

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

Appeal from Spartanburg County Court of General Sessions
The Honorable Gracie G. Knie, Circuit Court Judge

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SC Court of Appeals

Appellate Case No. 2018-002064

State of South Carolina.....Respondent,

v.

Leonard Scruggs.....Appellant.

AMENDED ANDERS BRIEF

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STATEMENT OF ISSUES ON APPEAL

- I. Whether the plea court erred in accepting the Appellant's guilty plea when the State did not present or establish a factual basis for the plea, and where the factual summary presented by the State at the plea hearing rather established that the Appellant had a viable case for self-defense to the charges.

STATEMENT OF THE CASE

The Spartanburg Grand Jury indicted Appellant for attempted murder and possession of a weapon during a violent crime. (ROA pp. 26 – 29). Appellant was also charged with possession of a firearm by a convicted felon. (ROA pp. 26 – 29). The undersigned, William Yarborough III, represented the Appellant. Assistant Solicitor Spenser Smith represented the State.

Appellant appeared on November 6, 2018 before the Honorable Grace G. Knie to enter a guilty plea to possession of a firearm by a convicted felon, assault and battery in the first degree, and to the unlawful carrying of a pistol. (ROA pp. 1 – 23). The State had dismissed a third indictment for intimidation of a witness. (ROA, p. 3, l. 18-20). On the assault and battery charge, Judge Knie sentenced the Appellant to ten (10) years, five (5) years suspended, to be served on house arrest, and two (2) years probation with 547 days of credit for time served. (ROA pp. 21, 24 – 25). On the possession of a firearm by a felon charge, Judge Knie sentenced Appellant to five (5) years with 547 days credit for time served, and also allowed the active sentence to be served on house arrest. (ROA pp. 21, 24 – 25). For the unlawful carrying of a pistol, Appellant was sentenced to one year, with active time to be served on house arrest, with 547 days credit for time served. The sentences were ordered to run concurrent. (ROA pp. 21, 24 – 25).

This appeal follows.

STANDARD OF REVIEW

"In criminal cases, the appellate court sits to review errors of law only." *State v. Nesbitt*, 411 S.C. 194, 199, 768 S.E.2d 67, 70 (2015) (quoting *State v. Jacobs*, 393 S.C. 584, 586, 713 S.E.2d 621, 622 (2011)).

ARGUMENT

- I. **The plea court erred by accepting the Appellant's guilty plea because there was no factual basis for the guilty plea; the factual summary presented by the State rather established that the Appellant had a viable case for self-defense to the charges.**

Relevant Facts

The alleged incident giving rise to the charges occurred on May 5, 2017, in which the Appellant shot his son, Shyem Scruggs, in the neck and in the hand during a physical altercation. (ROA p. 12 lines, 24-25; p. 13, line 1). According to Shyem, the shooting was the result of an internal family dispute, explaining: "he and his father had gotten into an argument, that he had squared up on his father." (ROA p. 13, line 15-20). Shyem stated that he was shot in the midst of fighting and struggling with his father, whom had retrieved a firearm when the dispute began to escalate. (ROA p. 13, line 21-23).

When giving the factual summary during the plea hearing, the State further explained Shyem was a reluctant witness and had "shot the bird" (given the middle finger) at investigators and told them to leave when they attempted to question him at the hospital. (ROA p. 13, lines 11-14). Shyem only became willing to speak to the State upon his incarceration for a possession of a stolen vehicle charge, as well as several drug charges, during which he demanded payment and release prior to when he would testify. (ROA p. 14, lines 6-20) The State admitted at the plea hearing that there would have been severe credibility issues with Shyem had this case gone to trial in light of his demands to investigators in exchange for testifying, his criminal history, and being known as a heavy drug user that exhibited erratic behavior. (ROA p. 16, lines, 21-22; p. 18; lines 12-16; p. 14). Additionally, Shyem had informed defense counsel on several occasions prior to the plea that he wished for the charges against his father to be dismissed. (ROA p. 16, lines 17-19).

Moreover, there were no eyewitnesses or any type of footage capturing the incident. (ROA pp 13 – 14). Indeed, Shyem was the only witness to the alleged offenses.

Discussion

The record in a guilty plea hearing must establish a factual basis for the guilty plea. *State v. Rikard*, 371 S.C. 295, 300, 638 S.E.2d 72, 75 (Ct.App. 2006); *LaPiana v. State*, 270 S.C. 563, 569, 243 S.E.2d 448, 451 (1978); *State v. Armstrong*, 263 S.C. 594, 598, 211 S.E.2d 889, 891 (1975). Further, before a guilty plea is accepted, the defendant must understand the nature and crucial elements of the charges, the consequences of the plea, and the constitutional rights he is waiving, and the record must reflect a factual basis for the guilty plea. *Rollison v. State*, 346 S.C. 506, 511, 552 S.E.2d 290, 292 (2001).

Self-defense is a complete defense to a crime, including attempted murder and murder. Once the defendant has adequately raised the issue of self-defense, the State must disprove self-defense beyond a reasonable doubt, in addition to proving beyond a reasonable doubt the unlawful act of the defendant. *State v. Day*, 341 S.C. 410, 535 S.E.2d 431 (2000); *State v. Goodson*, 312 S.C. 278, 440 S.E.2d 370 (1994).

In the present case, the facts presented at the plea hearing clearly establish Appellant had a very viable self-defense case for trial. The factual summary provided by the State established that the Appellant fired his gun only upon the moment Shyem began physically fighting with him, causing Appellant to fear for his life or in the least, fear the affliction of great bodily harm. Appellant only raised his gun when Shyem, whom is a known drug user with unpredictable behavior, “squared up” on him.

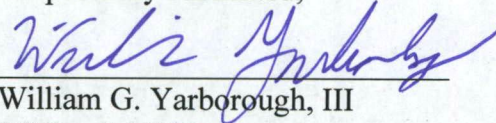
Further, the facts presented at the plea hearing demonstrate that the State would not have been able to prove its case against the Appellant beyond a reasonable doubt had the case gone

to trial. The State admitted that there were no other witnesses other than Shyem, whom had serious credibility issues in light of his wish to have the case dropped, his demands for money and release from jail, and his general combativeness with the State throughout the course of the case. The State also conceded that no witness, recording or other documentation existed to corroborate any of Shyem's story.

CONCLUSION

Based on the foregoing, the Appellant respectfully requests this Honorable Court to vacate the Appellant's guilty plea and sentences and remand for a new trial.

Respectfully submitted,



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