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Apr 08 2022

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Greenville County

Honorable Edward W. Miller, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

WILLIAM ARTHUR SINGLETON,

APPELLANT

APPELLATE CASE NO. 2021-001248

ANDERS BRIEF OF APPELLANT

WANDA H. CARTER
Deputy Chief Appellate Defender

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Division of Appellate Defense
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ATTORNEY FOR APPELLANT

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STATEMENT OF ISSUE ON APPEAL

The trial judge erred in denying appellant's motions for directed verdicts on the drug charges because appellant was neither in actual nor constructive possession of the drugs found in a backpack located inside a residence per the state's theory that it was the same backpack found in the vehicle appellant drove at the time of the traffic stop.

STATEMENT OF THE CASE

Appellant William Arthur Singleton was convicted of trafficking in cocaine, trafficking in methamphetamine, possession of heroin, and resisting arrest per jury trial held during the October 2021 term of the Greenville County General Sessions Court before Judge Edward W. Miller. Attorneys Richard H. Warder and Russell Clay Sanford represented appellant at trial, and Assistant Solicitor Hunter Christopher Blouin appeared on behalf of the state. Judge Miller sentenced appellant to imprisonment for an aggregate period of fifteen years.

Appellate appealed. This brief follows.

STANDARD OF REVIEW

If the state failed to present any direct evidence or any substantial circumstantial evidence reasonably tending to prove guilt of the accused, the appellate court must reverse the lower court's denial of the directed verdict motion. State v. Hepburn, 406 S.C. 416, 753 S.E.2d 402 (2013). On appeal of the denial of a directed verdict acquittal, this Court must look at the evidence in the light most favorable to the state. State v. Bostick, 392 S.C. 634, 708 S.E.2d 774 (2011), quoting State v. Mitchell, 34 S.C. 406, 535 S.E.2d 126 (2000). Evidence must constitute positive proof of facts and circumstances which reasonably tend to prove guilt. State v. Bostick, supra. A case should be submitted to the jury when the evidence is circumstantial if there is any substantial evidence reasonably tending to prove the guilt of the accused or from which guilt may be fairly and logically deduced. State v. Bostick, supra.

ARGUMENT

The trial judge erred in denying appellant's motions for directed verdicts on the drug charges because appellant was neither in actual nor constructive possession of the drugs found in a backpack located inside a residence per the state's theory that it was the same backpack found in the vehicle appellant drove at the time of the traffic stop.

Officer Jacob Walters testified that he initiated a traffic stop on a vehicle driven by appellant for speeding and failing to maintain lanes on February 19, 2020, in Greenville County, South Carolina.

Apparently, the traffic stop ended at the driveway of a residence. When appellant could not produce his license/identification upon request, Officer Walters stated that he asked appellant to step out of the vehicle he had been driving. Officer Walters explained that after the back-up officer arrived on the scene, he (Officer Walters) walked to the passenger side of the vehicle where he observed the presence of a full backpack on the floorboard area therein. At that point, appellant lunged to re-enter the vehicle and a scuffle between Officer Walters, appellant, and the back-up officer ensued. Thereafter, the backpack miraculously ended up inside the residence nearby. Subsequently, a search warrant for this residence was obtained, and a backpack containing drugs was found inside. R. 49, 1.15-p. 68, 1.14. The drug charges against appellant followed.

Appellant testified at trial and explained that he was driving to collect his friend when the police stopped him after he drove into the driveway of that homeowner's residence. Appellant stated that he did not know when the backpack in question was removed from his car or where the backpack was ultimately placed, but that the backpack labelled state's exhibit #1 found in the house was not his backpack, and that it was not the backpack that was in the vehicle he drove,

and that the drugs found therein did not belong to him. R. 106, 1.7-p. 108, 1.3; R. 112, 1.6-24. Appellant stated that he did not have a residence to call his own, and that he stayed at the residence in question sometimes, and in various residences in the community at other times, which meant he did not reside at the residence where police stopped him. R. 108, 1.4-34.

