Edward Anthony, Petitioner

v.

State of South Carolina, Respondent.

Appellate Case No. 2018-000628

July 11, 2019

RECEIVED
JUL 16 2019
SC Court of Appeals

Burden of Proof

Now comes, the petitioner Edward R. Anthony to prove his innocents in the alleged conviction for Shoplifting to be reversed for a new trial, at this Time. The petitioner states, that his **Constitutional safeguards,** is imposed on page 263, you see that for a fact. Mr. Anthony stated that on the record. Because courts have violated the petitioner rights to a fair trial, and there are multiple errors in this case by both party's as well.

1. **The 4th amendment violation**

Look at Attachment

The petitioner was arrested on March 16, 2014 for the alleged crime of shoplifting. Looking at the video evidence at trial on year later on April 14-15, 2015, the video footage clearly shows that there was no evidence for the police officer to establish Probable Cause to arrest, the petitioner on March 16, 2014.Even looking at the police reports, the petitioner had given the officer consent to perform the Terry Pat-Down search. On page 160, the police officer was asked, by Prosecutor Slocum.

Q. What, if anything, did you discover when you searched?

A. I located a Pair of adjustable channel-lock pliers.

Q. Did you seize them for evidence?

A. No, sir. I did not.

On page 161, when asked by, Prosecutor Slocum

Q. Was he arrested at this point?

A. No, sir. He was not

So the petitioner walked to the loss prevention room with no handcuffs on looking on page 161, and the police officer stated, that to the prosecutor.

Q. All right. Was he under arrest at this point?

A. No sir. He was not.

Now when the police officer asked by Public Defender McMillian on page 173

Q. There was no merchandise in his waistline?

A. No, sir.

Q. None in his jacket?

A. No, sir.

Q. None in his underwear?

A. No, sir

Q. You further searched him; correct?

A. Yes, sir. I did.

Q. Did you find any merchandise in that Search?

A. No, sir. I did not.

So on page 174, on May 21, 2014, and the police officers supplemental report to the original incident. At seven p.m., the police officer admitted to return to the Belk's store. To obtain a copy of the receipt of the items in question and obtained a video surveillance, dropped it into evidence. Now on that same page 174, looking at line 17. Public defender McMillian has the supplemental report in his possession at the time. The police officer asked the public defender.

Q. May I see what you're referencing?

A. Absolutely.

MR. McMillian: Permission to approach, Judge?

On page 175, now

The Courts: Yes sir.

The Witness: Here the supplemental.

By MR: McMillian

Q. And in that supplemental you also requested that a copy of your in-car video be add?

A. Yes, sir. I did.

Q. We were never provided any of that, though, were we?

A. No, were not.

Q. You went back out and collected the video on May 21st?

A. Yes, sir.

Q. Did you collect any other evidence, any broken security tags?

A. No, sir. I did not.

Q. Any merchandise?

A. No, sir. I did not.

Q. So when the solicitor asked you earlier if you conducted any forensic stuff, that's because you didn't have anything to conduct any tests on; correct?

A. No, sir. I did not.

Now see back on page 161, when asked by the prosecutor, Mr. Anthony was not arrested when the officers walked to the back to the loss prevention room at the time. But when asked by Mr. Anthony's Public defender, on page 176.

Q. At that point did you put him in handcuffs?

A. Yes, sir.

Q. And y'all escorted him to loss prevention?

A. Yes, sir.

Q. Did you ever remove those handcuffs?

A. No, sir

So not only did the public defender knowingly know that the police officer lied under oath. But it was a **Miranda Rights Violation** as well. In if there is no evidence to establish probable cause, then it's in violation of the 14th amendment.

Now the accuser Ms. Patsy was asked by the Prosecutor name Slocum.

Q. Can you take a look at those, please, and tell me if you are able to recognize them.

A. Yes, sir. The red polo shirts and a pair of denim jeans. And Exhibit Four are the Polo shirts that I retrieved. And I can identify them because they had been altered with a – mark

Now watch the Prosecutor Slocum page 108 line 11.

Q. Don't testify to them just yet.

So from page 150-151, if there was seven items and now five items how that is a typo. When the store receipt has 3 items that was entered at trial as proof. In the witness states that she was not sure, why the receipt had May 21 on it. When on page 174-175, the police officer admitted to returning back to obtain the tainted evidence under oath.

If the evidence that was enter at trial on page 183, has been altered, when the police officer stated, that there was no evidence on Mr. Anthony at all. Then the evidence that has May 21, 2014 is tainted

evidence, the **fruit of the poisonous tree doctrine.** Derivative evidence once there has been an Edwards-tainted violation. This is still an open issue. ... Tree doctrine to first generation derivative evidence.
The poisonous tree here is the failure by the police to give any Miranda warnings at all. The **exclusionary rule** is a legal rule, based on constitutional law. The rule prevents evidence collected or analyzed in violation of the defendant's constitutional rights from being used in a court of law. "The exclusionary rule is grounded in the Fourth Amendment and it is intended to protect citizens from illegal searches and seizures."[2] The exclusionary rule is also designed to provide a remedy and disincentive, which is short of criminal prosecution in response to prosecutors and police who illegally gather evidence in violation of the Fifth Amendment in the Bill of Rights compelled to self-incrimination.

In strict cases, when an illegal action is used by police/prosecution to gain any incriminating result, *all* evidence whose recovery stemmed from the illegal action—this evidence is known as "fruit of the poisonous tree"—can be thrown out from a jury (or be grounds for a mistrial if too much information has been irrevocably revealed).

My public defender never motioned on the record for a mistrial because my rights have been violated. Equal Protection refers to the idea that a governmental body may not deny people equal protection of its governing laws. The governing body state must treat an individual in the same manner as others in similar conditions and circumstances. The Fourteenth Amendment's Equal Protection Clause requires states to practice equal protection. Equal protection forces a state to govern

impartially—not draw distinctions between individuals solely on differences that are irrelevant to a legitimate governmental objective. Thus, the equal protection clause is crucial to the protection of civil rights. Admissible evidence absence or insufficiency to establish one or more essential case elements that the party having to bring proof must provide. The opposing party can ask the court to dismiss the case if there is no-evidence, making McMillian ineffective assistance of Counsel.

2. Brady Violation
Look at Attachment

On pages 174-175, when asked by public defender McMillian

Q. Did you ever go back out to Belk's to collect and Photographs?

A. I did go back out. I'm unsure of the exact date. I have a report if you'd like for me to check.

Q. Would you reference that?

A. Okay. According to my Supplemental report to my original incident, on May 21st, 2014, at seven p.m., I returned to Belk. I obtained a copy of the receipt of the items in question and obtained a video surveillance, dropped it into evidence.

Q. May I see what you're referencing?

A. Absolutely.

The Courts: Yes, sir

The Witness: Here's the supplemental.

By Mr. McMillian:

Q. And in that supplemental you also requested that a copy of your in-car video be added?

A. Yes, sir. I did.

Q. we were never provided any of that, though, were we?

A. No, we were not.

Now see page 179, the **REDIRECT EXAMINATION** by Mr. Slocum, to the police officer.

Q. and your in-car video, any reason that you know of why that wasn't dropped?

A. I have no idea.

Now on, page 254, starting at line 25, the jury sent out a question as follows: on page 255.

The Court: We Officer Daniel Smith's police report that he was referring to on the stand into evidence.

Mr. McMillian: No Your Honor.

The Court: And so, my – I would say no, and you just got to make a decision based on the evidence that's in the record at this point.

Any problem with that from either side?

Mr. Slocum: No, Sir.

Mr. McMillian: No, Judge.

The Court: all right. Madam Forelady, the question from the jury was. Was officer Daniel Smith's police report that he was referring to on the stand entered into evidence; correct?

But go back to pages 174-175 please, and see that the public defender withheld evidence in Mr. Anthony favor that prejudiced the outcome of trial. The public defender had the evidence possession in let the police officer look at it.

Go to on page 255, Mr. McMillian refused to give that jury the information; if the jury had doubts doing deliberation. The courts received my Post-conviction relief application on February 7, 2017. See page 270, please, I put Brady violation and to the record, that the prosecutor withheld evidence.

From pages 295-299, Mr. Anthony talked about the Brady violation at the Post-Conviction Hearing.

At the PCR on page 333, the public defender was asked about the supplementary report and the in-car video, and the PD. Stated that it was not turned in to the trial.

The prosecution violated *Brady,* the defendant is entitled to make that decision with full awareness of favorable material evidence known to the government. Violations of *Brady v. Maryland*, arising from the prosecution's failure to disclose exculpatory material in its possession, fall into three categories: (1) cases that include non-disclosed evidence of perjured testimony about which the prosecutor knew or should have known, (2) cases in which the defendant specifically requested the non-disclosed evidence, and (3) cases in which the defendant made no request or only a general request for *Brady* material.

Trial court's finding in post-conviction relief (PCR) proceeding that prosecution violated *Brady v. Maryland* by failing to reveal exculpatory evidence required finding that prosecutor thereby committed misconduct. A prosecutor commits misconduct in failing to reveal exculpatory *Brady* material regardless of whether such failure is due to negligence or an intentional act, as a court may find a *Brady* violation irrespective of the good faith or bad faith of the prosecutor.

Prosecutorial Misconduct. Evidence state failed to disclose to defendant is considered cumulatively, rather than on individual basis, in determining whether non-disclosed evidence was "material," as required for Brady violation, by the public defender failing to object, it makes him ineffective assistance of counsel.

3. **<u>Sentence Fragments or Illegal sentence and 8th amendment violation</u>**

Look at Attachment

On page 265, the Public Defender failed to object, when the judge sentenced Mr. Anthony to 6 years suspended to 45 months and 5 years' probation. There is a calculation err at hand, the judge caped off the 6, meaning you can't go over the 6. So if you take the 45, which is all most 4 years, and put 5 years' probation together. It's a total of 8 ½ years total, once the judge caped the 6, you can't go over the 6, so it's a plain face error with the sentence.

4 + 5= 9

In as you can see the on that page there was clearly no objection, doing Mr. Anthony's PCR on page 290. The error was talked about as well.

Mr. Anthony writes a Declaratory Judgment petition to the Aiken Courts of South Carolina, showing errors of the illegal sentencing and the illegal evidence in violation of his rights. The judge that erred at trial on April 2015, wrote the assistance attorney general Ms. Julie Ann Coleman. Asking what should Mr. Anthony do, because it was out of the judge's jurisdiction, and look at **Attachment 1.**

(1) The error was not "intentionally relinquished or abandoned," (2) the error is plain, and (3) the error "affected the defendant's substantial rights", If those conditions are met, the court of appeals should exercise its discretion to correct the forfeited error if the error seriously affects the fairness, integrity or public reputation of judicial proceedings. The issue here is when a Guidelines error that satisfies, first three conditions warrants relief under the fourth prong. The judge abused his discretion; the sentence imposed by the court was beyond its authority. The sentence is arguably excessive, unconstitutional or otherwise unlawful. (The Constitution protects citizens against "cruel and unusual punishment.")

Mr. Anthony's sentence violates federal or state law in any way, is a double jeopardy principle that emerges from a case in which the court ruled against a defendant. These error biases will tend to

exhibit a compounding effect: leniency error should account for a disproportionately high frequency of omission error cases, and instances of omission errors.

Now by the public defender not object to the judge erring to the illegal sentencing of Mr. Anthony. The trial court followed improper procedures or failed to comply with the sentencing guidelines, the sentence is unconstitutionally cruel and unusual under the Eighth Amendment, making the trial counsel ineffective. I wrote the courts and told them about Rule 35. Correcting or Reducing a Sentence, but they failed to correct it.

The **Eighth Amendment (Amendment VIII)** of the United States Constitution prohibits the federal, state, and local governments of the United States, or any other government, or any corporation, private enterprise, group, or individual, from imposing excessive bail, excessive fines, or cruel and unusual punishments. The Supreme Court has held that the Excessive Fines Clause prohibits fines that are "so grossly excessive as to amount to a deprivation of property without due process of law."

Rule 52. Plain Error

(b) Plain Error. A plain error that affects substantial rights may be considered even though it was not brought to the court's attention.

Notes

(As amended Apr. 29, 2002, eff. Dec. 1, 2002.)

