

STATE OF SOUTH CAROLINA
In The Court of Appeals

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Sep 17 2020

APPEAL FROM CHEROKEE COUNTY

SC Court of Appeals

Court of General Sessions
The Honorable J. Derham Cole, Circuit Court Judge

Appellate Case No. 2019-000989

THE STATE,

Respondent,

v.

GLEN EDWARD WALDROP,

Appellant.

INITIAL BRIEF OF RESPONDENT

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ATTORNEYS FOR RESPONDENT

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STATEMENT OF ISSUE ON APPEAL

The circuit court has jurisdiction over criminal matters, including drug trafficking cases. Waldrop was indicted by a Cherokee County grand jury for two counts of trafficking methamphetamine for acts alleged to have occurred in Cherokee County. Waldrop moved to quash one of the indictments because he was arrested in Spartanburg County during a traffic stop initiated in Cherokee County. Did the trial court err by not quashing the indictments?

STATEMENT OF THE CASE

A Cherokee County grand jury indicted Appellant Glen Waldrop for two counts of trafficking in methamphetamine. He proceeded to jury trial before the Honorable J. Derham Cole on June 5–6, 2019. He was convicted and sentenced to concurrent terms of twenty-five years' incarceration. This direct appeal follows.

STATEMENT OF FACTS

On March 21, 2018, officers with the Cherokee County Sheriff's Office were contacted by officers from the Spartanburg County Sheriff's Office in reference to a drug investigation, with information that a suspect vehicle was crossing into Cherokee County from neighboring Spartanburg County. (June 5 Tr.p.34). The Spartanburg officers followed the vehicle as it exited Interstate 85 within Cherokee County and went to a hotel. The Cherokee and Spartanburg officers both parked at a neighboring car dealership to surveil the vehicle. (June 5 Tr.p. 35). Two hours later, the vehicle left the hotel and Cherokee officers attempted to initiate a traffic stop. The vehicle failed to stop, even though officers could see the driver and passenger take notice of the police cars. (June 5 Tr.p. 37). The vehicle continued to ignore the officer's blue lights and continued on the interstate into Spartanburg County. The driver finally pulled over and exited the vehicle. The Cherokee officer took him into custody at that time, while the passenger, Appellant Glen Waldrop, stayed in the vehicle. (June 5 Tr.p.38).

Officers made contact with Waldrop and gave him warnings pursuant to Miranda v. Arizona. When officers asked Waldrop if he had anything illegal in his possession, he gave them two bags of methamphetamine. (June 5 Tr.p.39-40; 53). Both Waldrop and the driver consented to a search of the vehicle, where officers located more than 100 grams of methamphetamine. (June 5 Tr.p.40). Officers obtained a search warrant for Waldrop's hotel room and located more methamphetamine. (June 5 Tr.p.42). Waldrop gave a recorded statement

admitting to possession of the methamphetamine at the hotel, in the car, and on his person. (June 5 Tr.p.46—48). Officers testified the entire exchange was consensual. (June 5 Tr.p.44).

STANDARD OF REVIEW

The trial court's factual conclusions as to the sufficiency of an indictment will not be disturbed on appeal unless so manifestly erroneous as to show an abuse of discretion. An abuse of discretion occurs when the trial court's ruling is based on an error of law or a factual conclusion without evidentiary support. State v. Tumbleston, 376 S.C. 90, 94, 654 S.E.2d 849, 851 (Ct. App. 2007).

ARGUMENT

Waldrop failed to preserve his argument that the trial court erred by failing to quash indictment #0681. Even if preserved, his argument is meritless because the indictments alleged with specificity felony crimes within the subject matter jurisdiction of the court.

Waldrop argues the trial court erred by not quashing the Cherokee County indictments because he was arrested in Spartanburg County. Waldrop's argument relating to indictment 2018-GS-11-00681 is not preserved for review because it was not raised to the trial court. Regardless, Waldrop's argument is meritless because he does not identify any defects in the indictments themselves or allege that the circuit court did not have authority to try a trafficking case. Instead, he complains about the propriety of the traffic stop which led to his arrest. His claim fails because the location of his arrest has nothing to do with the validity of the indictments or the jurisdiction of the court. The Cherokee County Court of General Sessions had jurisdiction because the indictments alleged crimes within its general criminal jurisdiction and occurring in Cherokee County. This Court should affirm.

As an initial matter, Waldrop has failed to preserve for appeal any issues related to drugs found at Waldrop's hotel room. An argument not raised and ruled on by the trial court is not preserved for appeal. State v. Nichols, 325 S.C. 111, 120, 481 S.E.2d 118, 123 (1997). Waldrop's motion to quash was "based on lack of personal jurisdiction and venue in the case, **at least as to the indictment regarding the stop that took place in Spartanburg County.**" (June 5 Tr.p.96). Waldrop did not allege any defect in the jurisdiction of the court or venue related to

the drugs found at the hotel in Cherokee County. Accordingly, he failed to preserve any objection related to indictment 2018-GS-11-00681. (June 6 Tr.p.37).

