STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Horry County

Honorable Diane Schafer Goodstein, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

SHAQUILLE BRADON DOZIER,

APPELLANT

APPELLATE CASE NO 2019-001430

FINAL BRIEF OF APPELLANT

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STATEMENT OF ISSUE ON APPEAL

Whether the trial court erred when it ruled that Appellant was competent to proceed to trial for carjacking and failure to stop for a blue light where the physicians who evaluated Appellant "had pause" about his competency and there was evidence he was still hallucinating at the time of trial?

STATEMENT OF THE CASE

During its October 2018 term, the Horry County grand jury indicted Appellant for car jacking and failure to stop for a blue light. R. 239.

On August 19 – 21, 2020, Appellant proceeded to trial before the Honorable Diane S. Goodstein, and a jury. R. 1. Martin Spratlin represented Appellant. Id. Joshua D. Holford and Cara Walker represented the state. Id.

Appellant was found guilty as indicted. R. 215, ll. 2 – 12. Judge Goodstein sentenced Appellant to concurrent sentences of fifteen years' imprisonment for carjacking and three years' imprisonment for failure to stop for a blue light. R. 225, l. 19 – 226, l. 3.

This appeal follows.

STANDARD OF REVIEW

The trial judge's determinations of competency must have evidentiary support and not be against the preponderance of the evidence. State v. Nance, 320 S.C. 501, 504-505, 466 S.E.2d 349, 351 (1996).

ARGUMENT

The trial court erred when it ruled that Appellant was competent to proceed to trial for carjacking and failure to stop for a blue light where the physicians who evaluated Appellant "had pause" about his competency and there was evidence he was still hallucinating at the time of trial.

Relevant Facts

On the morning of July 3, 2018, Appellant allegedly carjacked the complaining witness, Kathleen Schneider and failed to stop for a blue light in the car chase shortly afterwards. R. 117, l. 4 – 118, l. 17. Officer Crystal Buckingham saw a car fitting the description of Schneider's while "traveling southbound on 17-bypass." R. 126, l. 17 – 128, l. 16. The driver of the car attempted to flee, and Buckingham continued to pursue it. R. 143, ll. 7 – 20. A second officer, Floyd Truss also followed the fleeing car as well. R. 142, l. 5 – 145, l. 2.

Officer Buckingham trailed the car until it "rear ended another car at the Bay road intersection" on Holmestown Road. R. 129, l. 6 – 130, l.3. Appellant got out of the car and was arrested by police. Id.

Prior to Appellant's trial, Appellant moved to relieve trial counsel and proceed *pro se*. R. 4, ll. 7 – 11. However, he changed his mind and stated that he wanted trial counsel to represent him. R. 4, l. 25 – 5, l. 16.

A pretrial Blair[1] hearing was also held to determine if Appellant was competent to stand trial. R. 19, l. 9. Doctor Sheresa Christopher was the supervisor for Appellant's competency evaluation. R. 20, l. 12.

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[1] State v. Blair, 275 S.C. 529, 273 S.E.2d 536 (1981).

Christopher testified that she performed the competency tests on Appellant. R. 22, ll. 14 – 21. She conducted the MFAST, Miller Forensic Assessment Test, and Appellant's score "gave her pause" so she decided to conduct further testing. R. 35, l. 24 – 36, l. 11.

The second test Christopher ordered for Appellant was the "ILK" or Inventory of Legal Knowledge test. Id., R. 36, l. 12 – 37, l. 13. That test was conducted by a Doctor Leahy. Id. Leahy wrote in his report that Appellant's performance was "much improved" on the ILK test. R. 37, l. 14 – 38, l. 2. Christopher also testified that there were contemporary mental health records from "Waccamaw Mental Health" used in the report that stated Appellant was competent. R. 28, ll. 11 – 15.

Christopher testified that Appellant consistently reported having hallucinations in all of his tests. R. 33, ll. 11 – 16; R. 38, ll. 3 – 6. She also admitted that she could not "say with certainty" that Appellant was not experiencing hallucinations. R. 33, ll. 11 – 16. Ultimately, Christopher testified that she believed Appellant was competent to stand trial. R. 32, l. 23 – 33, l. 4.

Immediately after the Blair hearing, Appellant attempted to plead guilty to failure to stop for a blue light. R. 41, ll. 7 – 16. Solicitor Holford informed the court that if Appellant pled guilty to the failure to stop for a blue light charge Appellant would implicate himself in the carjacking case because the factual basis for the failure to stop for a blue light charge happened while Appellant was in the allegedly carjacked car. R. 54, ll. 14 – 20. Appellant stated the failure to stop for a blue light charge "had nothing to do" with the carjacking. R. 56, l. 22; R. 57, ll. 6 – 7.

Judge Goodstein told Appellant if he "wants to resist" a carjacking conviction he had to withdraw his guilty plea. R. 58, ll. 8 – 10. The trial court did not accept Appellant's guilty plea to

failure to stop for a blue light. R. 58, l. 11 – 59, l. 3. Appellant proceeded to trial and was convicted on both charges. R. 215, ll. 2 – 12.

