

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

RECEIVED
Aug 21 2020
SC Court of Appeals

Appeal from Greenville County

Honorable Edward W. Miller, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

ROBERT LOUIS GARRETT, JR.

APPELLANT

APPELLATE CASE NO 2018-000552

RECORD ON APPEAL

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STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

COURT OF GENERAL SESSIONS
2015-GS-23-10210

STATE OF SOUTH CAROLINA,)

vs.)

TRANSCRIPT OF RECORD

ROBERT LOUIS GARRETT, JR.,)
DEFENDANT.)

COPY

October 3, 2017
Greenville, South Carolina

B E F O R E:

THE HONORABLE EDWARD W. MILLER, JUDGE.

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

LEIGH B. PAOLETTI, ESQ.
Assistant Solicitor

C. CARLYLE STEELE, ESQ.
Attorney for the Defendant

HOLLIE M. JENKINS
Circuit Court Reporter

I N D E X

(There were no witnesses called.)

E X H I B I T S

(There were no exhibits introduced.)

P R O C E E D I N G S

1
2 THE COURT: All right. Yes, sir, Mr. Steele.

3 MR. STEELE: May it please the Court.

4 As Your Honor can see from the file, I filed a motion
5 to be relieved as counsel last Wednesday or Thursday. And
6 I did not do that lightly.

7 Mr. Garrett and I had had some differences about
8 trial strategy. And he had filed his own motion to
9 relieve me a couple weeks ago. But I -- I didn't do
10 anything. Because I assumed that I was supposed to stay
11 on the case notwithstanding that.

12 But then on Wednesday of last week, I received a
13 letter from the Office of Disciplinary Counsel of the
14 Supreme Court of South Carolina. And that letter starts
15 off saying, We have received information indicating
16 possible professional misconduct on your part. And it
17 goes on to say a couple paragraphs down, You are required
18 to file a written response with this office within 15 days
19 of the date of this letter. Your written response must
20 address separately and with specificity --

21 THE COURT: Well, Mr. Steele, you don't need to
22 read --

23 MR. STEELE: Yeah. But, anyway, it goes into all the
24 things that I may have done wrong. And since I'm having
25 to confront that, I decided it was time for me to file a

1 motion to be relieved. And I did.

2 And so I'm asking the Court to relieve me of
3 Mr. Garrett's case.

4 THE COURT: All right. Mr. Garrett, anything you'd
5 like to tell me?

6 DEFENDANT GARRETT: No, sir.

7 THE COURT: Please stand when you address the Court.

8 DEFENDANT GARRETT: No, sir.

9 THE COURT: Well, you filed your own motion.

10 DEFENDANT GARRETT: I think I -- yes, sir. I filed
11 it with Ms. Verdin.

12 THE COURT: You filed it with the Clerk of Court.

13 DEFENDANT GARRETT: Yes, yes, sir.

14 THE COURT: Okay. Anything you want to tell me with
15 respect to your motion?

16 DEFENDANT GARRETT: No, sir. Mr. Steele said pretty
17 much all there is.

18 THE COURT: Well, I will point out that on June 14th
19 of this year, I signed an order relieving Mr. Larry Cooke
20 as your attorney. And I ordered the Office of Indigent
21 Defense to appoint another attorney.

22 You were informed, at that time, on the record that
23 you will not be appointed any more attorneys. And if
24 you're dissatisfied with your new lawyer, you will
25 represent yourself. And then I ordered that the case not

1 be tried for 45 days. All that has come to pass.

2 I, also, noted in the record that it was -- you had
3 refused twice to transport to attend the jury trial. I
4 informed you, at that time, that if you refused transport
5 in the future, you'd be tried in your absence.

6 So you understand that we're going forward with the
7 trial. I'm going to grant Mr. Steele's request and your
8 request. And you are going to represent yourself in this
9 trial.