Notes of Advisory Committee on Rules—1944

Note to Subdivision (a). This rule is a restatement of existing law, 28 U.S.C. [former] 391 (second sentence): "On the hearing of any appeal, certiorari, writ of error, or motion for a new trial, in any case, civil or criminal, the court shall give judgment after an examination of the entire record before the court, without regard to technical errors, defects, or exceptions which do not affect the substantial rights of the parties"; 18 U.S.C. [former] 556; "No indictment found and presented by a grand jury in any district or other court of the United States shall be deemed insufficient, nor shall the trial, judgment, or other proceeding thereon be affected by reason of any defect or imperfection in matter of form only, which shall not tend to the prejudice of the defendant, * * *." A similar provision is found in Rule 61 of the Federal Rules of Civil Procedure [28 U.S.C., Appendix].

Note to Subdivision (b). This rule is a restatement of existing law, *Wiborg v. United States*, 163 U.S. 632, 658; *Hemphill v. United States*, 112 F.2d 505 (C.C.A. 9th), reversed 312 U.S. 657. Rule 27 of the Rules of the Supreme Court provides that errors not specified will be disregarded, "save as the court, at its option, may notice a plain error not assigned or specified." Similar provisions are found in the rules of several circuit courts of appeals.

Committee Notes on Rules—2002 Amendment

The language of Rule 53 has been amended as part of the general restyling of the Criminal Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

Rule 52(b) has been amended by deleting the words "or defect" after the words "plain error". The change is intended to remove any ambiguity in the rule. As noted by the Supreme Court, the language "plain error or defect" was misleading to the extent that it might be read in the disjunctive. *See United States v. Olano*, 507 U.S. 725, 732 (1993) (incorrect to read Rule 52(b) in the disjunctive); *United States v. Young*, 470 U.S. 1, 15 n. 12 (1985) (use of disjunctive in Rule 52(b) is misleading).

4. <u>Counsel failed to call witness</u>

Look at Attachment

When the Public Defender asked the witness do you know the man exiting the store there? Page 140

A. Customer

Q. But you don't have any idea who he is?

A. Probably a regular shopper.

On page 250-251, the Public defender asked, me to Point Carl out on line 11, and the trial transcript looking at the video tape. Even on page 212, the prosecution asked me about Carl Gaston's.

Trial counsel failed to impeach the credibility of key witnesses with known false testimony. The impeachment would have demonstrated that two of the state's witnesses not only lied, but that they told the *same* lie, showing that they cooked up their story. Trial counsel's failure to investigate the state's key witnesses, and the failure to present that impeaching information at trial was ineffective assistance of counsel. Trial counsel's failure to locate and present evidence from a witness who could have testified that the alleged crime never happened on March 16, 2014. That the witness made recanting statements, and the failure to present the recantation statements that she made, was ineffective assistance of counsel.

Trial counsel's failure to challenge venue in this alleged prosecution was ineffective assistance of counsel. State trial counsel was ineffective in failing to adequately investigate the availability of a witness to provide exculpatory information. Because of the failure to adequately investigate the witness's testimony, the attorney believed that the witness had favorable testimony to offer. During trial, he realized that the witness was not that helpful, but he had already promised to call the witness during his opening statement. The decision not to call the witness was a sound decision; the failure to determine this before trial, and then promising to call the witness during opening statement, was ineffective assistance of counsel.

Trial counsel's failure to call to the stand an eyewitness who exculpated his client was ineffective assistance of counsel. **Look at the Attachment 1** please.

A customer is not going to go outside, then come back in the store and hangout in just be a customer. The accuser was talking to the alleged customer on tape and all of the pictures a well. Trial counsel's failure to research and invoke the Uniform Act to secure the attendance of out-of-state witnesses was ineffective assistance of counsel.

5. <u>Violation of Chain of Custody</u>

Look at Attachment

<u>Look at Attachment # </u>please. Page 1, on the Additional Narrative report, at the top you see the report date/time is 3/16/2014 at 18:52, and at the bottom of that 05/21/2014 at 1900 hours. PSO D. Smith obtained video and a copy of the receipt of the stolen items from Belk. PSO D. Smith will drop the video into evidence and turn the receipt in to the records division. PSO D. Smith also requested that a copy of the in-car video of the incident be obtained at 05/21/2014 at 2100 hours.

Now Mr. Anthony was arrested on March 16, 2014 in there was no evidence discovered on that day. In the trial transcript pages 167, 173-175, 297-304. No evidence was discovered.

So on the Belk's store receipt has May 21, 2014 on it, remember I was arrested on March 21, 2014, and not May 21, 2014, and how can the chain of custody report be March 21, 2014 in the **<u>Attachment # 2</u>**, on page 2. The police officer stated under oath that he returned back on May 21, 2014, on page 174 and the trial transcript. This is on the

record, and the store receipt never made it on the chain of custody when you look. You only have 3 discs and no receipt, proving that it's broken.

Look at Attachment # 2 on page 2. The Belk's receipt has 5/21/2014, now my life has been put in jeopardy twice, The **Double Jeopardy Clause** of the Fifth Amendment to the United States Constitution provides: "[N]or shall any person be subject for the same offence to be twice put in jeopardy of life or liberty. The Fifth Amendment creates a number of rights relevant to both criminal and civil legal proceedings. In criminal cases, the Fifth Amendment guarantees the right to a grand jury, forbids "double jeopardy," and protects against self-incrimination. It also requires that "due process of law" be part of any proceeding that denies a citizen "life, liberty or property" and requires the government to compensate citizens when it takes private property for public use. Because I was arrested on March 14, 2014, and not May 21, 2014.

However in the case of the murders of Nicole Brown and Ronald Goldman mistakes were made regarding the use of the chain of custody. Firstly items were not correctly checked into the exhibits officers in charge of the chain of custody, this can be identified as very few blood swabs were down in the chain of evidence as being submitted for testing, however a much larger number of swabs actually arrived at the laboratory to be tested – therefore meaning that the majority had not gone through the chain of custody. This can be seen as negative as if the items were not logged into the chain of custody any of the evidence could have been taken or gone missing and none of the detectives or SOCO's would have known.

Also a number of items of evidence including the blood sample taken for comparison from OJ Simpson were carried around by officers for considerable amounts of time before being passed into the chain of custody, whereas as soon as the officers were handed this evidence it should have been logged immediately. This error allowed Simpson's defense to again argue that the evidence linking Simpson to the murders could easily have been planted or contaminated in order to frame him.

There is clear evidence of racial discrimination in his individual case, which is a very high burden to clear, so the Racial Justice Act made it more feasible that a defendant could meet the burden of proof necessary to demonstrate discrimination, making counsel ineffective.

6. Elements of shoplifting not met

Look at Attachment

Six Shoplifter Probable Cause Precautionary Steps

1. You must see the shoplifter approach your merchandise
2. You must see the shoplifter select your merchandise
3. You must see the shoplifter conceal, carry away or convert your merchandise
4. You must maintain continuous observation the shoplifter
5. You must see the shoplifter fail to pay for the merchandise

6. You must approach the shoplifter outside of the store

If there was no evidence on looking at the video surveillance, and the trial transcript states that on page 137.

Line 20 Q. Seven items?

Line 21 A. Yes, sir.

Now see Ms. Pasty lied under oath to the public defender multiple times, because the store receipt has only 3 items, on page 150, starting at the top of the page as you can see.

Q. That's different from what you testified to earlier, the seven items; correct?

A. That's five. It could have been a typo there.

So between pages 150-151, there are dates 3-31-14 and 5-21-14.

If there was no evidence to establish probable cause to arrest, Fruit of the poisonous tree, the evidence that is obtained illegally. The logic of the terminology is that if the source (the "tree") of the evidence or evidence itself is tainted, then anything gained (the "fruit") from it is tainted as well.

The presence of the no evidence ground in the Am Act raises in an acute form the problem of defining the outer limits of judicial review. The difficulty is that of trying to draw the line between, on the one hand, a court's permissible questioning of an administrative decision because it is not supported by any evidence at all, and, on the other

hand, the impermissible challenging of it because the court thinks that the decision- maker reached the wrong conclusion in relation to the evidence upon which the decision was based.

Which the courts apply to questions of fact. That the courts and the executive possess different (constitutional) roles is a statement which is almost too obvious to make. The implied constitutional doctrine of the separation of powers would seem to favor a policy of judicial restraint. The exercise of Commonwealth judicial power is restricted to courts which cannot exercise administrative powers. Different terminology can be utilized to draw the distinction between the respective functions of the judicial and executive branches of government. Judicial review is seen as being concerned with matters of law and procedure, with the method by which the decision was reached. Administrators have to decide issues of fact and policy and are concerned with the merits of the decision.

Conclusion

If the judicial review is confined to correcting errors of law on the face when the court's jurisdiction includes abuse of errors. But, the courts are unwilling to examine the evidential basis of 'no evidence' as a matter of law. Making the decisions of fact is a primary function of law, would appear to Illegality: The Problem of Jurisdiction' in the scope of facts finding in judicial review, making the necessary determination.

The active decision on the basis that it is not supported by the evidence law for a decision-maker to make a decision in the absence of but it is not necessarily so in every case, suggestion can be sufficiency of the evidence.

For any statutory indication of the weight to be given to the Court that has not followed this line and one dense was fundamentally misapprehended, as a general rule. The second factor which sues of jurisdictional fact, courts are much less reluctant examine and re-weigh evidence and findings of fact, it is held to be appropriate for a reviewing court to correct any errors.

IF a jurisdictional fact is not thought to be in subjective terms, the notion of jurisdictional fact in extensive 'retrial' to the court to review findings of facts. You have to accept here that the making of findings and the drawing the absence of evidence could constitute an error of law.

False evidence, fabricated evidence, forged evidence or tainted evidence is information created or obtained illegally, to sway the verdict in a court case. Falsified evidence could be created by either side in a case, or by someone sympathetic to either side. Misleading by suppressing evidence can also be considered a form of false evidence, however, in some cases; suppressed evidence is excluded because it cannot be proved the accused was aware of the items found or of their location.

Parallel construction is a form of false evidence in which the evidence is truthful but its origins are untruthfully described, at times in order to avoid evidence being excluded as inadmissible due to unlawful means of procurement such as an unlawful search. Falsifying evidence to procure the conviction of those honestly believed guilty is considered a form of police corruption even though it is intended to (and may) result in the conviction of the guilty; however it may also reflect the incorrect prejudices of the falsifier, and it also tends to encourage corrupt police behavior generally.

In jurisprudence, prosecutorial misconduct is "an illegal act or failing to act, on the part of a prosecutor, especially an attempt to sway the jury to wrongly convict a defendant or to impose a harsher than appropriate punishment. **Police misconduct** refers to inappropriate conduct and or illegal actions taken by police officers in connection with their official duties. Police misconduct can lead to a miscarriage of justice and sometimes involves discrimination and or illegal motives of segregation combined as obstruction of justice.

Racial profiling is illegal, and violation of the U.S. Constitution's core promises of equal protection under the law to all and freedom from unreasonable searches and seizures. Just as importantly, racial profiling is ineffective. It alienates communities from law enforcement, hinders community policing efforts, and causes law enforcement to lose credibility and trust among the people they are sworn to protect and serve.

It is professional misconduct for a lawyer to: (a) violate or attempt to violate the Rules of Professional Conduct, <u>knowingly</u> assist or induce

another to do so, or do so through the acts of another; (b) commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects; (c) commit a criminal act involving moral turpitude;(d) engage in conduct involving dishonesty, fraud, deceit or misrepresentation; (e) engage in conduct that is prejudicial to the administration of justice; (f) state or imply an ability to influence improperly a government agency or official or to achieve results by means that violate the Rules of Professional Conduct or other law; or (g) knowingly assist a judge or judicial officer in conduct that is a violation of applicable rules of judicial conduct or other law.

