State of South Carolina

In the Court of Appeals

Appeal from York County

John C. Hayes, III., Circuit Court Judge

The State,

Respondent,

V.

William T. Coleman,

Appellant

Appellate Case No. 2012-212338

Appellant's Brief

Mr. William T. Coleman

pro-se

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SC Court of Appeals

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Statement of Issue on Appeal

1. Whether the trial court erred in refusing to suppress the gun that was discovered because the search was unreasonable? Appellant was handcuffed, secured in a patrol car, and transported away before the search and the search had nothing to do with the reason for the stop which was failure to dimlights.

2. Whether the trial court erred in charging the jury with the language of statute 16-23-20, when the appellant was on trial for 16-23-30? Knowing the state chose not to go forward with the prosecution of the statute 16-23-20 and 16-23-20 was dismissed by the state. Did the trial court error by not charging the jury with the requested charge because the evidence was favourable to the defense?

3. Whether the trial court violated appellants 14th Amendment rights by the process in which the case was indicted and tried? Appellant was bamboozled to the effect of causing him to be arrested for failure to appear, Improperly indicted, and the prosecution was bias in choosing the trial judge to hear the case in a manner that unfairly pre-judiced the outcome of the trial. The trial court also refused to answer the valuable question from the jury, "What type of seats were in the car," which pre-judiced the appellant's trial verdict.

Statement of the Case

Appellant was unlawfully convicted of being in possession of a handgun with serial numbers obliterated after a jury trial held before the Honorable John C. Hayes, III in York County on June 18-19, 2012. A three (3) year sentence was imposed. Appellant proceeded to trial pro-se with Melissa Inzerillo, Esquire, as counsel. Jessica Holland, Esquire, was the assistant solicitor.

This appeal follows.

Argument # 1.

During a motion in limine hearing, it was put on the record for appeal, that twenty minutes after a traffick stop and after Mr. Coleman was detained and taken away from the scene for allegedly failure to dimlights Sergeant Dewayne Bunch of the Winthrop University Police Security Department lied about smelling signal 9 only to create a police entitlement to committ a warrantless and unlawful search.

The State did not object to these statement of facts which were put on the record as appellant made a motion to dismiss. (Tr. p. 6 line 4 - p. 7 line 14).

The trial court relieved the appellants counsel at his request then denied the motion to dismiss pursuant to the facts mentioned without careful consideration of the case. (Tr. p. 13 lines 10-19.)

Before the suppression hearing the appellant asked that counsel Melissa Inzerillo represent him. The trial court allowed Melissa Inzerillo to get back in on the case. (Tr. p. 17 lines 1-18.)

During the suppression hearing state's exhibit # 2 was published to the court. State's exhibit # 2 is a video recording of the traffick stop recorded from Officer Dewayne Bunch's in car camera. (Tr. p. 47 lines 19-21)

As seen on the video the stop began on January 26th, 2012 at approximately 1:09 am the stop was for failure to dimlights. The driver of the stopped vehicle told Officer Dewayne Bunch that he did not have his driver's license with him and provided the Officer with a name and date of birth. Officer Dewayne Bunch then ran a driver's license check on that name and date of birth and it returns back clear. Officer Bunch testified during cross examination that he had

no reason, nor reasonable suspicion to believe the driver wasn't who he said he was. (Tr. p. 62 line 12 - p. 63 line 24) However he did not issue a ticket for failure to dim lights instead he reapproached the vehicle and ask the driver for his social security number. The driver said he couldn't remember his social security number but gave a close account of the numbers. At this time Officer Dewayne Bunch then snapped, "What 29 year old doesn't know his social security number!" Then ordered the driver out of the vehicle and had him placed in handcuffs for Officer's safety. At 1:17 am Officer Percy Wilson told appellant, "You are not under arrest at this time just being detained" Officer Bunch then held the driver captive while they investigated the driver's identity. On the video at 1:28 am Officer Bunch became frustrated with the investigation, he threw his hands in the air and said, "Oh just take him I will deal with it later on." During cross examination he testified that he did not arrest the driver at this time because he thought Officer Wilson did when he placed him in the patrol car. Officer Wilson transported detainee and then Officer Dewayne Bunch began interrogating the passengers as of to the driver's identity. (Tr. p. 65 line 21 - p. 67 line 7) At 1:34 am 25 minutes after the initiation of the traffick stop the driver was booked into the jail as Mr. Daniel Ervin by Officer Percy Wilson. He was booked as the exact name and date of birth he had provided for Officer Dewayne Bunch. (Tr. p. 70 line 3 - p. 72 line 4)

