

SOUTH CAROLINA
COUNTY OF
CHARLESTON

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STATE

SC Court of Appeals
RESPONDENT,

VS

KYRIEF DESHAWN LAENELLE KELLY,
APPELLANT

IN THE COURT OF
APPEALS

CASE NO. 2017-002555

BRIEF OF APPELLANT

1) STATE has a heavy burden of establishing constructive possession where a gun is found in an area occupied by several people and where no one individual could be said to have dominion and control of the weapon.

2) Defendant was not in constructive possession of a gun that another individual was observed holding and or throwing a weapon, where defendant did not live in the area or apartment nor did he ever admit to owning or using a gun in question. There was no evidence that the defendant had any dominion or control over a weapon in physical possession of another, nor was there evidence that it was available to him or that he had access to it if he had so wished.

FACTS

1) The police's incident reports state that, I openly confessed that I had knowingly possessed and carried the gun that was found once I was detained and in the back of the police car, was a lie, and was the police words not mine. He can not produce any evidence to support his statement.

2) The state's Exhibit A, that some unidentified person allegedly told the police over a 911 call that it [looked] like a man being chased by the police threw an [object] over a fence, a description was never given and this unidentified person ~~was~~ did not give a written statement, nor came to court backing what he/she saw, and testify to what he/she claims.

3) Another person had reported the gun stolen from his automobile, was not at court to testify that his gun was stolen, and the gun allegedly possessed by the defendant was the same weapon. Nor was the person contacted for a statement.

CONCLUSION

1.) The court erred by admitting hearsay evidence, 2.) Including the police's incident reports, 3.) The state's Exhibits 19 and 20, that some unidentified person allegedly told the police, it [looked] like a man being chased by the police threw an [object] over a fence. Another person had reported a gun stolen from his automobile.

Since the evidence was hearsay testimony, and was offered to prove the ultimate issue before the jury - whether the defendant was illegally in possession of a stolen weapon and unlawfully carrying of a weapon. My appeal should be granted and charges should be overturned. I should be released as soon as possible.

KYRIEFKELLY by *[Signature]* Auth. Rep.

2/1/2019

Date

sworn to and subscribed before me
 on 1 day of February, 2019
 [Signature]
 (Notary Public of South Carolina)
 My Commission Expires: 2/17/24

Kyriel Kelly #374858
E.C.I.
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Bennettsville SC, 29512

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SC Court of Appeals

The South Carolina of Appeals

Jenny Abbott Kitchings Clerk

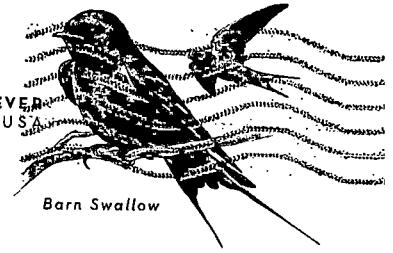
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