

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM NEWBERRY COUNTY

EUGENE C. GRIFWITH, JR., CIRCUIT COURT JUDGE

Appellate Case No. 2014-000050

State,

Respondent,

vs.

Timothy Cromer,

Appellant.

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OCT 15 2014

SC Court of Appeals

TO: Salley W. Elliott
POB 11549
Columbia, S.C. 29211

SUPPLEMENTAL AND SE INFORMAL BRIEF

Timothy Cromer, 275323 makes and submits this pro se informal brief in response to 8-25-14, letter from Ms. Jenny A. Kitchings' Office by Ms. V. C. Allen and he set forth:

ISSUE(S)

- I. Whether the second circuit court judge erred denying the motion to dismiss for the denial of speedy trial (tr. p. 90 11. 1-10 and 11. 14-15)?
- II. Was the lower court erred denying the motion to suppress based on the unduly suggestive out-of-court identification? (tr. p. 45 11. 18-19) (pp. 33-39)

1. The Court of General Sessions for Newberry County erred denying Cromer's motion to dismiss for denial of speedy trial.

There was a timely motion for speedy trial which was filed by appellant's attorney (Mr. O'Neil) in 2013 so the matter and trial came before Judge Keesley in November 2013. (tr. p. 91 1. 24) Specifically, the motion was

submitted on or about September 11, 2013 (tr. p. 89 l. 25); this caused the case to be set for November 13, 2013 (tr. p. 90 l. 2). Because the "issue that came up as it relates to the State's service of life without parole" (tr. p. 90 ll. 3-4). The court "continued the case" (tr. p. 91 l. 24). State v. Standard, 569 S.E.2d 325 (2002)

And the trial counsel had to "renew" the motion to dismiss (tr. p. 90 l. 14) before the lower court who mentioned, "Your motion for speedy trial is noted and I don't have anything to consider". (tr. p. 91 l. 18) State v. Robinson, 513 S.E.2d 269 (S.C. App. 1999)

2. The lower court erred denying the motion to suppress out-of-court identification based on unduly suggestive (show-up) procedure.

Trial counsel posed the question "Okay. Now when you got to the Food Lion, Mr. Cromer is the only civilian person they showed you that day, correct? A., That they showed me, yes, but there were more civilians standing behind him. (tr. p. 33 ll. 3-7) As. D. Williams responded during the Jackson v. Jenno hearing or proceeding. Trial counsel made the motion to suppress the said identification (tr. p. 45 ll. 18-19). The trial judge denied the motion. (tr. p. 89 ll. 18-19) Appellant points specifically where David Williams was questioned (tr. p. 37 ll. 7-14): Q. Okay. And you also said the suspect had on black pants, correct? A. I believe I did. Q. Okay. And we don't have to go through the whole thing again, but you understand that Mr. Cromer didn't have on black pants that -- when he was stopped that day? A. I believe they were dark.

It could be the case that the alleged victims did engage in wrongful identification. State v. McCord, 562 S.E.2d 689, 691 (S.C. App. 2002), but see State v. Moore, 540 S.E.2d 445, 448 (2000).

this 10 day of October, 2014.


Timothy Cromer, 27*323
RCJ, 73- / POB 2039
Ridgeland, S.C. 29936 278323th

CERTIFICATE OF RECORD

and hereby certifies that he has caused true and correct copies of the "PRO SE INFORMAL BRIEF and SUPPLEMENTAL AFFIDAVIT TO DEED" and document(s) to be mailed, postage prepaid, to respondent's attorney whose name and address are set forth above herein this 11 day of October 2014.

S/

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HON. TENNY A. KITCHINE
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1015 SUMTER STREET

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COLUMBIA, S. C.

29212