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JUN 21 2013
SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Laurens County

Frank R. Addy, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

STAKREN JEFFERSON,

APPELLANT

APPELLATE CASE NO 2012-212339

ANDERS BRIEF OF APPELLANT

DAVID ALEXANDER
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
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ATTORNEY FOR APPELLANT

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STATEMENT OF ISSUE ON APPEAL

Whether the trial court erred in admitting as substantive evidence the prior inconsistent statements of three witnesses when all three statements were coerced and involuntary?

STATEMENT OF THE CASE

On August 22, 2008, a Lawrence County grand jury indicted Stakren Tyrise Jefferson for murder. R. 417. Jefferson's trial began on June 18, 2012, before the Honorable Frank R. Addy, and a jury. R. 1. Warren Mowry and Chris Newton represented the State. R. 1. Scott D. Robinson represented appellant. R. 1. The jury found Jefferson guilty. R. 406, ll. 7 – 13. Judge Addy sentenced Jefferson to forty years' imprisonment. R. 414, ll. 19 – 24. This appeal follows.

ARGUMENT

The trial court erred in admitting as substantive evidence the prior inconsistent statements of three witnesses when all three statements were coerced and involuntary.

Relevant Facts

The State's case against Jefferson rested almost wholly on the written statements given to police by Carlos Fuller ("Fuller"), Trezz Foggie, and Lavario Curenton ("Curenton"). R. 420-422. The State had no physical evidence tying Jefferson to the shooting death of Max Calwise a/k/a "Dreek." These statements were all typed by Investigator Mareno Foggie. Investigator Foggie claimed he was not related to Trezz Foggie. R. 303, ll. 6 – 8. By the time of trial, Investigator Foggie was no longer a police officer and worked at a bank. R. 303, ll. 9 – 14.

Fuller testified that he did not see anything implicating Jefferson in this crime. R. 97, ll. 22 – 25. The statement he signed several days after Dreek's death was typed up by the police. R. 99, ll. for – 6. The statement places Jefferson and Dreek together immediately before the shooting and then has both men running away from each other after shots were fired. R. 420. Fuller testified that the statement was false and the police told him he had to sign this statement to keep himself and his mother out of jail. R. 100, l. 19 – 101, l. 5.

Trezz Foggie's statement was more incriminating. R. 423. The statement has Dreek and Jefferson trading expletives and Jefferson shooting Dreek three times. R. 421. Trezz Foggie testified that this statement was false and he never saw Jefferson at the scene of the crime. R. 119, ll. for – 6. Trezz Foggie testified that Investigator Foggie

told him that he had to sign the statement or he and his family would go to jail. R. 118, ll. 6 – 120, l. 8.

Curenton's statement claimed that Dreek and Jefferson were having a conversation. Curenton's statement claimed that he then heard two or three shots and then saw Dreek running up a hill. The statement claimed Curenton did not see Jefferson after the shots were fired. R. 422. Curenton testified that the statement was false and he never saw Jefferson before or after the shooting. R. 142, ll. 14 – 15. Curenton testified that the police threatened to put him and his family in jail if he did not sign the statement. R. 144, ll. for – 24.

This shooting occurred at a trailer park in Laurens where gunshots were common. R. 78, ll. 6 – 10. The shooting happened in front of Fuller's trailer, which is where the victim's car was parked. R. 177, l. 24 – 178, l. 19. Shell casings were found there and a blood trail led from Dreek's body to that spot. R. 177, l. 24 – 178, l. 19. Fuller, Trezz Foggie, and Curenton were hanging out at Fuller's trailer and fled the scene after the shooting. Despite the evidence in front of the trailer, Investigator Foggie never felt the need to obtain a warrant to search Fuller's trailer. R. 344, ll. 1 – 13.

Discussion

The trial court erred in admitting the prior inconsistent statements because they were not voluntary and had no indicia of reliability. Extrinsic evidence of prior inconsistent statements can be admitted as substantive evidence after impeachment under Rule 613(b). State v. Copeland, 278 S.C. 572, 581-82, 300 S.E.2d 63, 68-69 (1982). However, this rule should not be followed in this case because the statements were not voluntary. Jackson v. Denno, 378 U.S. 368 (1964); Miranda v. Arizona, 384 U.S. 426 (1966). See also State v.

Moses, 390 S.C. 502, 512, 702 S.E.2d 395, 400 (Ct. App. 2010). “Further, the confession may not be extracted by any sort of threats or violence, or obtained by any direct or implied promises, however slight, or by the exertion of improper influence.” State v. Rochester, 301 S.C. 196, 200, 391 S.E.2d 244, 246 (1990) (internal quotations omitted).

No hearing was held regarding the voluntary nature of the statements given by Fuller, Trezz Foggie, and Curenton. All three testified that Investigator Foggie typed their statements and threatened them and their families with prosecution unless they signed these statements. All three recanted the portions of their statement that implicated Jefferson at trial. Under Denno and Rochester, the trial court should have refused to admit these statements.

Furthermore, these statements were inherently unreliable. As shown above, the statements were coerced by the police. Second, all three men admitted they were at the crime scene and left immediately after the shooting. The victim’s car was found parked in front of their house. Even though in most cases these circumstances would have led to a thorough investigation of their involvement in this crime, Fuller’s trailer was never even searched. These witnesses’ statements are unreliable because they were self-serving and clearly deflect blame from themselves and on to Jefferson. No physical evidence tied Jefferson to the crime. Therefore, it was error to admit them.

