(5)

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

APPEAL FROM FLORENCE COUNTY

D. CRAIG BROWN, CIRCUIT COURT JUDGE

THE STATE,

RESPONDENT,

V

CLIFFORD CLAUDE CAMPBELL,

APPELLANT

APPELLANT CASE NO: 2013-001450

DESIGNATION OF MATTER TO BE INCLUDED IN RECORD ON APPEAL

APPELLANT PROPOSES THE FOLLOWING BE INCLUDED IN THE RECORD ON APPEAL:

1.) TRUE-BILLED INDICTMENTS;

2.) ENTIRE TRANSCRIPT DATED JUNE 17-18, 2013;

3.) COURT EXHIBIT #1 (ANTICIPATORY SEARCH WARRANT)

4.) COURT EXHIBIT #2 (CELL PHONE SEARCH WARRANT)

5.) STATE'S EXHIBIT # 8 FEDEX TRACKING INFORMATION

I CERTIFY THAT THIS DESIGNATION CONTAINS NO MATTER WHICH IS IRRELEVANT TO THIS APPEAL

S/ CLIFFORD CLAUDE CAMPBELL #355870

PRO SE APPELLANT

(6)

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM FLORENCE COUNTY
D. CRAIG BROWN, CIRCUIT COURT JUDGE

THE STATE

RESPONDENT,

V.

CLIFFORD CLAUDE CAMPBELL

APPELLANT

APPELLANT CASE NO: 2013-001450

APPELLANT'S BRIEF

CLIFFORD CLAUDE CAMPBELL #355870
PROSE APPELLANT
TURBEVILLE CORRECTIONAL INSTITUTION
P.O. BOX 252
TURBEVILLE, SC 29162

RECEIVED
JUN 11 2014
SC Court of Appeals

Table of Contents

Letter To The Court

To The Honorable Court,

As a pro se litigant, I feel this case has considerable merit in the arguments that have been put forth and would humbly request that the Court overlook any deficiencies, as to the presentation of the arguments, but I have put forth great effort in addressing every circumstance, hence the significant amount of case law in the presentations. I apologize for any inconvenience or undue burden it may cause, but do feel it is necessary to justify the arguments.

I would respectfully request that the Honorable Court please liberally construe or interpret the points or merits of the arguments put forth or if an argument is unclear, that I be allowed to clarify.

Respectfully Submitted.

S/ Campbell

Clifford Claude Campbell

Table of Authorities

Issue 1:

Statement of Issues on Appeal

1.) Did the trial court err in denying Appellant's motion to suppress evidence contained in a cell phone that was supposedly seized from Appellant's person "allegedly" incident to his arrest, where Appellant was unlawfully arrested without arrest warrant or probable cause in violation of the Fourth Amendment, where search was, in actuality, precedent to his unlawful arrest?

2.) Did the trial court err in allowing the state's witness, Shawn Luron Davis, to testify under SCRE, Rule 404 (b) after the trial court misconstrued his evidentiary hearing testimony about length of time dealing with Appellant, that was part the trial court's stated grounds for allowing him to testify, when the trial court, on it's own initiative, later pointed out that his testimony was "contrary" to his U.S. government debriefing and state failed to support entire testimony with any credible or substantiated evidence at all, when if testimony had been truthful, it could have?

3.) Did the trial court err in denying Appellant Campbell's motion for directed verdict when the state did not prove beyond a reasonable doubt, through the testimony of Mr. Shawn Luron Davis, that Appellant Campbell had any knowledge of what was in the package that was delivered by S.L.E.D. agents on February 28, 2012?

4.) Did the trial court err in allowing national origin based (race) discriminatory testimony by Agent Dennis Tracy that was not an issue before the Court and violated SCACR, Rule 501. Judicial Conduct; Canon 3 B (6), that had nothing but a prejudicial effect against Appellant Campbell?

Statement of the Case

On July 19, 2012, a Florence County Grand Jury indicted Appellant for Trafficking in Marijuana. R. 432-33. His case was called to trial on June 17, 2013 before the Honorable D. Craig Brown, and a jury. R. 1. Kirk Teuslow represented Appellant. John Jepertinger was the assistant solicitor.

At the conclusion of the trial on June 18, 2013, the jury found Appellant guilty. R. 407, 24-408, 1.7. Judge Brown sentenced Appellant to six years imprisonment. R. 416, 11, 11-14

This appeal follows.

Argument.

1.) The trial court erred in denying Appellant's motion to suppress evidence contained in a cell phone that was supposedly seized from Appellant's person "allegedly" incident to his arrest, where Appellant was unlawfully arrested without arrest warrant or probable cause in violation of the Fourth Amendment, where search was, in actuality, precedent to his unlawful arrest.

Standard of Review

In U.S. v. Wilson, 169 F.3d 418, reh. den. (no. 97-4082), cert. den., 119 S.Ct. 2383, it states, "Fourth Amendment made applicable to the states through the Fourteenth Amendment, governs search and seizures by state officials." and in U.S v. Davis, 932 F.2d 752, reh. den., C.A.9 (Cal.) 1991, which states, "While Federal Courts may consider state precedent for it's persuasive value, validity of a search warrant conducted by state law enforcement officers is ultimately a question of federal law." Therefore, based on this and the fact, that Appellant's trial counsel argued this as basic constitutional law, Tr. 40, ln. 5-9, Appellant will base his argument from a constitutional standpoint also, using Federal precedent case law to support his contention that, in actuality, the search was precedent to his unlawful arrest, making any evidence obtained as a result, "Fruit of the Poisonous Tree," as stated in, Wong Sun v. U.S., 371 U.S. 471, 83 S.Ct 407; (1963)

(Note: There are three (3) motions/objections to this issue, that will be addressed, as follows.)

Argument

Tr. 35, ln. 2-3, "Motion to suppress based upon an illegal, warrantless arrest." and Tr. 35, ln. 23-25, "They had an anticipatory search warrant and the triggering event -- and that's a second motion, but it plays into this one--." In U.S. v. Bonner, 808 F.2d 864, cert. den., 107 S.Ct. 1632, 481 U.S. 1006, 95 L.E.2d 205, C.A.1 (Mass.) 1986, it states, "Authority to search granted by any warrant is limited to specific places described in it and does not extend to additional or different places." and further, in U.S. v. Brown, 832 F.2d 991, cert. den., 108 S.Ct. 1084, 485 U.S. 908, 99 L.E.2d 243, C.A.7 (Ind.) 1987, it states, "Nothing is to be left to the discretion of police officers executing warrant."

