1972

The State of Utah v. Valentino Archuleta : Brief of Appellant

In The Supreme Court of the State of Utah

THE STATE OF UTAH,

Plaintiff-Respondent,

-vs-

VALENTINO ARCHULETTA,

Defendant-Appellant.

BRIEF OF APPELLANT

Appeal from a jury verdict of [illegible] Judicial District Court, in and for [illegible] the Honorable Gordon R. Hall, presiding

BRUCE [illegible]

231 East [illegible]

Salt Lake [illegible]

Attorney for Appellant

VERNON B. ROMNEY

Attorney General, State of Utah

State Capitol
Salt Lake City, Utah

Attorney for Respondent

LORRAINE PRESS 1397 SOUTH MAIN STREET SALT LAKE CITY, UTAH

TABLE OF CONTENTS

CASES CITED

TABLE OF CONTENTS (Continued)

OTHER AUTHORITIES CITED

In The Supreme Court of the State of Utah

THE STATE OF UTAH,
Plaintiff-Respondent,
-vs-
VALENTINO ARCHULETTA,
Defendant-Appellant.

Case No. 12900

BRIEF OF APPELLANT

STATEMENT OF THE NATURE OF THE CASE

The appellant, Valentino Archuletta, appeals from a conviction of robbery in the Third Judicial District Court, Salt Lake County, State of Utah.

DISPOSITION IN THE LOWER COURT

The appellant, Valentino Archuletta, was found guilty by a jury of the crime of robbery on February 1, 1972, and was thereafter sentenced to the Utah State Prison on February 23, 1972. Stays of execution having been granted from time to time, appellant was committed to the Utah State Prison on May 10, 1972.

RELIEF SOUGHT ON APPEAL

Appellant seeks a reversal of the conviction and judgment rendered below and a remand of the case for a new trial.

STATEMENT OF FACTS

Mr. Helmuth K. Sahm testified that on November 13, 1971, he was driving a cab and he picked up Valentino Archuletta. (T. 13) He further testified that appellant got in the back seat of the cab (T. 15) and when the cab approached the address appellant gave Mr. Sahm, appellant told him how to get there. (T. 16-18) Mr. Sahm said that the cab ended up in a back alley (T. 18) and he then felt a belt go around his neck with pressure being applied. (T. 18) He testified that when he asked what was wanted, appellant said "what do you think?" (T. 18) He testified that he took out his wallet and handed it to appellant, who took it. (T. 19) Mr. Sahm testified that he received no fee in advance for the fare. (T. 22)

Valentino Archuletta testified that he got in the cab with Mr. Sahm on November 13, 1971, and that he was not feeling well. (T. 54) He laid down on the back seat and the next thing he remembered was Mr. Sahm attempting to get into his (appellant's) pocket. (T. 55) Appellant testified that he had his belt off when he got in the cab because he had been sleeping at his

father's where the cab picked him up, (T. 57) and the belt was uncomfortable. Appellant further testified that when he felt Mr. Sahm attempting to get into his pocket he asked what he was doing and received no answer. (T. 55) The cab driver then asked for $1.75 for the fare or he (the cab driver) would take appellant to the police. (T. 56) Appellant said Mr. Sahm turned around as if to hit him, at which point he hooked the belt around Mr. Sahm's arm. (T. 57) He described a struggle and how the belt ended up around Mr. Sahm. (T. 57-58)

Mr. Sahm handed back his wallet to appellant as he was getting out of the cab. (T. 58) He took the wallet and threw it without examining it, saying he wanted out of there. (T. 59, 60, 80) Mr. Sahm stated that appellant did not specifically ask for the wallet and that he "assumed" he wanted his wallet. (T. 30) Mr. Sahm testified that appellant made no effort to retrieve the belt. (T. 33)

Appellant's father testified that he had paid Mr. Sahm in advance for the fare (T. 40), contrary to Mr. Sahm's insistance that he received no fare. (T. 22, 25)

Prior to the trial appellant objected to proceeding with the trial in jail clothes, appellant wearing a jail t-shirt and pants and an old gray shirt with two buttons. (T. 3) The court below denied the motion. (T. 3)

ARGUMENT

POINT I

THE COURT BELOW ERRED IN OVERRULING APPELLANT'S OBJECTION TO PROCEEDING WITH THE TRIAL WHILE APPELLANT WAS IN JAIL CLOTHES.

Appellant contends that it was error on the part of the court below to overrule appellant's objection to proceeding with the trial while he was garbed in Salt Lake County Jail clothes, and the error caused appellant to have an unfair trial.