Discussion

Appellant showed signs of incompetency prior to, and during, his trial and consistently maintained that he was experiencing hallucinations such that the trial court erred when it determined that Appellant was competent to stand trial for carjacking and failure to stop for a blue light.

"The question of whether a defendant is fit to stand trial depends upon whether the defendant, because of a lack of mental capacity, cannot "understand the proceedings" or "assist in his [or her] own defense." State v. Burgess, 356 S.C. 572, 575, 590 S.E.2d 42, 44 (Ct. App. 2003); citing S.C.Code Ann. § 44–23–410 (2002). Factors to be considered in the determination of a defendant's fitness to stand trial include: evidence of his or her irrational behavior, his or her demeanor at trial, and any prior medical opinion on his or her competence to stand trial. Burgess, 356 S.C. at 575, 590 S.E.2d at 44; citing State v. Blair, 275 S.C. 529, 273 S.E.2d 536 (1981).

In the post-conviction relief (PCR) context, in Ramirez v. State, 419 S.C. 14, 795 S.E.2d 841 (2017) our Supreme Court held the denial of Ramirez's PCR allegation that his plea counsel provided ineffective assistance of counsel for failure to obtain an independent mental evaluation was error. Ramirez, at 20, 795 S.E.2d at 844. Ramirez was charged with assault and battery with intent to kill, kidnapping, first-degree criminal sexual conduct with a minor, first-degree burglary, and lewd act upon a child. Id. at 16, 795 S.E.2d at 842. Prior to his guilty plea, Ramirez was evaluated by two doctors, Dalal and Gedo. Id. at 17 – 18, 795 S.E.2d at 843.

According to Dr. Dalal's report, Ramirez denied having any history of medical or psychological problems. Id. at 17, 795 S.E.2d at 843. Additionally, Ramirez only had an eighth

grade education and received "mostly C's and D's." Id. Ramirez exhibited speech difficulties, in that he had difficulty reading the words "solicitor," "evaluation," and "competency." Ramirez also struggled to remember the name of his attorney. Importantly, Ramirez believed he was only facing up to a few years in the Department of Juvenile Justice, even though the charges against him were very serious. Id. However, Dr. Dalal concluded Ramirez had "sufficient factual and rational understanding of the charges against him," and was therefore competent to stand trial. Id.

After Dalal's report, plea counsel requested Ramirez undergo a psychological evaluation from Dr. Gedo. Ramirez, at 18, 795 S.E.2d at 843. Dr. Gedo determined Ramirez had been mentally retarded from birth, did not begin speaking until he was seven years old, was diagnosed with Attention Deficit-Hyperactivity Disorder (ADHD) when he was nine, and had only completed eighth grade by the time he was sixteen. Id. Dr. Gedo concluded that Ramirez had severe mental retardation, but rendered no opinion as to Ramirez's competency to stand trial. Id.

Our Supreme Court held the Court of Appeals erred in affirming the PCR court's finding of no prejudice under the any evidence standard because Dr. Gedo's report and plea counsel's testimony at the PCR hearing "clearly established a reasonable, if not strong, likelihood that Ramirez was incompetent to plead guilty." Ramirez, at 23, 795 S.E.2d at 846.

In this case there was evidence of Appellant's irrational behavior in that prior to trial he consistently maintained that he was experiencing hallucinations. R. 33, ll. 11 – 16; R. 38, ll. 3 – 6. Appellant also acted irrational during his trial, which showed that the "demeanor at trial" factor weighed toward finding Appellant was incompetent as well. Burgess, 356 S.C. at 575, 590 S.E.2d at 44.

For example, Appellant tried to relieve trial counsel and proceed *pro se*, then immediately changed his mind. R. 4, ll. 7 – 11; R. 4, l. 25 – 5, l. 16. He also attempted to plead guilty to failure to stop for a blue light even though he would be admitting to facts that would be used against him in the carjacking trial. R. 41, ll. 7 – 16. Appellant could not understand how the facts of the failure to stop charge would implicate him on the carjacking charges and stated the two charges "had nothing to do with each other." R. 56, l. 22; R. 57, ll. 6 – 7.

The only factor weighing against Appellant was Christopher's finding that Appellant was competent, and as our Supreme Court showed in Ramirez a doctor's finding of competency does not always mean a defendant is fit to stand trial. R. 32, l. 23 – 33, l. 4; Ramirez, at 23, 795 S.E.2d at 846. Moreover, Christopher admitted that Appellant's MFAST score "gave her pause" and she had Appellant undergo further testing. R. 35, l. 24 – 36, l. 11. She also admitted that she could not "say with certainty" that Appellant was not experiencing hallucinations. R. 33, ll. 11 – 16.

Accordingly, the trial court erred when it ruled Appellant was competent to stand trial for carjacking and failure to stop for a blue light because his demeanor at trial and his history of irrational behavior showed he was not fit to stand trial.

CONCLUSION

Based on the foregoing arguments, Appellant respectfully requests that this Court reverse his convictions and remand his case to the Horry County Court of General Sessions for a new trial.

Victor R Seeger
Appellate Defender

ATTORNEY FOR APPELLANT

This 28th day of January, 2021.

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Final Brief of Appellant complies to the best of my ability 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."

Respectfully Submitted,

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This 28th day of January, 2021.