

ORIGINAL

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal From Greenville County
Robin B. Stillwell, Circuit Court Judge

THE STATE,

Respondent,

vs.

CHRIS TEASLEY,

Appellant.

FINAL BRIEF OF RESPONDENT

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ATTORNEYS FOR RESPONDENT

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OCT 08 2012

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STATEMENT OF ISSUE ON APPEAL

Since Appellant assaulted and battered a police officer while he was resisting arrest, the trial court did not err in denying Appellant's motion for directed verdict for the charge of assault and battery of a police officer while resisting arrest.

STATEMENT OF THE CASE

Appellant Teasley was indicted by the Greenville County Grand Jury for assaulting, beating or wounding an officer while resisting arrest under S.C. Code 16-9-320(B). He was tried before a jury and the Honorable Robin B. Stillwell on September 22 and 23, 2011. The jury found Teasley guilty and Judge Stillwell sentenced Teasley to three years imprisonment, suspended on one year home incarceration and two years probation.

STATEMENT OF FACTS

Deputy Sheriff Terrance Bowers responded to a call for an assault and battery in progress and also for an individual having a seizure. Deputy Bowers was dressed in uniform that day. When Deputy Bowers arrived at the residence, there was a crowd of people in the street and a disturbance appeared to be in progress. He entered the residence to find a sixteen year-old, Donqueil, on the floor in the kitchen in the midst of a seizure, with his mother kneeling beside him. Donqueil is Appellant Teasley's son. Teasley then burst into the house yelling and screaming. Deputy Bowers tried to calm Teasley down so EMS could treat Donqueil, but Teasley continued screaming and acting belligerent. Donqueil went into a second seizure. Other Deputies arrived but were not able to stabilize the house, so EMS waited 15-20 minutes before being able to enter the house to provide medical treatment for Donqueil. Deputy Bowers told the other officers to detain Teasley. Teasley remained

belligerent. ROA. pp. 10-18.

Deputy Bowers told Teasley he did not want to place Teasley in handcuffs, that he should calm down, but Teasley was still cursing and out of control, so Deputy Bowers advised him that he was under arrest for interfering with a police officer. Deputy Bowers then charged him with disorderly conduct when Teasley still continued to cause a disturbance. Teasley was handcuffed and taken out of the house, and placed in the patrol car. ROA. pp. 18-19; p. 26.

Deputy Benjamin Tice testified that he arrived at the residence after hearing a call for additional assistance at the scene. Deputy Payne escorted Teasley out of the house. Deputy Tice testified that Deputy Payne was unavailable to testify at trial. ROA. pp. 33-35; p. 36.

Deputy William Schall testified he arrived at the scene and Deputy Payne called on him to assist the deputies inside. Deputy Payne was trying to escort Teasley outside, but Teasley was not listening. So Teasley was handcuffed and brought outside. Deputy Schall helped Deputy Payne secure Teasley in the patrol car. Deputy Schall then attended to the mother, who was having an asthma attack. But then Deputy Schall returned to the patrol car when he saw Deputy Cunningham step back from the patrol car holding his nose. Deputy Schall asked what happened and Deputy Cunningham replied that he was kicked in the face. Teasley already was pepper-sprayed, but was still combative. Deputy Schall advised Teasley that he would need to tase Teasley if Teasley did not obey his commands. The deputies were finally able to restrain Teasley in the patrol car. ROA. pp. 39-40.

Deputy Swanson responded to the call as well. She entered the house in the midst of a melee. She described the house as "... chaotic. Nobody would sit still or listen." ROA.

p. 51, lines 17-18. "It was very hard to speak to anybody, have them listen or listen to them because it was chaotic." ROA. p. 51, lines 20-22. Deputy Swanson first attended to Donqueil's mother, who was also out of control. Once both Teasley and the mother were outside, Deputy Swanson heard Teasley kicking the doors and making a commotion inside Deputy Payne's patrol car. Deputy Swanson suggested placing a hobble restraint to keep Teasley from kicking. Deputy Swanson first attempted to place the hobble restraint on Teasley, but Teasley prepared to kick her. Then Deputy Cunningham was kicked. Deputy Swanson saw Teasley leg move towards Deputy Cunningham's face and Deputy Cunningham went backward quickly. Deputy Swanson deployed OC spray (pepper spray). Deputy Swanson did not know whether Teasley was under arrest, she was just trying to control the situation. ROA. pp. 51-55; p. 58. Deputy Swanson described what she saw of the assault on Deputy Cunningham as follows:

... Since I was on the opposite side of the car and Charlie Cunningham's face was low to the ground, I never actually saw the foot make contact with the face. But I did see his body or his leg jerk in that direction. So it was a reasonable to believe that he'd been kicked in the face. And that's why I deployed my OC. I felt like there was danger.

