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MAR 28 2019

SC Court of Appeals

The State of South Carolina
In The Court of Appeals.

Appeal from Aiken County
William P. Keesley, Circuit Court Judge

The State,

Respondent,

v.

Denzil Torre Jordan,

Appellant.

Appellate Case No 2018-001509

Pro Se Brief of Appellant

Denzil Torre Jordan
Appellant

McCormick
Correctional
Institution
386 Redemption Way
McCormick, SC 29899

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Statement of Issue on Appeal

Did the trial court abuse its discretion in denying Appellant's motion to direct a verdict of not guilty?

Statement of the Case

In 2018, the Aiken County Grand Jury indicted Denzil Torre Jordan (Appellant) for burglary in the first degree, armed robbery, kidnapping, possession of a firearm during the commission of a violent crime, and assault and battery in the first degree. On August 6-9, 2018, appellant proceeded to a jury trial before the Honorable William P. Keesley. Derek Bush and Grant Gibbons represented appellant at trial. Assistant Solicitors Bradley McMillian and Samuel Grimes prosecuted the case.

The jury returned a verdict of guilty, and Judge Keesley sentenced appellant to an aggregate sentence of twenty five (25) years imprisonment. On August 14, 2018, appellant filed a Notice of Appeal. This appeal follows.

Standard of Review

A direct verdict of not guilty is addressed to the trial court. The only evidence the state presented was circumstantial evidence presented in testimony. "An abuse of discretion occurs when a trial court's decision is unsupported by the evidence or controlled by an error of law." (quoting *Rice* at 613, 629 S.E.2d at 395).

Argument

The trial court abused its discretion in denying appellants directed verdict of not guilty.

Relevant Facts

After cross-examination, the appellant's defense moved for the court to direct a verdict of not guilty - R 206, lines 11-13. The state had the burden of proof in this case, and they have failed to provide any evidence that proves the appellant guilty beyond a reasonable doubt. The state did use testimony of an alleged co-defendant, however even that testimony is inconsistent with the prior statements that were written. R 206, lines 21-24.

The alleged victim did appear in court and gave his testimony as well, but could not identify the appellant or put him at the scene of the crime. R 96-97, line 4. By allowing the jury to deliberate, the court is allowing the jury to

consider circumstantial evidence that is inconsistent. In *State vs. Hudson* it states "the appellate court will reverse trial court's ruling on a directed verdict motion only when there is no evidence to support the ruling or where the ruling is controlled by an error of law." (*State vs Hudson* 277 S.C. 200, 202, 284 S.E.2d 773, 774-75 ((1981))). The trial court never stated anything supporting his ruling.

Not only did the trial court abuse its discretion, the outcome would have been reversed had this not happen. In *Jones vs Lott* it states "when ruling on a motion for a directed verdict, the trial court is concerned with the existence or non existence of evidence, not its weight." (*Jones vs Lott* 379 S.C. 285, 288-289, 665 S.E. 2d 642, 644 ((Ct. App. 2008))). When Luke Sherman, the lead investigator of the case, was questioned about the types of evidence that they gathered on the appellant, his response to those questions were "no sir".
R 153 line 23- 154 line 9. If there is.

no physical evidence, and the testimony that is being presented before the jury is inconsistent, then the court has nothing supporting thier ruling.

"The Court of Appeals, Gathers Jr., held that circumstantial evidence was insufficient to submit case to jury." (State vs. Pearson 415 S.C. 463, 783 S.E. 2d 802 (Ct. App. 410 S.C. 392, 764 S.E. 2d 706)). State vs Lane states "held that state failed to present substantial circumstantial evidence to reasonably prove defendant was person who committed burglary." (State vs. Lane 406 S.C. 118, 749 S.E. 2d 165). When the trial court denied the appellants motion for a directed verdict, not only did the trial court allow the jury to consider inconsistent circumstantial evidence, but the trial court abused its discretion, and the appellant's outcome in trial would have been different.

Conclusion

Based on the arguments and the facts that I have just presented, it is clear that prejudice was shown against me. I have presented cases that are similar in my favor, and have been overturned recently. If the court did not abuse its discretion, the outcome in the trial would have been different.

Denzil T. Jordan

Denzil T. Jordan

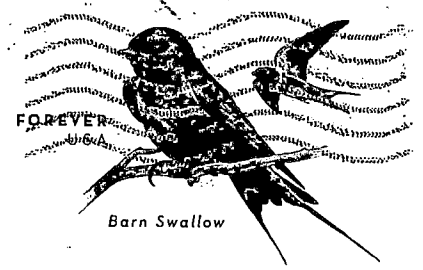
Appellate

This 24th day of March, 2019.

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