Further, see U.S. v. Schmidt, 947 F.2d 362, C.A.9 (Cal.) 1991, "For warrant to be valid, it

MUST BE REASONABLY SPECIFIC, RATHER THAN ELABORATELY DETAILED, IN IT'S DESCRIPTION OF OBJECTS OF SEARCH." AND Maryland v. Garrison, 107 S.Ct. 1013, 480 U.S. 79, 94 L.E.2d 72, U.S.M.D. 1987. "By limiting AUTHORIZATION TO SEARCH TO SPECIFIC AREAS AND THINGS FOR WHICH THERE IS PROBABLE CAUSE TO SEARCH, THE PARTICULARITY REQUIREMENT OF THE WARRANT CLAUSE OF THE FOURTH AMENDMENT ENSURES THAT THE SEARCH WILL BE CAREFULLY TAILORED TO IT'S JUSTIFICATIONS, IT WILL NOT TAKE ON CHARACTER OF THE WIDE-RANGING EXPLORATORY SEARCHES THE FRAMERS INTENDED TO PROHIBIT." IN THE PRESENT CASE, THE ANTICIPATORY SEARCH WARRANT AND IT'S AFFIDAVIT, ARE VERY SPECIFIC. SEE MATTER OF RECORD ON APPEAL; PG. 419-20; DESCRIPTION OF PREMISES (PERSON OR THING) TO BE SEARCHED: IN PERTINENT PART, IT STATES, "ADDITIONALLY, ALL PERSONS "IN" THE RESIDENCE..." AND IT FURTHER SPECIFIES, AS THE ONLY CURTILAGES AND/OR APPURTENANCES, "ALL VEHICLES ASSOCIATED WITH THE OCCUPANTS, (MEANING SPECIFICALLY PERSONS "IN" THE RESIDENCE) PERSONAL EFFECTS, LOCKED CONTAINERS AND ANY AND ALL PARCELS AND BOXES." THEREFORE, APPELLANT WAS CLEARLY BEYOND THE SCOPE OF THE SEARCH WARRANT, AS DEFINED BY THE PARAMETERS SET FORTH, TO INCLUDE ALL ITEMS REMOVED FROM HIS PERSON. U.S.V. Jenkins, 901 F.2d 1075, CERT. DEN., 111 S.Ct. 240, 484 U.S. 901, 98 L.E.2d 198, C.A. 11 (Ga.) 1990," FOURTH AMENDMENT REQUIREMENT THAT WARRANT PARTICULARLY DESCRIBE PLACE TO BE SEARCHED AND ITEMS OR PERSONS TO BE SEIZED; EXCULPATORY RUMMAGING IS PROHIBITED AND ONLY ITEMS DESCRIBED IN SEARCH WARRANT MAY BE SEIZED." SEE Horton v. California, 110 S.Ct. 2301, 496 U.S. 128, 110 L.E.2d 112, U.S. Cal. (1990), "IF SCOPE OF SEARCH EXCEEDS THAT PERMITTED BY TERMS OF VALIDLY ISSUED WARRANT OR CHARACTER OF RELEVANT EXCEPTION FOR WARRANT REQUIREMENT, SUBSEQUENT SEIZURE IS UNCONSTITUTIONAL WITHOUT MORE." AT THIS TIME, APPELLANT WILL CONCEDE THE RELEVANT EXCEPTION FOR THE WARRANT REQUIREMENT IN Rivera v. U.S., 928 F.2d 592, C.A.2 (N.Y.) 1991," POLICE GENERALLY HAVE AUTHORITY TO MAKE LIMITED SEARCH OF INDIVIDUAL ON PREMISES WHILE AUTHORIZED SEARCH IS IN PROGRESS AS A SELF-PROTECTIVE MEASURE," BUT "BEYOND GENERAL AUTHORITY OF POLICE TO DETAIN OCCUPANTS OF PREMISES AND TO MAKE LIMITED SEARCH OF INDIVIDUALS ON PREMISES WHILE AUTHORIZED SEARCH IS IN PROGRESS, THERE MUST BE PROBABLE CAUSE OR AT LEAST SOME DEGREE OF PARTICULARIZED SUSPICION

TO JUSTIFY FURTHER SEARCHES OR SEIZURES OF INDIVIDUALS WHO ARE NEITHER NAMED IN SEARCH WARRANT NOR ARRESTED AS CONSEQUENCE OF SEARCH." AS THIS WAS AN ANTICIPATORY SEARCH WARRANT, WHICH DOES NOT AUTHORIZE AN ARREST OF ANYONE, UNTIL PROBABLE CAUSE FOR SUCH AN ARREST HAD BEEN ESTABLISHED. BASED ON THIS, AND THE FACT THAT APPELLANT WAS CLEARLY BEYOND THE SCOPE OF THE SEARCH WARRANT, INCLUDING ITEMS SEIZED UNLAWFULLY, FROM HIS PERSON, APPELLANT WAS ONLY BEING DETAINED, AS PREVIOUSLY DESCRIBED IN RIVERA, SUPRA, FOR VERIFICATION, SEE AGENT HINSON TESTIMONY, TR. 54, LN. 21-25; - TR. 55, LN. 1-5 AND 23-25. IT SHOULD ALSO BE NOTED, THE PACKAGE WAS RETRIEVED UNOPENED FROM INSIDE THE RESIDENCE, WHICH APPELLANT DID NOT HAVE KEYS TO GAIN ACCESS TO, WITHOUT MR. DAVIS, FORMER CO-DEFENDANT

FUETHER, SEE U.S. V. PRIETO-VILLA, 901 F.2d 601, C.A.9 (CAL) 1990, "EVEN WHEN POLICE HAVE A WARRANT, MERE FACT THAT A PERSON IS IN THE COMPANY OF PERSONS FOR WHOM A WARRANT HAS BEEN ISSUED DOES NOT CONSTITUTE PROBABLE CAUSE FOR SEARCH OF THAT PERSON." ALSO SEE, U.S. V. ROBERTSON, 833 F.2d 777, C.A.9 (OR) 1987, "SEARCH WARRANT AUTHORIZING SEARCH OF A RESIDENCE, ITS CURTILAGE, AND APPURTENANCES DID NOT JUSTIFY SEARCH OF BACKPACK, WHICH WAS WITHIN POSSESSION OF DEFENDANT WHO HAD JUST VISITED THE PREMISES, NOTWITHSTANDING GOVERNMENTS CLAIM THAT PARTICULARITY REQUIREMENT OF THE FOURTH AMENDMENT WAS SATISFIED BY REFERENCE TO "APPURTENANCES" OR TO "CURTILAGE." THESE CASES ARE RELEVANT, SINCE BY ACCEPTING AND SIGNING FOR THE PARCEL, FACTS AND CIRCUMSTANCES ONLY ESTABLISHED PROBABLE-CAUSE FOR MR. DAVIS, AS DEFINED IN STATE V. FRAZIER, 394 S.C. 213, 715 S.E.2d 650 (2011), WHICH STATES, "PROBABLE CAUSE FOR A WARRANTLESS ARREST EXISTS WHEN THE CIRCUMSTANCES WITHIN THE ARRESTING OFFICER'S KNOWLEDGE ARE SUFFICIENT TO LEAD A REASONABLE PERSON TO BELIEVE THAT A CRIME HAS BEEN COMMITTED BY THE PERSON BEING ARRESTED." AND "WHETHER PROBABLE CAUSE FOR WARRANTLESS ARREST EXISTS BASED UPON THE TOTALITY OF THE CIRCUMSTANCES SURROUNDING THE INFORMATION AT THE OFFICER'S DISPOSAL"