The remaining portion of the video state's exhibit # 2 was published to the trial court at 2:54 pm to show the details of what happened after the driver was transported to the Rock Hill City Jail. (Tr. p. 74 lines 7-8) This portion of the tape shows that

15 minutes after the driver's license check returns back clear, twenty minutes after the initiation of the traffick stop for failure to dimlights, and after the driver was transported away from the scene Officer Dewayne Bunch then alleged he smelled Signal 9 (drugs) in order to create a police entitlement to committ a warrantless search of the appellant's sister's vehicle. He wasn't specific as to which drug he smelled he just said, "I smell Signal 9." Then removed the passengers and questioned them about the driver's identity. At 1:39 am 30 minutes after the initiation of a traffick stop and detention for failure to dimlights, Officer Dewayne Bunch concluded his fishing expedition with the discovery of a firearm that he alleged was found in appellant's jacket pocket along with a South Carolina Identification card with appellant's name on it inside of appellant's sister's vehicle.

After the publication of this portion of state's exhibit #2 the defense counsel moved for suppression of the gun on two grounds, with the first being lack of reasonable suspicion for a search. The trial court agreed with the first grounds but failed to suppress the gun. (Tr. p.74 line 9 - p.76 line 1)

Next, the defense's counsel moved the courts to suppress the gun pursuant to Arizona V. Grant. On these grounds the defense's counsel proved that the search had nothing to substantiate a search pursuant to the smell of Signal 9 and that the entire investigation was centered around asserting the identity of the driver who was Mr. Coleman, which reverts back to a search of the original reason he was pulled over which was failure to dimlights. The trial court stated that the motion was all right. According to the American Heritage Dictionary all right means: without a doubt; correct; very well, yes. However

the trial court failed to suppress the evidence. (Tr. p. 79 line 7 - p 83 line 13) The trial court then gave the defense counsel the opportunity to wrap up the motion. Afterwards the trial court erred in denying the motion to suppress the evidence pursuant to Arizona V. Gant.

The trial court ruled that it would not quite call it reasonable suspicion that prolonged the traffick stop for failure to dimlights. (Tr. p 84 line 25 - p. 85 line 2) Then referenced the case of State V. Morris in the ruling to deny the Motion to suppress pursuant to the search. The Morris case is a lot different than this case because in the Morris Case there was more than an odor detected because the Officers in that case visually saw drug paraphenelia! Also Morris was arrested for drugs which substantiated the search. In this case of State V. Coleman the smell of signal 9 could not be proven in court and Officer Dewayne Bunch failed to substantiate a search pursuant to signal 9 because there was no evidence to support it! The trial court admitted that the courts got on him in the Morris case for saying, "When the marijuana was smelled", yet he defiantly said it again in this case without the evidence to substantiate it! The trial court erred in suppressing the evidence pursuant to Arizona V. Gant.

The case of Arizona V. Gant held that the search of a recent occupants vehicle while he was handcuffed in a patrol car was unreasonable. There was no possibility that appellant could have reached into the area where Sergeant Bunch was searching because he was handcuffed and secured in a patrol car then transported away from the area. He did not have to search for his safety, and since the purpose of the stop was for failure to dimlights, there was no evidence to be searched for that offense. (Tr. p 79 line 8 - p. 82 line 15)

The trial court's ruling to deny the motion to suppress was in error. (Tr. p. 84 line 21 - p. 87 line 7)

Argument # 2.

The trial court also erred in charging the jury by charging them with the language and definitions of statute 16-23-20 Unlawful Carrying of a weapon, when appellant was tried for Possesion of a firearm with serial numbers removed 16-23-30.

