, 2016, BUT LOST THEM, R. 136, 1.2-139, 1.9. THEY FOLLOWED THE LORDS AGAIN ON MAY 7, R. 140, 1.4-141, 1.13. THEY SAW THE LORDS COME OUT OF THE STORE WITH MONEY BAGS IN THEIR HANDS. R. 141, 11.16-24. RAVENELL PARKED NEAR THE LORDS' HOUSE AND APPELLANT LEFT THE CAR WHILE RAVENELL WAITED. R. 142, 11.11-19. ONLY THE CUMULATIVE TESTIMONY OF THE STATES KEY WITNESS PLACING APPELLANT AT THE SURVEILLANCE.

THE LORDS ARRIVE HOME TO A DARK HOUSE AT 10:00 PM AND PARKED IN THE BACK. R. 81, 11.1-7. A BLACK MALE GRABBED MR. LORD FROM BEHIND AND HELD A KNIFE IN FRONT OF HIS CHEST. R. 83, 1.12-84, 1.4. MR. LORD FOUGHT. R. 84, 11.5-19. THE MAN TOLD MR. LORD THAT HE HAD OTHER PEOPLE "IN FRONT." R. 84, 11.1-13.

WHEN MS. LORD GOT OUT OF THE CAR, SHE HEARD HER HUSBAND SCREAMING. R. 108, 11.2-9. SHE TOLD HER HUSBAND TO LET THE ROBBER HAVE THE BAG.

R. 108, 11, 21-22. The Robber Then Came To Ms. Lord's Side Of The Car And Took The Money Bag From Her. R. 108, 1, 23-109, 1, 15. The man ran and the Lords called the police. R. 109, 11, 9-24. The Lords could not identify their assailant. R. 110, 11, 15-20. R. 83, 11, 19-21.

Ravenell said appellant called her to pull the car around and meet him. R. 143, 11, 18-25. Appellant, out of breath, got in her car and they left. R. 143, 11, 18-25. They saw the police coming from the other direction. R. 144, 11, 20-24. They got \$3,000.00 from the bag and appellant burned the bag in the woods. R. 145, 11, 10-25.

Near the end of May, appellant approached Ravenell and proposed they rob the Lords again. R. 141, 11, 14-25. Another man named Terry Lewis, appellant's cousin, joined the group to help. R. 148, 1, 8-149, 1, 9. Using Ravenell's car, the group began watching the Lord's house in early June. R. 149, 11, 10-153, 1, 20. They made "four or five" trips to the Lord's neighborhood. R. 153, 11, 18-20.

Right after the May 7 robbery, the Lords installed security cameras around their property. R. 88, 11, 13-25. After seeing suspicious people on his camera walking down his driveway on June 7, Mr. Lord called the police. R. 90, 1, 7-93, 1, 13.

The police set up a surveillance operation "to see if we could catch the suspects perhaps in the act" and hoping to tie them to the original robbery. R. 294, 11, 11-23. The cameras captured images of appellant walking around the Lord's neighborhood in the days leading up to June 10. R. 295, 1, 24-306, 1, 4. Using a database that automatically records all of the license tags of passers-by on public highways and streets, the police identified Ravenell's car and from the data.

BASE, LEARNED HER CAR WAS IN THE AREA ON MAY 7, R. 180, 1.19-183, 1.11. S.L.E. D. MAINTAINS THIS DATABASE. R. 183, 11.8-11. THIS SYSTEM "DOESN'T TAKE ANY PERSONAL DATA FROM VEHICLES. IT SIMPLY LOGS THE LICENSE PLATES THAT ARE COLLECTED AND IT ALSO TAKES A PICTURE OF THE VEHICLE AT THE TIME THE LICENSE PLATE IS COLLECTED." R. 181, 11.9-19.

