

SUPREME COURT OF SOUTH CAROLINA

State v. Taylor

355 S.C. 392 (2003) · Decided August 11, 2003

SUMMARY

The South Carolina Supreme Court reviewed the reinstatement of Linda Taylor’s convictions for issuing fictitious driver’s licenses. The court held that the State’s failure to object below waived the procedural argument concerning use of a verdict in arrest of judgment, but affirmed the reversal because the evidence was sufficient to support the convictions. The court construed the statute to include knowingly processing fictitious licenses issued through the DMV.

CASE DETAILS

COURT	Supreme Court of South Carolina
WRITING FOR THE COURT	Justice Moore; Chief Justice Toal; Justice Waller; Justice Burnett; Justice Pleicones
JURISDICTION	South Carolina
DECIDED	August 11, 2003
DISPOSITION	affirmed
PROCEDURAL POSTURE	The Supreme Court of South Carolina granted Linda Taylor's petition for a writ of certiorari to review the Court of Appeals' reversal of a trial-court acquittal entered after a jury convicted Taylor of two counts of issuing a fictitious driver's license.
STANDARD OF REVIEW	Because the trial court's arrest-of-judgment ruling essentially granted a belated directed verdict, the court applied the directed-verdict standard: whether there was evidence sufficient to submit the charge to the jury.
PRECEDENTIAL VALUE	Published opinion; precedential value under South Carolina law.
PARTIES	Linda Taylor v. State of South Carolina

TOPICS

- statutory interpretation
- criminal procedure
- appellate procedure
- preservation of error
- evidence

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the trial court properly granted a verdict in arrest of judgment based on the insufficiency of the evidence.
2. Whether a DMV employee can unlawfully issue a fictitious driver's license under S.C. Code section 56-1-515(1) when the license is issued under the DMV's authority.
3. Whether the evidence was sufficient to support Taylor's convictions.

HOLDINGS

1. Because the State did not argue in the trial court that a verdict in arrest of judgment was procedurally improper on insufficiency-of-the-evidence grounds, that procedural issue was not preserved for appeal.
2. A DMV employee who processes and physically issues a driver's license may violate section 56-1-515(1), even though the license is issued under the authority of the DMV.
3. Section 56-1-515(1) requires that the defendant knowingly issue a fictitious driver's license; a DMV employee who processes a license based on information she knew or should have known was fictitious may be guilty under the statute.
4. The evidence was sufficient to submit the charges to the jury and support Taylor's convictions for issuing fictitious driver's licenses.

KEY QUOTATIONS

“Accordingly, a DMV employee who processes a driver’s license based on information she knew or should have known was fictitious is guilty under § 56-1-515(1) for issuing a fictitious license.” (395)

“This evidence was sufficient to support Taylor’s convictions under § 56-1-515(1).” (396)

FACTUAL BACKGROUND

While managing a South Carolina Division of Motor Vehicles office, Linda Taylor processed driver's licenses for two applicants without requiring identification, written examinations, or driving tests. The applicants testified that they received licenses after providing only their names and birthdates and paying the application fee. Neither applicant provided a Social Security number or address corresponding to the license, and the evidence indicated that Taylor fabricated information necessary to complete the applications.

PROCEDURAL HISTORY

Taylor was convicted by a jury on two counts. The trial court denied her directed-verdict motion but later granted her motion for a verdict in arrest of judgment and entered an acquittal. The State appealed, and the Court of Appeals reversed and reinstated the convictions. The Supreme Court affirmed in result, holding that the Court of Appeals properly reversed the acquittal because the evidence was sufficient.

DISPOSITION

affirmed

CASES CITED

- State v. Dasher, 278 S.C. 395, 297 S.E.2d 414 (1982)
- State v. Syphrett, 27 S.C. 29, 2 S.E. 624 (1887)
- State v. Hamilton, 17 S.C. 462 (1882)
- State v. Ferguson, 302 S.C. 269, 395 S.E.2d 182 (1990)
- State v. Rothschild, 351 S.C. 238, 569 S.E.2d 346 (2002)
- State v. McKnight, 353 S.C. 238, 577 S.E.2d 456 (2003)
- State v. McGowan, 347 S.C. 618, 557 S.E.2d 657 (2001)
- 348 S.C. 152, 558 S.E.2d 917 (Ct. App. 2001)

OPINION

MOORE, J.

Justice MOORE: We granted a writ of certiorari to review the Court of Appeals' decision¹ affirming petitioner Linda Taylor's conviction on two counts of issuing a fictitious driver's license. We affirm in result. FACTS Taylor was charged with violating S.C.Code Ann. § 56-1-515(1) (1991) which provides: It is unlawful for any person to alter a motor vehicle driver's license so as to provide false information on the license or to sell or issue a fictitious driver's license. (emphasis added).

At trial, the State presented evidence that on April 24, 1998, Taylor was working as a manager at the Walterboro Division of Motor Vehicles (DMV) when she processed driver's licenses for two illegal Mexican immigrants without requiring any identification, written exams, or driving tests. Lilia Macias testified she made arrangements with one Maria Cortez who agreed to take Macias to the DMV and ensure she received a driver's license "without the necessary documentation in exchange for \$1,000.