ROA. p. 60, lines 16-22.

Deputy Cunningham testified he was kicked in the face. Deputy Cunningham arrived at the scene and saw Deputy Bowers on the ground with Donqueil and Deputy Swanson wrestling the mother. Teasley was no longer in the house. Deputy Cunningham came out of the house as it was finally cleared so EMS could enter. Deputy Cunningham saw Teasley in the back seat. Teasley was hysterical, he was beating his head against the cage in the back

of the police car and acting violent. Deputy Cunningham thought Teasley might break a window. Deputy Payne unlocked the car door so Deputy Cunningham could put Teasley in a seat belt restraint to keep him from kicking. Deputy Cunningham put the seatbelt on and closed the door again. But Teasley started beating his head against the cage door. He kicked and moved about in a violent manner, and began to slide himself out of the seatbelt. Deputy Swanson tried to put the hobble restrain on Teasley, but Teasley violently moved his feet. So she handed Deputy Cunningham the restraint. Teasley pulled his feet to his chest and kicked, hitting Deputy Cunningham in the center of his face on his nose and mouth. Deputy Cunningham was stunned. He felt a stinging, burning pain in his face and his eyes began to water. Deputy Cunningham held his nose and turned to another deputy to ask if he was bleeding. ROA. pp. 67-74.

Deputy Cunningham charged Teasley with assault and battery upon a police officer while resisting arrest. Teasley was still yelling and screaming when he was brought in the detention center. ROA. pp. 77-78.

Moonshine McAbee was Travis's girlfriend. Travis is Teasley's other son. Teasley was drinking that day. He started yelling at Travis's son because the son was chewing on a chicken bone. This led to an altercation between Teasley and Travis. McAbee took the kids to the car while Travis tried to hold Teasley back. Then Donqueil started having a seizure, so McAbee tried to help him. Teasley kept fighting Travis and followed him out the house. McAbee left as soon as the police arrived. ROA. pp. 85-90.

ARGUMENT

Since Appellant assaulted and battered a police officer while he was resisting arrest, the trial court did not err in denying Appellant's motion for directed verdict for the charge of assault and battery of a police officer while resisting arrest.

Appellant argues that because Deputy Cunningham did not know Appellant was under arrest when Appellant kicked Deputy Cunningham, Appellant is entitled to directed verdict on the charge. Deputy Bowers advised Appellant he was under arrest for interfering with a police officer and disorderly conduct¹, so Appellant knew he was under arrest. Appellant could not be brought under control, even while buckled in a seatbelt and handcuffed in a patrol car. A simple reading of the statute reflects that Appellant is guilty of the offense regardless of whether Deputy Cunningham knew Appellant was under arrest.

Under S.C. Code § 16-9-320(B), the following conduct is proscribed:

It is unlawful for a person to knowingly and wilfully assault, beat, or wound a law enforcement officer engaged in serving, executing, or attempting to serve or execute a legal writ or process **or to assault, beat, or wound an officer when the person is resisting an arrest being made by one whom the person knows or reasonably should know is a law enforcement officer, whether under process or not.** . . .

(Emphasis added). No writ or process was being served, so the second part of the statute is implicated. Note the statute does not require that the officer being assaulted, beaten, or

¹ It is unclear whether Teasley pled to time served in magistrate's court for interfering with a police officer and disorderly conduct or whether Deputy Bowers dismissed the charges. ROA. pp. 26-29. However, there is no requirement that a defendant being prosecuted for resisting arrest must also be prosecuted for the underlying charge. State v. Tyndall, 336 S.C. 8, 18, 518 S.E.2d 278, 283 (Ct. App. 1999).

wounded be the person making the arrest. Accordingly, it is unlawful to assault, beat or wound any officer during the arrest process, not just the arresting officer. When a statute's language is plain and unambiguous, and conveys a clear and definite meaning, the rules of statutory interpretation are not needed and the court should not impose another meaning. State v. Gaines, 380 S.C. 23, 667 S.E.2d 728 (2008).

“[A]n arrest is an ongoing process, finalized only when the defendant is properly confined.” State v. Dowd, 306 S.C. 268, 411 S.E.2d 428 (1991) (finding evidence of resisting arrest despite Dowd's claims that his arrest was final when he submitted to the arresting officer at the scene of the accident, where Dowd stuck his foot in the doorway of the jail cell to prevent the door from closing and the arresting officer needed the assistance of two other officers in forcing Dowd into the jail cell). Under Dowd, the arrest process may last until the time a suspect is placed in a jail cell. So Teasley's arrest was an ongoing process at the time he was placed in the patrol car.