10 DEFENDANT GARRETT: Can I speak?

11 THE COURT: I'm sorry.

12 DEFENDANT GARRETT: Can I speak?

13 THE COURT: Yes, sir.

14 MR. STEELE: May I withdraw, Your Honor?

15 THE COURT: Yes, sir.

16 Thank you very much for your service, Mr. Steele.

17 MR. STEELE: Thank you, Your Honor.

18 (WHEREUPON, Mr. Carlyle Steele exited the courtroom.)

19 DEFENDANT GARRETT: One of my main issues --

20 If somebody will give this to Your Honor.

21 THE COURT: Speak up. I can't hear you.

22 DEFENDANT GARRETT: I said one of my main issues is
23 what's on the back of this paper right here.

24 THE COURT: Well, just tell me what it is.

25 DEFENDANT GARRETT: As I pointed out, I sent the

1 letter to Ms. -- to the solicitor's office as well.
2 There's a bunch of evidence missing. The -- the Solicitor
3 is relying on the evidence that was given to her from a
4 former SCDC employee, a former agent, Donald Lane. And
5 he, pretty much, suppressed all the evidence for this
6 case, Your Honor. He didn't -- the -- the whole
7 [inaudible] file for this case wasn't given to the
8 solicitor's office. The -- all the incidents that
9 happened leading up to this incident wasn't given to the
10 solicitor's office.

11 The -- pretty much, the reason why these people did
12 what they did to me was a sexual harassment thing that I
13 put against one of the officers before this incident even
14 happened. It wasn't given to the solicitor's office.

15 And I -- if you'll see, I've repeatedly asked for
16 this evidence to be discovered by Mr. Steele. And I asked
17 for it to be given to Mr. Steele and Mr. Cooke. And they
18 wouldn't do it.

19 And I asked Mr. Steele to request a Grand Jury
20 impanelment to document, so I can make sure that the
21 indictment for this case was legal and sufficient. And he
22 wouldn't do that. That's one of the things that I pointed
23 out to -- to the Office of Disciplinary Counsel.

24 THE COURT: All right. Well, we've got a jury
25 downstairs. And we're going to go ahead and select a

1 jury. And you'll be allowed to present whatever evidence
2 it is that you want to present.

3 DEFENDANT GARRETT: I didn't even bring all my stuff,
4 Your Honor. I had no clue that --

5 THE COURT: You had no clue --

6 DEFENDANT GARRETT: -- I was going to have to
7 represent myself here.

8 THE COURT: Oh, yes, you did. You were put on notice
9 in June.

10 DEFENDANT GARRETT: Your Honor, for -- for me to you,
11 I don't have a problem with my attorney. If you'll -- if
12 you'll --

13 THE COURT: You don't have a problem. You don't have
14 an attorney. He's been relieved at your request.

15 DEFENDANT GARRETT: The attorney I've been
16 appointed -- and I think I -- I copied Ms. -- I think
17 that's Ms. Paoletti in these. If you'll take the time to
18 review. And I would like to make this a part so you can
19 see that I haven't been attacking my attorneys.

20 My -- the only problem that I had with my attorneys
21 is the sufficiency of the indictment for this case and the
22 discoverable evidence that's material to my defense, Your
23 Honor. That's the only thing I've been requesting from my
24 attorneys. And they wouldn't -- they wouldn't get it.

25 THE COURT: Ms. Paoletti, did they request discovery

1 in this case?

2 MS. PAOLETTI: Yes, sir, Your Honor.

3 THE COURT: Have you provided all the discovery?

4 MS. PAOLETTI: Yes, sir.

5 THE COURT: Okay. Well, we're going to -- we're
6 going to pick a jury.

7 Okay. Anything before we bring a jury panel up here
8 to select?

9 MS. PAOLETTI: Not from the State, Your Honor.

10 THE COURT: Are you ready to pick a jury?

11 DEFENDANT GARRETT: I have no clue what to do. I'm a
12 mental health patient and part -- part of the Low Level
13 Behavioral Management Unit. So I -- I have no clue what
14 to do.

