

SUPREME COURT OF SOUTH CAROLINA

State v. Griffin

416 S.C. 266 (2016) · No. Appellate Case No. 2015-001839 · Decided May 11, 2016

SUMMARY

The South Carolina Supreme Court affirmed as modified the Court of Appeals' decision concerning a challenge to the qualifications of deputies involved in the petitioner's arrest and detention. The court held that even if the arrest was unlawful, that illegality did not require dismissal of the criminal prosecution, and it vacated the Court of Appeals' de facto deputy analysis while affirming on that alternative ground.

CASE DETAILS

COURT	Supreme Court of South Carolina
WRITING FOR THE COURT	Per Curiam; Pleicones, C.J.; Beatty, J.; Kittredge, J.; Hearn, J.; Few, J.
JURISDICTION	South Carolina
DECIDED	May 11, 2016
DOCKET	Appellate Case No. 2015-001839
DISPOSITION	affirmed
PROCEDURAL POSTURE	Griffin petitioned for a writ of certiorari to review the South Carolina Court of Appeals' affirmance of the circuit court's denial of his post-trial motion to dismiss based on alleged defects in the arresting deputies' qualifications.
STANDARD OF REVIEW	Certiorari review of the Court of Appeals' decision; the Supreme Court reviewed the legal basis for denial of the motion to dismiss.
PRECEDENTIAL VALUE	Published opinion; precedential South Carolina Supreme Court decision.
PARTIES	Daniel Demond Griffin v. The State of South Carolina

TOPICS

- criminal procedure
- writ of certiorari
- appellate procedure
- remedies

PRACTICE AREAS

- criminal procedure
- appellate procedure
- remedies

QUESTIONS PRESENTED

1. Whether an allegedly unlawful arrest by deputies who did not satisfy statutory qualification requirements requires dismissal of the criminal case with prejudice.
2. Whether the Court of Appeals properly relied on a de facto deputy analysis in affirming denial of the motion to dismiss.

HOLDINGS

1. The illegality of an initial arrest does not bar the accused's subsequent prosecution and conviction for the charged offense; therefore, dismissal with prejudice was not an available remedy even if the arrest was unlawful.
2. A de facto deputy analysis was unnecessary to resolve Griffin's motion because the alleged illegality of the arrest could not justify dismissal of the prosecution.

KEY QUOTATIONS

“the illegality of an initial arrest [does] not bar the accused person's subsequent prosecution and conviction of the offense charged.” (416 S.C. 266)

“Petitioner asked for his case to be dismissed with prejudice, a remedy that runs contrary to the established law of South Carolina.” (416 S.C. 266)

FACTUAL BACKGROUND

Deputies employed by the sheriff's office arrested and detained Griffin. Griffin alleged that the deputies were not duly qualified because they were not properly bonded, their oaths were not properly evidenced until after his arrest, and appointment and oath certificates were not properly authenticated in the public record. After trial began, he sought dismissal with prejudice based on those alleged defects.

PROCEDURAL HISTORY

After trial began, Griffin moved to dismiss the case with prejudice, arguing that the deputies who arrested and detained him were not properly bonded, sworn, or authenticated under South Carolina Code sections 23-13-10 and 23-13-20. The circuit court denied the motion. The Court of Appeals affirmed, reasoning that the deputies could be treated as de facto deputies. The Supreme Court of South Carolina granted certiorari, vacated the Court of Appeals' analysis, and affirmed the result as modified on the ground that an allegedly unlawful arrest does not bar subsequent prosecution and conviction.

DISPOSITION

affirmed

CASES CITED

- State v. Griffin, 413 S.C. 258, 776 S.E.2d 87 (Ct. App. 2015)
- State v. Biehl, 271 S.C. 201, 246 S.E.2d 859 (1978)

- *Frisbie v. Collins*, 342 U.S. 519 (1952)
- *State v. Holliday*, 255 S.C. 142, 177 S.E.2d 541 (1970)

OPINION

PER CURIAM.

THE STATE OF SOUTH CAROLINA In The Supreme Court The State, Respondent, v. Daniel Demond Griffin, Petitioner. Appellate Case No. 2015-001839 ON WRIT OF CERTIORARI TO THE COURT OF APPEALS Appeal From Greenwood County Thomas L. Hughston, Jr., Circuit Court Judge Opinion No. 27635 Submitted April 19, 2016 – Filed May 11, 2016 AFFIRMED AS MODIFIED Appellate Defender LaNelle Cantey DuRant, of Columbia, for Petitioner.

Attorney General Alan McCrory Wilson, and Assistant Attorney General John Benjamin Aplin, both of Columbia, for Respondent. PER CURIAM: Petitioner seeks a writ of certiorari to review the Court of Appeals' decision in *State v. Griffin*, 413 S.C. 258, 776 S.E.2d 87 (Ct. App. 2015).

We grant the petition, dispense with further briefing, and affirm the Court of Appeals' decision as modified. After the start of trial, Petitioner moved to dismiss the case on the grounds that the deputies involved in his arrest and detainment were not duly qualified pursuant to S.C. Code Ann. §§ 23-13-10 and -20 (2007), because: (1) they were not properly bonded; (2) their oaths of office were not properly evidenced by a certificate signed by the sheriff until after Petitioner's arrest; and (3) the certificates acknowledging their appointments and oaths were not properly authenticated in the public record.

The motion was denied. The Court of Appeals affirmed the trial court's ruling, finding the deputies could be considered "de facto deputies despite their failure to comply with all of the requirements of sections 23-13-10 and 23-13-20," because they: (1) were employed with the sheriff's office for a significant amount of time; (2) stated at trial they were bonded and had taken an oath to every sheriff for whom they had worked; (3) performed duties consistent with their appointments as deputies; and (4) were identifiable to Petitioner as deputy sheriffs who had the authority to act.

However, we find such an analysis unnecessary, as it is well established that "the illegality of an initial arrest [does] not bar the accused person's subsequent prosecution and conviction of the offense charged." *State v. Biehl*, 271 S.C. 201, 246 S.E.2d 859 (1978); see also *Frisbie v. Collins*, 342 U.S. 519 (1952); *State v. Holliday*, 255 S.C. 142, 177 S.E.2d 541 (1970); 5 Am.

Jur. 2d Arrest § 129 (2016) ("The illegality of an arrest does not preclude trial of the accused for the offense."). Petitioner asked for his case to be dismissed with prejudice, a remedy that runs contrary to the established law of South Carolina.

Therefore, the trial court did not err in denying Petitioner's motion to dismiss, regardless of whether the underlying arrest was unlawful or committed lawfully by de facto sheriff's deputies.

Accordingly, we vacate the Court of Appeals' analysis, but affirm on the grounds set forth above.

The decision of the Court of Appeals is hereby AFFIRMED AS MODIFIED PLEICONES, C.J., BEATTY, KITTREDGE, HEARN and FEW, JJ., concur.