AS DESCRIBED IN RIVERA, SUPRA; AND BY AGENTS, HINSON AND TRACY'S OWN TESTIMONY, APPELLANT, INITIALLY, WAS ONLY BEING DETAINED AND AGENTS ONLY HAD AUTHORITY FOR A LIMITED SEARCH OF HIS PERSON, AS A SELF-PROTECTIVE MEASURE. SEARCH OF APPELLANT'S PERSON REVEALED ONLY THE

THE FOLLOWING THREE ITEMS: 2 CELL PHONES AND I-POD TOUCH. NO DRUGS, LARGE QUANTITIES OF MONEY OR WEAPONS. SEE HINSON TESTIMONY, TR. 56, LN. 19-25 - TR. 57, LN 1-3. IT SHOULD ALSO BE NOTED NO WHERE IS THERE ANY MENTION OF AGRESSIVENESS OR AN ATTEMPT TO FLEE BY APPELLANT, WHO WAS NOT FOUND IN THE RESIDENCE, BUT THE BACK PORCH OR YARD (?) TR. 55, LN 9-10, TR. 61, LN 6-18.

AGENT HINSON'S STATED TESTIMONY FOR THE ARREST OF APPELLANT IS, SEE TR. 57, LN. 4-9 AND 16-21; TR. 62, LN. 16-25 - TR. 63, LN. 1-7, BASED ON THE FOLLOWING: INFORMATION UNLAWFULLY OBTAINED FROM THE CELL PHONE, THE SEARCH OF THE RESIDENCE, HIM BEING AT THE RESIDENCE, AND STAYING AT THE RESIDENCE. SEE U.S. V. CORDOVA-SANDOVAL, 6 F.3d 15, C.A. (PUERTO RICO) 1993, WHICH STATES, "TO DETERMINE VALIDITY OF SEARCH, IT IS VERY IMPORTANT TO GOVERNMENT TO COMPILE COHERENT AND DETAILED RECORD AS TO WHEN FACTS ARE DISCOVERED AND WHEN INFERENCES AND CONCLUSIONS ARE DRAWN THEREFROM." BY AGENT HINSON'S OWN TESTIMONY, WHO ACTED AS LEAD AGENT, THE STATE CLEARLY FAILED IN ITS OBLIGATION TO DO THIS. SEE TR. 65, LN. 2-3, AGENT HINSON STATES, "HE 'THINKS' HE ASKED MR. DAVIS WHO STAYED THERE," (IN PASSING) AND THEN SEE TR. 66, LN. 17-25 - TR. 67, LN. 1-5, WHERE AGENT HINSON IS STILL UNCLEAR ABOUT WHO IS STAYING THERE. AGENT HINSON ONLY HAS SUPPORTING PROOF (ALLEGEDLY?) THAT APPELLANT STAYED AT THE RESIDENCE, FROM A U.S. GOVERNMENT DEBRIEFING OBTAINED FROM MR. DAVIS ON MAY 8, 2013, OVER ONE (1) YEAR AFTER ARREST. THIS IS CLEARLY A CASE OF 20/20 HINDSIGHT VISION. SEE GRAHAM V. CONNOR, 490 U.S. AT 396, "THE 'REASONABLENESS' OF A PARTICULAR USE OF FORCE MUST BE JUDGED FROM THE PERSPECTIVE OF A REASONABLE OFFICER ON THE SCENE, RATHER THAN WITH 20/20 VISION OF HINDSIGHT," AND ALSO SEE U.S. V. SHARPE, 470 U.S. 675, 686-87 (1985), "A CREATIVE JUDGE ENGAGED IN POST HOC EVALUATION OF POLICE CONDUCT CAN ALMOST ALWAYS IMAGINE SOME ALTERNATIVE MEANS BY WHICH THE OBJECTIVES OF THE POLICE MIGHT HAVE BEEN ACHIEVED." WHETHER BY INTENT OR INADVERTENANCE, THE TRIAL COURT DID JUST THAT, BECAUSE IT MADE AN ERRONEOUS RULING CONCERNING THE STRUCTURE OF THE SEARCH WARRANT, SEE TR. 75, LN. 7-11, WHERE THE TRIAL COURT JUSTIFIED THE SEARCH OF DEFENDANT AND HIS CELL PHONE PURSUANT TO THE SEARCH WARRANT. FURTHER SEE TR. 80, LN. 19-25 - TR. 81, LN 1-10, WHERE THE TRIAL COURT CLARIFIED THAT THE STATE HAD A WARRANT TO SEARCH THE PHONE. THIS IS VERY, CLEARLY WRONG!

As the anticipatory search warrant plainly states, see Matter of Record on Appeal, pg. 419-420; Description of premises (person or thing) to be search: No where in this section is a phone mentioned to be searched. However, in Description of property sought: it is an item sought. To be clear, you search a person, place or thing for something sought! As Appellant was not "IN" the residence as was clarified for search purposes, him and the items removed from his person were clearly beyond the scope of agents authorized search. In U.S. v. Medlin, 842 F.2d 1194, C.A.10 (Okl.) 1988, it clarified, "When law enforcement officers exceed the scope of the warrant in seizing property, particularity requirement is undermined and valid warrant is transformed into general warrant, thereby requiring suppression of all evidence under that warrant. U.S.C.A. Const. Amend 4. Further, see Tr. 81, ln. 11-17 and 24-25 - Tr. 82, ln. 1-2, where trial counsel persisted in trying to clarify the scope of the search warrant. Now see Tr. 82, ln. 3-13, where the trial court again, reviews the anticipatory search warrant. Next see Tr. 82, ln. 14-21, where again, the trial court has misinterpreted the scope of the search warrant. With all due respect to the Court, Appellant, who has never recieved formal law education, of any kind, can see that phones are items sought. And the only persons, places, or things to be searched are, "the residence, additionally, all persons "IN" the residence, all vehicles associated with the occupants, personal effects, locked containers and any and all parcels and boxes." Again, clearly, if Appellant was beyond the scope of the warrant, then so were the phones and I-pod taken from his person! Therefore, agents exceeded the scope of the warrant in seizing property, thus requiring the suppression of all evidence under that warrant, at least, as it relates to Appellant. As the trial court based it's decision solely on the grounds that the search warrant encompassed the search of the phones and Appellant has clearly shown the distinct clarification between what is to be searched and what is sought. Clearly, the trial court erred in it's denial to suppress all of the evidence, as a result of an illegal, warrantless arrest of Appellant, where agents exceeded the scope of the warrant, which also satisfies the third motion of this argument, Tr. 41, ln. 6-7, the