Appellant was charged with Unlawful Carrying of a Weapon 16-23-20 and Possesion of a firearm with serial numbers removed 16-23-30 deriving from a traffick stop for failure to dimlights on January 26th, 2012. The state dismissed the Unlawful Carrying of a weapon 16-23-20 and tried appellant on the charge of Possesion of a firearm with serial numbers removed or obliterated 16-23-30. When the jury inquired about the term carry upon his person' the trial judge defined the law under statute 16-23-20 in his charge to the jury which says, "A weapon is about one's person if it is readily accessible and convienent for immediate use. The weapon need not be actually touching the person of Defendant." The charge to the jury was done in error because appellant was not tried on the indictment of 16-23-20 Unlawful Carrying of a Weapon, he was tried on the indictment Possesion of a firearm with serial numbers removed, and no where in that statute of 16-23-30 is such language or definitions to support the indictment of that statute, that was indicted by the grand jury. The appellant objected to the charge to the jury. Therefore preserving the issue for appeal. (Tr.p 175 line 18 - Tr.p 181 line 8)

Pursuant to Locke V. State 533 S.E. 2d 324 Keynote 3 the courts ruled, "An indictment is sufficient to convey jurisdiction if it apprises the defendant of the elements of the offense intend to be charged and informs the defendant of the circumstances he must be prepared to defend." Locke was indicted for 16-11-325 and found guilty of the elements

of indictment 16-11-325. Withstanding Coleman was tried for possession of a firearm with serial numbers removed 16-23-30 and was prepared to defend himself of the elements of that offense. The trial court tried the jury in error of the elements of 16-23-20. An indictment in which appellant wasn't prepared to defend himself against because the state chose to not proceed with the prosecution of that indictment.

The evidence from the trial shows that Sergeant Dewayne Bunch could not precisely remember the majority or predominent colors of the jacket in which he alleged to find the firearm, testifying once that is was red, white, and blue, majority white and blue. (Tr. p. 53 line 25-p. 54 line 2) Then he further testified that it was red and white, and may have had some other colors in it but red and white is what sticks out to him because they were the predominate colors of the jacket. (Tr. p. 107 line 16-18) Officer Bunch also testified that the jacket was hanging over the seat two times, once on (Tr. p. 54 line 11-12) and on (Tr. p. 109 line 11-13) Demonstrating to the jury that the jacket was hanging over the back of the seat! As if the seats in the car were bucket seats. During cross examination he testified once, that he discovered the weapon in Appellant's jacket, then further testified that he didn't! (Tr. p. 134 line 8 - Tr. p. 135 line 23.) Then he testified again that he did find it in the jacket, but it was possible someone else could have put it there. (Tr. p. 136 line 11-13) Then afterwards he testified that the jacket wasn't hanging over the seat it was leaned back and sat on, and that it was not possible that anyone else could have put it there because the jacket hadn't moved since it was sat

upon and it was in the exact same position it was since it had been sat upon and left in the vehicle before discovery of the weapon, and that it wasn't hanging it was pushed back in the seat. (Tr. p 136 line 14 - p. 145 line 2) Evidence shows that Officer Dewayne Bunch doesn't remember the color of the jacket or how it was positioned in the vehicle. A person would have had to have a photographic memory to remember exactly how a jacket was sitting after a glance at it in a vehicle almost thirty minutes earlier. The jury also noticed the differentiation in the evidentiary testimony of the way he recalled the jacket was sitting or hanging so they asked a valid question about the seat, since the seat was brought up in evidence as the place of discovery of the jacket in which Officer Dewayne Bunch may or may not have discovered a firearm. They asked what kind of seats where in the vehicle for the fact if it were bucket seats then the jacket could've have very well hung over the back of the seat, and been placed back, and if it were bench seats it could have been sat on and pushed back across the seat. Whether or not he could remember at a glance how or if it had been moved, if he ever really looked at it's position in the seat before he re-discovered it, is a no brainer. The trial court erred by not charging the jury with the requested charge language from State V. Weston, after the appellant requested the judge to do so, and objected to the charge the trial court imposed. (Tr. p 175 - line 18 - p. 180 line 6) Pursuant to State V. Sullivan the courts ruled, "When there is evidence in the record to support a defense, it is reversible error to refuse a request to charge

the jury to that defense." There was evidence in the record to prove the holding in the case of State V. Weston, wherein the courts ruled, "The evidence shows that appellant did not carry about his person, either concealed or unconcealed, the pistol, but that the pistol was taken about and placed in his jacket pocket. There is an entire failure on the part of the evidence adduced to convict the appellant of the charge made against him, and the judgement should be reversed." Officer Dewayne Bunch did testify that the firearm was not carried upon appellant's person and that somebody else could have taken it and placed it in his jacket. (Tr. p 137 line 17 - 144 line 9) Therefore the trial court's judgement shall be reversed pursuant to the holding in state V. Sullivan, because the trial court erred in refusing the requested charge when there is evidence in the record to support the defense, that appellant did not carry upon his person a firearm with the serial numbers removed, concealed or unconcealed, because it was taken about and placed in his jacket pocket. After appellant had been away from the jacket for 30 minutes. (Tr. p 137 line 17 - 144 line 9)

Argument #3

The trial court negligently violated appellants 4th and 14th Amendment Rights of the United States Constitution.