15 THE COURT: Well, what's the charge that we're
16 looking at?

17 MS. PAOLETTI: Your Honor, it's filing a false police
18 report of a felony.

19 THE COURT: And what was it?

20 MS. PAOLETTI: Your Honor, the Defendant was forcibly
21 extracted from his cell. That incident was recorded on
22 video. And then about a day, day and a half after that
23 incident, this Defendant reported on an inmate hotline
24 that he'd been sexually assaulted during that cell
25 extraction.

1 And as a result of that report on the -- the hotline,
2 Your Honor, the federal statute Prison Rape Elimination
3 Act is invoked by the Department of Corrections requiring
4 a full investigation by Agent Lane, who's now retired.
5 The Defendant was transported to Greenville Memorial
6 Hospital where he was treated for the disclosed sexual
7 assault.

8 Your Honor, the investigation revealed, specifically,
9 by just watching the video of the incident, there's no
10 video evidence of any sexual assault. And, in fact, the
11 Defendant is on the video saying things like, I'm glad
12 y'all did not just sexually assault me at that time.

13 Your Honor, it's just become a matter of principle
14 with the Department of Corrections. They've asked us to
15 go forward with this case understanding the Defendant's
16 still serving a significant sentence from today. I think
17 he has about nine years left on his sentence.

18 THE COURT: What does this charge care?

19 MS. PAOLETTI: It carries 10 years, Your Honor.

20 And, Your Honor, the -- the recommendation was -- has
21 always been for some form of concurrent time -- or
22 consecutive time in the Court's discretion. The State has
23 never asked for any specific amount of time. Obviously, a
24 concurrent sentence --

25 THE COURT: Okay. I -- what do you want to do? Do

1 you want to go to trial?

2 That's where you are. We're going to trial. You can
3 get a jury --

4 DEFENDANT GARRETT: Your Honor --

5 THE COURT: -- or you can do a bench trial, or you
6 can enter a guilty plea. It's up to you.

7 What do you want to do?

8 DEFENDANT GARRETT: Can I -- can I respond to what
9 Ms. Paoletti said, sir?

10 THE COURT: What do you want to respond to?

11 DEFENDANT GARRETT: She -- one of the first things
12 she said is that after this incident happened that I --
13 the first mention that SCDC found out about this was me
14 calling. That -- that's not true, Your Honor. I -- I
15 filed --

16 THE COURT: Okay. Well, that's all factual about the
17 case. I wanted to know what their allegations were.

18 Okay. You're going to get an opportunity to present
19 any defense that you have. You can cross-examine
20 witnesses. But we're going forward with the case.

21 So I'm asking you, do you want to do a jury trial?
22 Do you want to do a bench trial just in front of me? Or
23 do you want to enter a guilty plea? Those are your three
24 options at this time.

25 What would you prefer to do?

1 DEFENDANT GARRETT: I would like to be appointed
2 another attorney, Your Honor --

3 THE COURT: No, sir. You were given an order in June
4 of this year. You have had two experienced, excellent
5 criminal defense lawyers. And I'm not -- we're not doing
6 it again. You were warned about it and --

7 DEFENDANT GARRETT: Your Honor, this -- from me to
8 you, it wasn't my fault that my attorneys don't want to
9 file -- didn't want to file for -- to get the Grand Jury
10 impanelment indictment, and didn't want to file to get the
11 rest of the discovery for this case.