WARRANTLESS SEARCH OF THE PHONE. U.S.V. CORDOVA-RIVERA, 904 F.2d 1149 C.A.7 (Ill.) 1990; "POLICE CAN SEIZE WHATEVER CONTRABAND OR EVIDENCE OF CRIME THEY SEE IN COURSE OF LAWFUL SEARCH, PROVIDED THEY DO NOT EXCEED BOUNDS OF THAT SEARCH." ALTHOUGH, SEE SEQUIRA V. UNITED STATES, 468 U.S. 796, 104 S.Ct. 3380, 82 L.E.2d 599 (1984), WHICH STATES, "WARRANTLESS SEIZURES OF PROPERTY FOR THE TIME NECESSARY TO SECURE A SEARCH WARRANT HAVE BEEN UPHELD AS REASONABLE WHERE A WARRANTLESS SEARCH WOULD HAVE BEEN UNREASONABLE". HOWEVER, AS THEY HAD ALREADY SEARCHED THE PHONE IMMEDIATELY OR DIRECTLY THEREAFTER, THIS IS A MOOT ARGUMENT.

APPELLANT FEELS HE HAS PROVED BY A PREPONDERANCE OF EVIDENCE AND BEYOND A REASONABLE DOUBT, THAT THE TRIAL COURT ERRED IN DENYING HIS MOTION TO SUPPRESS ALL EVIDENCE, AS A RESULT OF AN ILLEGAL, WARRANTLESS ARREST, WHERE AGENTS EXCEEDED THE SCOPE OF THE ANTICIPATORY SEARCH WARRT.

HOWEVER, OUT OF AN ABUNDANCE OF CAUTION AND PRINCIPAL, APPELLANT WILL ADDRESS ISSUES RAISED IN RIVERA, SUPRA, CONCERNING EXCEPTIONS TO THE WARRANT REQUIREMENT. SEE U.S.V. FUPPIN, 924 F.2d 163, REH. DEN., C.A.9 (Or.), 1991, "THE SCOPE OF A WARRANTLESS SEARCH AND SEIZURE IS LIMITED TO ITS UNDERLYING JUSTIFICATION OR EXCEPTION TO THE WARRANT REQUIREMENT." AS ALREADY ESTABLISHED, BY AGENTS' OWN TESTIMONY, SEARCH, INITIALLY, OF APPELLANT WAS ONLY AUTHORIZED, AS A SELF-PROTECTIVE MEASURE. RIVERA, SUPRA. IN SIBRON V. NEW YORK, 392 U.S. 40, 88 S.Ct 1889 (1968), THE COURT UPHELD THE SEARCH APPROVED OF IN TERRY V. OHIO, 392 U.S. 1, 88 S.Ct. 1868, 20 L.E.2d 889, WHICH CONSISTED SOLELY OF A LIMITED PATTING OF THE OUTER CLOTHING OF THE SUSPECT FOR CONCEALED OBJECTS WHICH MIGHT BE USED AS INSTRUMENTS OF ASSAULT. IN THE PRESENT CASE, APPELLANT ASSERTS THIS SAME LIMITATION APPLIES TO HIM, AS IT APPLIES TO AUTHORITY OF A LIMITED SEARCH IN RIVERA, SUPRA. IN APPELLANT'S CASE, HOWEVER, AS IN SIBRON, SUPRA, AGENTS DO NOT MENTION ANY INITIAL ATTEMPT AT A PAT DOWN SEARCH, BUT ADMIT THEY WENT DIRECTLY INTO HIS POCKETS AND REMOVED ALL ITEMS FROM HIS POCKETS, WHICH ONLY CONSISTED OF 2 CELL PHONES AND I-POD TOUCH. AGAIN, NO WEAPONS, LARGE QUANTITIES OF CASH, OR DRUGS. AS STATED IN RIVERA, SUPRA. "BEYOND GENERAL AUTHORITY OF POLICE TO DETAIN OCCUPANTS OF PREMISES AND TO MAKE LIMITED SEARCH OF INDIVIDUALS ON PREMISES WHILE AUTHORIZED SEARCH IS IN PROGRESS, THERE MUST BE PROBABLE CAUSE OR AT LEAST SOME DEGREE OF PARTICULARIZED

SUSPICION TO JUSTIFY FURTHER SEARCHES OR SEIZURES OF INDIVIDUALS WHO ARE NEITHER NAMED IN SEARCH WARRANT NOR ARRESTED AS CONSEQUENCE OF SEARCH. AT NO TIME, DURING THE EVIDENTIARY HEARING, DO AGENTS SHOW PROBABLE CAUSE OR POINT TO "ANY" SET OF FACTS OR CIRCUMSTANCES, BUT RATHER RELY ON SEARCH WARRANT, AS GROUNDS TO JUSTIFY THE UNLAWFUL SEARCH AND SEIZURE OF HIS PERSON AND SUBSEQUENT SEARCH OF HIS CELL PHONE. SEE TR. 71, LN. 19-25, CONCERNING LANGUAGE OF ANTICIPATORY SEARCH WARRANTS. AS APPELLANT WAS CLEARLY BEYOND THE SCOPE OF THE SEARCH WARRANT, THE SEARCH, AS STATED IN SIBRON, SUPRA, WAS NOT REASONABLY LIMITED IN SCOPE TO THE ACCOMPLISHMENT OF THE ONLY GOAL WHICH MIGHT CONCIEVABLY JUSTIFY IT'S INCEPTION - THE PROTECTION OF THE OFFICER. FURTHER, CLARIFIED IN SIBRON, SUPRA, IT STATES, "INCIDENT SEARCH MAY NOT PROCEED AN ARREST AND SERVE AS PART OF ITS JUSTIFICATION." SEE HINSON TESTIMONY, TR. 57, LN. 4-15, CONCERNING AGENTS UNLAWFULLY SEARCHING CONTENTS OF CELLPHONE AND THEN AFTER FINDING NUMBER, ONLY THEN MADE AN ARREST OF APPELLANT. SEE TR. 57, LN. 16-21; SOLICITOR QUESTIONING AND AGENT HINSON (LEAD AGENT) REPLYING:

> Q: OKAY. BASED ON THAT FACT, DID YOU FEEL THAT CLIFFORD CAMPBELL WAS INVOLVED WITH THIS CRIME?
>
> A: YES.
>
> Q: ALL RIGHT. AND OBVIOUSLY AFTER THAT DID YOU MAKE AN ARREST OF CLIFFORD CAMPBELL FOR TRAFFICKING IN MARIJUANA?
>
> A: YES.