On January 26, 2012 at approximately 1:30 am appellant became the victim of an illegal search and seizure pursuant to Arizona V. Grant, wherein appellant was seized for failure to dim lights, secured in the backseat of a patrol car, and transported to jail. 20 minutes after the stop and once appellant was transported away the Officer who initiated the stop stated "he smelled signal 9" which means any unparticularized drug, making this false allegation as a police entitlement to commit a warrantless search!

Appellant was processed into the jail as Daniel Ervin and taken before the Honorable Jane Modla for a bond hearing. The Honorable Jane Modla read appellant his miranda rights and informed him that he was under arrest for unlawful carrying of a weapon 16-23-20 and possession of a firearm with the serial numbers obliterated 16-23-30. It is not the duty of a judge to make arrest. This was done hours after appellant's seizure because appellant was not placed under arrest by any law enforcement. Officer Bunch testified during trial that he did not place appellant under arrest, and acknowledged the fact Officer Percy Wilson processed Appellant into the jail as Daniel Ervin and that his name was corrected on the booking evidence by a female. (Tr. p. 66 line 5- p. 72 line 4).

Appellant was released on a $20,000 bail for the two weapon charges. His bond was secured by a bondsman named Wayne, (803) 985-1007 is his phone number. Appellant was given a brown paper bag with his belongings in it as he was released from the jail. Once he arrived home and began removing the contents of the bag he noticed that four uniform traffick tickets had

been dumped inside of the bag. The tickets were for driving under suspension 3rd, falsifying information, violation of open container, and failure to dimlights. Appellant wondered why the tickets were just dumped into the bag instead of being properly served upon his person? And why was not he and the bondsman notified of these charges at the time of his release from jail?

Appellant contacted Shontay Green of the Rock Hill Municipal court and asked for postponement of the trial dates on the uniform traffick tickets. He requested a jury trial and asked her to send him the trial dates when they were scheduled. Ms. Green agreed to postpone the trial dates and informed appellant she would notify him of the date. Appellant was later tried in his absence without being properly summoned or subpoenaed to court, for the charges of Driving under suspension 3rd, violation of open container, falsifying information, and failure to dimlights. This action violated appellants Constitutional Right to a fair trial, had appellant prevailed in Magistrate Court for the charges in which he was improperly ticketed and unlawfully tried it would have drastically changed the outcome of the trial for the weapon charges.

Appellant addressed the issue by mailing a motion in limine to dismiss the weapon charges, and reverse the magistrate court convictions to the 16th Circuit Judicial Court Clerk's Office, and the South Carolina Court of Appeals on the 13th day of June 2012 from Kirkland Correctional Institution. The South Carolina Court of Appeals did not reply to the motion. Appellant was tried and unlawfully convicted of the weapon charges on June 19th 2012. The 16th Circuit Judicial Court Clerk did not reply to the motion in limine until after Appellant was tried and unlawfully convicted. His reply was, "You cannot make a motion to dismiss a charge that you have already been tried and convicted of." However appellant made the motion before he was tried and unlawfully

convicted of these charges.

Appellant briefly addressed the issue again by making a motion in limine during pre-trial on June 18, 2012. In making this motion appellant informed the courts that his Constitutional Right to a fair trial had been violated. (Tr. p 5 line 5-11) and he humbly sought dismissal. This motion was denied without careful consideration, reason, or objection to the motion by the state. (Tr. p 13 line 10-19) The violation of Appellants Constitutional Right to a fair trial for the uniform traffick tickets, pre-judiced the outcome of appellant's trial for the weapon charge, further violating appellant's Constitutional Right to a fair trial. Denying appellant's right to due process of law, under section 1. of the 14th Amendment of the United States Constitution.

