

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Greenwood County

Honorable Jocelyn J. Newman, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

WILLIAM SIDNEY CRUMP, JR.

APPELLANT

APPELLATE CASE NO 2018-001607

ANDERS BRIEF OF APPELLANT

WANDA H. CARTER
Deputy Chief Appellate Defender

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SC Court of Appeals

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STATEMENT OF ISSUE ON APPEAL

The trial judge erred in denying appellant's directed verdict motions on the two unlawful neglect charges in the case because the fact that the children lived within different residences and places for a period of time did not constitute sufficient proof of guilt on the charges.

STATEMENT OF THE CASE

Appellant William Sidney Crump was convicted of two counts of unlawful neglect of a child,¹ but acquitted on the remaining charges² per jury trial held during the August 2018 term of the Greenwood County General Sessions Court before Judge Jocelyn Newman. William Yarborough represented appellant at trial and Assistant Solicitor Yates Brown appeared on behalf of the State. Judge Newman sentenced appellant to imprisonment for an aggregate term of twelve years. Appellant appealed. This brief follows.

¹ Indictments 2018-GS-24-0386 and GS-24-0388.

² Indictments 2018-GS-24-0380 (incest), 2018-GS-24-0381 (sexual exploitation of a minor), 2018-GS-24-0382 (sexual exploitation of a minor), 2018-GS-24-1280 (criminal sexual conduct with a minor, third degree), 2018-GS-24-1281 (Criminal sexual conduct with a minor, third degree), 2018-GS-24-0379 (criminal sexual conduct with a minor, second degree).

STANDARD OF REVIEW

“A case should be submitted to the jury when the evidence is circumstantial ‘if there is any substantial evidence which reasonably tends to prove the guilty of the accused or from which his guilt may be fairly and logically deduced.’” State v. Bostick, 392 S.C. 134, 139, 708 S.E.2d 774, 776 (2011) (quoting State v. Mitchell, 341 S.C. 406, 409, 535 S.E.2d 126, 127 (2000)). “Evidence must constitute positive proof of facts and circumstances which reasonably tends to prove guilt.” Id. “Unless there is a total failure of competent evidence as to the charges alleged, refusal by the trial judge to direct a verdict of acquittal is not error.” Id. at 139, 708 S.E.2d at 776-777. “On appeal of the denial of a directed verdict of acquittal, this Court must look at the evidence in the light most favorable to the state.” Id. at 139, 708 S.E.2d at 777; see also State v. Hepburn, 406 S.C. 416, 429, 753 S.E.2d 402, 409 (2013). If the state failed to present any direct evidence or any substantial circumstantial evidence reasonably tending to prove guilt of the accused, the appellate court must reverse the lower court’s denial of the directed verdict motion. Hepburn, 406 S.C. at 416, 429 S.E.2d at 409.

ARGUMENT

The trial judge erred in denying appellant's directed verdict motions on the two unlawful neglect charges in the case because the fact that the children lived at different residences and places for a period of time did not constitute sufficient proof of guilt on the charges.

Appellant was acquitted on the sexual child abuse charges raised against him regarding his two children Minor 1 and Minor 2.³ Appellant was found guilty on two unlawful neglect charges only.⁴ At the close of the case, defense counsel moved for directed verdicts on the neglect charges. R. 109, l. 7-10; R. 109, l. 24-p. 110, l.3. The trial judge denied counsel's motions on the two charges. R. 111, l. 12-15.

At trial, daughter (Minor 1) testified that she and her brother and father first moved to Greenwood and lived with her father's girlfriend's house once, and then in a trailer. Also, Minor 1 testified that they all three also lived at two hotels (Extended Stay and America's Best Value Inn), and at one point they had to live in an automobile. R. 49, l. 14- p. 62, l. 4.