12 This case is about SCDC employees. When I got -- I
13 was on the ground like she --

14 THE COURT: Look, I'm not -- you're -- you're going
15 to get a chance --

16 DEFENDANT GARRETT: This is what they did to me, Your
17 Honor. This is what they did right here.

18 THE COURTROOM DEPUTY: Get up --

19 DEFENDANT GARRETT: This is what they did right
20 here --

21 THE COURT: Get up --

22 THE COURTROOM DEPUTY: Get up --

23 DEFENDANT GARRETT: All the video shows is them -- a
24 bunch of people on top of me --

25 THE COURT: Get up --

1 DEFENDANT GARRETT: -- and you can't see that they
2 did this to me.

3 THE COURT: Get up --

4 DEFENDANT GARRETT: That's what they did, sir --

5 THE COURT: Get up now --

6 DEFENDANT GARRETT: I wanted to show you what they
7 did to me, sir.

8 THE COURT: You're going to get an opportunity to
9 explain anything you want to in a trial.

10 Now, I'm asking you, do you want a jury trial, a
11 bench trial in front of me, or a guilty plea?

12 DEFENDANT GARRETT: If you're saying that I'm going
13 to have to represent myself, sir, on the record, I would
14 like to say that I'm -- I'm a mental health patient. And
15 I request that you, at least, give me some time to prepare
16 to represent myself. Because I had no clue that I was
17 going to have to represent myself today.

18 THE COURT: Yes, you did. You filed the motion to
19 have the defense lawyer relieved. You were told in
20 June --

21 DEFENDANT GARRETT: I --

22 THE COURT: -- that this case would proceed with or
23 without a lawyer, and whether you showed up or not.

24 DEFENDANT GARRETT: I showed -- as you can see, I
25 showed up. I didn't have a problem with Mr. Steele. My

1 only problem with Mr. Steele was he did not want to file
2 for additional discovery.

3 If you see this, Your --

4 THE COURT: Well, you, obviously, had --

5 DEFENDANT GARRETT: -- Honor --

6 THE COURT: -- more problem than that with Mr. Steele
7 because you filed a grievance against him with the Office
8 of Disciplinary Counsel. You --

9 DEFENDANT GARRETT: I had the --

10 THE COURT: -- filed a motion to have him relieved.

11 And he is one of the most caring, forgiving defense
12 lawyers in the bar.

13 DEFENDANT GARRETT: Are you saying with Mr. Steele?

14 THE COURT: Yes.

15 And Mr. Cooke is one of the most experienced lawyers
16 in the bar.

17 DEFENDANT GARRETT: Not in front of the jury. I can
18 tell you what I told the Office of Disciplinary Counsel,
19 Your Honor.

20 THE COURT: I -- I don't care to hear it. But you
21 tell me you don't have a problem and you file --

22 DEFENDANT GARRETT: My only --

23 THE COURT: -- a grievance against a lawyer. You
24 filed a motion to relieve him --

25 DEFENDANT GARRETT: My only grievance --

1 THE COURT: -- that's a problem.

2 DEFENDANT GARRETT: -- is these two things, Your
3 Honor. As you can see, they filed it. My only two
4 grievances was I asked him to --

5 THE COURT: I -- I don't care about your grievances.
6 They've been -- you filed a motion to have them relieved.
7 And it's been done. And you were given an order --

8 DEFENDANT GARRETT: If I --

9 THE COURT: -- in June. So --

10 DEFENDANT GARRETT: When I -- when I request for my
11 attorney to ask for the Grand Jury impanelment document so
12 I can make sure the indictment for this case is sufficient
13 and legal, that -- the court -- the rules of court say
14 that I'm supposed to go to my attorney. If he won't do
15 it, I'm supposed to go to the Court. That's what I did.
16 If the rules of court --

17 THE COURT: Okay. You've said that now three times.
18 I understand what your claim is. But we're -- I'm asking
19 you now, do you want a jury? Do you want a bench trial?
20 Or do you want to plead guilty?

21 DEFENDANT GARRETT: I'm -- I'm telling you if you're
22 going to proceed -- if you're going to force me to go, I'm
23 asking for additional time to prepare. Because I had no
24 idea that I was --

25 THE COURT: That motion is denied. You were given

1 notice in June that you would proceed with or without a
2 lawyer.

3 DEFENDANT GARRETT: And I need my stuff. I didn't
4 know -- my -- my attorney told me that I was about to --
5 they was about to do something with this motion to be
6 relieved as counsel.

7 Can I be appointed some -- what do you call them? --
8 like, a -- when you have to appoint -- represent yourself,
9 like, a counsel to help you, or something.

