

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM YORK COUNTY

Court of Common Pleas

Case No. 2015-CP-46-03179

JOHN C. HAYES, III, Circuit Court Judge

Appellate Case No. 2016-002488

City of Rock Hill,

Respondent,

v.

Triando M. Stroud,

Appellant.

INITIAL BRIEF OF RESPONDENT

TRIANDO STROUD

4715 ForestRidge Commons Dr.

Charlotte, NC 28269

(803) 524-1770

Appellant

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JUL 26 2019

SC Court of Appeals

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CASES

State v. Smith, 304 S.C. 129, 132, 403 S.E.2d 162, 164 (Ct. App. 1991).

STATUTES

S.C. Code of Laws § 16-25-70

S.C. Code of Laws § 16-25-70 (D)

STATEMENT OF THE ISSUES ON APPEAL

- i. Appellant had issues with getting mail being unstable in different households during the process of this case.
- ii. Appellant did the best he could after public defender move on into another law firm during the process of this case

STATEMENT OF THE CASE

Sunday March 8th, 2015 Shaquita and Triando had an agreement to meet with the kids after she gets off in the evening in Charlotte, Nc. Shaquita wanted to meet on Tyvola which is exit 5 in Charlotte and near her job, but the original halfway pick up been a store off I-85 in Charlotte off Brookshire Blvd. Shaquita and Triando couldn't come up with an agreement so Shaquita said figure it out and went home to Rock Hill, Sc. Triando had to take the kids home ages 5 and 1 at the time to Rock Hill, Sc. Nakiesha Barnette and teenage son Jakobe McCall rode with Triando Stroud to Rock Hill. At arrival Shaquita open the door and stood at the door while Triando brought 1 year old son first in a car seat and 5 year old daughter walked in the house by herself. Triando went back to the car to grab the rest of the clothes and before leaving he asked Shaquita why she didn't meet him on Brookshire. Mom came to the doorway stepped in between the two and in front of Triando and he pushed her away from him. After Triando pushed mom (Patricia) Shaquita yelled he hit my mom real loud and started attacking Triando. Triando got away from Shaquita and Patricia walked with Triando down the street talking to him calmly and Alvania came outside screaming she's calling the police after all the commotion. Triando, Nakiesha, and Jakobe left. A few days later Triando received a phone call to turn himself because he has a warrant from officer at Rock Hill Police Department. Triando turn himself in the next morning and found out he was charged for hitting 3 women. The case proceeded to a jury trial on October 8th, 2015 and the Appellate was found guilty on all three charges. Appellant filed an appeal immediately after being founded guilty. The trial court's Return to Appeal was filed on York County Clerk of Court on March 15, 2016. Appellant's appeal was heard by the Honorable John C. Hayes, III, on November 7, 2016. By Form 4 order dated November 7, 2016 and filed November 8, 2016, Judge Hayes dismissed the appeal. On December 12th 2016, Appellant filed a Notice of Appeal from the rulings of the circuit court. Around that time in 2016 I started receiving information late because my public defender had moved on to be in a law firm and all the mail was sent to him.

FACTS

Triando Stroud did not intentionally pushed Patricia it was more of a reaction when she came between Shaquita and Triando. Officer Beach could find no visible manifestation of injury or dirt or mud stains from being thrown to the ground on any of the victims as its says in the police report. Triando never mentioned a gun during incident the argument was more about why we didn't meet up where we normally meet and the conversation got heated from there. I was driving a 2007 white infiniti that evening of the incident. Shaquita Frazier and Patricia were both checked by EMS, but refused to be transported to the hospital. EMS did not find any physical manifestation of injury either. Alvania and Triando never got close to each other and Alvania came outside after everything was broken up stating she was calling the police.

ARGUMENT

A. Standard of Review


1. The court erred by denying the defendant's motion to dismiss the charge of criminal domestic violence pursuant to S.C. Code Ann § 16-25-70 because the officer failed to follow the required procedure to determine the primary aggressor when the defendant testified that the victim attacked him first and the officer testified that the victim exhibited no physical signs of injury in either the initial investigation or subsequent meetings, the officer never spoke with the defendant about any of the factors stated in § 16-25-70 (D), the defendant turned himself in upon hearing the arrest warrant was issued, and the victim and defendant did not reside together during, after or recently before the incident.
2. The court erred by failing to disqualify a juror who, during qualification, stated that she and a close family member had been a victim of domestic violence.
3. The court erred by failing to narrowly tailor its response to a jury question by responding affirmatively to the question of whether assault and battery in the third degree proscribed essentially the same conduct as assault and batter in the first degree other than the relationship between the defendant and victim. See *State v. Smith* 304 S.C. 129, 132, 403 S.E.2d 162, 164 (Ct. App. 1991).