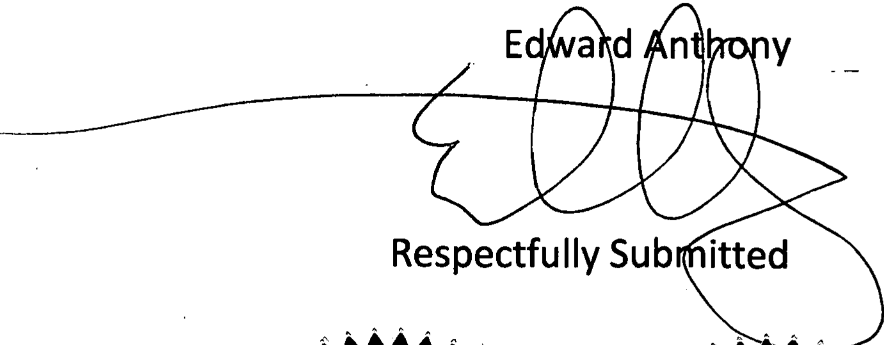
Just like the counsel failed to investigate the illegal in enhancement in this case. The courts erred in charging the defendant twice for the same place crime. In the defendant requested a lawyer, but was denied that right to counsel by the lower courts. The constitutional law states that "an accused in a misdemeanor criminal prosecution who faces the possibility of imprisonment under the applicable criminal statute has a right to counsel." This discussion and conclusion are unnecessary.

In which the defendant argued that the state erred in using prior uncounseled misdemeanor convictions to increase a subsequent misdemeanor to a felony. The defendant alleges that, he was indigent and entitled to court-appointed counsel, that counsel was not appointed and that the right to counsel was not waived. This shifts the burden to the state to show that counsel was provided.

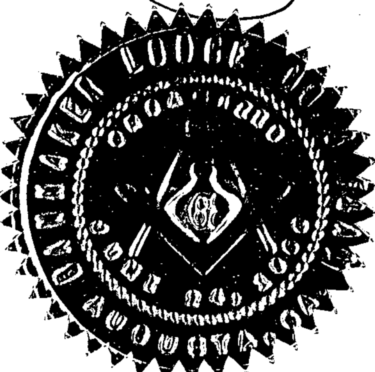
There are some attorney errors that don't even require a showing of prejudice; instead, prejudice is "presumed" because the error is so serious the outcome is automatically suspect. If your lawyer committed one of these errors, you don't need to show there would have been a difference in the outcome.

The counsel failed object to prosecutor arguments or to evidence introduced by the state; and failed to interview witnesses for the defendant. Counsel errors were so serious as to deprive the defendant of a fair trial. The totality of events and the inattentiveness of the counsel warranted a new trial.

Edward Anthony



Respectfully Submitted



1. The 4th amendment violation

Look At Attachments

Pages 160-161

Page 173-175

Page 176

Now watch the Prosecutor Slocum page 108 line 11.

Page 150-151

Page 174-175

Page 183

4th amendment violation with illegally obtained evidence

No evidence on pages: 167, 173, 175

Agency: North Augusta Department of Public Safety
Officer ID/Name:
Date:

Incident
Incident Number: 14-000676
Case Number: 14-000676

Narrative Title: SUP

14-000676
SHOPLIFTING 3RD OR SUBSEQUENT OFFENSE
DISORDERLY CONDUCT
SUBJECT: EDWARD ANTHONY
SUPPLEMENT

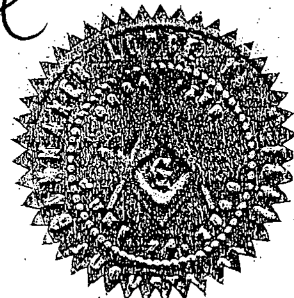
ON 05/21/2014 AT 1900 HOURS, PSO D. SMITH OBTAINED VIDEO AND A COPY OF THE RECEIPT OF THE STOLEN ITEMS FROM BELK. PSO D. SMITH WILL DROP THE VIDEO INTO EVIDENCE AND TURN THE RECEIPT IN TO THE RECORDS DIVISION. PSO D. SMITH ALSO REQUESTED THAT A COPY OF THE IN-CAR VIDEO OF THIS INCIDENT BE OBTAINED. PSO D. SMITH HAS NO FURTHER.

05/21/2014 2100 HOURS
PSO D. SMITH 288

May 21, 2014

RECEIVED
JUL 27 2016
SOUTH CAROLINA
COURT ADMINISTRATION

withheld Evidence
From Trial



Day I was Arrested

ADDITIONAL NARRATIVE

Name: North Augusta Department of Public Safety	ORI #: SC0020300	Report Date/Time: 03/16/2014	18:52	OCA #: 14-000676

SUP

14-000676
SHOPLIFTING
DISORDERLY CONDUCT
SUBJECT: ~~EDWARD ANTHONY~~
SUPPLEMENT

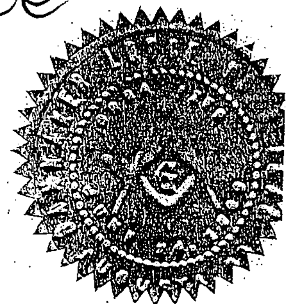
ON 05/21/2014 AT 1900 HOURS, PSO D. SMITH OBTAINED VIDEO AND A COPY OF THE RECEIPT OF THE STOLEN ITEMS FROM BELK. PSO D. SMITH WILL DROP THE VIDEO INTO EVIDENCE AND TURN THE RECEIPT IN TO THE RECORDS DIVISION. PSO D. SMITH ALSO REQUESTED THAT A COPY OF THE IN-CAR VIDEO OF THIS INCIDENT BE OBTAINED. PSO D. SMITH HAS NO FURTHER.

05/21/2014 2100 HOURS
PSO D. SMITH 288

May 21, 2014
evidence was obtained
2 month after the facts

RECEIVED
JUL 27 2016
SOUTH CAROLINA
COURT ADMINISTRATION

Withheld Evidence
From Trial



03/20/2014

Evidence Receipt

Location: BA03

Description: Evidence Permanent Assignment Receipt

Entered By: GEORGE A SHAW

Case Number : 14-000676

Transaction Date: 03/20/2014 08:20:26

Date/Time of Storage: 03/20/2014 08:20:19

Folder Number : EVMAR2014
Recovery Location : BELK
Recovery Address : 1163 KNOX AVE
NORTH AUGUSTA SC 29841
Recovery Date : 03/19/2014 10:53:41
Released By : JC BUSBEE
Other Agency ORI :
Associated Numbers :

Evidence Number : 14-000185-EV
Jurisdiction : SC0020300
Recovery Officer : 197- BUSBEE, CLINT
Released To : EVIDENCE CUSTODIAN

Barcode : 14-000185-EV0001
Property Classification : General
Category : OTHER ITEMS
Property Code/
Description : THREE DISCS CONTAINING VIDEO SURVEILLANCE

Description : THREE DISCS CONTAINING VIDEO SURVEILLANCE

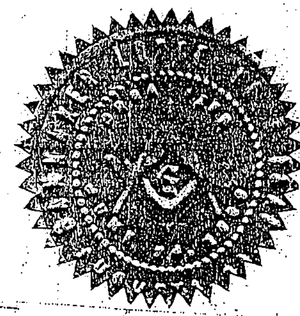
Make :
Narcotics Type :
Model :
Serial :
Quantity :
Measure :
Item Status : Evidence

Involvement Type : VICTIM
Name : ,
Address : 1163 KNOX AVENUE NORTH AUGUSTA SC 29841
Phone : 803-279-4421

Received By : George Shaw [signature]

Date Received : 3/20/14

Released To :



Chain of Custody Report

Report Date: March 21, 2014

Barcode: 14-000185-EV0001
Case Number: 14-000676
Folder Number: EVMAR2014

Description: THREE DISCS CONTAINING VIDEO SURVEILLANCE
Jurisdiction: SC0020300
Evidence Number: 14-000185-EV

Category: Y Classification: General
Make:
Serial No:
Narcotics Type:
Measure:
Item Status: Evidence
Temporary Location:
Temporary Location Date:
Recovery Date: 03/19/2014 10:53:00
Recovery Address: 1163 KNOX AVE NORTH AUGUSTA SC 29841
Released By: JC BUSBEE
Other Jurisdiction:
Associated Numbers:

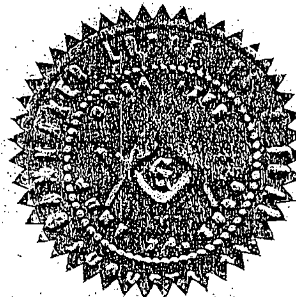
Prop Code/Description: THREE DISCS CONTAINING VIDEO S
Model:
VIN:
Quantity:
Color:
Recovery Officer: 197 BUSBEE, CLINT
Released To: EVIDENCE CUSTODIAN

Involved Parties

Involvement Type	Name	Address	Phone
SUSPECT	EDWARD RODRIQUEZ ANTHONY	2210 BUNGALOW ROAD AUGUSTA GA 30906-	
VICTIM	BELK	1163 KNOX AVENUE NORTH AUGUSTA SC 29841-	803-279-4421

Location/Movement History

Location ID	Officer	Reason	Transaction Date	Entered By
BA03: BASKET 03	SHAW, GEOR 122	evidence	03/20/2014 08:20:19	GEORGE A SHAW
LO003: LOCKER 003	197 BUSBEE, CLINT	EVIDENCE	03/19/2014 11:00:55	CLINT BUSBEE



14 Returned Back to Belks See pages. Obejection
Time Dont Reflect Illegal obtained evidence tainted Evidence May 21, 2014 False Testimonys.

1 MR. SLOCUM: Okay. Your Honor, at this time the
2 State moves to enter Exhibits Two and Four into evidence?
3 THE COURT: Any objection?
4 MR. McMILLIAN: Yes, sir, Your Honor. There's been
5 no testimony about when those pictures were taken.
6 THE COURT: Lay a little more foundation, please,
7 sir.
8 BY MR. SLOCUM:
9 Q. When did you take those pictures?
10 A. Immediately. After every case we have to
11 photograph the evidence.
12 THE COURT: Okay. They'll be admitted subject to
13 objection.
14 (State's Exhibit Nos. 2 and 4, photographs,
15 received into evidence.)
16 BY MR. SLOCUM:
17 Q. Can you please tell the jury what you see in
18 Exhibit Number Two?
19 A. Yes, sir. The receipt. Once we retrieve the items
20 I had Julian which is the store manager, go and make a
21 receipt because we have to submit a receipt along with
22 pictures of the evidence for our records.
23 Q. And what about State's Exhibit Number Four?
24 A. These are the Polo shirts I described that I
25 photographed. I positioned them to where I could get the

Exhibit (34)

Lying Under Oath, false testimony 5 items

She lied False testimony Don't Deflect!

PATSY SINGLETARY-SISO - CROSS BY McMILLIAN

1 Q. That's different from what you testified to
2 earlier, the seven items; correct?
3 A. That's five. It could have been a typo there.
4 This report, again, it is used to kind of do the case
5 report, get the information in but --
6 MR. McMILLIAN: Permission to approach, Judge?
7 THE COURT: Yes, sir.
8 BY MR. McMILLIAN:
9 Q. And then there inside your report there, there is a
10 smaller version of this same picture. I believe it's on
11 the third page.
12 A. Uh-huh.
13 Q. And as a part of that report there's a date on that
14 file name. Can you read that date for the jury?
15 A. Where about? I'm sorry.
16 Q. On the third page. It's here.
17 A. Uh-huh.
18 Q. Just under the date there.
19 A. 3-31-14. March 31, 2014.
20 Q. Is that the date you would have taken the picture
21 or the date you added the file?
22 A. It could have been the date I added the file, but I
23 took the picture immediately.
24 Q. Okay.
25 A. But we go back, we make -- add more notes and

Exhibit (34)

Illegal obtained evidence.
Tainted Evidence. L0612 * yes

False testimony
lying under oath.
planting Evidence

1 whatnot. But the official report is the report we give to
2 North Augusta.
3 Q. Okay. And I believe the State did move the receipt
4 for the goods in which is I believe the fourth page of
5 that report?
6 A. Uh-huh.
7 Q. What's the date of that receipt again? Up in the
8 upper right-hand corner.
9 A. This says 5-21-14.
10 Q. So those items weren't rang up until May 21st?
11 A. No, they were rung that day. I'm not for sure why
12 that date is indicating.
13 Q. But you would agree that receipt that was part of
14 this report that was provided to us reflects that they
15 were rung up on May 21st?
16 A. Well, the system, the cash register could have been
17 off or Julian probably -- I'm not for sure. I can't
18 answer for him, but we submit every time a receipt of
19 items and video. I'm not for sure why the receipt reads
20 that date.
21 MR. McMILLIAN: Okay. One more time, Judge.
22 (Pause.) I don't have any further questions, Your Honor.
23 THE COURT: Redirect?
24 MR. SLOCUM: Briefly, Judge.
25 REDIRECT EXAMINATION

Exhibit
(35)

rive. See pages. 166, 172, 169

No Evidence LOOK ☆

False Statement

False Claims. Combative

1 A. In this case because the Defendant was being
2 combative, for our safety and his safety, we determined
3 that we should transport him directly to the Aiken County
4 Detention Center.
5 Q. And at this point did you ever take the pliers and
6 the magnet off of his person?
7 A. No, sir. They were left on him.
8 Q. ☆ Okay. Did you ever take any pictures of the,
9 quote, articles of clothing that he alleged to have
10 concealed? See Page.173 NO Evidence, page 175
11 A. ☆ No, sir. I did not.
12 Q. ☆ Did you ever find any on his person?
13 A. ☆ No, sir. I did not.
14 Q. ☆ Did you do any type of forensic testing, any DNA or
15 fingerprints on any type of evidence in this case?
16 A. ☆ No, sir. I did not.
17 Q. ☆ Was there any reason to?
18 A. ☆ No, sir.
19 Q. What, if anything, was said on the way to the jail?
20 A. On the way to the jail the Defendant stated -- he
21 was in the back of my patrol vehicle -- that, and I quote,
22 Could have would have thought about it was not the same as
23 shoplifting.
24 Q. And did you ask a question to give this response?
25 A. No, sir. I did not.