10 THE COURT: No.

11 Do you want a jury trial, a bench trial, or do you
12 want to plead guilty?

13 DEFENDANT GARRETT: I can't be appointed somebody to
14 assist me? What do you call it?

15 THE COURT: Mr. Garrett, I have now told you about
16 five times. I'm not going to tell you again --

17 DEFENDANT GARRETT: I've never --

18 THE COURT: -- you were given a copy of the order --

19 DEFENDANT GARRETT: -- represented --

20 THE COURT: If you interrupt me again, I'm going to
21 find you in contempt of court.

22 You were given a copy of the order in June, which
23 explained that you --

24 DEFENDANT GARRETT: I --

25 THE COURT: You interrupted me. I'm going to hold

1 you in contempt of court and give you 90 days consecutive.

2 Okay. Do you want a jury trial? Or do you want a
3 guilty plea? Or do you want a bench trial?

4 That's -- I've asked you that question now about five
5 times. You've not answered me.

6 DEFENDANT GARRETT: I said a jury trial, Your Honor.

7 THE COURT: Okay.

8 DEFENDANT GARRETT: I said a jury trial each time,
9 sir.

10 THE COURT: No, you did not.

11 Do we have a list?

12 THE CLERK: She'll -- she'll send it up.

13 THE COURT: Okay. Yeah. What?

14 MS. PAOLETTI: I -- I'm sorry, Your Honor. I was
15 speaking to Agent Lane. Are we picking a jury?

16 THE COURT: I'm going to bring a jury up here. If
17 you -- is that what you want to do?

18 I've already held him in contempt. I'm giving him 90
19 days consecutive.

20 MS. PAOLETTI: No, Your Honor.

21 At this point, the State's willing to dismiss the
22 pending charge.

23 THE COURT: Okay.

24 MS. PAOLETTI: And, Your Honor, if I can say, for the
25 record, it's not based on any of the -- the facts of the

1 case or any other reason that the -- the reason for
2 prosecuting this case has been accomplished. We're not
3 going to waste any more time.

4 THE COURT: Well, I'm going to ask you to prepare an
5 order.

6 MS. PAOLETTI: Yes, sir.

7 THE COURT: I find him in contempt because he has
8 interrupted me repeatedly, refused to answer my questions.

9 MS. PAOLETTI: And, Your Honor, if you'll give me one
10 more second to consult --

11 THE COURT: He got down on the floor when I told him
12 not to do it.

13 Okay. Yes. What?

14 MS. PAOLETTI: Yes, sir, Your Honor.

15 If you'll just give me one more second to consult
16 with Agent Lane about that.

17 THE COURT: Okay.

18 (Pause.)

19 DEFENDANT GARRETT: Can I address the Court, Your
20 Honor?

21 (WHEREUPON, there was no response.)

22 DEFENDANT GARRETT: Can I address the Court, Your
23 Honor?

24 THE COURT: Yes. What?

25 DEFENDANT GARRETT: I didn't mean no disrespect.

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THE COURT: Well, what's done is done.

MS. PAOLETTI: I'll prepare an order, Your Honor.

THE COURT: All right. Thank you.

*****END OF TRANSCRIPT OF RECORD*****

CERTIFICATE OF REPORTER

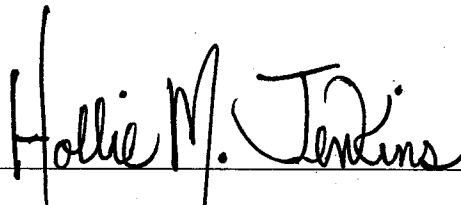
STATE OF SOUTH CAROLINA)

COUNTY OF GREENVILLE)

I, HOLLIE JENKINS, Official Court Reporter for the Thirteenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete Transcript of Record of the proceedings had and the evidence introduced in the trial of the captioned case, relative to appeal, in the Court of General Sessions for Greenville County, South Carolina, on the 3rd day of October, 2017.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

July 17, 2019

A handwritten signature in cursive script that reads "Hollie M. Jenkins". The signature is written in black ink and is positioned above a horizontal line.

