

The State of South Carolina
IN THE COURT OF APPEALS
IN THE SUPREME COURT

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JAN 28 2019

SC Court of Appeals

APPEAL FROM UNION COUNTY
COURT OF GENERAL SESSIONS

HONORABLE DANIEL D. HALL, CIRCUIT COURT JUDGE

CASE NUMBER: 2018-GS-44-1380

THE STATE

RESPONDENT

✓

OTIS JEFFERSON SMITH

APPELLANT

WRITTEN EXPLANATION

PURSUANT to 203(d)(1)(B)(iv) SCACR Appellant presents a written explanation as follows to identify the issues raised on appeal.

- (1) On August 1, 2018 UNION CO. SHERIFFS DEPARTMENT made an unlawful traffic stop on the Appellant, after it is alleged that a Confidential Informant stated Appellant would be driving to Union County from LEXINGTON COUNTY with crystal methamphetamine. Upon arrival to UNION; appellant was under warrantless surveillance while at Lil Cricket located at 100 North Duncan Bypass in Union, by UNION COUNTY SHERIFFS DEPARTMENT. It is alleged Union County SHERIFFS DEPARTMENT received confirmation that SMITH (Appellant) was in possession of crystal methamphetamine.
- (2) On August 1, 2018 til December 4, 2018 the procedural history with included Brady violations, deliberate Governmental Intrusion, prosecutorial misconduct gross in fashion, irregularities in grand jury proceedings

Federal Rule of Criminal Procedure 6 under the totality of the circumstances 'numerous' violations of Rule 6(d) and (e) violations of 18 USC §§ 6002 + 6003 and V, VI Amend of US Const, the prosecution knowing presentation of mis information to the grand jury and mistreatment of witnesses failing to disclose of substantial exculpatory evidence in its possession.

In its Genesis of the procedural history of this case Appellant sustained countless Constitutional violations in which warranted a false imprisonment, false arrest, assault and battery, malicious prosecution, during the commission of his arrest.

(1) Based on a Confidential Informant declaration was the alleged reasonable suspicion outside of probable cause to make the unlawful traffic stop. (PRETEXT STOP) However Appellant did not in his company of driver Charlie Knox make a traffic violation. Appellant nor his counterpart Knox were under any unlawful ordinance, law, statute to warrant the blue lights.

The factual basis of the Confidential Informant falls below component analysis of the courts to determine reasonable suspicion; the informer was a prostitute with prior arrest was subject to compel false information taking a shot in the dark calling the appellant for a ride back to Columbia from Union. The appellant had not spoken to the informer until the night of the arrest (incident) for some two months having prior to the incident, the prostitute (informer) was in Richland County jail

The informer hoping that the appellants knowing he was a drug addict would possess his drug of choice crystal methamphetamine. The appellants nor informer spoke about selling a quantity of meth only that the informer needed a ride from Union to Columbia after service of "Johns" who were harassing her for some of the 1200⁰⁰ dollars the informer made from sexual favors. The informer was making this false declaration to the Narcotics Officers under penological interest for leniency. The informer being under the influence of narcotics during the commission of the incident promoted a web of lies to convince Union County Sheriff's Department Appellant was in possession of drugs. (BECK v OTTIO, 379 US 89 (1964))

(2) Brady v Maryland 373 US 83 (1963) requires STATE to disclose evidence in its possession favorable to the accused and material to show innocence or guilt to punish (SEE STATE v Bryant 307 SC 458, 415, SE2d 806 (1992)) The due process rights recognized by Brady apply not only to exculpatory evidence but also to impeachment evidence; US v Bagley 473 US 667 (1985). In November Appellant generated a MOTION TO COMPEL filed November 19, 2018. Prosecutor JOHN C. ANTHONY evinced to disclose the requested evidence in control of THE STATE; Appellant moved through mitigated judges and filed documents to disclose the following -

(1) STATEMENTS

All statements (verbal, written, and/or audio/video recorded made to law enforcement or the Solicitor Office by any witnesses

(2) Investigators Notes

All notes (written and/or electronic) created by law enforcement

during the investigation of this case or past dealing with Confidential Informant. Including all notes created by law enforcement but is not limited to all notes created by law enforcement related to the Confidential Informant in this case and interview statement.

(3) Law Enforcement Communication During Investigation

All communications (written, electronic, and/or text messages) by law enforcement with each other relating to this investigation beginning with Major JOHNNY SHEPHERD received information from a confidential and reliable informant

(4) DISCIPLINARY RECORDS OF RELEVANT LAW ENFORCEMENT OFFICERS

Copies of all complaints and disciplinary records of law enforcement officers related to the investigation including every NARCOTICS OFFICER OF UNION COUNTY SHERIFFS DEPARTMENT, MAJOR JOHNNY SHEPHERD and company as well as any other UNION COUNTY SHERIFF DEPUTY aiding in the arrest or investigation.

In Giglio v US 405 US 150, 153 154 (1973) the Supreme Court of US held that Bredy encompasses impeachment evidence. Notably the Court found in Kyles v Whitley that due process requires disclosure of any evidence that provides grounds for the defense to attack the reliability, thoroughness and good faith of police investigation to impeach the credibility of the STATES witnesses or to bolster the defense case against prosecutorial attacks. Id 514 US 419 442 n 154 445-457 (1995)

(5) Confidential Informant Reliability and Credibility

All documents and/or information regarding the confidential informant that is discoverable under Kyles v Whitley and Giglio

(6) All documents and/or evidence supporting the reliability of confidential informant.

