

 ORIGINAL

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Spartanburg County

Alison Renee Lee, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

CORNELIUS JEROME STAGGERS,

APPELLANT

APPELLATE CASE NO. 2013-000829

ANDERS BRIEF OF APPELLANT

BENJAMIN JOHN TRIPP
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
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STATEMENT OF ISSUE ON APPEAL

Whether the trial court erred in admitting evidence that Appellant told the arresting officer that "he would beat it even if we found something" where even the arresting officer admitted he could not know what the statement was referring to.

STATEMENT OF THE CASE

On November 22, 2011, the Spartanburg County Grand Jury indicted Appellant Cornelius Jerome Staggers, Jr. on one count of possession of a firearm during commission of a violent crime; two counts of attempted armed robbery; and two counts of attempted murder. R. 250. On April 8, 2013, Appellant proceeded to trial before The Honorable Alison Renee Lee and a jury. Roger Poole represented Appellant, and Abel Gray and Prina Tailor represented the State. R. 1.

On April 9, 2013, the jury found Appellant guilty of the charge for possession of a firearm and for the two charges of attempted armed robbery. The jury also found Appellant guilty of two lesser-included charges of assault and battery second degree. R. 239, ln. 15 – R. 240, ln. 10. The trial judge sentenced Appellant to ten years concurrent for each assault and battery charge; three years concurrent for each attempted armed robbery charge; and five years concurrent for the possession of a firearm charge. R. 246, ln. 6—R. 247, ln. 6.

ARGUMENT

THE TRIAL COURT ERRED IN ADMITTING EVIDENCE THAT APPELLANT TOLD THE ARRESTING OFFICER “HE WOULD BEAT IT EVEN IF WE FOUND SOMETHING” BECAUSE THE STATEMENT WAS HARDLY PROBATIVE OF APPELLANT’S KNOWLEDGE OF THE PARTICULAR CRIME ALLEGED, AND IT WAS GROSSLY PREJUDICIAL IN CASTING APPELLANT AS A WANTON CRIMINAL.

STATEMENT OF FACTS

At trial the State offered testimony that in September of 2011, Appellant approached two individuals standing beside a building in an apartment complex. Holding a .22 caliber pistol, he demanded their possessions. The two refused, and Appellant fired a shot into the air. The individuals then ran away while Appellant fired a shot in their direction, striking one non-fatally in the rear. R. 87, ln. 17—R. 94, ln. 25; R. 117, ll. 7-25.

Prior to trial, the State proffered testimony of statements Appellant allegedly made to the police officer who arrested him a few days after the incident. R. 46, ln. 8—R. 54, ln. 15. Officer Ronnie Forrester testified that after Appellant became a suspect, he went to an apartment in the same complex where the incident occurred after receiving a report that Appellant was visiting there. R. 48, ln. 20—R. 50, ln. 8. Officer Forrester testified that after placing Appellant in handcuffs, he said, “[‘Y]ou ain’t gonna find nothing,[’] and shortly after that he made the statement that he would beat it even if we did find something.” R. 51, ll. 5-20. Officer Forrester stated he had “no way to . . . know what he meant” by the statements. R. 57, ll. 17-25.

Appellant objected to the State’s use of the statements at trial on grounds of relevance and unfair prejudice. R. 61, ll. 7-22. The trial court stated it was inclined to find the statements relevant and not unfairly prejudicial and made a preliminary ruling not to exclude them. R. 64, ln. 2—R. 65, ln. 11.

During the presentation of its evidence, the State called Rodnetra Williams before calling Officer Forrester. Ms. Williams testified that she was in the apartment with Appellant when the police knocked, saying “he was like well, I’m gonna go out because they ain’t got nothing on me and they ain’t gonna find nothing.” R. 133, ll. 4-14. The State then called officer Forrester, who testified about the arrest. Appellant objected to testimony about his alleged statements, and the court overruled. Forrester then related to the jury Appellant’s statements, “you ain’t gonna find nothing” and “he would beat it even if we found something.” R. 140, ln. 10—App.