Appellant's due process of law was again violated by the 16th Circuit Judicial Trial Court. On April 17th appellant was told over the phone by a representative at the public defender's office, "that he did not need to appear in court that day, his attorney was out and his pre-liminary hearing was postponed, and that his attorney would contact him with the next date he was scheduled to be in court." Truthfully appellant's counsel had already held his pre-liminary hearing behind his back on March 27, against appellants request to exercise his right to a pre-liminary hearing and be present there as well. After being bamboozled by the public defenders office appellant was unlawfully incarcerated on May 8th for failure to appear on April the 17th of 2012. Appellant strongly voiced his disagreement with his public defender about being bamboozled into missing his courtdate. (Tr. p 9 line 19-25) After arguing this fact twice in the presence of the Honorable Lee Alfred, once on May 16th during a speedy trial motion hearing

and once a May 30th during a motion in limine hearing to relieve counsel, rescind the bench wiegrant for failure to appear, and dismiss the charges. In conclusion of that second hearing held May 30th of 2012, the Honorable Lee Alfred did rescind the bench warrant for failure to appear, however Appellant was still held unlawfully in custody serving the sentence in which he was unlawfully convicted of the uniform traffick tickets in his absence.

That bench warrant for failure to appear was only issued so appellant could be placed in custody to be offered plea bargains. Immediately after appellant was arrested the state in conjunction with the public defenders office planned on appellant pleaing guilty despite of his innocence, and begin offering him plea bargains promising that he would only be sentenced to 90 days if accepted and that he would only serve 45 days to satisfy that sentence and be released without a felony conviction. Appellant is innocent so he declined the plea agreement and requested to exercise his right to a speedy and public trial. The motion hearing for the speedy and public trial was held on May 16th of 2012. During this hearing appellant made a motion to relieve counsel due to the effect of being bamboozled by the public defenders office, and requested to represent himself. Appellant's motion was immediately denied, denying him the right to represent himself. (Tr. p 10 line 14-20) Without careful consideration of the facts.

During this same motion to speedy trial hearing held May 16th the Solicitor Jessica Holland admitted to the trial judge that she had passed deadline to submit the case to the grand jury because they, her and appellant's public defender had planned on him pleaing guilty despite of appellant indicating that he was innocent. Upon recieving this information

appellant made a motion to dismiss. This motion was denied without careful consideration of the fact that if the prosecution negligently allows a case to pass deadline for presentment to the grand jury the case warrants judicial dismissal. After denying the motion to acquit, and the motion to relieve counsel without careful consideration or objection by the state the Honorable Lee Alfred did grant appellant's speedy trial motion and scheduled appellant a second pre-liminary hearing since he was bamboozled out of the first one. (Tr. p 10 line 23 - p 11 line 1)

On May 17th thirteen days before a probable cause hearing the Solicitor submitted the case's of Possession of a firearm with serial numbers obliterated 16-23-30, and unlawful carrying of a weapon 16-23-20 to a grand jury and got them indicted before probable cause was even found. The probable cause (pre-liminary hearing) was scheduled for May 30th. How can the case be submitted to the grand jury before probable cause is even found? (Tr. p 14 line 21-25)

On May 30th, of 2012, after being denied the right to represent himself on May 16th of 2012, appellant was forced to go into his pre-liminary hearing in the presence of the Honorable Judge Young with Melisse Inerillo as court appointed counsel. Prior to the hearing appellant requested that Melissa make a motion to acquit at his pre-liminary hearing based on the evidence being the fruit of a poisonous search, the Municipal Court Convictions for the underlying traffick offenses being in violation of appellants right to a fair trial, and the improper way in which the Solicitor had the case indicted by a grand jury before a finding of probable cause, all in violation of appellants 4th and 14th amendment rights of the United States Constitution. During the pre-liminary hearing the state produced two forms of evidence and presented

to the court. One was the officer's incident report, the other was the officer's case summary, both written by Officer Dewayne Bunch, and both documents contained falsehood. After the state concluded their presentation of evidence, the appellants court appointed attorney Melissa Inzerillo stated that she believes the search was unlawful pursuant to Arizona V. Grant but she would like to make a motion to know P.C! Appellant then told Melissa Inzerillo that isn't the motion he asked her to make. She bamboozled appellant again and told him that a motion to know P.C, means to acquit the charges. Appellant told her that he wished to address the judge. Appellant's counsel denied him freedom of speech by telling him only the Solicitor and defense counsel could speak during pre-liminary hearings and that the judge would not hear what he had to say.