IF THE SEARCH OF THE CELL PHONE WAS UNLAWFUL, WHICH HAS CLEARLY BEEN SHOWN, THEN THAT MAKES APPELLANT'S SUBSEQUENT ARREST UNLAWFUL, THEREBY RENDERING THIS AN UNREASONABLE SEARCH AND SEIZURE OF APPELLANT PURSUANT TO U.S.C.A. CONST. AMEND. 4., AS STATED IN SIBRON, SUPRA.

FURTHERMORE, AGENTS WERE AWARE THEY EXCEEDED SCOPE OF SEARCH WARRANT, AS THEY OBTAINED A SECOND SEARCH WARRANT, WHICH THE TRIAL COURT RENDERED MOOT SINCE IT HAD ALREADY UPHELD THE FIRST SEARCH WARRANT, ERRONEOUSLY! ALSO, THE RETURN OF THE SECOND SEARCH WARRANT WAS NEVER

SIGNED OR NOTARIZED AS RECORD ON APPEAL WILL SHOWS, PG. 422

FURTHER, THEY FALSIFIED THE ORIGINAL AFFIDAVIT FOR THE FIRST SEARCH WARRANT, WITH RECKLESS DISREGARD FOR THE TRUTH. SEE Miller v. Prince George's County, Md., 475 F.3d 621, C.A.(Md) 2007. THUS, THE STATE, THROUGH IT'S AGENTS VIOLATED THE BRADY DISCLOSURE RULE, AS STATED IN State v. Kennerly, 331 S.C. 442, 503 S.E.2d 214 (1998). THIS INFORMATION WAS MATERIAL. SEE RECORD ON APPEAL, PG. 420, BOTTOM SECTION, WHERE IT SAYS AGENTS CONDUCTED RANDOM PARCEL INSPECTIONS. THEN, SEE TR. 68, LN. 2-5, WHERE AGENT TEACH SAYS HE WAS CONTACTED BY A SOURCE OF INFORMATION. THEN SEE TR. 68, LN. 19-23, WHERE HE WAS PROVIDED SPECIFIC INFORMATION. BY NOT DISCLOSING THIS, IT DENIED APPELLANT HIS CONSTITUTIONAL RIGHT OF CONFRONTATION.

MOST IMPORTANT, IN Sibron, supra, IT STATES, "NEW YORK IS FREE TO DEVELOP ITS OWN LAW OF SEARCH AND SEIZURES TO MEET THE NEEDS OF LOCAL LAW ENFORCEMENT AND MAY, IN PROCESS, CALL STANDARDS IT EMPLOYS BY ANY NAMES IT MAY CHOOSE, BUT IT MAY NOT AUTHORIZE POLICE CONDUCT WHICH TRENCHES UPON FOURTH AMENDMENT RIGHTS, REGARDLESS OF LABELS IT ATTACHES TO SUCH CONDUCT." APPELLANT ASSERTS THIS SAME STANDARD APPLIES (OR SHOULD) TO SOUTH CAROLINA'S LAW ENFORCEMENT, AS WELL.

BASED ON THE PRECEDING ARGUMENT, CASE LAW AND FACTS THE TRIAL COURT SHOULD HAVE GRANTED APPELLANT'S MOTION TO SUPPRESS "ALL" EVIDENCE RESULTING FROM HIS UNLAWFUL SEARCH AND SEIZURE, PURSUANT TO Wong Sun v. U.S., 371 U.S. 471, 484 (1963), WHICH STATES, "EVIDENCE SEIZED DURING UNLAWFUL SEARCH CANNOT CONSTITUTE PROOF AGAINST VICTIM OF SEARCH, AND EXCLUSIONARY PROHIBITION EXTENDS TO INDIRECT AS WELL AS TO DIRECT PRODUCTS OF SUCH INVASIONS."

Argument

2.) The trial court erred in allowing the state's witness, Shawn Luron Davis, to testify under SCRE, Rule 404(b) after the trial court misconstrued his evidentiary hearing testimony about length of time dealing with Appellant, that was part the trial court's stated grounds for allowing him to testify, when the trial court, on its own initiative, later pointed out that his testimony was "contrary" to his U.S. government debriefing and the state failed to support entire testimony with any credible or substantiated evidence at all, when if testimony had been truthful, it could have.

The trial court, Tr. 105, ln. 23-25 - Tr. 106, ln. 1-18, made its ruling to allow Mr. Davis's testimony, based on the facts, Tr. 106, ln. 4-11, "the testimony was that they had been involved in drug deals for at least two or three years, and that this defendant had come to stay with him sometime within the last one to three months. That their conduct of their particular business was the utilization of FedEx and UPS, that the drugs were heat-sealed, that it was shipped from Arizona, that this defendant was involved in the prior conduct of where and how these drugs were sent."

Yet, later during actual trial testimony, the trial court interrupts the defense's cross-examination of Mr. Davis, Tr. 305, ln. 5-16, Here the trial court asks the lawyers to approach the bench, and actually states, "I don't want to ruin this jury out, but I want to give him a fair opportunity to cross-examine on this because he's testified contrary to what this document says and it's contrary."

See Tr. 303, ln. 6-11, when Mr. Truslow questions Mr. Davis as to what is stated in the debriefing, specifically, that he had been dealing drugs with Mr. Campbell, Appellant, for two years prior to his arrest. Mr. Davis responds, "No. I never said I was dealing drugs with him for two years." This was trial testimony. The following was evidentiary hearing testimony. Tr. 93, ln. 17-25, The state clarified it's question of, how many years were the witness and Appellant, Mr. Campbell dealing? Mr. Davis's response was, ln. 21-22.

> A: Well, before--before all this happened, Campbell was staying down with me probaly about a month to three months probably.

Q: Okay.

A: If that.

Now see Tr. 100, ln. 6-10, again, evidentiary hearing testimony, the state asking how long was Mr. Campbell, Appellant, staying at Mr. Davis's place. The response was "a while" and "quite some time."

Then see Tr. 100, ln. 21-25, where state questions how Mr. Campbell got to the trailer, once he arrived in Florence County. Mr. Davis responded saying Campbell arrived in a truck with another guy, by testimony, the other guy immediately left for the airport. They, Mr. Campbell and Mr. Davis, had to go retrieve the vehicle from the airport, after which, someone called someone else to come pick the truck up. This person came the following day to pick it up from them. Te. 101, ln. 1-17.