2. Brady Violation

Look At Attachments

Pages 174-175

Page 179

Pages 254-255

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Pages 295-299

Page 333

Attachment # 4

Brady violation

Ineffective counsel

ADDITIONAL NARRATIVE

Agency Name: North Augusta Department of Public Safety	ORI #: SC0020300	Report Date/Time: 03/16/2014	18:52	OCA #: 14-000676

SUP

Arrest Date

14-000676
SHOPLIFTING
DISORDERLY CONDUCT
SUBJECT: EDWARD ANTHONY
SUPPLEMENT

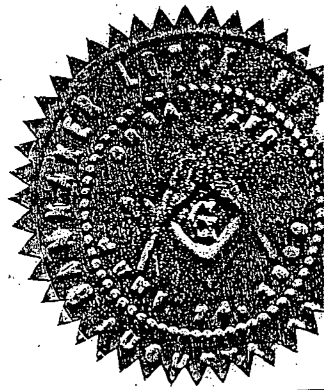
ON 05/21/2014 AT 1900 HOURS, PSO D. SMITH OBTAINED VIDEO AND A COPY OF THE RECEIPT OF THE STOLEN ITEMS FROM BELK. PSO D. SMITH WILL DROP THE VIDEO INTO EVIDENCE AND TURN THE RECEIPT IN TO THE RECORDS DIVISION. PSO D. SMITH ALSO REQUESTED THAT A COPY OF THE IN-CAR VIDEO OF THIS INCIDENT BE OBTAINED. PSO D. SMITH HAS NO FURTHER.

05/21/2014 2100 HOURS
PSO D. SMITH 288

illegal Evidence

RECEIVED
JUL 27 2016
SOUTH CAROLINA
COURT ADMINISTRATION

Withheld Evidence
From Trial



Agency: North Augusta Department of Public Safety
Officer ID/Name:
D...

Incident
Incident Number: 14-000676
Case Number: 14-000676

Narrative Title: **SUP**

14-000676
SHOPLIFTING 3RD OR SUBSEQUENT OFFENSE
DISORDERLY CONDUCT
SUBJECT: EDWARD ANTHONY
SUPPLEMENT

ON 05/21/2014 AT 1900 HOURS, PSO D. SMITH OBTAINED VIDEO AND A COPY OF THE RECEIPT OF THE STOLEN ITEMS FROM BELK. PSO D. SMITH WILL DROP THE VIDEO INTO EVIDENCE AND TURN THE RECEIPT IN TO THE RECORDS DIVISION. PSO D. SMITH ALSO REQUESTED THAT A COPY OF THE IN-CAR VIDEO OF THIS INCIDENT BE OBTAINED. PSO D. SMITH HAS NO FURTHER.

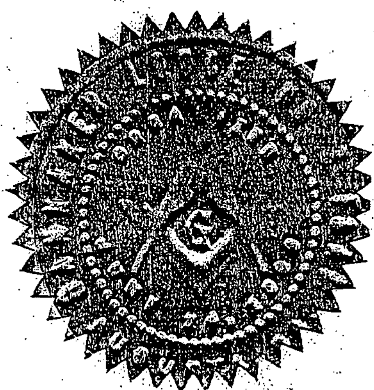
05/21/2014 2100 HOURS
PSO D. SMITH 288

Illegal Evidence

RECEIVED
JUL 27 2016
SOUTH CAROLINA
COURT ADMINISTRATION

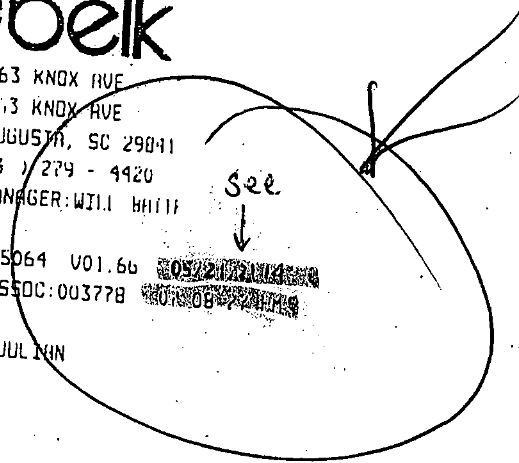
Withheld Evidence
From Trial

(2)



May 21, 20[illegible]

1163 KNOX AVE
1163 KNOX AVE
NORTH AUGUSTA, SC 29841
(803) 279 - 4420
STORE MANAGER:WILL BAIIF



STORE:0299 REG:5064 V01.66 [illegible]
TRAN#:2373 ASSOC:003778 [illegible]

ASSOCIATE NAME: JULIAN

SALE

DENIM PANTS
690742516534 [illegible]
62 00 PERM MKDN 39 99
KNIT TOPS
888132374813 [illegible] 49 99
89 50 PERM MKDN 59.99
59.99 NEW PRICE 49.99
KNIT TOPS
888132374813 [illegible] 49 99
89 50 PERM MKDN 59 99
59 99 NEW PRICE 49 99

QUANTITY:003 SUB-TOTAL 139 97
SC 7% TAX 9 80
TOTAL $ 149.77
CASH [illegible] ← see

YOU SAVED $ 101 03

Shop Belk.com 24/7
For Great gift ideas
Free Shipping everyday
See Belk com for details
Thank you for shopping at Belk. Please retain receipt for return or exchange

** REPRINT COPY **

ADDITIONAL NARRATIVE

27

Agency Name: North Augusta Department of Public Safety	ORI #: SC0020300	Report Date/Time: 03/16/2014 18:52	OCA #: 14-000676

INT

THE STORE AGAIN. R/O WAS ADVISED TO ENTER THE STORE AND APPROACH THE SUBJECT. AFTER R/O ENTERED THE STORE, R/O COULD NOT LOCATE THE SUBJECT. R/O MET WITH THE COMPLAINANT, PATSY SINGLETARY (LOSS PREVENTION), WHO POINTED THE SUBJECT OUT INSIDE OF THE STORE. R/O MET WITH THE SUBJECT AND IDENTIFIED HIM AS EDWARD ANTHONY. MR. ANTHONY IMMEDIATELY RAISED HIS HANDS, HIS SHIRT, AND HIS VOICE AND BEGAN TO YELL, "I DIDN'T DO NOTHING!" R/O HAD MR. ANTHONY PLACE HIS HANDS ON TOP OF A CLOTHING RACK SO R/O COULD PERFORM A WEAPONS FRISK FOR OFFICER SAFETY PURPOSES. R/O HAD TO COMMAND MR. ANTHONY TO KEEP HIS HANDS ON THE CLOTHING RACK THREE TIMES. AS R/O BEGAN THE WEAPONS FRISK, MR. ANTHONY STATED, "I AIN'T GOT NOTHING, YOU CAN CHECK MY UNDERWEAR!" R/O THEN SEARCHED MR. ANTHONY'S PERSON, AS HE HAD GIVEN CONSENT. R/O DID NOT LOCATE ANY CONTRABAND OR STOLEN ITEMS ON MR. ANTHONY'S PERSON.

3. Illegal sentence and 8th amendment violation

Attachments

Transcript pages

Page 265

Page 290

State Laws Held Unconstitutional

Three separate lists of Supreme Court decisions appear below: part I lists cases holding state constitutional or statutory provisions unconstitutional, part II lists cases holding local laws unconstitutional, and part III lists cases holding that state or local laws are preempted by federal law. As Congress acted as the legislature for the District of Columbia until passage of the Home Rule Act on December 24, 1973, District of Columbia statutes that were enacted by Congress are treated as federal statutes (and included in a prior appendix), and District of Columbia statutes enacted by the District of Columbia government are treated as state statutes. Each case is briefly summarized, and the votes of Justices are indicated unless the Court's decision was unanimous. Justices who write or join the majority or plurality opinion are listed under "Justices concurring", whether or not they write separate concurring opinions, and Justices who do not join the majority or plurality opinion, but write separate opinions concurring in the result, are listed under "Justices specially concurring." Previous editions contained only two lists, one for cases holding state laws unconstitutional or preempted by federal law, and one for unconstitutional or preempted local laws. The 2002 edition added the third category because of the different nature of preemption cases. State or local laws held to be preempted by federal law are void not because they contravene any provision of the Constitution, but rather because they conflict with a federal statute or treaty, and through operation of the Supremacy Clause. Preemption cases formerly listed in one of the first two categories have been moved to the third. A few cases with multiple holdings are listed in more than one category.

I. STATE LAWS HELD UNCONSTITUTIONAL

1. *United States v. Peters*, 9 U. S. (5 Cr.) 115 (1809). A Pennsylvania statute prohibiting the execution of any process issued to enforce a certain sentence of a federal court, on the ground that the federal court lacked jurisdiction in the cause, could not oust the federal court of jurisdiction. A state statute purporting to annul the judgment of a court of the United States and to destroy rights acquired thereunder is without legal foundation.

2. *Fletcher v. Peck*, 10 U. S. (6 Cr.) 87 (1810). A Georgia statute annulling conveyance of public lands authorized by a prior enactment violated the Contracts Clause (Art. I, § 10) of the Constitution.

Justices concurring: Marshall, C.J., Washington, Livingston, Todd
Justice dissenting: Johnson (in part)

3. *New Jersey v. Wilson*, 11 U. S. (7 Cr.) 164 (1812).

A New Jersey law purporting to repeal an exemption from taxation contained in a prior enactment conveying certain lands violated the Contracts Clause (Art. I, § 10).

4. *Terrett v. Taylor*, 13 U. S. (9 Cr.) 43 (1815).

Although subsequently cited as a Contract Clause case (*Piqua Branch Bank v. Knoop,* 57 U. S. (16 How.) 369, 389 (1853)), the Court in the instant decision, without referring to the Contracts Clause (Art. I, § 10), voided, as contrary to the principles of natural justice, two Virginia acts that purported to divest the Episcopal Church of title to property "acquired under the faith of previous laws."

5. *Sturges v. Crowninshield,* 17 U. S. (4 Wheat.) 122 (1819).

Retroactive operation of a New York insolvency law to discharge the obligation of a debtor on a promissory note negotiated prior to its adoption violated the Contracts Clause (Art. I, § 10).

6. *McMillan v. McNeil*, 17 U. S. (4 Wheat.) 209 (1819).

A Louisiana insolvency law had no extraterritorial operation, and, although adopted in 1808, its invocation to relieve a debtor of an obligation contracted by him in 1811, while a resident of South Carolina, offended the Contracts Clause (Art. I, § 10).