(7) Reveal Identity of Confidential Informant

The ^(Appellant) Defendant request to reveal the identity of the Confidential Informant who provided Major JOHNNY STERFIELD information in this case.

IN STATE v DIAMOND, 280 SC 296, 712 SE2d noted leading case ROVIARO v US, 353 US 53 (1957) has jurisdiction in these matters.

(8) Reveal any negotiation, promise or deal with any witnesses or informer.

(9) Request FOR PRODUCTION and Inspection of (ESI) Electronic Stored Information including NATIVE FILES, with all metadata (Country Vintner of N. Carolina LLC v E & J Gallo Winery Inc 718 F.3d, 249, 253 n.4 (4th cir 2018) in fact.

All ESI concerning investigative summaries, interviews, chronologies, reports created by the STATE in this case. All ESI communications (Email, text messages generated by STATE concerning investigation in this case) All video footage and/or sound captured by equipment at UNION COUNTY SHERIFF DEPT related to this investigation. All documents or documents related to all ESI in the investigation.

(10) All subject matter related to Chemical Analysis as governed by Rule 6 SCRCrimP in this case

When a defendant lacks knowledge of material evidence in prosecution possession the waiver of courts rights cannot be deemed knowingly and voluntary. SANCHEZ v US 50 F3d 1448, 1453 (9th cir 1995) accord Gustine v STATE (1997) 325 SC 123, 127-28, 480 SE2d 444, 446 accord White v US 858 F2d 416 420-22 (8th cir 1988)

Sixth Amendment right to counsel was violated and the solicitor office should have been disqualified

as a result for control of all PRO-SE request for legal resource
HOLL Blackwell and JOHN ANTHONY evinced deliberate prosecutorial
misconduct in willfully conspired to provide MELINOX HANEY
Administration of UNION COUNTY DISTRICT with only limited
access to cited authorities requested by appellant. As defined
in Appellants 42 USC § 1983 civil rights claim (see 9A No. 0:18-
2914-RBH-PJG-XPACEE) which Appellant sustained due process
violations protected under V, XIV Amendment US Const. (Panell
v Alabama 287 US 45 61 53, 55, 57 (S.C.) (1958) Black
v US 385 US 26, 87; RULE 3.8(c) RPC RULE 407 S.C. O.C.R.
STATE OF South Dakota v LONG 465 F2d 65 (1972)
OBIEN v US 386 US 345, 87 S Ct 1158, 18, L Ed 2d 94 (1967)
CALDWELL v US 205 F2d 879 (D.C. Cir 1953) Caplan v US, 191
F2d 749 (D.C. Cir 1951) Pajerick v State 520 P.2d 795 (Alaska
1974) Governmental intrusion evinced deliberate gross prosecutorial
misconduct that was prejudicial to Appellants due process rights thus
with John C. Anthony purpose of control of all research requested
through MELINOX HANEY thus raises an irrebuttable presumption
of prejudice (see Governmental Intrusion Into the DEFENSE CAMP
Undermining the right to counsel) 97 HARV. L. REV 1143, 1146 (1984)
DELI, STATE v Quattlebaum 527 SE2d 105 (S.C. 2000) 338
S.C. 441; SIXTH AMEND violation right to counsel of solicitor/office.

IT IS SO MOVED

RESPECTFULLY SUBMITTED

OTTIS JEFFERSON SMITH 625771

A.S.G. D.C. Echo Pad

201 JOHN MARK DIAC PR

COLUMBIA SC 29209

Columbia SC

JANUARY 23, 2019

The State of South Carolina
IN THE COURT OF APPEALS
IN THE SUPREME COURT

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SC Court of Appeals

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RESPONDENT

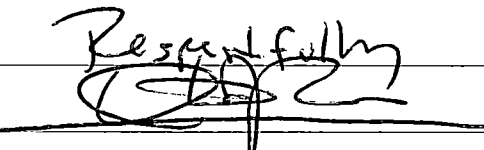
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Ottis JEFFERSON SMITH

APPELLANT

I, Ottis JEFFERSON SMITH certify that I have served this written explanation in notice dated January 17, 2019 received January 22, 2019 to Honorable JENNY A. Kitchings by depositing it in US legal mail addressed to S.C. Court of Appeals P.O. Box 11629 Columbia SC 29211

Respectfully


OTTIS JEFFERSON SMITH 625171

F.S.G.A.C. ECHORD

201 JOHN MARK DIAL DR

COLUMBIA SC 29209

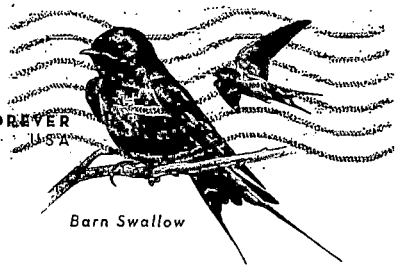
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JANUARY 23, 2019

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Barn Swallow

S.C. Court of Appeal
Honorable Jenny A. Ketchum
Post Office Box 11629
Columbia SC 29211

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