In any case, Waldrop's argument is meritless. Subject matter jurisdiction is the power of a court to hear and determine cases of the general class to which the proceedings in question belong. State v. Gentry, 363 S.C. 93, 100, 610 S.E.2d 494, 498 (2005). By contrast, the indictment is a notice document. A motion to quash an indictment tests only the facial validity of the indictment. State v. Massey, 430 S.C. 349, 358, 844 S.E.2d 667, 671 (2020). The circuit court should judge the sufficiency of the indictment by determining whether (1) the offense is stated with sufficient certainty and particularity to enable the court to know what judgment to pronounce, and the defendant to know what he is called upon to answer and whether he may plead an acquittal or conviction thereon; and (2) whether it apprises the defendant of the elements of the offense that is intended to be charged. Gentry, 363 S.C. at, 102–03, 610 S.E.2d at 500. **An indictment does not confer jurisdiction.** It merely serves to provide the defendant with notice of the charge against him. Gentry, 363 S.C. at, 101–03, 610 S.E.2d at 499—500.

Even if the Cherokee officers acted outside of their territorial authority to arrest, there is no reason why the Cherokee County Court of General Sessions would not have jurisdiction over felony crimes alleged to have occurred in Cherokee County. "Circuit courts obviously have subject matter jurisdiction to try criminal matters." Gentry, 363 S.C. at 101, 610 S.E.2d at 499. The circuit court "has original jurisdiction in all criminal matters except those where an inferior court is

given exclusive jurisdiction . . . [including] the general class of trafficking charges." State v. Dudley, 364 S.C. 578, 582, 614 S.E.2d 623, 625 (2005). Furthermore, even if venue was improper,¹ this would not affect the subject matter jurisdiction of the circuit court. "Although an accused has a right to be tried in the county in which the offense is alleged to have been committed . . . this right is not jurisdictional." State v. Evans, 307 S.C. 477, 480, 415 S.E.2d 816, 818 (1992).

Even though Waldrop has failed to allege a defect in the indictments themselves, the indictments in this case were valid. They charged with specificity felony crimes alleged to have taken place in Cherokee County on a specific date. They gave Waldrop plentiful notice of the charges against him and met all the requirements of valid indictments.

Waldrop's complaints about the propriety of the traffic stop leading to his arrest have nothing to do with the legality of the indictments, or the jurisdiction of the court. Any defect in the search or arrest would be remedied by suppression of the statements and seized drugs, not by quashing the indictments. See State v. Boswell, 391 S.C. 592, 599, 707 S.E.2d 265, 268 (2011). While Waldrop did move before trial to suppress his roadside statements and the drugs seized during the traffic stop, he did not object when the evidence was offered. He concedes the issue

¹ As the court noted, any drugs present in the vehicle when it was stopped in Spartanburg County must have been present when the vehicle departed from the hotel in Cherokee County. (June 5 Tr.p.96; 106). Accordingly, there was evidence that the crimes occurred in Cherokee County and venue was proper. See State v. Brisbon, 323 S.C. 324, 327, 474 S.E.2d 433, 435 (1996) (explaining "[e]vidence of venue, though slight, is sufficient in the absence of conflicting evidence and may be proved by circumstantial as well as direct evidence").

is unpreserved and has not raised that issue on appeal. Brief of Appellant at 7. His claim that the trial court erred by refusing to quash the indictments is a thinly-veiled attempt to raise the unpreserved suppression issue.² His argument against the validity of the indictments and the jurisdiction of the court has no legal merit, and fails on its face. This Court should affirm.

² In any case, that issue is also meritless. Because Spartanburg officers were present during the stop, see State v. Hammond, 270 S.C. 347, 242 S.E.2d 411 (1978), and because S.C. Code § 17-13-40 authorizes officers to arrest in a neighboring county, there was no jurisdictional issue with Waldrop's arrest. Likewise, not only was there plentiful probable cause to search Waldrop and the vehicle, Waldrop consented to the search. Finally, his statement admitting to possession of the drugs was given voluntarily after Miranda warnings. (June 5 Tr.p.39). In short, the traffic stop was perfectly legal.

CONCLUSION


For all the foregoing reasons, it is respectfully submitted that the judgment and conviction of the lower court be affirmed.

Respectfully submitted,

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PROOF OF SERVICE

I, Anne Mueller, certify that I have served the within Initial Brief of Respondent and Designation of Matter on counsel of record for the Appellant, Taylor D. Gilliam by electronic mail to the address listed for counsel in AIS.

I further certify that all parties required by Rule to be served have been served.
This 17th day of September, 2020.


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Subject: State v. Glen Edward Waldrop
Date: Thursday, September 17, 2020 2:59:00 PM
Attachments: [Waldrop Glen - Cover Letter for Initial Brief of Respondent and Designation of Matter \(02381606xD2C78\).PDF](#)
[Waldrop Glen - Initial Brief of Respondent and Designation of Matter \(02381610xD2C78\).PDF](#)
[image001.jpg](#)

Dear Mr. Gilliam,

Attached to this email is the State's Initial Brief of Respondent and Designation of Matter in the above matter. This brief and designation will be filed with the Court via AIS One Drive later today. As a courtesy, we ask that you please acknowledge receipt of this email and the attachments via return email.

Thank you,

Anne Mueller, Legal Assistant for
Joshua A. Edwards, Assistant Attorney General



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