4. **Counsel failed to call witness**

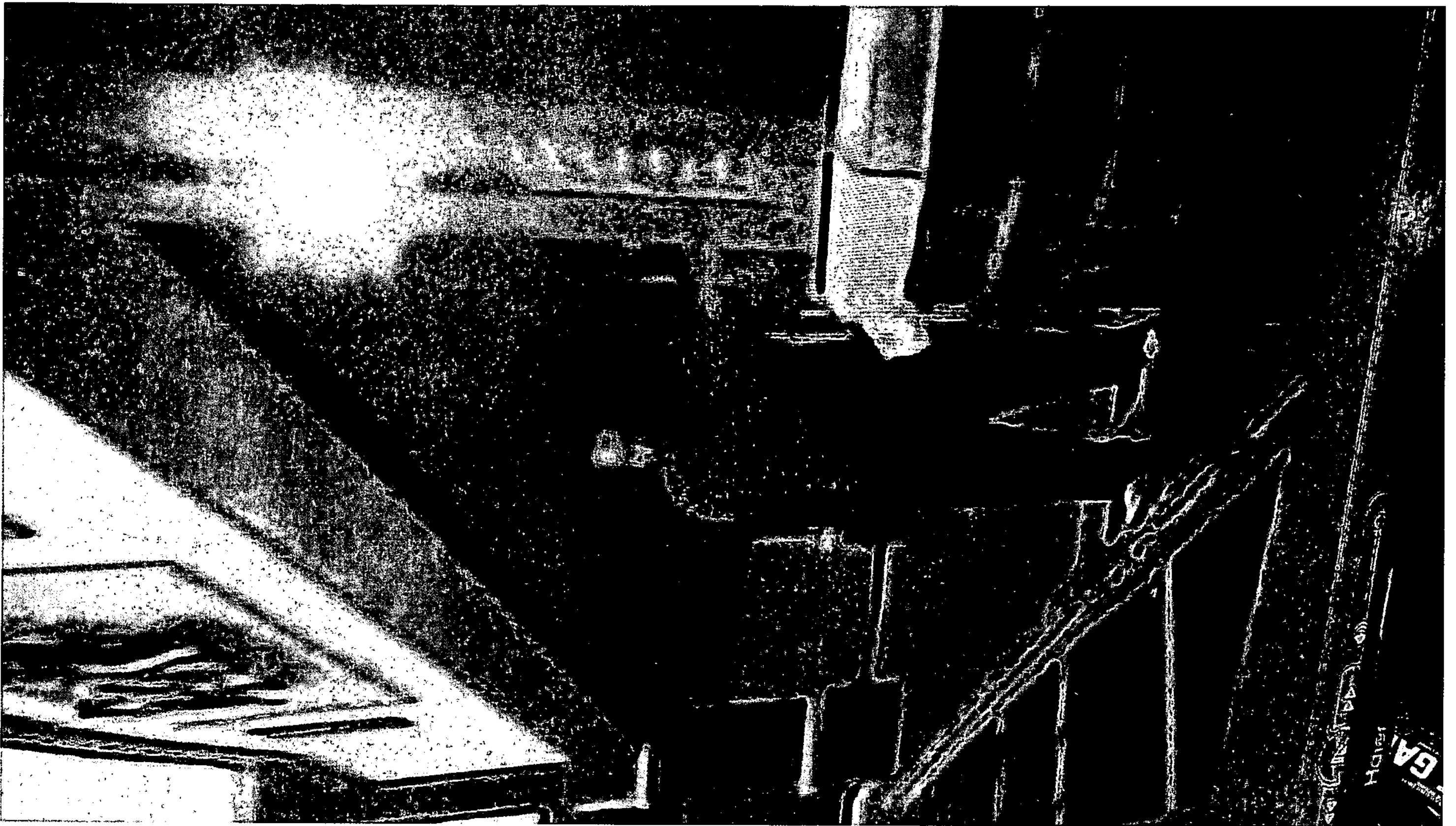
Look At Attachments

Transcript pages

Page 140

Page 250-251

Page 212



3. Sentence Fragments or Illegal sentence and 8th amendment violation

Look At Attachments

Transcript pages

Page 265

Page 290

Dillon v. United States (09-6338)

BOOKER

FEDERAL SENTENCING GUIDELINES

Appealed from the United States Court of Appeals for the Third Circuit (June 10, 2009)

Oral argument: March 30, 2010

FEDERAL SENTENCING GUIDELINES, *BOOKER*

In 1993, Petitioner Percy Dillon was tried and convicted in federal court for possession of crack cocaine and was sentenced to 322 months in prison under the Federal Sentencing Guidelines. Subsequently, the Supreme Court determined in *United States v. Booker* that the Guidelines were only advisory, not mandatory, and Congress retroactively reduced the Guideline range for crack cocaine offenses. Dillon filed a motion to have his sentence retroactively reduced, and argued that under *Booker* the Guidelines are not binding on his resentencing. The district court rejected this view, and reduced Dillon's sentence to 277 under the new Guidelines. The Third Circuit affirmed, and the Supreme Court granted certiorari to resolve the issue of whether the Federal Sentencing Guidelines are binding or merely advisory on retroactive sentence reductions.

- [Question presented]
- [Issue]
- [Facts]
- [Discussion]
- [Analysis]

Questions presented

I. Whether the Federal Sentencing Guidelines are binding when a district court imposes a new sentence pursuant to a revised guideline range under 18 U.S.C. § 3582.

II. Whether during a § 3582(c)(2) sentencing, a district court is required to impose sentence based on an admittedly incorrectly calculated guideline range.

top

Issues

After *Booker*, are federal courts allowed to deviate from the Federal Sentencing Guidelines when resentencing prisoners based on retroactively applicable Guideline modifications? Or are they still bound to follow the (albeit modified) Guidelines?

Pursuant to a statutory sentence-reduction proceeding, are courts permitted to recalculate the underlying Guideline range, or must they adhere to their initial calculation?

Facts

In 1993, the United States District Court for the Western District of Pennsylvania convicted Percy Dillon of a number of federal crimes relating to his possession of crack cocaine. Applying the Federal Sentencing Guidelines, the district court calculated Dillon's offense level and criminal history score, and sentenced him at the bottom of the permissible Guidelines range—322 months. At Dillon's initial sentencing, the trial judge noted that he believed the sentence imposed by the Guidelines was unreasonable. Despite noting 322 months was "unfair to the defendant," the district court concluded it was "bound by the guidelines range."

After Dillon's sentencing, two events took place. First, in 2005, the United States Supreme Court held in *United States v. Booker* that certain aspects of the Federal Sentencing Guidelines violated the Sixth Amendment right to a jury trial. The Court concluded in *Booker* that, constitutionally speaking, the Guidelines could no longer be mandatory, but only advisory. Second, in 2007, the United States Sentencing Commission issued new Guidelines which—once approved by Congress in 2008—had the effect of lowering sentences for crack cocaine offenses, and could be applied retroactively. As a result, Dillon filed a *pro se* motion in the district court for a sentencing reduction under 18 U.S.C. § 3583(c)(2), and argued *Booker* should be read to apply to sentence modifications as well as initial sentencing. Adhering to the new Guidelines, the district court reduced Dillon's sentence to 270 months, but concluded *Booker* did not apply to sentence modifications under § 3583(c)(2).

Dillon appealed to the United States Court of Appeals for the Third Circuit. The Third Circuit reasoned that *Booker* did not apply to retroactive sentence reductions under 18 U.S.C. § 3582(c)(2), but only initial sentences and *de novo* resentencings based on findings of judicial error. Noting that this position was consistent with "the overwhelming majority of our sister Courts of Appeals," the Third Circuit affirmed the district court. Furthermore, the Third Circuit rejected Dillon's argument that the district court should have recalculated his criminal history score upon resentencing, and concluded that the district court had no authority to do so. The Supreme Court granted certiorari on September 1, 2009.

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Discussion

In 1984, responding to concern about crime control, effective punishment, and the wide disparity in sentences imposed by various federal courts, Congress created the United States Sentencing Commission in order to limit judicial discretion by formulating national sentencing guidelines. The result was the promulgation of the Federal Sentencing Guidelines in 1987. Federal law requires federal courts to follow the Guidelines. The Guidelines lay out a comprehensive system for trial courts to determine the appropriate sentence for each category of federal crime. Under the Guidelines, judges first calculate a defendant's base offense level and then offset it against a variety of factors including the defendant's criminal history in order to impose a sentence within a proscribed range. Since 1989, over 1,000,000 defendants have been sentenced pursuant to the Guidelines.

As initially enacted, the Guidelines were mandatory. However, in 2005, the Supreme Court ruled that requiring courts to automatically apply the Guidelines in all cases violated the Sixth Amendment, because a defendant could be sentenced based on facts that were not determined by a jury beyond a reasonable doubt. Thus, after *Booker*, the relevant law was changed to indicate that the Guidelines

are advisory only—while district courts are encouraged to apply sentences based on the guidelines, they are no longer required to do so.

In 2007, the Sentencing Commission promulgated new Guidelines that eliminated the disparity between base offense levels for possession of crack cocaine and possession of powder cocaine, effectively lowering the base offense level for crack cocaine. Following the recommendation of the Sentencing Commission, Congress subsequently determined that the revised Guidelines should be applied retroactively. Defendants sentenced for crack cocaine offenses under the old Guidelines can now petition to have their sentences reduced to fall in line with the new Guidelines.

Because of the vast number of inmates convicted on crack cocaine charges and currently eligible for resentencing under 18 U.S.C. § 3582(c)(2), the Supreme Court's ruling in this case has the potential to affect literally thousands of prisoners. As such, numerous *amicus curiae* have submitted briefs.

The Washington Legal Foundation, advocates for individual rights and limited government, rejects the view that mandatory adherence to the Guidelines can be imposed in any circumstance, whether sentencing or resentencing. Fundamentally, the Foundation argues that the right to individualized sentencing is fundamentally "enmeshed" in the Constitution. According to the Foundation, the period from when the mandatory Guidelines were imposed in 1987 until *Booker* was decided in 2005 was an "historical anomaly" which *Booker* corrected.Finally, the Foundation notes the disparity that now exists between capital cases—where individualized sentencing determinations are required by the Eighth Amendment—and non-capital cases—where the Eighth Amendment is not applied to sentencing—and argues that the Court should correct this inequality by requiring individualized sentencing determinations in all cases.

A group of Federal Defenders have also submitted a brief on behalf of the Petitioner presenting a more textual argument. The Defenders contend that the plain language of 18 U.S.C. § 3553(a) (the general federal sentencing statute which makes the Guidelines but one factor a sentencing court must consider) applies in the same force whether a defendant is being sentenced initially or resentenced pursuant to 18 U.S.C. § 3582(c)(2). The Defenders further argue that § 3582(c)(2) cannot be read to vest "policy statements" issued by the Sentencing Commission with the force of law, because these statements are not adopted pursuant to formal rulemaking as required by the Administrative Procedure Act.Thus, they argue that the Commission's policy statement, which purports to make the new Guideline floors binding on courts faced with retroactively revising crack cocaine sentences, is invalid.

The United States Sentencing Commission has submitted its own amicus brief in support of the United States arguing that it has statutory authority to promulgate binding rules regarding retroactive modification of sentences under 28 U.S.C. § 994(u). According to the Commission, *Braxton v. United States* controls, where the Supreme Court noted that "Congress has granted the Commission the unusual explicit power to decide whether and to what extent its amendments reducing sentences will be given retroactive effect."Furthermore, the Commission asserts that determining the appropriate parameters of a retroactive sentence modification could present an undue burden on individual judges.Conversely, the Commission argues that it is uniquely positioned and empowered to weigh the complicated policy choices that must be made whenever retroactive sentence modifications are authorized. Finally, the Commission raises the prudential concern of the flood of litigation and resulting uncertainty that would occur if the Court adopted a rule requiring individualized

determinations for all retroactive resentencing proceedings. Ultimately, the Commission concludes that if *Booker* is held to apply in this context, it would be less likely to recommend retroactive Guideline modifications in the future.

top

Analysis

Application of United States v. Booker

In *United States v. Booker*, the Supreme Court held that increasing a defendant's sentence under mandatory Sentencing Guidelines based on judicial fact-finding violated the Sixth Amendment. Therefore, the Federal Sentencing Guidelines are now advisory. In effect, *Booker* "requires a sentencing court to consider Guidelines ranges [but] permits the court to tailor the sentence in light of other statutory concerns as well."When imposing sentences, judges must consider factors listed in 18 U.S.C. § 3553(a) such as the seriousness of the offence, characteristics of the defendant, as well as the goals of deterrence and protecting the public. Although *Booker* dealt with the initial imposition of sentences under § 3553, Dillon argues that a district court retroactively reducing a sentence pursuant to 18 U.S.C. § 3582(c)(2) is subject to *Booker*'s rule and cannot be bound by the Guidelines. Dillon urges that *Booker* applies to any resentencing that relies on the factors listed in §3553(a). According to Dillon, a sentence modification under § 3582(c)(2) is functionally equivalent to the sentencing at issue in *Booker*. Dillon points out that *Booker* applies to formal resentencings that are based on errors because 18 U.S.C. § 3742(g), which governs remands for resentencing in cases where a sentence has been vacated as unlawful or erroneous, directs courts to resentence in accordance with § 3553(a).Dillon argues that because § 3582(c) likewise directs judges to consider the factors in §3553(a) when modifying a prisoner's sentence, *Booker* must apply. Dillon contends that distinguishing between sentence modifications under §3582 and any other kind of resentencing "amounts to nothing more than labeling."