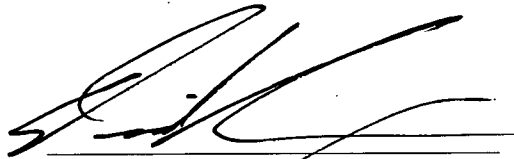
Without these statements, the State’s case would have consisted solely of the testimony of a jailhouse snitch who claimed he overheard Jefferson confess to the murder. R. 234, l. 22 – 243, l. 24. This statement alone by a snitch cannot be enough evidence to render the admission of these statements harmless error. Therefore, had these

statements been excluded, there is a high likelihood that the outcome of the trial would have been different.

CONCLUSION

For the foregoing reasons, appellant's conviction and sentence should be reversed and this case remanded for a new trial.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'David Alexander', written over a horizontal line.

David Alexander
Appellate Defender

ATTORNEY FOR APPELLANT

This 21st day of June, 2013.

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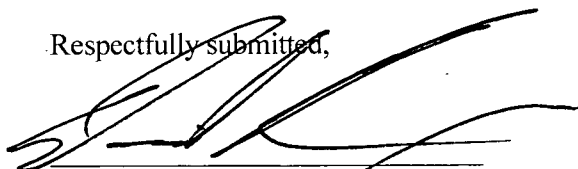
PETITION TO BE RELIEVED AS COUNSEL

Counsel for Stakren Jefferson states:

1. He is Appellate Defender for the South Carolina Office of Appellate Defense, and was appointed to represent appellant.
2. He has reviewed the record of appellant's trial before Judge Frank R. Addy, which was held on June 18-20, 2012, and, in his opinion, the appeal is without legal merit sufficient to warrant a new trial.
3. He has, pursuant to Anders v. California, 386 U.S. 738, 87 S.Ct. 1396 (1967), briefed an arguable legal issue which arose during the course of the trial.

WHEREFORE, he asks the Court to relieve him as counsel for Stakren Jefferson.

Respectfully submitted,



David Alexander
Appellate Defender

ATTORNEY FOR APPELLANT

This 21st day of June, 2013.

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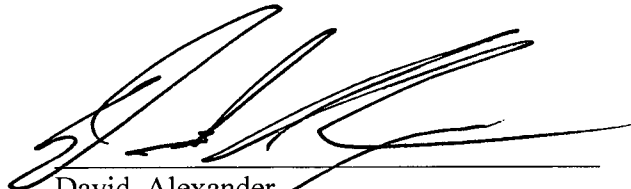
**DESIGNATION OF MATTER TO BE
INCLUDED IN RECORD ON APPEAL**

Appellant proposes the following be included in the Record on Appeal:

- (1) True-billed indictment(s);
- (2) Trial Transcript;
- (3) State's Exhibits 28, 31, and 32
- (4) Court's Exhibit 1.

I certify that this designation contains no matter which is irrelevant to this appeal.

June 21st, 2013



David Alexander
Appellate Defender

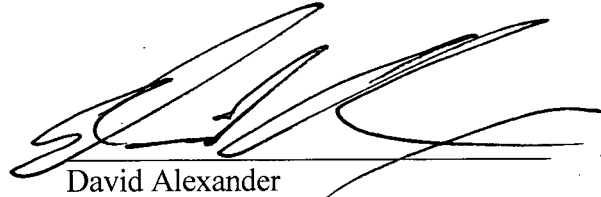
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(803) 734-1343

Attorney for Appellant

CERTIFICATE OF COUNSEL

The undersigned certifies that to the best of my ability this Anders Brief of Appellant complies with Rule 211(b), SCACR, and the August 13, 2007, order from the South Carolina Supreme Court entitled "Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings."

June 21, 2013

A handwritten signature in black ink, appearing to read 'DAVID ALEXANDER', written over a horizontal line.

David Alexander
Appellate Defender

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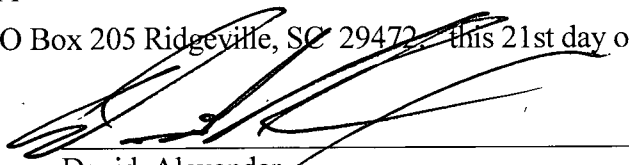
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CERTIFICATE OF SERVICE

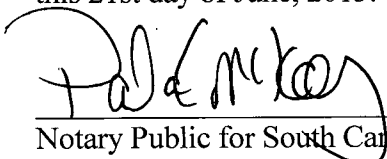
The undersigned attorney hereby certifies that a true copy of the Anders Brief of Appellant and Designation of Matter in the above referenced case has been served upon Donald J. Zelenka, Esquire, at the Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201; and a copy of the Anders Brief of Appellant and Designation of Matter and Record on Appeal have been served on Stakren Jefferson, #329790 at Lieber Correctional Institution, PO Box 205 Ridgeville, SC 29472, this 21st day of June, 2013.



David Alexander
Appellate Defender

ATTORNEY FOR APPELLANT

SUBSCRIBED AND SWORN TO before me
this 21st day of June, 2013.



(L.S.)

Notary Public for South Carolina
My Commission Expires: July 24, 2022.