CONCLUSION

For all the foregoing reasons, the Appellant respectfully submits that the decision of the circuit court sustaining conviction should be reversed.

Respectfully submitted,

July 25, 2019

A handwritten signature in black ink, appearing to read "Triando Stroud", is written over a horizontal line.

Triando Stroud

4715 ForestRidge Commons Dr.

Charlotte, Nc 28269

(803) 524- 1770



Case 1503090349

Printed on December 3, 2018

Status	Approved
Report Type	Patrol
Primary Officer	Matthew Beach
Investigator	None
Reported At	03/09/15 01:22
Incident Date	03/09/15 01:15 - 03/09/15 01:15
Incident Code	
Location	2743 ROUND HILL CT, ROCK HILL, SC 29730-
Beat	RH06
Disposition	Cleared By Arrest
Disposition Date/Time	03/09/15 01:22
Review for Gang Activity	None
Status Indicator	Administrative Filler
Status Change Date	3/18/15

Case Comments

Description (from Case): CDV/FRAZIER, SHAQUITA
RMS Officer ID: 9653-2423
RMS Officer Name: BEACH MATTHEW

Offense Information

Offense ASSAULT AND BATTERY 3RD DEGREE
Statute 16-3-600(E)
SCIBRS Code 13B - Simple Assault
Counts 1
Date 3/9/15
Include In NIBRS No
Completed Yes
Bias Motivation None (no bias)
Location Residence/Home
Entry Forced No
Forces Used Personal Weapons

Offense CRIMINAL DOMESTIC VIOLENCE 1ST OFFENSE
Statute 16-25-20(A)
SCIBRS Code 13B - Simple Assault
Counts 1
Date 3/13/15
Include In NIBRS No
Completed Yes
Bias Motivation None (no bias)

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Location Other/Unknown
Entry Forced No
Forces Used Personal Weapons

Victim

BROWN, PATRICIA - Age 47 16-3-600(E) - ASSAULT AND BATTERY 3RD DEGREE
FRAZIER, ALVANIA SHANTE - Age 27 16-3-600(E) - ASSAULT AND BATTERY 3RD DEGREE
FRAZIER, SHAQUITA - Age 28 16-3-600(E) - ASSAULT AND BATTERY 3RD DEGREE
16-25-20(A) - CRIMINAL DOMESTIC VIOLENCE 1ST OFFENSE

Suspect

BARNETTE, NAKEISHA 16-3-600(E) - ASSAULT AND BATTERY 3RD DEGREE
STROUD, TRIANDO MARGRAY - Age 28 16-25-20(A) - CRIMINAL DOMESTIC VIOLENCE 1ST OFFENSE
16-3-600(E) - ASSAULT AND BATTERY 3RD DEGREE

Offender

STROUD, TRIANDO MARGRAY - Age 28 16-3-600(E) - ASSAULT AND BATTERY 3RD DEGREE
16-25-20(A) - CRIMINAL DOMESTIC VIOLENCE 1ST OFFENSE

Arrestee

STROUD, TRIANDO MARGRAY - Age 28 16-3-600(E) - ASSAULT AND BATTERY 3RD DEGREE
16-3-600(E) - ASSAULT AND BATTERY 3RD DEGREE
16-25-20(A) - CRIMINAL DOMESTIC VIOLENCE 1ST OFFENSE

Witness

BROWN, PATRICIA - Age 47 16-25-20(A) - CRIMINAL DOMESTIC VIOLENCE 1ST OFFENSE
FRAZIER, ALVANIA SHANTE - Age 27 16-25-20(A) - CRIMINAL DOMESTIC VIOLENCE 1ST OFFENSE

Other

BARNETTE, NAKEISHA Mentioned: 16-3-600(E) - ASSAULT AND BATTERY 3RD DEGREE
Other: 16-25-20(A) - CRIMINAL DOMESTIC VIOLENCE 1ST OFFENSE