Respondent United States, however, denies that the Sixth Amendment has been violated, and rejects the application of *Booker*. The United States maintains that *Booker* does not apply to sentences that were already final when *Booker* was decided in 2005, and that its holding only applies to plenary sentencings—initial sentencings or resentencings occurring after an original sentence has been found to be unlawful. In the United States' view, a § 3582(c)(2) sentence modification falls outside the scope of *Booker* precisely because it is not a *de novo* sentencing imposed to replace a sentence that has been vacated or set aside, but instead is a discretionary reduction of an *otherwise-final* sentence based on a specific Guidelines amendment. This case's differentiation from the plenary sentencing in *Booker* is particularly meaningful, the United States contends, because unlike plenary sentencing, a § 3582(c)(2) resentencing does not implicate the Sixth Amendment. This is because under § 3582(c)(2), the court is not using judge-found facts to formulate a new sentence or increase the length of a prison's sentence, but rather, exercises its discretion to reduce a preexistent final sentence. The United States insists that the Sixth Amendment is not offended, and "*Booker*'s decision to render the Guidelines advisory for purposes of sentencing under 18 U.S.C. 3553(a) [does not] have any application to Section 5382(c)(2) proceedings."The United States also emphasizes that § 3582(c) permits the discretionary reduction of a prison sentence only insofar as the reduction is consistent with the policy statement in Federal Sentencing Guidelines § 1B1.10(b)(2), which precludes reducing a sentence to a term less than the minimum of the amended guideline range.

Dillon acknowledges the mandate of Federal Sentencing Guidelines § 1B1.10(b)(2), but asserts that a sentence must always comport with existing law, irrespective of the context, and that the Sixth Amendment is violated whenever a sentence "exceeds the maximum allowed under the facts found by the jury or admitted by the defendant." Dillon argues that the United States' reliance on § 1B1.10(b)(2) is misplaced because "[Section] 1B1.10 attempts to resurrect the mandatory Guidelines system *Booker* invalidated." Dillon also urges that the policy statement cannot limit a court's discretion to apply the factors in §3553(a) because when policy statements and federal statutory law conflict, the policy statement must yield.

Recalculation of the Amended Guidelines Range

Dillon next argues that irrespective of *Booker*, his sentence necessarily must be vacated and remanded because the district court had the authority and the duty to correctly recalculate the guidelines range, rather than base the sentencing on the original, clearly erroneous guidelines range. According to Dillon, the lower court erred under Federal Sentencing Guidelines § 4A1.2(c)(1)when, in calculating his criminal history score, it incorporated a prior misdemeanor for resisting arrest that resulted in a term of probation less than one year and a term of imprisonment fewer than thirty days. Dillon maintains that because Federal Sentencing Guidelines § 4A1.2(c)(1)precludes counting a prior misdemeanor that resulted in a term of probation less than one year and a term of imprisonment fewer than thirty days when calculating a guidelines range, it was reversible error for the district court to incorporate his resisting arrest conviction in its calculation.

The United States counters that because Dillon did not raise this argument in the district court, the district court's ultimate determination is not so plainly erroneous as to require reversal under Federal Rule of Criminal Procedure 52(b). Furthermore, the United States insists that even if the district court's calculations are reviewable for plain error, the district court was not obligated, let alone permitted, to correct the purported error during the resentencing because neither § 3582(c)(2) nor Federal Sentencing Guidelines § 1B1.10 authorize a district court to revisit sentencing decisions that do not relate to the Guidelines amendment upon which a sentence reduction is founded.

top

Conclusion

This case presents the Supreme Court an opportunity to clarify the reach of its holding in *Booker*, and has the immediate potential to affect the sentences thousands of prisoners nationwide. Furthermore, the Supreme Court will have the opportunity to clarify the scope of the Sixth Amendment as it relates to the overall constitutionality of the Federal Sentencing Guidelines.

overturned, and therefore ineffective assistance is a common heabus corpus claim. To prove ineffective assistance, a defendant must show (1) that their trial lawyer's performance fell below an "objective standard of reasonableness" and (2) "a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Strickland v. Washington, 466 U.S. 668 (1984).

5. Violation of Chain of Custody

Look At Attachments

Transcript pages

Pages 167

Pages 173-175

Pages 297-304

Attachment # 2

Broken Chain of Custody Violation

Chain of Custody Report

Report Date: March 21, 2014

Barcode: 14-000185-EV0001
Case Number: 14-000676
Folder Number: EVMAR2014

Description: THREE DISCS CONTAINING VIDEO SURVEILLANCE
Jurisdiction: SC0020300
Evidence Number: 14-000185-EV

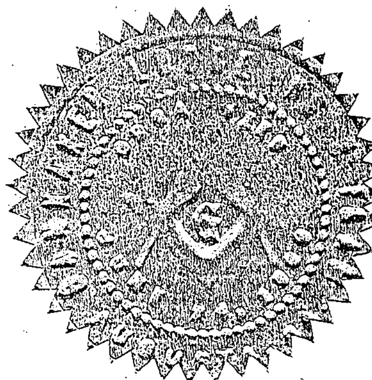
Category: Y
Classification: General
Prop Code/Description: THREE DISCS CONTAINING VIDEO S
Make:
Model:
Serial No:
VIN:
Narcotics Type:
Quantity:
Measure:
Color:
Item Status: Evidence
Temporary Location:
Temporary Location Date:
Recovery Date: 03/19/2014 10:53:00
Recovery Officer: 197 BUSBEE, CLINT
Recovery Address: 1163 KNOX AVE NORTH AUGUSTA SC 29841
Released By: JC BUSBEE
Released To: EVIDENCE CUSTODIAN
Other Jurisdiction:
Associated Numbers:

Involved Parties

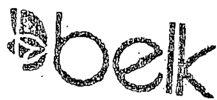
Involvement Type	Name	Address	Phone
SUSPECT	EDWARD RODRIQUEZ ANTHONY	2210 BUNGALOW ROAD AUGUSTA GA 30906-	
VICTIM	BELK	1163 KNOX AVENUE NORTH AUGUSTA SC 29841-	803-279-4421

Location/Movement History

Location ID	Officer	Reason	Transaction Date	Entered By
BA03: BASKET 03	SHAW, GEOR 122	evidence	03/20/2014 08:20:19	GEORGE A SHAW
LO003: LOCKER 003	197 BUSBEE, CLINT	EVIDENCE	03/19/2014 11:00:55	CLINT BUSBEE



(1)



1163 KNOX AVE
1163 KNOX AVE
NORTH AUGUSTA, SC 29841
(803) 279 - 4920
STORE MANAGER:WILL WHITE

See

STORE:0299 REG:5064 V01.66 05/21/2014
TRAN#:2373 ASSOC:003778 01:08 PM

ASSOCIATE NAME: JULIAN

SALE

DENIM PANTS
690742516534
62 00 PERM MKDN 39 99 1 39 99
KNIT TOPS
888132374813
89 50 PERM MKDN 59.99 1 49 99
59.99 NEW PRICE 49.99
KNIT TOPS
888132374813
89 50 PERM MKDN 59 99 1 49 99
59 99 NEW PRICE 49 99

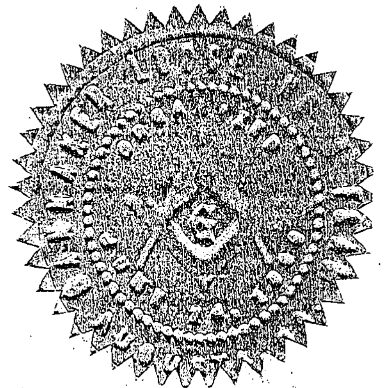
QUANTITY:003 SUB-TOTAL 139 97
SC 7% TAX 9 80
TOTAL $ 149.77
CASH 149.77

See

YOU SAVED $ 101 03

Shop Belk.com 24/7
For Great gift ideas
Free Shipping everyday
See Belk.com for details
Thank you for shopping at Belk. Please
retain receipt for return or exchange

** REPRINT COPY **



(2)

03/20/2014

Evidence Receipt

Location: BA03

Description: Evidence Permanent Assignment Receipt

Entered By: GEORGE A SHAW

Case Number : 14-000676

Transaction Date: 03/20/2014 08:20:26

Date/Time of Storage: 03/20/2014 08:20:19

Folder Number : EVMAR2014
Evidence Number : 14-000185-EV
Jurisdiction : SC0020300
Recovery Location : BELK
Recovery Address : 1163 KNOX AVE
NORTH AUGUSTA SC 29841
Recovery Date : 03/19/2014 10:53:41
Recovery Officer : 197- BUSBEE, CLINT
Released By : JC BUSBEE
Released To : EVIDENCE CUSTODIAN
Other Agency ORI :
Associated Numbers :

Barcode : 14-000185-EV0001
Property Classification : General
Category : OTHER ITEMS
Property Code/
Description : THREE DISCS CONTAINING VIDEO SURVEILLANCE

Description : THREE DISCS CONTAINING VIDEO SURVEILLANCE

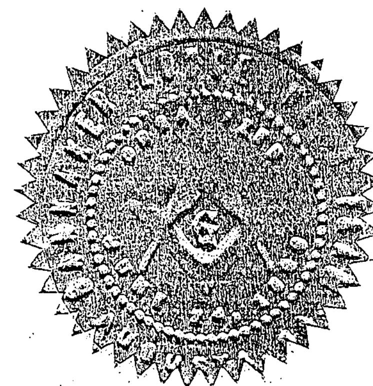
Make :
Model :
Serial :
Narcotics Type :
Quantity :
Measure :
Item Status : Evidence

Involvement Type : VICTIM
Name : ,
Address : 1163 KNOX AVENUE NORTH AUGUSTA SC 29841-
Phone : 803-279-4421

Received By : Georg Shaw [signature]

Date Received : 3/20/14

Released To :



(3)

ADDITIONAL NARRATIVE

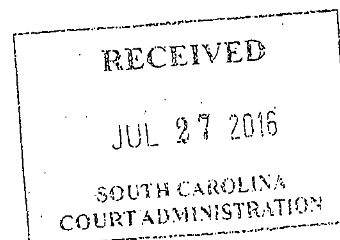
Name: North Augusta Department of Public Safety	ORI #: SC0020300	Report Date/Time: 03/16/2014 18:52	OCA #: 14-000676

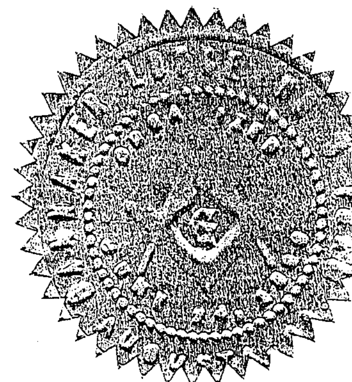
SUP

14-000676
SHOPLIFTING
DISORDERLY CONDUCT
SUBJECT. EDWARD ANTHONY
SUPPLEMENT

ON 05/21/2014 AT 1900 HOURS, PSO D. SMITH OBTAINED VIDEO AND A COPY OF THE RECEIPT OF THE STOLEN ITEMS FROM BELK. PSO D. SMITH WILL DROP THE VIDEO INTO EVIDENCE AND TURN THE RECEIPT IN TO THE RECORDS DIVISION. PSO D. SMITH ALSO REQUESTED THAT A COPY OF THE IN-CAR VIDEO OF THIS INCIDENT BE OBTAINED. PSO D. SMITH HAS NO FURTHER.