Hollie M. Jenkins, Court Reporter

My Commission Expires: 09/24/20

STATE OF SOUTH CAROLINA)
 COUNTY OF GREENVILLE)
 THE STATE OF SOUTH CAROLINA)
 VS.)
 ROBERT LOUIS GARRETT JR,)
 DEFENDANT.)

IN THE COURT OF GENERAL SESSIONS
 THIRTEENTH JUDICIAL CIRCUIT
 WARRANT # 2015A2310200039
 INDICTMENT # 2015GS2310210
 ORDER FINDING DEFENDANT
 IN CONTEMPT OF COURT

This matter was before me on Tuesday, October 3, 2017. Defendant's case was on the trial docket and also pending were motions by the defendant and his attorney Carlyle Steele for Mr. Steele to be relieved as counsel for the defendant. I heard and granted those motions.

An Order of this Court dated June 14, 2017 relieved the defendant's previously appointed attorney Larry Cooke and ordered that should the defendant ask for subsequently appointed counsel to be relieved, he would have to proceed with his case *pro se*. Referring the defendant to that Order, the Court informed the defendant that his choices for proceeding were to have a jury trial, a bench trial or to plead guilty. The defendant was argumentative with the Court and would not indicate which of the three proceedings he was electing to go forward on. He then got on the ground and insisted on demonstrating what he alleged Department of Corrections Employees had done to him and was asked several times to sit at counsel table before he complied. The defendant continuously interrupted the Court and after being warned that he would be held in contempt if he continued to interrupt, insisted on interrupting the Court again.

Based on the defendant's disruptive conduct and refusal to comply with instructions not to interrupt the Court, I find that the defendant was in contempt of court and sentence him to 90 days to be served consecutively to the sentences he is now serving with the South Carolina Department of Corrections.

IT IS SO ORDERED.

Date: 10/6/17
 Greenville, South Carolina

[Signature]

Hon. Edward W. Miller
 13th Judicial Circuit

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Received On SC Court of Appeals
 10 MARCH 2018 RLGJ

CLERK OF COURT
 GREENVILLE CO. S.C.
 PAUL B. WICKENSIMMER
 OCT 6 PM 2 44
 MT

Sent to SCDC ✓
 10-6-17 MT

General Sessions Tracking Sheet
Indictment # 0000GS23

Name: Garrett, Robert Louis Jr

Warrant/Ticket #: 2015A2310200039

AKA:

Date of Arrest: 09/15/2015

Addr:

Pelzer, SC 29669

Received On
16 March 2018
ZLGJ

Date of Offense: 06/22/2015

Date Rev by Clerk 10/26/2015

Magistrate: Ford, Dean Eugene

SSN#

Counts: Code: 2597/Report / Filing a false police report of a Felony violation

Sex: M Race: B

DOB: Unknown

DL# SC/999999999

Indictment # 0000GS23

2015-10210

Disposition Information

- 1. Transmitted to SOL & SCCA:
- 2. Disp Received by Clerk:
- 3. Date of Disposition: 10-2-17

FILED

OCT 04 2017

Clerk of Court
Greenville County

- Disposition 1. Guilty plea
- 2. Trial -- guilty
- 3. Trial -- not guilty
- 4. Dism/Not Pros/Pros Ended
- 5. Judicial Commitment
- 6. Judicial Dismissal
- 7. Remanded
- 8. Dismissed at Prelim
- 8. No Bill
- 9. Failure to Appear
- 10. Other

Explain: pros. disc. SEENOTES

Explain: _____

Explain: _____

Explain: _____

Explain: _____

Judge: _____

Court Reporter: _____

Defense Atty: [Signature]

Solicitor: VP 67114

Counts: _____ Code: _____

Sentence: _____

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MAR 29 2018
SC Court of Appeals

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with 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.”

Respectfully Submitted,

RECEIVED

Aug 21 2020

SC Court of Appeals

s/Taylor D. Gilliam
Taylor D. Gilliam
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S.C. 29211-1589

ATTORNEY FOR APPELLANT

This 21st day of August, 2020.