Primary Narrative By Matthew Beach, 03/09/15 11:36

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On 3/9/2015 Officers Beach and Price of the Rock Hill Police Department responded to 2743 Round Hill Ct within the

city limits of Rock Hill SC in reference to a domestic violence situation. Upon arrival, victim Shaquita Frazier (DOB 6/17/1986) came out of the house crying and speaking loudly and angrily about Triando Stroud, the father of her children, striking her, her sister, and her mother. Officer Beach calmed Shaquita Frazier and learned that Stroud had already left the scene in a white Audi (Tag Unk). Officer Beach then identified Shaquita Frazier's sister, Alvania Frazier, and their mother, Patricia Brown, as victims in an assault by Triando and his girlfriend, Nakeisha Barnette (DOB Unk). Shaquita Frazier stated she had tried to arrange a meeting with Stroud to exchange their children, but they disputed over a good location and Shaquita Frazier finally told Stroud she was going to go home and he would have to bring the children to her if he wanted to drop them off. Shaquita Frazier stated Stroud brought Barnette along and all three of them exchanged heated words while the children were dropped off. Shaquita Frazier stated the situation escalated and Stroud began to get into her face, so Brown physically placed herself between Shaquita Frazier and Stroud. Brown stated Stroud pushed her out of the way and knocked her to the floor before striking Shaquita Frazier in the face with his closed fist. Shaquita Frazier stated the fight then moved out of the house to the front yard where Stroud again knocked Brown to the ground. Alvania Frazier stated she came out to try and break up the fight, but Barnette pushed her back warning her not to call police. Shaquita Frazier stated Stroud and Barnette then began to move toward their car with Stroud stating, "I should shoot all of you." Shaquita Frazier also claimed that Stroud told Barnette to, "get the gun." Shaquita Frazier stated Stroud and Barnette entered their vehicle and left the area without displaying a firearm. EMS responded regarding Shaquita Frazier's complaints of severe head pain. Officer Beach could find no visible manifestation of injury or dirt or mud stains from being thrown to the ground on any of the victims. Shaquita Frazier and Brown were both checked by EMS, but refused to be transported to the hospital. EMS did not find any physical manifestation of injury either. Officer Beach will follow up with the victims as well as the suspect in regards to possible charges.

Primary Narrative By Matthew Beach, 03/13/15 14:24

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On 03/13/2015 at 0615hrs, Officer Elman responded to the Law Center lobby in reference to a warrant. Officer Elman met with Triando Marqray Stroud (DOB: 04/09/1985). Officer Elman escorted Stroud to the jail without incident. Stroud was served warrants for CDV and Assault and Battery 3rd.

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Primary Narrative By Matthew Beach, 03/13/15 14:25

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Entered By: JACKIE LOBRESKO

On 3/11/2015 Officer Beach followed up with Shaquita and Alvania Frazier in reference to the CDV and assault that took place in the original report. Both victims provided written statements against suspect Triando Stroud. No bruises had developed on Shaquita Frazier over the two days since the assault; however, Shaquita Frazier stated that all of Monday, 3/11/2015, she was sore and unable to go to work or take her children to school. Frazier added that during the assault, Stroud punched her abdomen and kicked her as well. She stated she did not disclose the kicking and additional punches during the initial investigation because of all the confusion immediately after the incident. Frazier stated as a result of Stroud's assault, she was sore in the ribs and abdomen as well as face. Officer Beach also obtained a statement from Alvania Frazier who stated she had been pushed twice by Stroud before the previously documented confrontation with Barnette. Alvania Frazier stated Stroud struck and pushed her because she was trying to intervene and stop Stroud's assault on Patricia Brown. Both Shaquita and Alvania Frazier stated when Stroud assaulted Brown, he pushed her down to the floor, then pushed her against a door before finally pushing her onto the ground a third time outside the house. Officer Beach took the statements and issued three warrants for Stroud: 2015A4620306235 for CDV against Shaquita Frazier, 2015A4620306236 for Assault and Battery 3rd Degree against Patricia Brown, and 2015A4620306237 for Assault and Battery 3rd Degree against Alvania Frazier. No warrants were issued for Barnette because Shaquita Frazier stated they could not tell if she had taken part in the assault, or if she was simply trying to break up the incident. This report will be admin-closed pending service of warrants.

FROM:

Mandy Steele
1715 Forest Ridge Common S.D.
Oroville NC 27649



Ready Mailer
11/2" x 16"

CERTIFIED MAIL



7017 2640 0000 3810 3981

TO:

County of Appeals
1210 South St
Columbia SC 29201



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SC County of Appeals

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State of South Carolina.,)
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County of York.)

In the Court of Common
Pleas of York

Case No. 2015-CP-46-03179

City of Rock Hill.,)
)
Plaintiff.,)
)
-vs-)
)
Triando Marquray Stroud.,)
)
Defendant.)