Now see Tr. 270, ln. 22-25, Tr. 271, ln. 1-25, Tr. 272, ln. 1-25, Tr. 273, ln. 1-25 and 274, ln. 1-12. This is an entirely different time as to how long Appellant stayed at the residence. It only adds up to approximately ten days. It counts as follows; (1.) Appellant Campbell and someone named as Rudeboy arrive in Florence driving a truck; Day 1, Tr. 270, ln 22-25. (2.) Rudeboy stayed probaly a day; Tr. 272, ln. 1. Days: 2 or 3?, also Tr. 272, ln 12-14, after Rudeboy catches a flight from Columbia. (3.) Rudeboy calls for Appellant and Mr. Davis to come pick-up, Tr. 274, ln. 1-8, Rude Boy took a flight immediately. (4.) The guy from Georgetown who came to retrieve the truck after returning from Columbia. was in and out. Tr. 273, ln 25. (5.) See Te. 274, ln. 6-20, the state asks how long was this before they were busted? Mr. Davis response was a couple of days, ln. 6-10, 3 or 4 days. At most this could add up to ten days from when Appellant Campbell first came to Florence and when Appellant was arrested at the residence of Mr. Davis, with him. Do the math!

See Tr. 273, ln. 11, where the state tries to get clarification of Appellant staying at the residence for a month or two. Then follow through to line 20. No matter what, if Appellant first arrived in the truck and was later arrested a couple of days after someone from Georgetown came to retrieve the truck. At most, Appellant was there 10 days, not the

ONE TO THREE MONTHS.

NOW REFER TO TR. 298, LN. 9-25, - TR 299, LN. 1-22, HERE DEFENSE IS QUESTIONING ABOUT THE DEBRIEFING AND PROFFER AGREEMENT. IN THIS SECTION MR. DAVIS ADMITS HE WAS ONLY TALKING ABOUT (TWIX) ANTWAN EARDY. AND THEIR VARIOUS DRUG DEALS AND ALL OF HIS DRUG ACTIVITES. NOT APPELLANT!

ON TR. 307, LN. 1-10, MR DAVIS SAYS THE F.B.I MADE A MISTAKE AS TO WHAT HE TOLD THEM. MR. DAVIS IN LN. 8-10, CLEARLY SAYS THAT TWIX WAS SENDING HIM, MR. DAVIS, THE DRUGS OVER TWO OR THREE YEARS. YET THE STATE, OR MR. DAVIS, HAVE NOT SHOWN ANY EVIDENCE WHATSOEVER THAT ANY PACKAGES WERE DELIVERED, OTHER THAN THE TARGET PARCEL, AT ANYTIME IN THE LAST TWO OR THREE YEARS. FOR EXAMPLE:

THE CONWAY BOX, TR. 96, LN. 24-25 - TR. 97, LN. 1-3, EVIDENTIARY HEARING. SUPPOSEDLY A PACKAGE WAS DELIVERED TO SOMEWHERE IN CONWAY JUST 2 DAYS PRIOR TO ARREST OF MR. DAVIS AND APPELLANT. IF THIS WAS TRUE, THE STATE SHOULD HAVE PROVIDED EVIDENCE OF THIS IN THE FORM OF AN ADDRESS, A NAME, AND DOCUMENTATION OF THE PACKAGE BEING RECIEVED BY SOMEONE. SOMETHING THAT WOULD SHOW THAT THIS ACTUALLY TOOK PLACE, WITHOUT SOME FORM OF PHYSICAL EVIDENCE, THIS IS NOT CLEAR AND CONVINCING. BOTH UPS AND FED EX WOULD KEEP RECORDS FOR AT LEAST ONE YEAR, IF NOT THREE, FOR TAX PURPOSES. SO THERE IS "ONLY" EVIDENCE OF ONE PACKAGE COMING IN THE MAIL, THE TARGET PARCEL. WHICH COULD HAVE BEEN THE ONLY PACKAGE, THUS MAKING THIS TESTIMONY FALSE, AND INADMISSABLE, UNDER RULE 404(b) OTHER CRIMES, WRONGS, OR ACTS. SCRE.

NOW AS TO PAYMENT BEING MADE FOR THE PACKAGES THAT WERE ALLEGEDLY RECIEVED BY MR. DAVIS. SEE TR. 95, LN. 13-21, MR. DAVIS ADMITS HE WAS GOING TO BANKS (WACHOVIA) TO DEPOSIT MONEY IN AN ACCOUNT, YET THE STATE FAILED TO SHOW ANY PROOF OF THIS, ALSO! SURELY MR. DAVIS COULD HAVE PROVIDED BANK ACCOUNT NUMBERS OR A DEPOSIT SLIP. IT IS A KNOWN LEGAL FACT THAT BANKS KEEP RECORDS, YET AGAIN, THERE IS NO EVIDENCE PROVIDED... NO PROOF! THE JURY WAS LEFT TO SPECULATE. MR. DAVIS SAYS THAT APPELLANT CAMPBELL WAS THERE TO CONTROL AND GET THE MONEY TO TWIX. YET AT THE TIME OF THEIR ARREST, THERE IS NO RECORD OF APPELLANT HAVING ANY MONEY AT ALL. YET, MR. DAVIS IS ARRESTED WITH ALMOST $9,000,00 ON HIS PERSON, OVER $33,000,00 IN THE TRUNK OF "HIS" CAR AND A FEW THOUSAND IN HIS (PERSONAL) MASTER BEDROOM. SEE ANTICIPATORY SEARCH WARRANT RETURN.

FURTHER, SEE TR. 99, LN. 3-15, IN THIS SECTION MR. DAVIS STATES, APPELLANT SET THE DEAL UP, REFERRING TO THE TARGET PARCEL. YET IT IS MR. DAVIS, ON DAY OF ARREST, WHO CALLS TWIX, WHO IS SUPPOSED TO BE IN ARIZONA, SAYING THAT "HE" WOULD NOT ACCEPT THE PACKAGE UNLESS HE WAS TOLD WHO THE PACKAGE WAS SENT THROUGH, UPS OR FEDEX.

ALSO, HE SAYS THAT HIM AND APPELLANT BOUGHT A PHONE AT DOLLAR GENERAL, BUT IT DOES NOT CLARIFY WHO THE PHONE IS FOR, TR. 33, LN. 21-24, NOW SEE TR. 287, LN. 9-17, SUPPOSEDLY MR. DAVIS HAD HIS PHONES RETURNED AFTER THE ARREST. MR. DAVIS ADMITS HE IS THE PERSON WHO CALLED TWIX ON THE DAY OF THEIR ARREST, NO ONE HAS PROVED APPELLANT CALLED ANYONE. AS MR. DAVIS'S PHONES WERE NOT CONFISCATED THAT LEAVES TWO LOGICAL CONCLUSIONS; EITHER HE USED APPELLANT'S PHONE TO CALL TWIX OR THE S.L.E.D. AGENTS IDENTIFIED THE WRONG PHONE AS APPELLANT'S.