After being denied the right to represent himself on May 16th 2012 Appellant's counsel acted in conspiracy to railroad him at his pre-liminary hearing May 30th by making an improper motion to know P.C. against his request, therefore the case was now set to go to trial. Appellant voiced to his counsel that he strongly disagreed with the manner in which she made that motion and that he was unsatisfied with her representation because of all the events that had taken place. On May 31st of 2012, after she had already had the case set to go to trial appellant's counsel returned him to the presence of the Honorable Lee Alfred and stated that she would like to second appellant's motion to relieve her of his counsel, after the damage had been done, and he would be forced to go into trial representing himself, when appellant stood a better chance at prevailing in his preliminary hearing representing himself than he could at representing himself through a trial, so the damage had been done. At this hearing appellant again made a motion to acquit in his own defense. The Honorable

Lee Alfred denied appellent's motion without hearing the grounds for dismissal and focussed the argument around the issue of counsel. Appellant felt as though he had lost hope in the opportunity to prevail in representing himself because he believed he was being railroaded because every motion he had made in his own defense was denied without careful consideration. While dwelling on the issue of counsel the Honorable Lee Alfred agreed to rescind the bench warrant for failure to appear.

Before appellent's trial that was scheduled in June for the weapon charges appellant's counsel offered him more pleas from the state. Appellants counsel informed him that if he did not accept the plea he would not be taken to trial on the misdemeanor unlawful carrying of a weapon 16-23-20 and that the soliciter would take him to trial on the felony charge of Possesion of a firearm with the serial numbers obliterated in the presence of the Honorable John C. Hayes III. Appellant asked his counsel why would the case be changing from being heard by the Honorable Lee Alfred to being heard by the Honorable John C. Hayes III. Appellant was told because the Soliciter knows the Honorable John C. Hayes III is "Notoricus" for upholding signal 9 searches. It is unlawful and unConstitutional for the prosecutor to be bias in choosing the trial judge in a manner that will pre-judice the outcome of the trial, and it is not the duty of the courts to uphold routine Constitutional violations.

In a trial held June 18th-19th in the presence of the Honorable John C. Hayes III appellant was unlawfully convicted because the trial court failed to suppress a gun that was allegedly found in appellents coat pocket, after Appellant was handcuffed, secured in a patrol car, and transported away for failure to dim lights. The trial court upheld a search that no other judge in his or her right mind

would have upheld, wherein the Officer lied about smelling signal 9 20 minutes after the stop with no evidence to substantiate a search pursuant to signal 9. When it wouldn't take a sniffy, snuffy, nightime, sneezy, coughing, running nose, that's congested and need Robutussin 20 minutes to detect an odor of a drug especially after spending 12 years practicing a career in which you were trained to recognize signal 9" odors. The trial court also erred in refusing to answer the jury's evidentiary question of what kind of seats were in the limousine because that question was vital to the jury reaching a just and fair verdict. These facts combined create routine violations of appellants 14th Amendment Section 1 right to due process of law and equal protection of the laws of each state wherein appellant, was, improperly traffick ticketed, unlawfully tried in his absence, bamboozled by the public defenders office, improperly indicted by the solicitor, Unfairly judged and denied almost every motion he made in his own defense, charged, and convicted in error, therefore the trial courts judgement shall be reversed.

Conclusion

Appellants conviction should be reversed because the trial court failed to suppress the handgun, and charged the jury in error by charging the definition in the statute 16-23-20 for Unlawful Carrying of a Weapon when Appellant was on trial for possession of a firearm 16-23-30. They also erred by refusing to answer the jury's question of fact, and by denying appellants motions in limine without careful consideration, reason, or objection by the state. The trial court also violated appellants Constitutional Rights by denying him the right to represent himself in preliminary hearing, as well as the routine Constitutional violations of due process of law in the unlawful manner appellant was placed upon the black track and railroaded through the system. He was improperly ticketed, unlawfully searched, unlawfully tried in his absence, improperly indicted, bamboozled by the public defenders office, and denied equal protection of the laws of each state and the state wherein he resides. Therefore, appellant humbly and respectfully pray to the court to reverse judgement of the unlawful convictions.

Respectfully Submitted

Mr. William T. Coleman

Mr. William T. Coleman U.S. Citizen

This 9th day of January, 2013.

Charge to Jury state exhibit on the record for appeal

*108 S.C. 383, *; 94 S.E. 871, **;*
*1918 S.C. LEXIS 141, ****

STATE v. WESTON.