05/21/2014 2100 HOURS
PSO D. SMITH 288





Agency: **North Augusta Department of Public Safety**
Officer ID/Name:
Date:

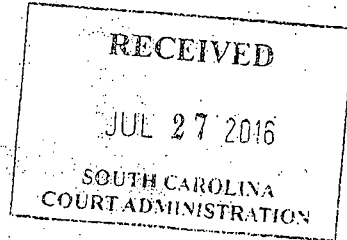
Incident
Incident Number: 14-000676
Case Number: 14-000676

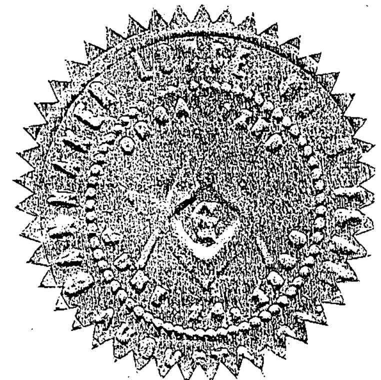
Narrative Title: **SUP**

14-000676
SHOPLIFTING 3RD OR SUBSEQUENT OFFENSE
DISORDERLY CONDUCT
SUBJECT: EDWARD ANTHONY
SUPPLEMENT

ON 05/21/2014 AT 1900 HOURS, PSO D. SMITH OBTAINED VIDEO AND A COPY OF THE RECEIPT OF THE STOLEN ITEMS FROM BELK. PSO D. SMITH WILL DROP THE VIDEO INTO EVIDENCE AND TURN THE RECEIPT IN TO THE RECORDS DIVISION. PSO D. SMITH ALSO REQUESTED THAT A COPY OF THE IN-CAR VIDEO OF THIS INCIDENT BE OBTAINED. PSO D. SMITH HAS NO FURTHER.

05/21/2014 2100 HOURS
PSO D. SMITH 288





ADDITIONAL NARRATIVE

27

Agency Name:	ORI #:	Report Date/Time:	OCA #:
North Augusta Department of Public Safety	SC0020300	03/16/2014 18:52	14-000676

INT

THE STORE AGAIN. R/O WAS ADVISED TO ENTER THE STORE AND APPROACH THE SUBJECT. AFTER R/O ENTERED THE STORE, R/O COULD NOT LOCATE THE SUBJECT. R/O MET WITH THE COMPLAINANT, PATSY SINGLETARY (LOSS PREVENTION), WHO POINTED THE SUBJECT OUT INSIDE OF THE STORE. R/O MET WITH THE SUBJECT AND IDENTIFIED HIM AS EDWARD ANTHONY. MR. ANTHONY IMMEDIATELY RAISED HIS HANDS, HIS SHIRT, AND HIS VOICE AND BEGAN TO YELL, "I DIDN'T DO NOTHING!" R/O HAD MR. ANTHONY PLACE HIS HANDS ON TOP OF A CLOTHING RACK SO R/O COULD PERFORM A WEAPONS FRISK FOR OFFICER SAFETY PURPOSES. R/O HAD TO COMMAND MR. ANTHONY TO KEEP HIS HANDS ON THE CLOTHING RACK THREE TIMES. AS R/O BEGAN THE WEAPONS FRISK, MR. ANTHONY STATED, "I AIN'T GOT NOTHING, YOU CAN CHECK MY UNDERWEAR!" R/O THEN SEARCHED MR. ANTHONY'S PERSON, AS HE HAD GIVEN CONSENT. R/O DID NOT LOCATE ANY CONTRABAND OR STOLEN ITEMS ON MR. ANTHONY'S PERSON.

6. **Elements of shoplifting not met**

Attachment

Transcript pages

Page 137

Pages 150-151

Shoplifting Probable Cause – 6 Steps to Reduce False Arrest Claims

Shoplifting Probable Cause. As a rule of thumb, to establish a solid base for probable cause, and reduce false arrest claims, there are six universally accepted steps that a merchant should follow before detaining someone suspected of shoplifting. However, the law in most states does not require all six precautionary steps to prove criminal intent.

Six Shoplifter Probable Cause Precautionary Steps

1. You must see the shoplifter approach your merchandise
2. You must see the shoplifter select your merchandise
3. You must see the shoplifter conceal, carry away or convert your merchandise
4. You must maintain continuous observation the shoplifter
5. You must see the shoplifter fail to pay for the merchandise
6. You must approach the shoplifter outside of the store

Shoplifting Probable Cause: Step 1

You must see a shoplifter enter your store or approach a display and see that the customer does not have any merchandise in their hand or that they haven't retrieved an item from their own purse, bag, or pocket. This step prevents a

common mistake that occurs when a customer brings an item to the store for comparison purposes or for a refund or exchange and does not check in at the service desk first. If you detain someone after seeing them replace their own merchandise into their pocket or bag, you could be subject to a false arrest claim even though it is a seemingly honest mistake. Many false arrest claims are filed because retailers missed this important.

Attachment # 1

Judge recognized the errors at hand. When Mr. Anthony write a letter on declaratory judgment as you can see page 1

NOV 28 2016

State of South Carolina
The Circuit Court of the Tenth Judicial Circuit

R. Lawton McIntosh
Judge

Post Office Box 8002
100 South Main Street
Anderson, SC 29622-8002
Phone: (864) 260-4059
Fax: (864) 224-6320
lmcintoshj@sccourts.org

November 23, 2016

Ms. Julie Amanda Coleman
S.C. Attorney General's Office
P.O. Box 11549
Columbia, SC 29211

Re: State of South Carolina v. Edward Anthony
CA # 2014-GS-02-01000

Ms. Coleman,

Please find the enclosed letters received from Mr. Edward Anthony, inmate number 363714 located at Trenton Correctional Institute, 84 Greenhouse Road, Trenton, SC 29847. The case was tried in 2015. The enclosed was received by my office after November 15, 2016.

To the extent the enclosed would constitute post-trial motions, they would be untimely and I would have no jurisdiction to hear them. Out of an abundance of caution the filing may constitute an application for post-conviction relief, I am forwarding the same to the Attorney General's Office to take such steps as they see necessary and/or prudent. By copy of this letter, I am notifying Mr. Anthony of this communication as well as his former trial attorney and the assistant solicitor at the time.

With kindest regards, I remain yours truly,

R. Lawton McIntosh, Judge
Tenth (10th) Judicial Circuit

Cc: Aiken County Clerk of Court
Cc: Mr. Edward Anthony
Cc: Mr. Jeffrey Alan Slocum, Jr.
Cc: Mr. M. Bradley McMillian

The Judge see his own error, and is asking. Ms. Coleman the Assistant Attorney General what to do.

E. Anthony

Attachment # 3

Mr. Anthony had 1,013.88 on him and searched in the store on March 16, 2014. No evidence was discovered by police but money, as you can see.

PROPERTY ENVELOPE

FOR CASHIER USE ONLY

INSTITUTION

INMATE'S NAME Anthony, Edward

ICN NO.

CC NO.

DATE 3-16-14

CORRECTION OFFICER

SHIELD NO.

Money $ ______ Food Stamps $

Quantity	Property	Quantity	Property	Quantity
1	Wallet		Watch	
	Purse		Rings	
	Lighter		Pr.Earrings	
	Keys		Bracelet/Wrist Chain	1
	Pr.Shoelaces		Necklace/Neck Chain	

Other [illegible] Condoms Lottery tic
Cellphone, tools, miscel papers, Business cards

I ACKNOWLEDGE THE SURRENDER OF THE PROPERTY LISTED.

______ SIGNATURE OF INMATE 3/16/14 DATE

PROPERTY RECEIVED FROM INMATE BY:
NAME OF EMPLOYEE AND ID# ______ (PRINT) ______ (ID #)

SIGNATURE OF EMPLOYEE ______ 3/16/14 DATE

I, ______ ACKNOWLEDGE THE RETURN OF MY PROPERTY
SIGNATURE OF INMATE/ DESIGNEE

ON ______

PROPERTY RETURNED TO INMATE/DESIGNEE BY:
NAME OF EMPLOYEE AND ID# ______ (PRINT) ______ (ID #)

SIGNATURE OF EMPLOYEE ______ DATE

Aiken County Detention Center
435 Wire Road
Aiken, South Carolina 29801
803-643-1915

3/16/2014 20:19
TRANSACTION #00064695
Inmate: EDWARD ANTHONY
Inmate ID: 118563
Amount Deposited: $1,013.88

Cash transaction.
Amount credited to account: $1,013.88

McDaniel Supply Company

Attachment:

Courts Erred in Refusing to remove Ineffective Assistance of Counsel

LaNelle C. DuRant

Appellate Defender

To whom is my concern:

This is Edward Anthony and this is on the record at this time. When I requested for Ms. **LaNelle C. DuRant** Appellate Defender to be removed off of my case. I was denied by the courts refusing to do so on October 03, 2018, because her and another attorney was ineffective the first time or represented me on my first appeal. By not showing the errors on the first appeal, was a claim for ineffective assistance of counsel, because my conviction was VIOD. I was arrested on March 16, 2014 with no evidence to establish probable cause to detain me. On May 21, 2014 the officer admitted to return to obtain evidence in violation of the 4th and 14th amendments.

Now on June 18, 2019 as you can see, Ms. **LaNelle C. DuRant** Appellate Defender, has retired herself from my case at this time. In violation of my civil rights, why because she wrote the paper work on my case before it gets over turned. It's a conflict of interest by the attorney banning the ship before we really know the outcome.

United States v. Gonzalez-Lopez, 548 U.S. 140 (2006)

In an opinion by Justice Scalia, the Court held that the improper denial of defendant's choice of counsel is a denial of the Sixth Amendment and it is not subject to harmless error review or a requirement that the defendant establish prejudice. In this case (as summarized below in the Eighth Circuit opinion), the trial court improperly denied the defendant's chosen counsel's motion to appear pro hac. All parties agreed that the trial judge's decision was incorrect.

The denial of his right to counsel of choice was inconsequential. The right to counsel of choice is a fundamental right in itself which, when denied, requires relief. In short, the denial of the right to counsel of choice is a structural error. Denying counsel of choice is a structural error that affected the voluntariness. The defendant's request to have new counsel violated his Sixth Amendment right. The court made no effort to accommodate the defendant's right to change counsel by modifying the appeal, by not disqualifying counsel was erroneous and prejudicial, because the improper disqualification of counsel amounts to structural error.

Another error where prejudice is presumed is when a defendant is denied the assistance of counsel. In *Gideon v. Wainwright*, 372 U.S. 335 (1963), the Supreme Court held that the U.S. Constitution requires the assistance of counsel in all criminal prosecutions. Thus, the Court then held in *U.S. v. Cronic*, 466 U.S. 648 (1984), that the "most obvious" IAC claim would be the complete denial of counsel. And this does not mean for the entire case. The denial of counsel for even a single proceeding can be a prejudicial error, if it was a "critical stage" of the case. Examples of this would be the denial of counsel. As you can see, IAC claims can be quite diverse. But the "winners" are those where you can show that your lawyer's errors affected the outcome — that the outcome would have been different absent the errors — or that the error was grave enough to be presumed prejudicial off the bat.

The Supreme Court has held that part of the right to counsel is a right to effective assistance of counsel. Proving that their lawyer was ineffective at trial is a way for convicts to get their convictions

SCCID

SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE

Division of Appellate Defense
1330 Lady Street, Suite 401
Columbia, South Carolina 29201-3332

Post Office Box 11589
Columbia, South Carolina 29211-1589
Telephone: (803) 734-1330
Facsimile: (803) 734-1397

Robert M. Dudek, Chief Appellate Defender
Wanda H. Carter, Deputy Chief Appellate Defender

June 26, 2019

Mr. Edward Anthony
2210 Bungalow Road
Augusta, GA 30906

Re: Your Case

Dear Mr. Anthony:

Appellate Defender LaNelle C. DuRant retired from the Division of Appellate Defense on June 18, 2019. Your case has been reassigned to me. Your appeal will proceed in normal fashion, but I wanted you to know that I am your new attorney.