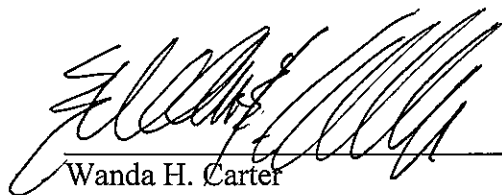
Actual possession occurs when the drugs are found to be in the actual physical custody of the person charged with possession, and constructive possession occurs when the person charged with possession has dominion and control over either the drugs or the premises upon which the drugs are found. State v. Burgess, 408 S.C. 421, 759 S.E.2d 407 (2014). Also, mere presence is insufficient to prove constructive drug possession. State v. Mattison, 388 S.C. 469, 679 S.E.2d 578 (2010). Compare State v. Heath, 370 S.C. 326, 635 S.E.2d 18 (2006), where the Court reversed the defendant's drug conviction on the basis that he had no dominion or control over crack cocaine found inside a mitt located in a recycling bin at the back door of his mother's house where he (defendant) resided, solely because he resided there, when there was no proof that he was aware of the location of the drugs or had knowledge or dominion and control of the same.

In the case at bar, there was insufficient proof that the backpack which mysteriously vanished from the vehicle (and was presumably taken inside the house near where the vehicle was parked) was the same backpack that was inside the vehicle appellant drove; and moreover, appellant did not have dominion and control over the backpack found inside the vehicle nor the backpack subsequently found inside the residence wherein appellant did not live. Thus, appellant had no dominion or control over the backpack found inside neither the vehicle nor the residence, which in turn meant that appellant was neither in actual nor constructive possession of the drugs found in the backpack found in the residence. Furthermore, appellant was not in possession

(neither actual nor constructive) of the drugs recovered because the backpack found inside the house was not the same backpack that was present inside of the vehicle at the time of the traffic stop. When ruling on a directed verdict motion, the trial judge must view the evidence in the light most favorable to the state and submit the case to the jury if there is any substantial evidence which reasonably tends to prove the guilt of the accused or from which guilt may be fairly and logically deduced. State v. Phillips, 416 S.C. 184, 785 S.E.2d 448 (2016). Here, based on the insufficient evidence presented in the case, the trial judge erred in denying appellant's motions for directed verdicts on the drug charges for which he was on trial.

CONCLUSION

Based on the foregoing argument, counsel for appellant would request that appellant's convictions and sentences be vacated.



Wanda H. Carter
Deputy Chief Appellate Defender

ATTORNEY FOR APPELLANT

This 8th day of April, 2022.

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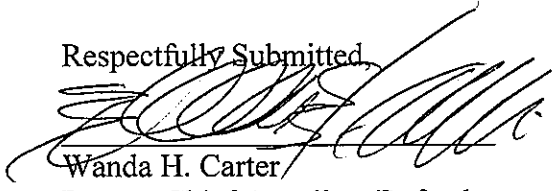
PETITION TO BE RELIEVED AS COUNSEL

Counsel for William Arthur Singleton states:

1. She is Deputy Chief Appellate Defender for the South Carolina Office of Appellate Defense and was appointed to represent appellant.
2. She has reviewed the record of appellant's trial before Judge Edward W. Miller, which was held on October 18 - 20, 2021, and, in her opinion, the appeal is without legal merit sufficient to warrant a new trial.
3. She has, pursuant to Anders v. California, 386 U.S. 738, 87 S.Ct. 1396 (1967), briefed an arguable legal issue which arose during the course of the trial.

WHEREFORE, she asks the Court to relieve her as counsel for William Arthur Singleton.

Respectfully Submitted,


Wanda H. Carter
Deputy Chief Appellate Defender

ATTORNEY FOR APPELLANT

This 8th day of April, 2022.

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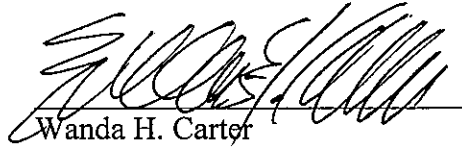
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**DESIGNATION OF MATTER TO BE
INCLUDED IN RECORD ON APPEAL**

Appellant proposes the following be included in the Record on Appeal:

- (1) Entire Trial Transcript dated October 18-20, 2021
- (2) Indictments

I certify that this designation contains no matter which is irrelevant to this appeal.



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This 8th day of April, 2022.

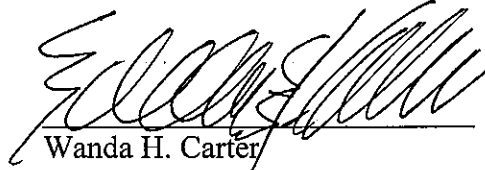
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CERTIFICATE OF COUNSEL

The undersigned certifies that to the best of my ability this Anders Brief of Appellant complies 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."



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This 8th day of April, 2022.