9858

SUPREME COURT OF SOUTH CAROLINA

108 S.C. 383; 94 S.E. 871; 1918 S.C. LEXIS 141

January 19, 1918, Decided

PRIOR HISTORY: **[***1]** Before DEVORE, J., Richland, Spring term, 1917. Reversed.

Robert Weston was convicted of carrying an unlawful weapon, and he appeals.

DISPOSITION: Judgment reversed.

CORE TERMS: carrying, pistol, weapon, suit case, unconcealed, concealed, satchel

HEADNOTES

WEAPONS -- UNLAWFUL CARRYING. -- Conviction of carrying an unlawful weapon, in violation of Cr. Code 1912, sec. 157, is not warranted where accused did not carry the pistol about his person concealed or unconcealed, but it was taken about and placed in his satchel or suit case.

COUNSEL: Mr. Paul A. Cooper, for appellant, cites: 16 S.C. 187. (In my case a jacket

Solicitor W. H. Cobb, for State.

JUDGES: MR. JUSTICE WATTS.

OPINION BY: WATTS

OPINION

[871]** **[*383]** The opinion of the Court was delivered by MR. JUSTICE WATTS.

The defendant was tried, convicted, and sentenced in the magistrate's Court under a warrant

(64)

charging him with carrying an unlawful weapon in violation of section 157 of the Criminal Code. Defendant appealed to Circuit Court and the judgment of the magistrate's Court was affirmed, and an appeal taken to this Court.

The appeal must be sustained. The evidence shows that the defendant did not carry about his person, either concealed or unconcealed, the pistol, but that the pistol was taken about and placed in his satchel or suit case. There is an entire failure on the part of the evidence adduced to convict the defendant of the charge made against him, and the judgment is reversed.

Judgment reversed.

Petition To Make

Signal 9 Anathema to the 4th Amendment

The word anathema means one that is cursed by ecclesiastical authority, a curse. Signal 9 is the police code for the smell of illegal drugs. The Fourth Amendment guarantees, "the right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, and is applicable to the states through the due process clause of the 14th Amendment.

The Supreme Court has often observed that searches and seizures conducted outside the judicial process, without prior approval by a judge or magistrate, are per se unreasonable under the fourth amendment subject only to a few specifically established and well delineated exceptions.

Should signal 9 (smell of drugs), be one of those exceptions? Or would that create a police entitlement to commit a warrantless search?

This will create a police 'entitlement' because smell of drugs cannot be proved in court, it does not prove possession of drugs, and cannot be presented in court as evidence of a crime. In many cases officers allege to smell drugs only for an 'entitlement' to search a person's home, vehicle, or person, with no way of collecting a smell as evidence they can do this at will. To uphold signal 9 as an exception to the warrant requirement, will require the court to approve routine constitutional violations, and create a police entitlement. If you were a social worker transporting a troubled youth, would you want your car seized, searched, and rummaged through by cops because he/she smells like weed?

America is a rapidly evolving country. Today doctors, scientist, inventors, and manufacturers are developing and adopting a more safe way to do everything in effort to sustain the health of the Earth, and the Earth's people. Amazingly they have even developed a safe alternative to the use of some recreational drugs, one of them is called, Kd. Kd is a marijuana like substance without the chemical T.H.C. It looks like

(See Reverse side of Page)

marijuana, smells like marijuana, and some have reported feeling the same euphoria effect of marijuana. Having being void of T.H.C, the mind-altering chemical which makes marijuana illegal, it is perfectly legal and sold in most convienent stores near urban neighborhoods.

K2 was made available to help prevent the 95% of America's workforce that use marijuana, from failing a random drug test by offering a legally safe alternative. This has helped the unemployment rate with fewer people failing the initial pre-employment drug-screening. It has also helped with the overcrowding of prisons by allowing those on probation and parole a legally safe alternative to the illegal drug marijuana which can be detected in a urine test for up to 30 days. Lowering the percentage of the unemployment rate, and the recidivism to prison, K2, could save America millions of dollars.

Should K2 users around the globe be subject to unconstitutional searches, because of the positive transition from an illegal drug, to a legally safer alternative. Should officers be entitled to search because they smell K2?

Signal 9 cannot be collected as evidence, and a magistrate judge is always available to issue a search warrant if an officer has reasonable suspicion that a subject is involved in the drug trade. If signal 9 isn't adopted as such then the only thing anybody would be smelling is a "police entitlement" resulting in a myriad of unconstitutional police practices.

