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SC Court of Appeals

IN THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM FLORENCE COUNTY
Court of General Sessions

Appellate Case No. 2020-000049

The Honorable Thomas Anthony Russo

The State of South Carolina.....Respondent,

v.

Royal Daniel Williams, III.....Appellant.

INITIAL REPLY BRIEF OF APPELLANT

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INDEX

Arguments.....	2
I. The circuit court should have granted Appellant’s motion for a directed verdict because the evidence adduced at trial did not do more than raise a “mere suspicion” that he was guilty of the crime.....	2
II. The trial court should have suppressed the cell phone records and cell tower location data obtained from the February 2016 search warrant.....	4
III. The trial court erred when it allowed the State to obtain a buccal swab from Appellant because the State lacked probable cause to believe Appellant was responsible for the victim’s murder.....	5
IV. The trial court erred when it granted a continuance to the state to allow it to remedy an evidentiary issue when Appellant had been held in pre-trial detention for three years awaiting trial.....	5
V. The trial court erred in not dismissing Appellant’s case as a violation of his right to a speedy trial.....	5
Conclusion.....	6

INTRODUCTION

Appellant respectfully submits this reply brief addressing Respondent's arguments as to issues I through V.

ARGUMENTS

I. The circuit court should have granted Appellant's motion for a directed verdict because the evidence adduced at trial did not do more than raise a "mere suspicion" that he was guilty of the crime.

Respondent attributes too much weight to various pieces of evidence that it contends supports submitting the case to the jury. In particular, Respondent claims "in particular the cell phone records, sketch provided by the other passenger of the taxi, and other circumstantial evidence" supports Appellant's conviction. Respondent overstates the weight of that evidence and fails to recognize its highly speculative quality. Additionally, Respondent's brief makes at least one claim that is not supported by any evidence.

Respondent claims, without record citation, that "Appellant and Joseph spent the afternoon together after she got off work." Respondent's Brief, p. 10. Undersigned counsel has been unable to find any evidence in the record that supports that claim. At most—and it is critical to note that the DNA evidence in this case was vigorously challenged—there may be Appellant's DNA in a condom that was located in her bedroom. But there was no evidence presented indicating when that DNA was left in her bedroom. It may have been days old; it may have even been weeks old. There was no evidence presented at trial to suggest the DNA was left in her room on the afternoon of her death.

Respondent additionally overstates the probative value of the cell phone records. Appellant and the victim engaged in their respective life activities in the same area of the state. It is not unusual that their phones would make contact with some of the same cell towers.

Respondent makes much of the fact that Appellant never contacted the victim after her death, but that does not show that he murdered her. Evidence presented at trial indicated the victim had a number of various suitors. There were no allegations Appellant had a close relationship with the victim or anything that would suggest he had a motive to kill the victim. In short, there were a number of males in the victim's social orbit and the state failed to show why Appellant would have murdered the victim, or that he did murder the victim. The evidence relied on by the State was highly speculative.

Respondent believes the sketch made by one of the passengers which someone later identified as possibly being Appellant is probative of his guilt. This argument, however, completely ignores the fact that the passengers in the taxi were provided pictures of Appellant and none of them identified Appellant as the person who was picked up from the area of the victim's apartment.

Respondent additionally overstates the probative value of the video camera that captured the victim returning to her apartment. Respondent concludes, "no other vehicles came or went." Respondent's Brief, p. 10. There is no support for this claim. The victim lived in an apartment complex. The video only captured a small part of the area. Surely there were multiple people coming and going from the complex but simply were not captured on the camera.

The state's case against Appellant was particularly weak. At most the evidence showed that—again, taking the evidence in the light most favorable to the State—that Appellant had a sexual relationship with the victim at some point and that he used a cell phone in the same general area where both he and the victim lived. He drove to Darlington at some point after

the victim was alleged to have been killed. This case never should have been submitted to the jury, and Appellant asks this Court to vacate his convictions and sentence.

II. The trial court should have suppressed the cell phone records and cell tower location data obtained from the February 2016 search warrant.

Given the putative centrality of the cell phone and tower data to the state's case, as Respondent concedes in its brief, it is surprising the state did not even realize it had the wrong data until over three years later. This fact undermines the State's argument there was probable cause to obtain the information in the first place. *See Sgro v. United States*, 287 U.S. 206, 210 (1932) (holding a judge may only issue a warrant if it is based on "allegations of 'facts so closely related to the time of the issue of the warrant to justify a finding of probable cause at that time.'").

At the time law enforcement sought the "correct" items from the tech companies in March 2019, Carpenter was the law of the land. They were bound by that law and should have obtained a search warrant. Almost assuredly they would not have been able to obtain one in 2019 because the information they were relying on was stale since it was over 3 years old (and frankly, probable cause did not exist in 2016 as evidenced by the fact it took them 3 years to realize they obtained the wrong data). Law enforcement wants to have its cake and eat it too—they want to take advantage of the law as it may have existed in 2016 by circumventing the warrant requirement imposed by the United States Supreme Court in 2018 for information they wanted in 2019. The circuit court erred by not suppressing this data, and this Court should reverse Appellant's convictions and sentence.

III. The trial court erred when it allowed the State to obtain a buccal swab from Appellant because the State lacked probable cause to believe Appellant was responsible for the victim's murder.

For reasons Appellant argues in his initial brief, he continues to maintain the buccal swab search in this case was not supported by probable cause and should not have issued.

IV. The trial court erred when it granted a continuance to the state to allow it to remedy an evidentiary issue when Appellant had been held in pre-trial detention for three years awaiting trial.

It appears the evidentiary issue the State had to address was that law enforcement had not obtained the correct cell phone records as discussed above in Issue II. Respectfully, Appellant was held in pre-trial detention for three years while the state pulled its case together. The trial court abused its discretion by allowing the State its continuance.

V. The trial court erred in not dismissing Appellant's case as a violation of his right to a speedy trial.

It is clear the state did not prioritize its handling of the victim's murder because it took the state over three years to even realize it had the wrong cell phone records. This was a weak circumstantial case and, with Appellant sitting in jail in pre-trial detention, it was satisfied to allow the case (and Appellant) to simply languish. Three years later, it decided to work on the case again, and that is when it realized it had evidentiary issues that the trial court allowed it to remedy. For the reasons argued in his initial brief, the trial court should have dismissed Appellant's case because his rights to a speedy trial were violated.

CONCLUSION

Respectfully, with respect to Arguments I and V, this Court should vacate Appellant's conviction and sentence. With respect to Arguments II- IV, this Court should reverse and remand for a new trial.

Respectfully submitted,

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