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SC Court of Appeals

State of South Carolina  
In Court of Appeals

Jamal Devontae Coburn (Appellate)

VS.

The State (Respondant)

Appellate Case No. 2020-001528

Reply Brief of Appellant

- State vs. Pagan. 369 S.C. 201,631 S.E.2d 262 (2006)
- State vs. Robinson. 360 S.C. 187,600 S.E.2d 1100, (CT. App. 2004)
- State vs. Walker. 366 S.C. 643, 623 S.E.2d 122 (CT. App. 2005)

First of all, the officer said he told Mr. Coburn multiple times he was “investigating a murder” and he also said that he told Mr. Coburn he was “free to go”. When asked what he meant when he said “free to go”, “Did he mean anywhere in the United States?” He said “yes”, so why would it not be reasonable for Mr. Coburn to make that determination, also. Going further into the wltx website, when cross-examining Mr. Michael Phipps (Lexington County’s digital evidentiary) during Limine, page 51-52 starting at line 10. Mr. Bell asks Mr. Phipps “ If information is on a phone doesn’t prove that Mr. Coburn was the one to access that website.” Furthermore, end of page 49-50 Mr. Phipps said that they didn’t come up with this evidence until 2 weeks before trial October 15, 2020. On page 70-71, the judge express his complications with the flight situation. Line 2, page 71, he said “how uncomfortable he was telling the State their weakness are in presenting this flight.” Where he allowed the State to try and find any connection to paperwork physically tracking Mr. Coburn to Arizona in which they didn’t have either. The State had no nexus that Mr. Coburn even fled at all, without physical evidence of Mr. Coburn being tracked to Arizona and brought back to South Carolina, how could it be said he fled at all. The flight was unexplained on the State’s argument. The defendant in trial is not have the burden of proof which means that he defends himself against what is presented by the state and if the state doesn’t present the drugs knowing that it was found in the car is a lack of presenting everything found in the car, so to say Mr. Coburn should have brought up the drugs shifts the burden and in doing so could incriminate himself of a crime in which the case is still open at that moment. When Mr. Myers brought “the burden of proof” up the judge agreed, but stayed with his ruling.

In State vs. Pagan in standard of review, it talks of an abuse of discretion occurrence is when the conclusions of the trial court lack evidentiary support or is controlled by error in law. Which in the appellant's case there is a lack of evidentiary support being that there was no evidence show is

tracking to Arizona and back to South Carolina. Evidence of flight is admissible to show knowledge, intent, and that defendant sought to avoid apprehension. Which Mr. Coburn and Mr. Pagan have in common due to their encounters with police officers without an attempt to flee before the actions afterwards. If he looked at the wltx website before the approach of officers, "why not flee?" showing no fear of encounter for murder, then ask yourself why after, maybe possibility of drugs that carried up to the same amount of time he is facing now, Mens rea. The drugs would be solid due to history of drugs, so he had drugs to fear more than or just as much as the murder in which he is claiming self-defense. In State vs. Pagan it says "evidence of flight is inadmissible where a defendant flees after commencement of an investigation unrelated to the crime charged, or which the defendant is unaware, and seeing that they have no evidence as to when he left, then how can we make a determination on the commencement of investigation to Mr. Coburn's leaving. A violation of rule 403 is due to misleading the jury when in Mrs. Patterson closing agreement (page 759, line 16-18) she says to the jury that " Mr. Coburn went to hide out, that shows guilty conscience." Which is their determination to make not heres for them and the judge didn't charge the jury with how they should determine evidence of flight in their judgment fairly or unfairly creates confusion due to that issue is a violation of rule 403.

In State vs. Robinson, the difference is that he fled while in custody, while Mr. Coburn was in custody and then let grand told he was free to go and then on the stand the officer said "anywhere in the United States."

In Syate vs. Walker, the difference between the two cases is Walker was given clear instruction to stay, whereas Mr. Coburn was not given clear instruction. He was told about an investigation, but he was free to go, more than anything it confuses the situation. I feel that his appeal should be granted due to multiple errors leading to "the evidence of flight" being allowed in. He deserves a reversal.

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