ON JUNE 10, THE POLICE CALLED MR. LORD AND ASKED HIM WHAT TIME HE WAS GOING HOME, R. 94, 1.71-95, 1.3. THE POLICE SAW APPELLANT AND TERRY LEWIS ON THEIR SURVEILLANCE CAMERAS AND STATIONED TWO OFFICERS HIDDEN NEAR THE LORDS' DRIVEWAY. R. 305, 1.71-309, 1.1. ADDITIONAL OFFICERS WAITED IN CARS AROUND THE NEIGHBORHOOD. R. 308, 1.15-309, 1.1. THE OFFICERS HEARD A CAR HORN HONK. R. 198, 11.3-10. RAVENELL SAID SHE HONKED HER CARS HORN AS A PREARRANGED SIGNAL TO APPELLANT AND TERRY LEWIS THAT THE LORDS WERE ABOUT TO ARRIVE. R. 151, 11.3-11.

SOON AFTER MR. LORD PULLED INTO HIS DRIVEWAY, THE OFFICERS HEARD "A LOT OF RUSTLING OVER IN THE BUSHES." R. 223, 11.16-23. APPELLANT AND TERRY LEWIS WALKED OUT OF THE BUSHES AND WERE IMMEDIATELY APPREHENDED BY THE POLICE. R. 224, 1.1-225, 1.10. THE OFFICERS SAW THEM THROW SOMETHING IN THE BUSHES AND THEY FOUND A TASER AND A CAN OF MACE. R. 225, 1.5-226, 1.10. THE POLICE QUICKLY CAUGHT. R. 244, 1.1-246, 1.23.

APPELLANT TESTIFIED IN HIS OWN DEFENSE AND DENIED COMMITTING ANY CRIME. R. 362, 1.22-363, 1.12. RAVENELL TOOK APPELLANT TO THE PARK NEAR THE LORDS' HOME ON JUNE 1ST TO BUY MARIJUANA. R. 363, 1.9-364, 1.2. THE DRUG DEALERS INSTEAD ROBBED APPELLANT AND HIT HIM IN THE BACK OF THE HEAD WITH A ROD. R. 303, 1.17-304, 1.17. APPELLANT DISPLAYED THE INJURY HE RECEIVED FROM THESE ASSAILANTS TO THE JURY. R. 304, 11.2-9. APPELLANT WENT BACK TO THE LORDS' NEIGHBORHOOD REPEATEDLY LOOKING FOR THE MEN

who robbed him. R. 346, 1.2-329, 1.16. He was looking for the robbers when the police arrested him. R. 346, 1.2-329, 1.16. Appellant believed Ravenell committed the May 7 robbery with a man named Quintero Kit. R. 371, 1.5-378, 1.4. The police admitted they investigated Quintero Kit and there was a possibility he went to the Woods House posing as an air-conditioning salesman. R. 339, 1.11-340, 1.3. Quintero Kit had a long criminal record. R. 340, 11.9-17. The lead investigator could not remember whether Quintero Kit knew Ravenell. R. 340, 11.15-17.

During appellant's cross-examination of Ravenell, he asked her whether she knew that armed robbery "carries 10 to 30 years." R. 162, 11.24-25. Ravenell replied, "Yes, Sir" and the state immediately objected. R. 163, 11.1-3. The court immediately sustained the solicitors objection and the solicitor (not the court) then explained, "Punishment is not relevant." R. 163, 11.3-5. The trial judge then conducted a bench conference and afterwards instructed the jury that potential punishment was only to be used to show bias and not to determine guilt or innocence. R. 163, 11.10-15. The court noted appellant's exception to her ruling. R. 163, 11.16-17.

The trial judge committed an error of law in refusing to allow appellant to cross-examine Ravenell about the mandatory minimum sentence she avoided by testifying for the state. See S.C. Code Ann. § 16-11-330(A) (requiring a mandatory ten year prison sentence for armed robbery). Defendants are allowed to cross-examine the states witnesses about the specific mandatory minimum sentences they seek to escape. STATE v. GRACEY, 399 S.C. 363, 131 S.E. 2d 850 (2012). Rule 608(c) allows a defendant to cross-examine

A witness for "bias, prejudice or any motive to misrepresent."
Rule 608(c), S.C.R.E.

In *Gracely*, the states witnesses faced significant mandatory minimum sentences. *Gracely* at 373-74, 731 S.E.2d at 885-86. The trial judge "improperly prevented questioning which would have examined the extent of that bias and the witnesses' possible motivations for testifying against appellant." Id. "The fact that a cooperating witness avoided a mandatory minimum sentence is critical information that a defendant must be allowed to present to the jury." Id. at 374-75, 731 S.E.2d at 886 (emphasis in original). See also *State v. Brown*, 303 S.C. 164, 399 S.E.2d 593 (1991). The *Gracely* court held the error could not be harmless because of the "abysmal credibility" of the states witnesses and cited the "heavy reliance on circumstantial evidence." *Gracely* at 375, 731 S.E.2d at 886.