Consider the case State v. Coleman, did the younger cops learn a lawful practice from the 14 year veteran? Or did they learn to "go ahead take em' and figure it out later by violating a citizen rights?

Personal property was stolen from the limousine the night of the search. Do I blame Cops or the County? The search and seizure of innocent citizens increase crimes of perjury, kidnapping, and theft. 9 is Archaic!

The Black Track

By. Mr. William T. Coleman

AKA "Yungo Preemo the hip-hop star"

The term "railroaded" is used in society to define the process in which an individual charged with a criminal offense is unlawfully convicted by being strategically placed on an one way track to prison, without recieving true justice. Factually, the majority of the people railroaded in the United States of America are black individuals illiterate to the laws that govern the land. Based on this majority rule it's safe to call this track "The Black Track". Many black americans innocent of the charges brought against them have been placed on this track. Some may never see the light of freedom from the confines of a prison again. Some may be railroaded a couple of times and labeled a career criminal despite of their innocence. This flaw in the lower courts of America's Justice system is anathema to the United States Constitution whom's purpose is to form a more perfect union. At the tender age of 27 I have been railroaded more than once and no more will I allow this crime of injustice to happen to me without speaking out. A silent victim will never recieve justice. This report is an account of my experience on "The Black Track", for the most recent offense against my character. The facts therein are to be used as my appellate's brief to be considered in the South Carolina Court of Appeals. The place in which I hope to find justice, from the unlawful conviction of possession of a firearm with the serial numbers removed or obliterated.

Mr. William T. Coleman #287408
Kershaw Correctional Institution
P.A. 48
4848 Goldmine Highway
Kershaw, South Carolina 29067

Ms. Jenny A. Kitchings Clerk
Post Office Box 11629
Columbia, South Carolina 29211
1015 Sumter Street
Columbia, South Carolina 29201

Re: The State (Respondent) and William T. Coleman (Appellant)
Appellate Case No. 2012-212338

Dear Honorable Clerks,

I recieved a letter from your office stating that I have 15 days to submit a pro-se brief addressing any issues I believe the court should consider in my appeal; and that upon reciept of my pro-se brief my appeal will be submitted to the courts for consideration.

Please be advised I have sent to you months ago what I considered to be my pro-se brief. Afterwards I recieved a letter from you stating: "this court will not take action on your pro-se filings" and that my letter was forwarded to my attorney, whom at the time I didnt know was assigned to my case and I still as of now hadnt discussed my case with him, to a satisfying degree. Please submit the enclosed brief which is more professional than the previous, as well as send me a copy of the previous one that you said you sent to my attorney stamped filed/recieved by your

office as I originally requested, and submit a copy of that one along with this one for consideration because it contains additional facts of my appeal that I didn't include in this one, but may or may not need to be heard by the courts to further substantiate what I'm arguing in this brief because I have been restricted to a time limit and because I need my brief heard so I can return home to my family as soon as possible, I pray that you submit them both. Please and thank you in advance, I pray in Jesus's name that God Blesses you accordingly for your works.

Sincerely

Mr. William T. Coleman

Mr. William T. Coleman pro se

P.S. Thanks again, and God Bless you and I pray in Jesus's name that you have a wonderful and blessed year.

P.S.S. That first brief I filed was without a transcript so please advise the courts that I'm being truthful about my innocence. Peace Queen, love you and God Bless.

Certificate of Service

I, Mr. William T. Coleman does hereby certify that a copy of my appellants brief written pro-se has been filed with the South Carolina Court of Appeals to be submitted to the courts for consideration. Please acknowledge the fact that this is the second pro-se appellant's brief that I have sent to this court for consideration. The first one Ms. Jenny A. Kitchings replied to me saying "this court will not take action on your pro-se filings and your letter was forwarded to your attorney." At the time of my filing of the previous brief I didn't even know I had an attorney. So please submitt both briefs to be heard as well as send me a copy of this and the previous stamped filed recieved by the courts. This request and action was taken on January 8th, 2012, by placing such in the United States Postal Service for properly delivery in the presence of a notary public.

s/ Mr. William T. Coleman date: 1/09/2013

Catherine A Amaro

Notary/Witness: Date: 1-9-2013

My Commission Expires: My Commission Expires December 22, 2018

RECEIVED
JAN 17 2013
SC Court of Appeals