The pertinent portions of counsel's directed verdict motions and the state's response follow:

DEFENSE COUNSEL: The unlawful neglect of a child is before the jury...I don't think there is any evidence or proof of the unlawful neglect in either of these counts...I don't see evidence of the children being abused and not taken care of...they had places to live...no testimony of not getting food. R. 109, l. 7-10; R. p. 109, l. 24- p. 110, l. 3.

³ Indictments 2018-GS-24-0380 (incest), 2018-GS-24-0381 (sexual exploitation of a minor), 2018-GS-24-0382 (sexual exploitation of a minor), 2018-GS-24-1280 (criminal sexual conduct with a minor, third degree), 2018-GS-24-1281 (Criminal sexual conduct with a minor, third degree), 2018-GS-24-0379 (criminal sexual conduct with a minor, second degree)

⁴ Indictments 2018-GS-24-0386 and GS-24-0388.

SOLICITOR: In regards to the unlawful neglect, both children, I believe, testified that they lived in a car for some period of time. R. 110, l. 25-p. 111, l. 2.

The Court denied the directed verdict motions. R. 111, l. 12-15. Counsel renewed the motions after the defense rested and all testimony ended. R. 136, l. 11-12. The trial judge denied the motions again. R. 136, l. 13-14.

Defense witness Laura Hodge, who is appellant's sister, testified that appellant had financial woes from 2010-2012, and that she would babysit appellant's children and that appellant's female friends also helped out with the children, and that her former boyfriend also helped out as well. R. 114, l. 22-p. 119, l. 23. Appellant testified at trial and explained that he gave up custody of his children because he was in a dire situation financially, but that he always kept a roof over their heads and sacrificed to provide food and everything for them, and that his sister and friends and parents helped with the care of the children. R. 121, l. 8-p. 130, l. 2. Note appellant and the kids lived with his parents before moving to Greenwood. R. 127, l. 18-25.

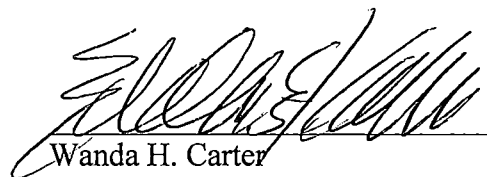
Under S.C. Code Ann §63-5-70 (unlawful conduct toward a child) it is unlawful for a person who has custody of a child to place the child at unreasonable risk of harm affecting the child's life or to cause bodily harm to the child. In interpreting a statute the Court must determine the intent of the legislators. State v. Ramsey, 311 S.C. 555, 430 S.E.2d 511 (1993). In the case at bar, appellant's children might have lived at multiple residences, but they were not **actually** unhoused, i.e. without a roof over their heads. Additionally, the children were not unsupervised, but rather were either under the care of appellant or another adult or relative. Clearly, having the children reside in multiple homes would not have appeared to have been the intent of the legislators when passing S.C. Code Ann. §63-5-70. For example, compare the following examples of child neglect found under S.C. Code Ann. §63-7-20: abandonment, lack of food,

lack of shelter, lack of clothing, lack of education, and a lack of provisions of that ilk. Here, none of the above examples apply to the instant case as appellant's children lacked none of the above provisions. Also, compare prior child endangerment examples under 20-7-50: (1) State v. Peppers, 346 S.C. 502, 552 S.E.2d 288 (2001)(stillbirth); (2) Whitner v. State, 328 S.C. 1, 492 S.E.2d 777 (1997)(crack baby birth); (3) Whitner v. State, supra (drinking excessively); (4) State v. Fowler, 322 S.C. 157, 470 S.E.2d 393 (1996)(bruises, scratches on child); and (5) State v. Thompson, 420 S.C. 192, 802 S.E.2d 623 (2018)(unlawful conduct resulting in child's death). None of the examples above were applicable in appellant's case.

When ruling on a directed verdict, the trial court is concerned with the existence or nonexistence of evidence and whether there is any direct evidence or substantial circumstantial evidence reasonably tending to prove the guilt of the accused. State v. Weston, 367 S.C. 279, 625 S.E.2d 641 (2005). The lower court erred in denying appellant's directed verdict motions on the neglect charges.