Macias received her license as promised after giving only her name and birthdate, taking a vision test, and paying the \$12.50 application fee. Macias identified Taylor as the person who processed her license. Armando Ramirez testified to receiving a license in the same manner from Taylor on the same day. Neither one ever paid Cortez and there is no evidence Taylor received any money for her part in processing the licenses.

After the State's case, Taylor moved for a directed verdict. The trial judge denied the motion. The jury then returned a *394guilty verdict on both counts. On post-trial motion for a verdict in arrest of judgment, Taylor reargued the substance of her directed verdict motion.

The trial judge granted the motion and entered a verdict of acquittal. On appeal by the State,² the Court of Appeals found it was inappropriate procedurally for the trial judge to grant Taylor's motion for a verdict in arrest of judgment based on the sufficiency of the evidence; moreover, the evidence was sufficient to support a charge of issuing a fictitious license.

The Court of Appeals reversed and reinstated Taylor's convictions. ISSUE Was a verdict in arrest of judgment properly granted on these facts? DISCUSSION Taylor contends the Court of Appeals should not have reversed based on the procedural inappropriateness of a verdict in arrest of judgment because the State never argued this defect below.

We agree. It is well-settled that a verdict in arrest of judgment should not be granted based on the insufficiency of the evidence; the proper remedy is a new trial. *State v. Dasher*, 278 S.C. 395, 297 S.E.2d 414 (1982); *State v. Syphrett*, 27 S.C. 29, 2 S.E. 624 (1887); *State v. Hamilton*, 17 S.C. 462 (1882).

Because the State never argued this procedural bar to the trial court, the issue was not preserved for appeal and the Court of Appeals should not have reversed on this ground. We find, however, that the Court of Appeals properly reversed the verdict of acquittal based on the sufficiency of the evidence.³ *395 Taylor concedes she processed the two driver's licenses without requiring the necessary documentation or tests.

Her argument is that although she processed the licenses, the DMV issued them, and therefore they are not "fictitious licenses" as a matter of law. Taylor contends § 56-1-515(1) should apply only to licenses manufactured by others outside the DMV.

First, although the license is issued under the authority of the DMV, the license is physically "issued" by the employee who processes the application. The employee's actions therefore are fairly encompassed within the statutory term "issue." Further, a license issued by an employee of DMV may still be "fictitious." South Carolina Code Ann. § 56-19-50 (1991) provides: § 56-19-50.

Department shall seize expired, fictitious and certain other certificates, cards, permits, licenses, and plates.⁴ The Department may take possession of any... license... issued by it (a) upon expiration, revocation, cancellation or suspension thereof, (b) which is fictitious or (c) which has been unlawfully or erroneously issued. (emphasis added).

Under this section, a license issued by DMV may be "fictitious." We construe § 56-1-515(1) to require that the issuance of a "fictitious" license is unlawful if knowingly done. See *State v. Ferguson*, 302 S.C. 269, 395 S.E.2d 182 (1990) (unless otherwise indicated, prohibited act must be accompanied by criminal intent); *State v. Rothschild*, 351 S.C. 238, 569 S.E.2d 346 (2002) (construing statute to include an element of intent to avoid vagueness).

Accordingly, a DMV employee who processes a driver's license based on information she knew or should have known was fictitious is guilty under § 56-1-515(1) for issuing a fictitious license. *396 Here, the fact that Taylor never demanded any documentation from Macias or Ramirez is evidence she knew or should have known the information she used to process the licenses was fictitious.

Further, there is evidence neither applicant gave a social security number although the computer would not complete the application process without one, indicating Taylor fabricated social security numbers for the two applicants. Neither applicant gave Taylor an address and neither lived at the address on the license, again indicating Taylor fabricated the information.

This evidence was sufficient to support Taylor's convictions under § 56-1-515(1). We find the Court of Appeals correctly ruled that the trial judge improperly entered a verdict of acquittal based on the sufficiency of the evidence. **AFFIRMED IN RESULT.** TOAL, C.J., WALLER, BURNETT and PLEICONES, JJ., concur.. 348 S.C. 152, 558 S.E.2d 917 (Ct.App.2001)..

Although the State may not appeal a directed verdict of acquittal, *State v. McKnight*, 353 S.C. 238, 577 S.E.2d 456 (2003), it may appeal a verdict of acquittal in arrest of judgment. *State v. Dasher*, *infra*. In such a case, the defendant is not subjected to double jeopardy because the jury's original conviction is merely reinstated. *Id.*.

Because the trial court essentially granted a belated directed verdict, on review we apply the standard applicable to a directed verdict i.e., whether there was evidence sufficient to submit the charge to the jury. See *State v. McGowan*, 347 S.C. 618, 557 S.E.2d 657 (2001)..

Although this section is found in Chapter 19 of Title 56 which is entitled "Protection of Titles to Interests in Motor Vehicles," some of the provisions in this chapter have broad application. See, e.g., § 56-19-40 ("Department shall examine and determine the genuineness, regularity and legality of every application for registration of a vehicle or for a certificate of title therefor and of any other application lawfully made to the Department....") (emphasis added).