FINALLY, IT SHOULD BE NOTED THAT MR. DAVIS ONLY TESTIFIED OR MADE ANY REFERENCE TO APPELLANT CAMPBELL, ONCE HE BECAME AWARE HE COULD RECIEVE ADDITIONAL REDUCTIONS ON HIS SENTENCE BY TESTIFYING AGAINST ADDITIONAL PERSONS. AND EVEN THOUGH HIM AND MR. CAMPBELL WERE ARRESTED TOGETHER. AND THE FACT HE SIGNED THE DEBRIEFING, HE SAYS THAT HE WAS NOT TALKING ABOUT APPELLANT IN THE DEBRIEFING CONCERNING "ALL" OF HIS DRUG ACTIVITY HISTORY. BUT THEN TESTIFIES AGAINST APPELLANT SAYING, TR. 313, LN. 18-19, SAYING IT WOULD BE NICE IF THE STATE WOULD WRITE A LETTER FOR HIM. IT SHOULD BE NOTED THERE IS MENTION OF A POSSIBLE 35(b) MOTION FOR TIME REDUCTION FOR FUTURE PROSECUTORIAL TESTIMONY ON HIS PART.

APPELLANT CAMPBELL HAS NO PRIOR CRIMINAL CONVICTION RECORD.

CITING STATE V. LYLE, 125 S.C 406, 118 S.C. 903, (1923), "BEFORE GUILTY INTENT MAY BE INFERRED FROM OTHER SIMILAR CRIMES, THEY MUST BE ESTABLISHED BY LEGAL AND COMPETENT EVIDENCE." IF THE TESTIMONY OF MR. DAVIS IS TO BE BELIEVED THE STATES SHOULD HAVE SUPPLIED FACTS AND DOCUMENTATION AS SPECIFIED ABOVE, ALSO SEE STATE V. SMITH, 300 S.C. 214, 387 S.E. 2d 245, (1989), "TO BE ADMISSIBLE, PROOF OF PRIOR BAD ACTS MUST BE CLEAR AND CONVINCING." ESPECIALLY WHEN NOT THE SUBJECT OF A

CONVICTION. AS APPELLANT HAS NO CRIMINAL CONVICTION RECORD, THE STATE FAILED IN THIS OBLIGATION, BECAUSE IF TRUE, THERE WAS FACTUAL SUPPORTING EVIDENCE AVAILABLE.

"WHERE THERE IS A SERIOUS DOUBT AS TO THE ADMISSIBILITY OF EVIDENCE, THAT DOUBT SHOULD ALWAYS BE RESOLVED IN DEFENDANT'S FAVOR." LYLY, SUPRA. BASED ON THE COURT'S STATED REASONS FOR THE ALLOWANCE OF THE DAVIS TESTIMONY, WHICH THE TRIAL COURT LATER CALLED INTO QUESTION, AS STATED ABOVE, THE CONTRARY TESTIMONY OF MR. DAVIS, THIS WOULD SHOW A SERIOUS DOUBT, ESPECIALLY IN REGARDS THAT THE TRIAL COURT FIRST MADE A STATEMENT, SEE TR. 90, LN. 21-25 - TR. 91, LN. 1-2. HERE THE TRIAL COURT STATED, "I MEAN BASED UPON WHAT I'VE HEARD THUS FAR, SIMPLY BY ARGUMENT, I DON'T THINK IT'S ADMISSIBLE. I THINK THE PREJUDICIAL EFFECT OUTWEIGHS ANY PROBATIVE VALUE, BUT I WILL HEAR WHAT MR. DAVIS HAS TO SAY AT THE APPROPRIATE TIME BEFORE, YOU KNOW, COMING TO A CONCLUSION -- FULL CONCLUSION ON MY RULING."

BASED ON THE TOTALITY OF THE CONTRARY TESTIMONY AS STATED ABOVE, AND THE STATE NOT PROVIDING ANY SUPPORTING PROOF WHERE IT OBVIOUSLY COULD AND SHOULD HAVE, THE TRIAL COURT SHOULD NOT HAVE ALLOWED THE TESTIMONY OF MR. DAVIS WHERE THE ONLY PROBATIVE VALUE WAS TO BE PREJUDICIAL. ALSO, MR. DAVIS'S CONTRARY TESTIMONY HAS BEEN ESTABLISHED, DURING THE EVIDENTIARY HEARING, BEFORE THE TRIAL COURT MADE ITS RULING!

FURTHER, BASED ON THIS ARGUMENT, THE TRIAL COURT SHOULD HAVE GRANTED APPELLANTS DIRECTED VERDICT MOTION.

Argument

3.) The trial Court err in denying Appellant Campbell's motion for a directed verdict when the state did not prove beyond a reasonable doubt, through the testimony of Mr. Shalon Luron Davis, that Appellant Campbell had any knowledge of what was in the package that was delivered by S.L.E.D. agents on February 28, 2012?

In State v. Hepburn, 406 S.C. 416, 753 S.E.2d 402, (2013), the Supreme Court summarized the standard for a directed verdict: In cases where the State has failed to present evidence of the offense charged, a criminal defendant is entitled to a directed verdict. State v. Cherry, 361 S.C. 588, 606 S.E.2d 475 (2004). During trial, when ruling on a motion for a directed verdict, the trial court is concerned with the existance or nonexistance of evidence, not its weight. Citing Id. at 593, 606 S.E.2d at 477-78. The trial court should grant the directed verdict motion when the evidence merely raises a suspicion that the accused is guilty, as suspicion implies a belief or opinion as to guilt based upon facts or circumstances which do not amount to proof. State v. Cherry, 361 S.C. at 594, 606 S.E.2d. 478, (2004). On the other hand, a trial judge is not required to find that the evidence infers guilt to the exclusion of any other reasonable hypothesis. Id.

In State v. Bostick, 392. S.C. 134, 708 S.E.2d 774 (2011), the Supreme Court held that the State presented insufficient evidence to submit the murder charge to the jury. The Court held that the trial court should have granted a directed verdict because the states evidence only raised a "suspicion of guilt." Bostick was charged with the murder of his neighbor, who was an older woman. The evidence against Bostick consisted of items (car keys, calculator) belonging to the victim which were found in the Bostick family's burn pile; the fire accelerant in the burn pile was one not used by Bostick's mother; Bostick had a pattern on his shoes that matched the accelerant which was gasoline; the blood found on Bostick's jeans did not match the victim's.

In State v. Attardo, 263 S.C. 546, 211 S.E.2d 868 (1975), the Supreme Court held that a basic principle of law is that the state has the burden of proof as to all essential elements of the crime. Citing State v. Paulk, 18 S.C. 514, (1883).