CONCLUSION

Based on the forgoing argument, counsel for appellant would request that appellant's conviction and sentences be vacated.



Wanda H. Carter
Deputy Chief Appellate Defender

ATTORNEY FOR APPELLANT

This 2nd day of May, 2019.

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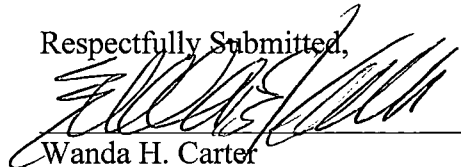
PETITION TO BE RELIEVED AS COUNSEL

Counsel for William Sidney Crump states that:

1. She is Deputy Chief Appellate Defender for the South Carolina Office of Appellate Defense, and was appointed to represent appellant.
2. She has reviewed the record of appellant's trial before Judge Jocelyn J. Newman, which was held on August 23, 2018, and, in her opinion, the appeal is without legal merit sufficient to warrant a new trial.
3. She has, pursuant to Anders v. California, 386 U.S. 738, 87 S.Ct. 1396 (1967), briefed an arguable legal issue which arose during the course of the trial.

WHEREFORE, She asks the Court to relieve her as counsel for William Sidney Crump.

Respectfully Submitted,



Wanda H. Carter
Deputy Chief Appellate Defender
ATTORNEY FOR APPELLANT

This 2nd day of May, 2019.

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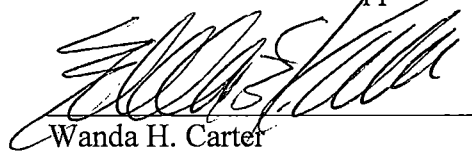
**DESIGNATION OF MATTER TO BE
INCLUDED IN RECORD ON APPEAL**

Appellant proposes the following be included in the Record on Appeal:

- (1) True-billed indictment(s):
- (2) Entire trial transcript dated August 23, 2018

I certify that this designation contains no matter which is irrelevant to this appeal.

May 2, 2019



Wanda H. Carter
Deputy Chief Appellate Defender

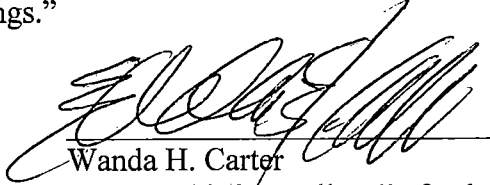
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ATTORNEY FOR APPELLANT

CERTIFICATE OF COUNSEL

The undersigned certifies that to the best of my ability this Anders Brief of Appellant complies with Rule 211(b), SCACR, and the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

May 2, 2019.



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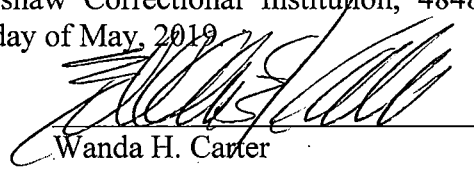
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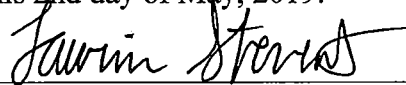
CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the Anders Brief of Appellant and Designation of Matter in the above referenced case has been served upon J. Benjamin Aplin, Esquire, at the Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201; and a copy of the Anders Brief of Appellant and Designation of Matter have been served on William Sidney Crump, 377549, at Kershaw Correctional Institution, 4848 Gold Mine Highway, Kershaw, SC 29067-8069, this 2nd day of May, 2019.



Wanda H. Carter
Deputy Chief Appellate Defender
ATTORNEY FOR APPELLANT

SUBSCRIBED AND SWORN TO before me
this 2nd day of May, 2019.

 (L.S)
Notary Public for South Carolina
My Commission Expires: July 5, 2027.