The Johnson Petition in your case was filed by Ms. DuRant, but I will take care of any administrative matters that arise involving your appeal until it is decided by the Court of Appeals.

If you have any questions or concerns about your case or the change in representation, please do not hesitate to contact me.

Sincerely,

Wanda H. Carter
Deputy Chief Appellate Defender

WHC/sl

The Supreme Court of South Carolina

Edward Anthony, Petitioner,

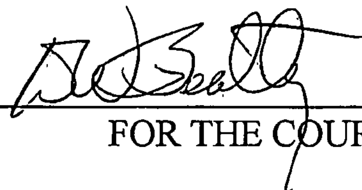
v.

State of South Carolina, Respondent.

Appellate Case No. 2018-000628

ORDER

The *pro se* motion to relieve counsel is denied.

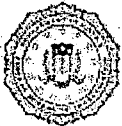


C.J.

FOR THE COURT

Columbia, South Carolina
October 03, 2018

cc: Julie Amanda Coleman, Esquire
LaNelle Cantey DuRant, Esquire
Mr. Edward Anthony



U.S. Department of Justice

Federal Bureau of Investigation

Washington, D. C. 20535-0001

November [illegible], 2016

Mr. Edward Anthony, #363714
T.C.I.
84 Greenhouse Road
Trenton, SC 29847

Dear Mr. Anthony:

This letter is in response to the correspondence you mailed to the FBI in which you allege you were choked and tasered.

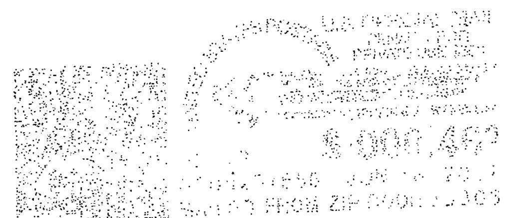
Please mail the specific details of your allegations to FBI's Columbia Field Office. That field office is located at 151 Westpark Boulevard, Columbia, SC 29210.

Sincerely yours,

Criminal Investigative Division

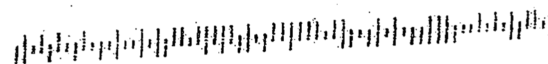
U.S. Department of Justice
Office of the Inspector General
510 Shotgun Road, Suite 200
Sunrise, Florida 33326

N METRO
GA 301
20 JUN '17
PM 4 L



Edward Anthony
1714 Apple Valley Drive
Augusta, Georgia 30906

30906-382214



.artment of Justice
.al Bureau of Investigation

935 Pennsylvania Avenue, NW
Washington, DC 20535-0001

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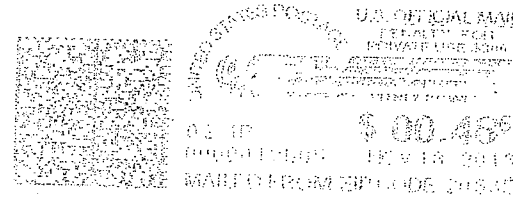
Penalty for Private Use $300

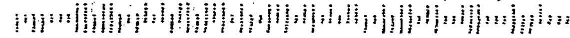


NOV 21 2013

Mr. Edward Anthony, #363714
T.C.I.
84 Greenhouse Road
Trenton, SC 29847

2A

2984782100 R001



Study sees injustice in SC's lower courts

Defendants not told of rights, study says

Is choice of paying a fine or doing jail time creating a debtors' prison?

Beaufort woman cited for failing to appear at her trial — while she was in being held in county jail

BY TIM SMITH
tcsmith@greenvillenews.com

Many defendants in South Carolina's lower courts are not advised of their constitutional rights, trials are held without any lawyer present in the courtroom and those found guilty are sometimes given the choice of paying a fine they cannot afford or going to jail, in effect creating a debtors' prison, a national study of the state's magistrate and municipal courts has found.

The study, "Summary Injustice," by the American Civil Liberties Union and the National Association of Criminal Defense Lawyers, was issued Monday following observations by attorneys in 27 lower courts in December 2014 and July 2015.

South Carolina has about 319 magistrates and about 200 municipal courts, called summary courts, that handle misdemeanor charges ranging from traffic violations to shoplifting and drug possession.

The report paints a bleak picture of what can happen to poor and unrepresented defendants in the state's lower courts, where often no lawyer is present, cases are sometimes prosecuted by police and thousands face criminal charges that can send them to jail for 30 days with a criminal record.

Among the report's other findings are that the courts often fail to inform defendants of their right to counsel and refuse to provide counsel to the poor at all stages of the criminal process.

"When you go to a summary court in South Carolina, you find yourself in a judicial netherworld where the police officer who made the arrest acts as the prosecutor, the judge may not have a law degree, and there are no lawyers in sight," said Susan Dunn, legal director of the ACLU of South Carolina. "By operating as if the Sixth Amendment doesn't exist, these courts weigh the scales of justice so heavily against defendants that they often receive fines and jail time they don't deserve."

Magistrates and municipal judges are not required to hold law degrees in South Carolina. Newly appointed magistrates must have a four-year degree and both types of judges must undergo training and certification exams. Magistrates who are not attorneys must observe 10 trials before handling one of their own.

Summary judges are provided with a manual that offers information about procedures, how the court system works and a defendant's rights. In fact, the state requires all magistrates and municipal judges to use a checklist when handling criminal cases. In those cases in which a jail sentence is likely, judges are required to inform defendants of their right

SEE COURTS, 7A

FILED Feb 2 2017
[signature] C.C.C.P. & G.S.
[signature] Deputy Clerk

Exhibit 1

TRACY GLANTZ: tglantz@thestate.com

Attorney General Alan Wilson at the South Carolina Supreme Court on Thursday. The court's decision might decide the future of an investigation into public corruption.

Pascoe: Letting Wilson fire him could derail State House probe

Supreme Court is scene of historic showdown between Attorney General Alan Wilson and special prosecutor David Pascoe

Wilson, who has a conflict of interest in investigating General Assembly, claims he can fire Pascoe from overseeing investigation

Pascoe argues case himself; Wilson hires private attorney Mitch Brown.

BY JOHN MONK
jmonk@thestate.com

THESTATE.COM
Legal observers discuss what happened in court

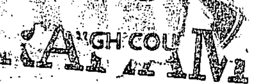
Special prosecutor David Pascoe told S.C. Supreme Court justices on Thursday that if they agree that Attorney General Alan Wilson can fire him from an ongoing investigation into public corruption in the S.C. General Assembly, they will be giving Wilson unprecedented power to scuttle investigations he has recused himself from.

Wilson, citing conflicts of interest, removed himself from the investigation last year and designated Pascoe, the state's 1st Circuit solicitor, as an independent special prosecutor in the case.

But now Wilson is trying to fire Pascoe, who along with State Law Enforcement Chief Mark Keel, activated a State Grand Jury in March because, Pascoe told the justices Thursday, new information has prompted SLED to delve deeper into the allegations of public corruption.

After Wilson tried to stop him from moving ahead with the investigation, Pascoe asked the Supreme Court to intervene.

In legal filings and public statements, Wilson has downplayed his attempted firing of Pascoe, portraying it as a disciplinary move and asserting he will replace Pascoe with 5th Circuit Solicitor Dan Johnson so the investigation can keep goin



statement.
Mateen called 911 during the shooting rampage

* Public Corruption *

Exhibit (1)

TRACY GLANTZ tglantz@thestate.com

Attorney General Alan Wilson at the South Carolina Supreme Court on Thursday. The court's decision might decide the future of an investigation into public corruption.

Pascoe: Letting Wilson fire him could derail State House probe

Supreme Court is scene of historic showdown between Attorney General Alan Wilson and special prosecutor David Pascoe

Wilson, who has a conflict of interest in investigating General Assembly, claims he can fire Pascoe from overseeing investigation

Pascoe argues case himself; Wilson hires private attorney Mitch Brown.

BY JOHN MONK
jmonk@thestate.com

THESTATE.COM
Legal observers discuss what happened in court

Special prosecutor David Pascoe told S.C. Supreme Court justices on Thursday that if they agree that Attorney General Alan Wilson can fire him from an ongoing investigation into public corruption in the S.C. General Assembly, they will be giving Wilson unprecedented power to scuttle investigations he has recused himself from.

Wilson, citing conflicts of interest, removed himself from the investigation last year and designated Pascoe, the state's 1st Circuit solicitor, as an independent special prosecutor in the case.

But now Wilson is trying to fire Pascoe, who along with State Law Enforcement Chief Mark Keel, activated a State Grand Jury in March because, Pascoe told the justices Thursday, new information has prompted SLED to delve deeper into the allegations of public corruption.

After Wilson tried to stop him from moving ahead with the investigation, Pascoe asked the Supreme Court to intervene.

In legal filings and public statements, Wilson has downplayed his attempted firing of Pascoe, portraying it as a disciplinary move and asserting he will replace Pascoe with 5th Circuit Solicitor Dan Johnson so the investigation can keep goin

statement.

Mateen called 911 during the shooting rampage.

* Public Corruption *

Exhibit (1)

Attorney–client privilege violated by Bradley McMillen laboring under ineffective assistance of counsel, failing to object to nickname by prosecutor

When Bradley McMillan failed to object to the name calling by the prosecutor, he is ineffective assistance of counsel. Why because if the alleged accuser and the arresting police officer never called the defendant by the nick name. So if public defender never objected to the plain face error, then if makes him ineffective assistance of counsel.

In the law of the United States, **attorney–client privilege** or **lawyer–client privilege** is a "client's right to refuse to disclose and to prevent any other person from disclosing confidential communications between the client and the attorney.

The attorney–client privilege is one of the oldest recognized privileges for confidential communications. The United States Supreme Court has stated that by assuring confidentiality, the privilege encourages clients to make "full and frank" disclosures to their attorneys, who are then better able to provide candid advice and effective representation.

A corollary to the attorney–client privilege is the joint defense privilege, which is also called the common interest rule. The common interest rule "serves to protect the confidentiality of communications passing from one party to another party where a joint defense or strategy has been decided upon and undertaken by the parties and their respective counsel."

An attorney speaking publicly in regard to a client's personal business and private affairs can be reprimanded by the bar and/or disbarred, regardless of the fact that he or she may be no longer representing the client. Discussing a client's or past client's criminal history, or otherwise, is viewed as a breach of confidentiality. The attorney–client privilege is separate from and should not be confused with the work-product doctrine.

Perjury under oath by the prosecutor is a criminal act that occurs when a person lies or makes statements that are not truthful while under oath. For example, if a person is asked to testify in a criminal proceeding and they are under oath but do not tell the truth, they can be charged with perjury if it is discovered that they have lied.

The South Carolina Court of Appeals

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June 28, 2019

Edward Anthony
2210 Bungalow Road
Augusta GA 30906

Re: Edward Anthony v. State
Appellate Case No. 2018-000628

Dear Mr. Anthony:

This letter responds to your correspondence the Court received dated June 23, 2019. You concern is that you were not notified of your 45 days to file a pro se response by Ms. DuRant. After reviewing your case, we see the Supreme Court mailed you a letter on February 04, 2019, alerting you that you had forty-five days, from that date, to file a pro se response. Your response was due by March 21, 2019. The Supreme Court transferred your case to the South Carolina Court of Appeals on March 26, 2019. If you still wish to file a pro se response to the Johnson Petition filed by your attorney, you may do so within 15 days of this letter.

Your attorney of record is Wanda Carter of the Office of Appellate Defense, as Ms. DuRant has retired from the Office of Appellate Defense as of June 18, 2019.

All future correspondence should be mailed to the South Carolina Court of Appeals, P.O. Box 11629, Columbia, SC 29211.

Very truly yours,

CLERK

cc: Wanda Carter, Esquire
Megan Harrigan Jameson, Esquire

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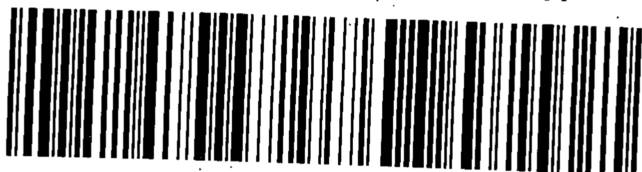

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