This court reversed a conviction soon after *Gracely* because the trial judge refused to allow specific questioning regarding the potential sentence a witness faced. *State v. Pradubski*, 403 S.C. 270, 743 S.E.2d 98 (Ct. App. 2013). The trial judge in *Pradubski* only allowed the defendant to ask whether the witness faced "a substantial amount of time." Id. at 275, 743 at 101. Citing the principle that a defendant has the right to cross-examine on any fact which tends to show interest, bias, or partiality of the witness, the court held the limitation on the defendant's question was error. Id. at 276-80, 731 S.E.2d at 102-04. The *Pradubski* court stated this evidence regarding legal exposure was "critical" to

SHOWING THE WITNESSES POTENTIAL BIAS," TD. AT 104, 143 S.E. 2d AT 880 SEE ALSO STATE V. MIZZELL, 349 S.C. 326, 334-35, 563 S.E. 2d 315 319 (2000) (REVERSING DESPITE TRIAL COURT ALLOWING DEFENDANT TO ASK WHETHER WITNESS COULD GO TO JAIL FOR A LONG TIME).

STATE V. TAYLOR, 404 S.C. 506 745 S.E. 2d 174 (2013) A TRIAL JUDGE'S DECISION REGARDING THE COMPARATIVE PROBATIVE VALUE AND PREJUDICIAL EFFECT OF EVIDENCE SHOULD BE REVERSED ONLY IN EXCEPTIONAL CIRCUMSTANCES. STATE V. ADAMS, 354 S.C. 361, 378, 580 S.E. 2d 785, 794 (Ct. App. 2003).

THE STATES STAR AND ONLY CO-OPERATING WITNESS LEAD THE JURY TO BELIEVE THAT SHE HAD NO CRIMINAL HISTORY UPON TESTIFYING AGAINST THE APPELLANT. R. 14, 11, 5-243

FOR SOME ODD REASON THE STATE NEVER PRESENTED AN ISSUE OF CREDIBILITY TEST TO THE JURY TO DETERMINE BUT RATHER DECIDED THE ISSUE ALL ON ITS OWN.

RAVENELL WAS THE STATES KEY WITNESS AND THE ONLY WITNESS TYPING APPELLANT TO THE FIRST ROBBERY. REFUSING TO ALLOW IMPEACHMENT OF HER FOR BIAS REGARDING THE SUBSTANTIAL TIME IN PRISON SHE AVOIDED WAS AN ERROR OF LAW.

SHE DECEIVED THE JURY INTO THINKING THAT SHE HAD NO RECORD IN HER PAST AND HER TESTIMONY WAS OUT OF GOOD FAITH THE JURY NEVER KNEW OF HER PRIOR CHARACTER AND THEREFORE THIS COURT SHOULD REVERSE.

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS
APPEAL FROM BERKLEY COUNTY
HONORABLE KRISTI LEA HARRINGTON, Circuit Judge

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SC Court of Appeals

THE STATE

RESPONDANT,

v
CHRIS NATHANIEL WILLIAMS

APPELLANT

CERTIFICATE OF SERVICE

THE UNDERSIGNED HEREBY CERTIFIES THAT A TRUE COPY OF THE ANSWER BRIEF OF APPELLANT AND DESIGNATION OF MATTERS IN THE ABOVE REFERENCE CASE HAS BEEN SERVED UPON THE CLERK OF THE COURT FOR THE S.C. COURT OF APPEALS, P.O. Box 11679, COLUMBIA, S.C. 29211.

S/ Chris Williams

6-7-18

DATED

SUBSCRIBED AND SWORN TO BEFORE ME
THIS 6th Day of June 2018
Terrana Conwell

NOTARY PUBLIC FOR SOUTH CAROLINA
MY COMMISSION EXPIRES

My Commission Expires
September 25, 2023

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P.C.I. MAILROOM

JMR. CHRIS M. WILLIAMS

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