

SUPREME COURT OF SOUTH CAROLINA

State v. Curtis, 356 S.C. 622

591 S.E.2d 600 (2004) · No. No. 25762 · Decided January 5, 2004

SUMMARY

The Supreme Court of South Carolina affirmed Kenneth Curtis's convictions for selling urine substitution kits with intent to defraud drug or alcohol screening tests under S.C. Code section 16-13-470. The court held that the indictments were sufficient, the term "drug test" was not impermissibly vague, the challenge concerning cross-examination about pornographic website links was unpreserved and harmless, and the denial of a directed verdict was proper.

CASE DETAILS

COURT	Supreme Court of South Carolina
WRITING FOR THE COURT	Justice Waller; Chief Justice Toal; Justice Moore; Justice Burnett; Justice Pleicones
JURISDICTION	South Carolina
DECIDED	January 5, 2004
DOCKET	No. 25762
DISPOSITION	affirmed
PROCEDURAL POSTURE	Curtis appealed his jury convictions on two counts of selling urine with intent to defraud a drug or alcohol test, challenging the indictments, the statute's vagueness, the admission of cross-examination concerning pornographic website links, and the denial of his directed-verdict motion.
STANDARD OF REVIEW	For indictment sufficiency, the court asks whether the indictment apprises the defendant of the elements of the charged offense and what he must be prepared to meet. A vagueness challenge is reviewed under whether the statute provides fair notice to those subject to it. For a directed-verdict motion, the court considers the existence rather than the weight of the evidence, views the evidence in the light most favorable to the State, and affirms submission to the jury if direct or substantial circumstantial evidence reasonably tends to prove guilt. Evidentiary rulings and the scope of cross-examination are reviewed for preserved error and prejudice.

PRECEDENTIAL VALUE	Published South Carolina Supreme Court opinion; precedential.
PARTIES	Kenneth Curtis v. The State

TOPICS

criminal procedure statutory interpretation void for vagueness evidence constitutional law

PRACTICE AREAS

Criminal law Criminal procedure Evidence Constitutional law

QUESTIONS PRESENTED

1. Whether the indictments sufficiently alleged that Curtis committed an offense under South Carolina Code section 16-13-470.
2. Whether the term "drug test" in section 16-13-470 was impermissibly vague.
3. Whether the trial court erred by permitting cross-examination concerning pornographic links accessible through Curtis's website.
4. Whether the trial court erred by denying Curtis's motion for a directed verdict.

HOLDINGS

1. The indictments were sufficient because they alleged that Curtis knowingly and intentionally operated a business selling urine with intent to defraud a drug test, thereby apprising him of the charged offense and the conduct he had to defend against.
2. South Carolina Code section 16-13-470 is not impermissibly vague merely because it does not define the term "drug test" or limit the statute to tests for illegal drug use.
3. The trial court did not commit reversible error by allowing the State to question Curtis about pornographic links accessible through his website.
4. The directed-verdict motion was properly denied because Curtis's appellate argument was not preserved and, alternatively, the State presented ample evidence from which the jury could find intent to defraud a drug test.

KEY QUOTATIONS

"An indictment is sufficient if it apprises the defendant of the elements of the offense intended to be charged and apprises the defendant what he must be prepared to meet." (629)

"Contrary to Curtis' contention, the term "drug test" clearly has a sufficiently common meaning to put him on notice of the conduct proscribed." (630)

"We find this is ample evidence to submit to the jury on the issue of whether Curtis was selling urine kits with the intent to defraud drug tests." (634-635)

FACTUAL BACKGROUND

Kenneth Curtis operated Privacy Protection Services, which sold urine-substitution kits containing urine, heating and temperature-monitoring devices, concealment instructions, and promotional materials stating that users could pass drug tests. The kits included disclaimers stating that they were not marketed for drug testing, but business cards and website materials advertised that users could pass any drug test or urinalysis. Curtis was convicted of two counts of selling urine with intent to defraud a drug or alcohol screening test.

PROCEDURAL HISTORY

Curtis was indicted in Greenville County in July 2001 under South Carolina Code section 16-13-470 and was convicted by a jury on both counts. The Supreme Court of South Carolina rejected each asserted ground for relief and affirmed the convictions. Rehearing was denied February 4, 2004.

DISPOSITION

affirmed

CASES CITED

- State v. Wilkes, 353 S.C. 462, 578 S.E.2d 717 (2003)
- State v. Shoemaker, 276 S.C. 86, 275 S.E.2d 878 (1981)
- State v. Brown, 317 S.C. 55, 451 S.E.2d 888 (1994)
- Westvaco Corp. v. South Carolina Department of Revenue, 321 S.C. 59, 467 S.E.2d 739 (1995)
- Main v. Thomason, 342 S.C. 79, 535 S.E.2d 918 (2000)
- Johnson v. Collins Entertainment Co., Inc., 349 S.C. 613, 564 S.E.2d 653 (2002)
- Curtis v. State, 345 S.C. 557, 549 S.E.2d 591 (2001)
- Stardancer Casino v. Stewart, 347 S.C. 377, 556 S.E.2d 357 (2001)
- Tilley v. Pacesetter, 333 S.C. 33, 508 S.E.2d 16 (1998)
- State v. McKnight, 352 S.C. 635, 576 S.E.2d 168 (2003)
- State v. Whipple, 324 S.C. 43, 476 S.E.2d 683 (1996), cert. denied, 519 U.S. 1045, 117 S. Ct. 618, 136 L. Ed. 2d 541 (1996)
- State v. Foster, 354 S.C. 614, 582 S.E.2d 426 (2003)
- State v. Hoffman, 312 S.C. 386, 440 S.E.2d 869 (1994)
- Yoho v. Thompson, 345 S.C. 361, 548 S.E.2d 584 (2001)
- State v. Locklair, 341 S.C. 352, 535 S.E.2d 420 (2000)
- State v. McHoney, 344 S.C. 85, 544 S.E.2d 30 (2001)
- State v. Mitchell, 341 S.C. 406, 535 S.E.2d 126 (2000)
- State v. Burdette, 335 S.C. 34, 515 S.E.2d 525 (1999)
- State v. Pinckney, 339 S.C. 346, 529 S.E.2d 526 (2000)
- State v. Byram, 326 S.C. 107, 485 S.E.2d 360 (1997)

- Ex Parte Littlefield, 343 S.C. 212, 540 S.E.2d 81 (2000)

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