

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Pickens County
G. Edward Welmaker, Circuit Court Judge

THE STATE,

RESPONDENT

RECEIVED

DEC 04 2014

SC Court of Appeals

v.

RUFUS RAIDEN, III,

APPELLANT

APPELLATE CASE NO. 2014-000215

Pro Se BRIEF OF APPELLANT

Rufus Raiden, III
Pro Se Litigant

Lee Correctional Inst.
990 Wisacky Hwy
Bishopville, S.C. 29010

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Case

Lakin v. State, 431 F.3d 959, 963 (6th Cir. 2005)

STATEMENT OF ISSUES ON APPEAL

1. In this trial for leaving the scene of an accident resulting in death, did the trial judge err in refusing to grant motion for mistrial after Pickens County deputy Jeff Bolde made inappropriate comments in front of two witnesses that were sequestered and yet to testify?
2. In this trial for leaving the scene of an accident resulting in death, did the trial judge err in refusing to strike the testimony of Corporal Tommy Brooks of the South Carolina Highway for giving false opinion testimony?
3. In this trial for leaving the scene of an accident resulting in death, did Appellant Raiden suffer "due process" violation when the Jury saw him in handcuffs and shackles?

STATEMENT OF THE CASE

In January of 2012, the Pickens County Grand Jury indicted Appellant Raiden for leaving the scene of an accident resulting in death. On January 27, 2014, Appellant proceeded to jury trial before the Honorable G. Edward Welmaker. Steven Alexander represented Appellant at trial. Dary Richardson prosecuted the case. The jury returned a verdict of guilty and Judge Welmaker sentenced Appellant to twenty five years. A timely notice of intent to appeal was served on February 4, 2014. Appellate Defender Kathrine H. Hudgins filed an Anders brief with this Court on October 20, 2014. On October 21, 2014 the South Carolina Court of Appeals by written notice informed Appellant Raiden he had forty-five (45) days to submit a pro se brief. The pro se Appellate brief follows.

ARGUMENT

1. In this trial for leaving the scene of an accident resulting in death, the trial judge erred in refusing to grant motion for mistrial after Pickens County deputy Jeff Bolde made inappropriate comments in front of two witnesses that were sequestered and yet to testify.

At the close of this case for the State, defense counsel Mr. Alexander made two motions. (Tr. p. 337 lines 7-25).

The first which is the basis for this issue. After his testimony Pickens County deputy Jeff Bolde exited the courtroom and loudly announced "I've got it done; he's guilty" (Tr. p. 337 line 15).

Defense counsel Mr. Alexander moved for a mistrial on his clients behalf (Tr. p. 337 lines 24-25). Which was promptly denied by trial judge Welmaker (Tr. p. 339 lines 1-14).

Clearly, trial judge Welmaker erred by denying this motion.

When deputy Jeff Bolde made the unfortunate decision to make

this statement in front of yet to testify witnesses, he irreparably damaged Appellant Raidens right to a fair trial.

A situation such as this should not be allowed to stand.

As state witness Tara Henderson told defendant Appellate Raiden that this statement "took the wind out of her"

(Tr. p. 337 line 19). With a police officer such as deputy

Bolde making this statement it would be self evident that

the two yet to testify witnesses would be influenced to assume

that Appellant Raiden was already guilty and tailor their

testimony to fit this assumption. In every criminal trial

a defendants constitutional rights should be extremely guarded.

This is a rare situation in that this violation occurred

outside the courtroom by deputy Bolde. However, it does not negate

the fact that Appellant Raidens right to a fair trial was

violated. As this is a novel issue that the State of South Carolina has never had to answer, Appellant Raiden would respectfully request that this Honorable Court direct Appellate Defender Kathrine H. Hudgins to brief this issue in greater detail.

2. In this trial for leaving the scene of an accident resulting in death, the trial judge erred in refusing to strike the testimony of Corporal Tommy Brooks of the South Carolina Highway Patrol for giving false opinion testimony.

On Cross Examination by Mr. Alexander Corporal Tommy Brooks testified that he knew with "a hundred percent certainty" that no one else was in the vehicle with Appellant Raiden (Tr. p. 270 lines 3-6).

Mr. Alexander renewed his objections to this testimony

extensively (Tr. p. 339-340 lines 15-10). As Mr. Alexander pointed out it is very rare to have a "hundred percent" certainty of anything without audio or video evidence.

Indeed this testimony was very prejudicial in that Appellant Raidens defense was that "Josh" was driving the truck and he was in the back seat. With Corporal Brooks making this statement it wiped out any chance of Appellant Raiden having a fair trial.

Further witness Tara Henderson testified on cross-examination that on her voicemail she heard "Rufus ask somebody where are we at?" (Tr. p. 176 lines 11-13).

This testimony along with Appellant Raidens testimony more than substantiated Appellant Raidens testimony and defense that "Josh" was the driver that caused this

fatal accident. Further it should never be o.k. for a Police Officer to testify to a "hundred percent" certainty when he did not witness the incident first hand. The reason being is that a law enforcement officer's testimony will create a chasm too huge for a defendant to cross in a jury trial. In America we are taught to believe law enforcement as it should be. However when law enforcement testimony goes beyond their knowledge it should not be allowed to stand, and the trial judge should have stricken this "hundred percent" testimony.

Appellant Radden would respectfully request that this Honorable Court direct Appellate Defender Kathrine H. Hudgins to brief this issue in greater detail.

3. In this trial for leaving the scene of an accident resulting in death Appellant
(9)

Raiden suffered a "due process" violation when the Jury saw him in handcuffs and shackles.

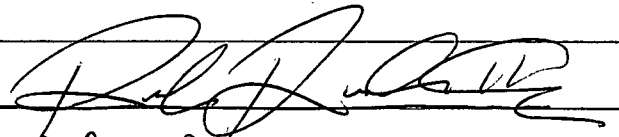
Appellant Raiden admits to this Honorable Court that this issue is not preserved in the traditional sense. However as this being such a grave mistake it cannot be allowed to stand and Appellant Raiden ask this court to hear it de novo. Appellant Raiden contends that as he was being brought into the Courtroom the jury visibly saw his shackles and handcuffs. Being this was Appellant Raidens first trial he had no knowledge a problem occurred. However the head bailiff had to make a huge show of getting Appellant Raiden out of the Courtroom. He stressed (Head Bailiff) to Appellant Raiden to inform his Attorney Mr. Alexander because it was a serious breach on

his part for that to happen. Appellant Raiden informed his Attorney Mr. Alexander but he refused to tell the judge. This lapse so infected this trial with prejudice that it cannot wait for Post-Conviction Relief. See Lakin v. Stine, 431 F.3d 959, 963 (6th Cir. 2005) Appellant Raiden would ask this Court to remand this case back to circuit to determine if Appellant Raidens right to a fair trial was violated by this error.

CONCLUSION

Based on the above argument, Appellant's conviction and sentence should be reversed and the case remanded for a new trial.

Respectfully submitted,



Rufus Ralston III

Pro-Se litigant

This 30th day of November, 2014.

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