State v. Garvin, 341 S.C. 122, 533 S.E.2d 591 (Ct. App. 2000), is on point. In Garvin, Garvin was in jail at the time of his arrest on new charges. Detective Light, the arresting officer at the time Garvin was arrested on his first set of charges, procured the warrants for the new charges. A detention officer brought Garvin to the municipal courtroom, served Garvin with the new warrants, and brought him before the magistrate. While being escorted from the courtroom, Garvin assaulted the detention officer. Detective Light and his supervisor, who were present for the hearing, came to the detention officer's aid. Garvin assaulted and injured both Light and his supervisor. Id., 341 S.C. at 124-126, 533 S.E.2d at 591-592.

Garvin argued that the trial court should have granted directed verdict since the officers he assaulted were not attempting to arrest him or effect process under the statute.

This Court disagreed and concluded as follows:

. . . Garvin's arrest on the new charges had not been consummated at the time of the assault. Until officers had completed their task of confining Garvin within the jail cell, Garvin had not been brought within the custody and control of the law for the purpose specified in, or contemplated by, the process. Garvin's assault upon Detective Light and his supervisor, both clearly known to him as law enforcement officers, was in connection with this arrest.

Id., 341 S.C. at 127, 533 S.E.2d at 593 (citations omitted).

In the instant case, Teasley was aware he was under arrest and should have known that Deputy Bowers was a law enforcement officer as Deputy Bowers was in uniform, and even if Deputy Cunningham and Deputy Swanson were not aware of Teasley's precise custodial status, they were rendering aid and assistance, as in Garvin, to bring Teasley under control. Their awareness of the nature of Teasley's detention does not defeat the nature of the crime in which Teasley knowingly resisted his lawful arrest continuously until he was brought to the detention center.

It is axiomatic, that in ruling on a motion for a directed verdict, the trial court is concerned only with the existence of evidence, not its weight. State v. Spann, 279 S.C. 399, 308 S.E.2d 518 (1983). The trial court must submit the case for the jury's consideration if any evidence, direct or circumstantial, tends to prove the guilt of the accused or from which his guilt may be fairly and logically deduced. State v. Irvin, 270 S.C. 539, 243 S.E.2d 195 (1978). Only when there is a complete lack of competent evidence should the trial court

refuse a motion for directed verdict. State v. Schrock, 283 S.C. 129, 322 S.E.2d 450 (1984). Upon a motion for directed verdict, the evidence is viewed in the light most favorable to the State. State v. Creech, 314 S.C. 76, 441 S.E.2d 635, 638 (Ct. App. 1994).

Here, in the light most favorable to the State, Teasley was lawfully arrested by Deputy Bowers and placed in the patrol car. Teasley was on notice he was under arrest and that Bowers, in uniform, was a law enforcement officer. While in the patrol car, it became necessary for deputies to take further action to bring Teasley under control while Teasley remained in the arrest process. Dowd (finding the arrest was still in progress for the purposes of the offense of resisting arrest when officers attempted to place Dowd into his jail cell). Teasley, by his actions, threatened to kick Deputy Swanson, and then actually did kick Deputy Cunningham, all while resisting his arrest. Therefore, the trial court correctly denied the motion for directed verdict. Accordingly, the conviction and sentence should be affirmed.

CONCLUSION

For all of the foregoing reasons, it is respectfully submitted that the judgment and conviction of the lower court should be affirmed.

Respectfully submitted,

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ATTORNEYS FOR RESPONDENT

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CERTIFICATE OF COUNSEL

The undersigned certifies that this Final Brief of Respondent complies with Rule 211(b), SCACR.

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PROOF OF SERVICE

I, Norma Bigbee, certify that I have served the within Final Brief of Respondent on Appellant by depositing two copies of the same in the United States mail, postage prepaid, addressed to:

Susan B. Hackett, Esquire
South Carolina Commission on Appellate Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

I further certify that all parties required by Rule to be served have been served.

This 8th day of October, 2012


NORMA BIGBEE
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ALAN WILSON
ATTORNEY GENERAL

October 8, 2012

VIA HAND DELIVERY


The Honorable Jenny A. Kitchings
Clerk, South Carolina Court of Appeals
Post Office Box 11629
Columbia, SC 29211

Re: **State of South Carolina v. Chris Teasley**

Dear Ms. Kitchings:

Enclosed please find the original and nine (9) copies of the **Final Brief of Respondent** in the above matter for filing in your office. By copy of this letter we are serving opposing counsel with this brief today.

Sincerely,


David Spencer
Assistant Deputy Attorney General

DS/nb

Enclosures

cc: Susan B. Hackett, Esquire (2 copies enclosed)
Trisha Allen, Victim Services (1 copy enclosed)

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