Transcript of Record

November 7, 2016
York, South Carolina

B E F O R E:

The Honorable John C. Hayes, III., judge

A P P E A R A N C E S:

Mrs. Paula Knox Brown
City of Rock Hill
201 E. Main Street
Third Floor
Rock Hill, SC 29730
(803) 329-5641
Attorney for the Plaintiff

Triando Marquray Stroud
Pro Se

Wanda S. Nelson, CVR-M
Circuit Court Reporter
To The Honorable Daniel D. Hall
Sixteenth Judicial Circuit
Union and York Counties

I N D E X

E X A M I N A T I O N

WITNESS BY: PAGE NO.

No witnesses were called.

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<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EVD.</u>
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No Exhibits were received into the record.

1 (COURT IN SESSION MONDAY, NOVEMBER 7, 2016 AT 10:06
2 A.M.)

3 THE COURT: Good morning. Thank you. You may take
4 your seats. Come to order.

5 We got nonjury issues here. This one is City of
6 Rock Hill versus Mr. Stroud.

7 MR. STROUD: Yes, sir.

8 THE COURT: Are you Mr. Shroud? Are you Mr. Stroud?

9 MR. STROUD: Yes, sir.

10 THE COURT: All right. Let me look and see what this
11 is about. Criminal domestic violence, assault.

12 All right. Zach Merritt represented you apparently
13 at a hearing and filed this appeal on your behalf. Let's
14 see. Well actually it looks like you filed it first and
15 then he filed an amended; is that correct?

16 MR. STROUD: Yes, sir.

17 THE COURT: All right. So we're going forward on the
18 amended?

19 MR. STROUD: Yeah. Yes, sir, we're going on with Zach
20 Merritt's.

21 THE COURT: Okay. And Mr. Merritt's not with the
22 Public Defender any more. All right, Mr. Stroud, I'll be
23 glad to hear your arguments in support of your appeal.

24 MR. STROUD: Okay. Here is -- In March of 2000 --
25 March 9th of 2015 me and my child's mother -- my children's

1 mother we normally meet half way from my job in Concord and
2 she got off at nine -- at 10 o'clock that evening.

3 I guess she had a bad day or something. She was
4 upset. She said she couldn't meet me that night and she
5 told me to figure it out. So, I ended up bringing my -- It
6 was a school night for my daughter and my son. He's -- At
7 the time he was two. But my daughter was in the first
8 grade at the time, so I wanted her at home on a school
9 night.

10 So I had -- About the time I got to Rock Hill it
11 might a been about eleven, 11:30. And when I -- When I
12 had knocked on the door I took the kids in and my --
13 my child's mother opened the door and all I ask was why
14 -- why she didn't want to meet me with the kids knowing
15 it was a school night.

16 And I don't if it was the tone of my voice because
17 the mother was like on the couch, so me and my child's
18 mother we -- The reason we wasn't together was because we
19 just don't get along so. And I had my girlfriend at the
20 time, she was in the car aa well. But the mother, from her
21 reaction she might a thought it was gonna be more than what
22 it was so she jumped over the couch as I was asking
23 Shaquita Frazier why we couldn't meet.

24 THE COURT: The mother of your child?

25 MR. STROUD: Yeah, the mother of my child's mother,

1 yeah.

2 THE COURT: Okay. So the children's grandmother?

3 MR. STROUD: Yeah, the children's grandmother.

4 So she got in between of -- and like I -- like really
5 like in my face and I like -- my reaction I just pushed
6 back and when I did that Shaquita struck a punch at me.
7 And that's when the sister Alvania must a heard, you know,
8 all us talking and she ran downstairs. And I was just
9 trying to push 'em back just to get back or whatever.

10 So doing -- during all this Alvania I guess she
11 went back and when she came back outside -- she went back
12 upstairs. She came back outside she called the police.
13 And just doing all -- during that commotion, you know, I
14 ended up leaving. Me, my girlfriend and her son which is
15 at the time, what, seventeen years old, we all ended up
16 leaving.

17 And, I want to say two days later I got a phone call
18 about turning myself in. And I turned myself in. Well I
19 told 'em I would turn myself in in the morning and I did
20 as I was supposed to do. And then when I read my paper
21 work it said I had all these acu -- accusations that I had
22 threatened to kill the family with a gun and which was
23 untrue.

24 You know when we was in court the officer even said
25 it was not no evidence of like -- I think he said like

1 no footprints or no movement and like he didn't see
2 anything in the yard that was unusual. He said he didn't
3 see anything in the house like anything broken or the couch
4 moved out of place.

5 He said it was no physical evidence that it was a big
6 fight. And far as the gun issue I had told the
7 prosecutor that my child's mother we -- we been on and off
8 for years and she knows that I have a gun. She just added
9 -- She just added that in her statement whenever she filed
10 the statement against me.