DISCUSSION

The trial court erred in admitting evidence that Appellant told the arresting officer “he would beat it even if we found something” because the statement was hardly probative of Appellant’s knowledge of the particular crime alleged, and it was grossly prejudicial in casting Appellant as a wanton criminal. Rule 403 of the South Carolina Rules of Evidence provides that relevant evidence “may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice.” In *State v. Grant*, 275 S.C. 404, 272 S.E.2d 169 (1980), the South Carolina Supreme Court noted that “evidence of flight tends to be only marginally probative as to the ultimate issue of guilt or innocence,” *id.* at 408, 272 S.E.2d at 171 (quoting *State v. Jefferson*, 524 P.2d 248 (Wash. 1974) (internal quotation omitted)), and the significance of flight as evidence of guilt is “debatable,” *id.* (quoting *State v. Wrenn*, 584 P.2d 1231 (Idaho 1978)).

Here, the trial court allowed Officer Forrester to testify that after placing Appellant in handcuffs, Appellant stated the officers would not find any incriminating evidence, and even if they did, he would “beat the charge.” Appellant’s motive in making the statement

was protesting the arrest and admonishing the officers of its wrongfulness. Thus, the statement's relevance was comparable to that of flight. Accordingly, its probative value of Appellant's guilt was marginal or debatable at best. Further, any probative value was substantially weakened by the statement's lack of context. Appellant said nothing to link the statement to the alleged crime at issue. Officer Forrester expressly admitted he had no way to know what Appellant specifically meant by the statement. The State adduced no evidence beyond the statement itself to link it to the particular crime at issue. The lack of verbal context meant the statement's relevance was based on circumstance and speculation, and its probative value was all the more questionable.

Also due to its lack of context, the statement was grossly prejudicial in casting petitioner as a wanton criminal. On its own, the statement that Appellant would beat any charge permits the inference—and to an extent suggests—that Appellant was aware of his guilt of the particular crime for which he was later indicted and that he has disregard for police officer's authority and the justice system. It also paints Appellant as hubristic. However, as noted above, the core motivation of the statement was to protest the arrest and admonish the officers of its wrongfulness. This motivation is entirely natural in the not uncommon situations in which an innocent person feels oppressed by police conduct. Thus, allowing the jury to consider the statement created a serious risk of undue prejudice towards Appellant. This risk greatly outweighed the statement's meager probative value.

CONCLUSION

For the foregoing reasons, Appellant respectfully requests that this Court reverse the trial court's decision to admit the Appellant's alleged statement and remand for a new trial.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Benjamin John Tripp", written over a horizontal line.

Benjamin John Tripp
Appellate Defender

ATTORNEY FOR APPELLANT

This 3rd day of February, 2014.

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Spartanburg County
Alison Renee Lee, Circuit Court Judge

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SC Court of Appeals

THE STATE,

RESPONDENT,

V.

CORNELIUS JEROME STAGGERS,

APPELLANT


PÉTITION TO BE RELIEVED AS COUNSEL

Counsel for Cornelius Jerome Staggars 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 Alison Renee Lee, which was held on April 8, 2013, 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 Cornelius Jerome Staggars.

Respectfully submitted,


Benjamin John Tripp
Appellate Defender

ATTORNEY FOR APPELLANT

This 3rd day of February, 2014.

STATE OF SOUTH CAROLINA

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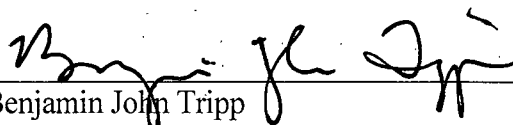
**DESIGNATION OF MATTER TO BE
INCLUDED IN RECORD ON APPEAL**

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

- (1) True-billed indictment(s);
- (2) Entire Trial Transcript (April 8 – 9, 2013)

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

February 3, 2014


Benjamin John Tripp
Appellate Defender


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PO Box 11589
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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."

February 3, 2014


Benjamin John Trupp
Appellate Defender

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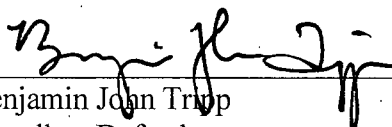
V.

CORNELIUS JEROME STAGGERS,

APPELLANT


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 Salley W. Elliott, 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 Cornelius Jerome Staggers, #342367 at Tyger River Correctional Institution, this 3rd day of February, 2014.


Benjamin John Trapp
Appellate Defender

ATTORNEY FOR APPELLANT

SUBSCRIBED AND SWORN TO before me
this 3rd day of February, 2014.

 (L.S.)
Notary Public for South Carolina
My Commission Expires: October 30, 2022.