

STATE OF SOUTH CAROLINA)
)
COUNTY OF LEE)
)
Alwayne Dontrell Quillin, Jr.,)
)
) APPELLANT,)
)
VS.)
)
State of South Carolina,)
)
) RESPONDENT.)
_____)

IN THE COURT OF COMMON PLEAS
3RD JUDICIAL CIRCUIT
CASE No.: 2020-CP-31-0313
(TICKET NO. 6102-P-0335218)

**ORDER ON
MOTION FOR RECONSIDERATION**

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SC Court of Appeals

PROCEDURAL HISTORY

On July 3, 2017, Appellant Alwayne Dontrell Quillin, Jr. was arrested and charged with leaving the scene of a motor vehicle accident in violation of S.C. Code § 56-5-1240. Following a Lee County Summary Court trial held on August 29, 2019, Appellant was convicted of this charge and subsequently paid the imposed fine of \$232.50. On May 7, 2020, Appellant filed a motion to set aside his conviction based upon evidence obtained following his August 29, 2019 conviction. The Summary Court denied Appellant’s Motion by Order dated August 17, 2020. Appellant filed a Motion to Alter or Amend Judgment on August 27, 2020, which the Summary Court heard on October 19, 2020. The Summary Court issued its order denying the Motion to Alter or Amend on October 27, 2020.

Thereafter, Appellant filed his appeal to this Court on November 24, 2020. The appeal was argued on January 13, 2021, and an Order on Appeal was filed March 18, 2021. The Order on Appeal vacated Appellant’s conviction and remanded the matter to the Lee County Summary Court for a new trial.

Respondent filed a Notice of Motion and Motion for Reconsideration pursuant to Rules 59(e) and 60 of the South Carolina Rules of Civil Procedure on March 29, 2021. This Motion came before me for hearing on April 30, 2021. Counsel for all parties were present and did file or were given opportunity to file any memoranda and submissions they wished this Court to consider. For the reasons set forth herein, the relief requested by Respondent in its Motion for Reconsideration is granted, and the Summary Court's decision denying Appellant relief is hereby affirmed.

ANALYSIS

Appellant's request for relief is based upon the premise that the State failed to disclose relevant exculpatory and/or impeachment evidence in violation of *Brady v. Maryland*, 373 U.S. 83 (1963). The specific evidence at issue is a segment of in-car camera video from the patrol vehicle of Officer Iseman. It is undisputed that this video was not provided to Appellant prior to his trial on August 29, 2020. However, this fact alone does not end this Court's inquiry as to whether a conviction should be reversed pursuant to a *Brady* violation. See e.g., *State v. Jones*, 325 S.C. 310, 321, 479 S.E.2d 517, 522 (Ct. App. 1996) ("The State's failure to disclose information warrants a reversal as a *Brady* violation *only if the omission deprived the defendant of a fair trial.*" (emphasis added)). Upon further consideration and a detailed review of the video in question, this Court grants the State's Motion to Reconsider and affirms the Summary Court's decision to deny Appellant's motion to set aside his conviction. This Court is confident that the omission did not deprive Appellant of a fair trial.

The State's duty to disclose evidence favorable to a criminal defendant is governed by *Brady v. Maryland*, 373 U.S. 83 (1963). "A *Brady* claim is based upon the requirement of

due process.” *Gibson v. State*, 334 S.C. 515, 524, 514 S.E.2d 320, 324 (1999). “The State’s failure to disclose information warrants a reversal as a *Brady* violation only if the omission deprived the defendant of a fair trial.” *Jones*, 325 S.C. at 321, 479 S.E.2d at 522.

“In South Carolina, an individual asserting a *Brady* violation must demonstrate that the evidence: (1) was favorable to the accused; (2) was in the possession of or known by the prosecution; (3) was suppressed by the State; and (4) was material to the accused’s guilt or innocence or was impeaching.” *State v. Moses*, 390 S.C. 502, 515, 702 S.E.2d 395, 402 (Ct. App. 2010).