THE STATE DID NOT PRESENT ANY EVIDENCE, WHATSOEVER, THAT APPELLANT CAMPBELL HAD ANY KNOWLEDGE OF WHAT WAS IN THE PACKAGE DELIVERED, BY S.L.E.D. AGENTS, ON THE SPECIFIC DATE OF FEBRUARY 28, 2012. MR. DAVIS'S TESTIMONY WAS ERRONEOUSLY ALLOWED (SEPERATE ISSUE) UNDER SCRE, RULE 404 (b) OTHER CRIMES, WRONGS, OR ACTS. WHICH IS JUST THAT, EVIDENCE OF PRIOR BAD ACTS, AND THEY ONLY RAISE A SUSPICION OF GUILT, AS TO THE CRIME NOW BEFORE THE COURT. FURTHER, THE TRIAL COURT, ON IT'S OWN INITIATIVE, INTERRUPTED THE DEFENSE'S CROSS EXAMINATION, TR. 305, LN. 5-25 - TR. 306, LN. 1-3, OF THE STATES WITNESS, MR. DAVIS, TO CALL INTO QUESTION THE VERY REASON, TR. 105, LN. 23-25 - TR. 106, LN. 1-18, THE TRIAL COURT ALLOWED MR. DAVIS TO TESTIFY, SPECIFICALLY THAT IT WAS "CONTRARY" TO MR. DAVIS'S S.L.E.D. (U.S. GOVERNMENT) DEBRIEFING. APPELLANT ASSERTS, THIS IS AN ADMISSION THAT THE TRIAL COURT ERRED IN ALLOWING MR. DAVIS TO TESTIFY.

FURTHER, AS THE CONSPIRACY IS ONLY IN RELATION TO THE PACKAGE DELIVERED ON THE SPECIFIC DATE OF FEBRUARY 28, 2012. BASED ON MR. DAVIS'S OWN TESTIMONY, HE ACCEPTED AND SIGNED FOR THE PACKAGE, HE CALLED "HIS" DRUG SOURCE, HE CARRIED THE PACKAGE UNOPENED INTO THE HOUSE, WHICH REMAINED UNOPENED UNTIL THE S.L.E.D. AGENTS RETOOK POSSESSION OF THE PACKAGE. ALSO, MR. DAVIS ADMITS TO HIS DEALING WITH DRUGS PRIOR TO APPELLANT CAMPBELL'S VERY MUCH DEBATEABLE ARRIVAL IN EFFINGHAM. WITHOUT SHOWING KNOWLEDGE OF WHAT WAS IN THE UNOPENED PACKAGE DELIVERED ON THE SPECIFIC DATE OF FEBRUARY 28, 2012, THAT LEAVES ONLY A "SUSPICION OF GUILT," WHICH DOES NOT AMOUNT TO PROOF, LEAVING ONLY MERE PRESENCE AT THE SCENE: CITING STATE V. CONDREY, 349 S.C 184, 195, 562 S.E. 2d 320, 325 (CT. APP. 2002), [M]ERE PRESENCE AT THE SCENE OF A CRIME IS INSUFFICIENT TO CONVICT ONE AS A PRINCIPAL ON THE THEORY OF AIDING AND ABETTING. SEE ISSUE 2, SHAWN LUKON DAVIS, PRIOR BAD ACTS. SCRE. RULE 404(b).

THEREFORE, DIRECTED VERDICT SHOULD HAVE BEEN GRANTED.

Argument

4.) The trial court erred in allowing national origin based (race) discriminatory testimony by Agent Dennis Tracy that was not an issue before the Court and violated SCACR, Rule 501, Judicial Conduct; Canon 3 B(6), that had nothing but a prejudicial effect against Appellant Campbell.

SCACR, Rule 501, Judicial Conduct. Canon 3B(6) provides in pertinent part that:

> A judge shall require lawyers in proceedings before judge to refrain from manifesting, by words or conduct, bias or prejudice based upon race, sex, religion, national origin, disability or age, against parties, witnesses, counsel or others. This section 3B(6) does not preclude legitimate advocacy when race, sex, religion, national origin, disability, or other similar factors, are issues in the proceeding.

As this is a ministerial obligation in nature, there should be no need for an objection, but in the event this Honorable Court does not recognize "Plain Error" as set forth in U.S. v. Cromer, 389 F.3d 662 (F.App. 2004), Appellant would respectfully preserve this argument for Federal Habeas Corpus, if needed...

See Tr. 152, Ln. 14-25 - Tr. 153, Ln. 1-10, While this testimony was introduced as expert, there was no foundation laid for it's introduction, nor was there follow-up by the State, to justify it's introduction. Therefore, it's only probative value was to be prejudicial against Appellant. The fact that Appellant was of Jamaican dissent was not at issue before the Court.

Therefore, the trial court should not have allowed this testimony, or any rebuttal testimony for that matter. Drugs, narcotics, etc. have always been a matter of interstate trafficking, in one form or another!

Conclusion.

Based on the above, the conviction and sentence should be reversed, and the case remanded for an entry of a directed verdict on Issue 3 and a new trial on Issues 1, 2, 4.

Respectfully Submitted,

S/ [signature]

Clifford Claude Campbell # 355870

Turbeville Corr. Inst. SB-297

P.O. Box 252

Turbeville, SC 29162

Pro se litigant

This 9th day of June, 2014.

SWORN to and subscribed before me this 9th day of June 2014.

[signature] (L.S.)

Notary Public for South Carolina

My Commission Expires: 4-27-2016

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

APPEAL FROM FLORENCE COUNTY

D. CRAIG BROWN CIRCUIT COURT JUDGE

THE STATE,

RESPONDENT,

V.

CLIFFORD CLAUDE CAMPBELL,

APPELLANT

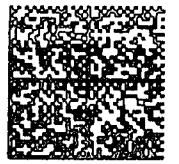
CERTIFICATE OF SERVICE

APPELLANT CERTIFIES THAT A TRUE COPY HAS BEEN SERVED UPON SALLEY W. ELLIOT, ESQUIRE, AT THE REMBERT DENNIS BUILDING, 1000 ASSEMBLY ST., RM 519, COLUMBIA, S C 29201, BY DEPOSITING THE SAME IN THE U.S. MAIL, VIA TURBEVILLE CORR. INST. MAILROOM.

S/ [signature]
CLIFFORD CLAUDE CAMPBELL #355870
PRO SE APPELLANT

TURBEVILLE C. I.
MAIL ROOM
BOX 252
TURBEVILLE, S. C. 29162

CLIFFORD CLAUDE CAMPBELL # 355870



1.82

UNITED STATES POSTAGE
PITNEY BOWES
02 1R $ 01.82⁰
0002009326 JUN09 2014
MAILED FROM ZIP CODE 29162

RECEIVED
JUN 11 2014
SC Court of Appeals

S.C. COURT OF APPEALS
CLERK'S OFFICE
P.O. BOX 11629
COLUMBIA, SC
29211

RECEIVED
JUN 09 2014
MAILROOM
TURBEVILLE CI