11 THE COURT: All right. So they charged you with
12 criminal domestic violence and ---

13 MR. STROUD: Yes, sir.

14 THE COURT: --- and assault and battery. Criminal
15 domestic violence as to Shekia, assault and battery for
16 Trisha and Alvania. Right?

17 MR. STROUD: Yes.

18 THE COURT: All right. And that you were tried by a
19 jury or by --

20 MR. STROUD: By a jury of six women. We had a unfair
21 trial. And I think they was confused on the charge. I
22 don't -- And another thing, I think it was in Zach -- Well
23 Zach actually wrote in the appeal that I think when he ask
24 this question I think it was a little confused on the
25 situation on how everybody did their testimony, so I think

1 the ladies was trying to figure out what's the difference
2 on a charge. But here we had six females on a trial on a
3 criminal domestic violence charge.

4 THE COURT: Thank you.

5 MR. STROUD: Okay.

6 THE COURT: Mrs. Knox Brown.

7 MRS. BROWN: Thank you, your Honor, may it please the
8 Court. I do understand that Mr. Stroud can have a totally
9 different version of the story from the prosecution
10 witnesses. I do understand that he believes that based
11 on his understanding, his beliefs as to what transpired
12 on the day in question, he should not have been found
13 guilty.

14 However, a jury, a competent jury of six people from
15 the City of Rock Hill did hear this case and got an
16 opportunity to observe all of the witnesses; they got an
17 opportunity to hear all of the testimony, and in spite of
18 the fact that he disagrees with the officers assessment
19 of primary aggressor, so and so forth, the State done
20 the appeal, the jury found him guilty of criminal domestic
21 violence. Hearing his testimony, hearing the testimony
22 of his witnesses, and hearing the testimony of the
23 prosecution witnesses, they found him guilty.

24 Likewise they found him guilty of assault and battery,
25 two counts of assault and battery. This Court is not in a

1 position to substitute it's view of the facts when the
2 jury's view of the facts, it's view of the facts before the
3 trial court view of the facts. The jury has rendered it's
4 verdict and at this point I really don't hear anything that
5 rises to the level where the trial court's decision should
6 be reversed and we ask you to affirm the trial court.

7 THE COURT: Mr. Stroud, I'll take a look at this
8 and issue an order.

9 MR. STROUD: Okay.

10 THE COURT: Thank you. Not today but I'll issue a
11 written order. We got your address?

12 Apparently we do because you showed up today.

13 MR. STROUD: Yes. Another thing, I wasn't notified
14 about this court date. I had did my own ground work to
15 find out when it was. Just checking my appeal, just
16 checking the status on my appeal. And fortunately I was
17 off today and I came in.

18 THE COURT: All right. Well here's probably what
19 happened and I'll let Ms. Strait help me here.

20 As far as we knew Zach Merritt represented you.

21 MR. STROUD: Yes, sir.

22 THE COURT: And he just, within the last three weeks
23 probably, or at least within the last month, left the
24 Public Defender's Office to go with Mr. Michael Brown.

25 So, I imagine the notice was sent to your attorney

1 which is the usual practice.

2 MR. STROUD: Yeah.

3 THE COURT: And that we at the time the notice was
4 sent did not -- were not aware that he had left the
5 Public Defender's Office. And I'm not even sure we got
6 an address for you, so make sure we get one.

7 What is your address?

8 MR. STROUD: It's 912, 9-1-2 Pebble, P-e-b-b-l-e Road,
9 Rock Hill, South Carolina 29730.

10 THE COURT: Okay.

11 MR. STROUD: I appreciate y'all's time. Y'all have a
12 good day.

13 MS. BROWN: Thank you, your Honor.

14 THE COURT: Okay. Thank you, Mr. Stroud. I'll issue
15 an order and we'll send you a copy now that we got it,
16 straight about the addresses.

17 MR. STROUD: All right.

18 -- END OF TRANSCRIPT OF RECORD --

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July 25, 2019

The Honorable Jenny Abbott Kitchings

Clerk, South Carolina Court of Appeals

Post Office Box 11629

Columbia, South Carolina 29211

RE: City of Rock Hill, Respondent v. Triando M. Stroud, Appellant

Case No. 2016-002488

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SC Court of Appeals

Dear Ms. Kitchings:

Enclosed please find the Initial Brief, Designation of Matter and Certificate of Service in the above-referenced case

Truly yours,



Triando Stroud

4715 ForestRidge Commons Dr.

Charlotte, North Carolina 28269

(803) 524- 1770

Appellant