I find it is undisputed that the above-mentioned video was not provided to Appellant prior to his trial on August 29, 2020. Next, the appropriate inquiries are whether Appellant has demonstrated that the video was (1) favorable to him and (2) material to his guilt or innocence or was impeaching. After a detailed review of the video in question, it is clear that Appellant fails both.

I do not find that the video is favorable to Appellant. The video depicts Officer Iseman parked on the side of the road in the middle of the night. After Officer Iseman pulls out and drives towards the club, a congested parking area and roadway around the club can be seen in the distance. The Iseman vehicle appears to be slowed or stopped by traffic on approach to the club. Indeed, the area is very congested with patrons leaving the club and cars parked on both sides of the road. Visibility is poor. The view of the parking lot from the video is limited by other cars to the extent that it is of no value in determining whether Appellant either did, or did not, strike another vehicle. The first clear view of Appellant’s vehicle is as it erratically approaches the end of the club parking lot to turn left onto the paved road, followed by a police vehicle in pursuit. The video footage does nothing to help Appellant, as it shows he was pursued from the club

parking lot, the scene of the accident resulting in property damage, by law enforcement. After coming to a stop, the video shows Appellant speaking to officers and appearing to be intoxicated. If anything, the video is extremely damaging to Appellant's theory of the case, and this Court concludes that it surely is not favorable to Appellant.

Additionally, I do not find that the video is material to Quillin's guilt or innocence, nor is it impeaching. "Determining whether evidence withheld by the state is 'material' under *Brady* turns on whether the cumulative effect of the withheld evidence results in a reasonable probability that, had the evidence been disclosed, the result of the proceeding would have been different." *State v. Hill*, 368 S.C. 649, 661, 630 S.E.2d 274, 280-81 (2006). "Stated differently, the question is whether the defendant received a trial resulting in a verdict worthy of confidence." *Id.* at 661, 630 S.E.2d at 281.

The subject video does not undermine the confidence of this Court in the fairness of Appellant's trial. I further find no reasonable probability that the result of the proceeding would have been different had the video been disclosed and presented at trial. The evidence at Appellant's criminal trial strongly supported a finding of guilt beyond a reasonable doubt. This evidence includes, *inter alia*, (1) Captain James Hudson's testimony that Appellant hit a vehicle leaving the club at a high rate of speed and almost struck another officer with his vehicle; (2) Lieutenant Lynn Blakney's testimony that patrons at the club yelled that Appellant appeared to hit two vehicles and possibly an officer whenever he was exiting the club; (3) Jamelia McClain's testimony that her vehicle was damaged at the club; (4) Lieutenant Shante Demary's testimony that he heard an officer say over the radio that a vehicle almost hit him after striking another vehicle, and Lieutenant Demary's testimony that he pursued Appellant after Appellant left the parking lot "erratically"; and (5) photographs of damage to the bumper of Appellant's vehicle.

The video is contemporaneous with Appellant's vehicle leaving the club and depicts portions of the ensuing pursuit. Contemporaneity alone does not call into question the credibility of trial testimony, there must be some demonstrable inconsistency between the contents of the video and the trial testimony of a witness. Appellant argues that the video could impeach the testimony of Officer Demary as to his location when he turned around to pursue Quillin or how this was accomplished in a congested area. However, the video does not clearly depict the area closest to the club and given the lack of certainty as to the location of the respective vehicles, this alleged impeachment value is at best speculative. This Court rejects Appellant's conclusory argument.

CONCLUSION

Upon reconsideration of this matter, this Court finds and concludes that the video from the Iseman vehicle is neither favorable or material to the Appellant and does not serve to provide evidence that would serve to impeach trial testimony. I find Appellant was not denied due process during his criminal proceeding. While the video was not provided to Appellant prior to his trial, I do not find that this omission deprived Appellant of a fair trial, and there is no violation of *Brady*.

IT IS, THEREFORE, ORDERED THAT Appellant's requested relief is DENIED.

SIGNATURE PAGE TO FOLLOW



Lee Common Pleas

Case Caption: Alwayne Dontrell Quillin Jr. VS State Of South Carolina

Case Number: 2020CP3100313

Type: Order/Other

So Ordered

S/George M. McFaddin, Jr., #2759