In *Atkins v. State*, 210 So.2d 9 (Fla. 1968), a robbery case, the sole issue was the propriety of proceeding with the trial while the defendant was in prison garb. The court, prior to the trial, told the jury that the defendant was wearing what he was because he was issued such clothes as an inmate of the jail. The court told the jury his attire was not an indication that he had been convicted. The defendant objected to the trial while he was so clothed and the objection was overruled. The court on appeal pointed out that the defendant was basically claiming that he was denied a fair trial. The Florida court quoted the general rule as follows, citing 21 Am. Jur. 2d, Criminal Law, § 239:

> Since the defendant, pending and during his trial, is still presumed innocent, he is entitled to be brought before the court with the appearance, dignity, and self-respect of a free and

> innocent man, except as the necessary safety and decorum of the court may otherwise require. He is therefore entitled to wear civilian clothes rather than prison clothing at this trial. It is improper to bring him into the presence of the jury which is to try him, or the venire from which his trial jury will be drawn, clothed as a convict.

In that case, however, the court held that the court's cautionary instructions kept the defendant from being seriously prejudiced. However, the court did say that in another case where the guilt of the defendant was not so clear, "reversible error may be found in the trial of an accused dressed in prison attire." However, the dissent felt that forcing a defendant to trial in such clothes

> constitutes prejudicial reversible error as a matter of law. I can hardly conceive of any action of a trial court that would so strongly infringe upon that most fundamental right—the presumption of innocence.

Another robbery case is *Miller v. State,* 457 S.W. 2d 848 (Ark. 1970). The robbery was unrebutted, unlike appellant's case, but the defendant was in prison clothes at trial with the numbers visible on his shirt and trousers. The defendant moved to continue the trial or have the court take some other steps, both of which were denied. The court held that a continuance should have

been granted to make arrangements for civilian attire, and that absent waiver a defendant should not be forced to trial in his prison clothes. The court reversed the conviction.

A Colorado case, *Eaddy v. People,* 115 Colo. 488, 174 P.2d 717 (1946), has often been cited as the leading case for the proposition that one should be tried in civilian clothes. In that murder case, the defendant wore clothes that said "County Jail" upon them. The court said, 174 P.2d at 718; in reversing the conviction:

> It is difficult to find any distinction, as to the humiliation involved, between requiring a prisoner to wear the words "County Jail" branded upon his clothing and requiring him to wear them on a placard attached about his neck; either is a mockery, an indignity and a humiliation not consistent with innocence and freedom. The presumption of innocence requires the garb of innocence.

In *Commonwealth v. Keeler,* 216 Pa.Super. 193, 264 A.2d 407 (1970), the defendant tried to get civilian clothes for his trial for illegal possession of a gun. He moved for a continuance which was denied and was placed before the venire panel while the jury was being selected. The court pointed out that the defendant gave the appearance of one whom the State regarded as deserving to be so attired. The court further said that

> the wearing of prison garb in the courtroom also demeans the defendant in his own mind.

> It makes him feel that, although presumed to be innocent, he has already lost his dignity by the very fact of arrest and charge.

The court said that no purpose was served by trying the defendant in prison garb and that the trial court abused its discretion in not continuing the trial. The trial court should have procured civilian clothes for the defendant if none were available, the court said in reversing the conviction for a new trial. See also for the same rule that a defendant tried over his objection in jail clothes is entitled to a new trial, *Ephraim v. State,* 471 S.W.2d 798 (Tex. 1971).

Several courts have said that the presumption of innocence requires that one be tried in civilian clothes, but have held that either because there was no proper objection made or because the evidence of guilt was overwhelming, reversal was not required. See, e.g. *Collins v. State,* 70 Okl.Cr. 340, 106 P.2d 773 (1940); *Sharpe v. State,* 119 Ga. App. 222, 166 S.E.2d 645 (1969); *People v. Shaw,* 381 Mich. 467, 164 N.W.2d 7 (1969).

The Court of Appeals for the Fifth Circuit has held as follows. In *Hernandez v. Beto,* 443 F.2d 634 (5th Cir. 1971) the defendant was tried in a white t-shirt that had "Harris County Jail" stamped in the front and the same on the trousers. No objection was made prior to trial, but the court reversed and remanded the case saying:

> There is little doubt in the court's mind that negative inferences can be, and more than likely are, created in the minds of the jurors when the accused is brought into court and tried in prison clothing. 443 F.2d at 636.

Trying a defendant in prison clothes "infringes a fundamental right—the presumption of innocence." See also *Brooks v. State*, 381 F.2d 619 (5th Cir. 1967).

Clearly most of the cases dealing with the problem deal with it from the standpoint of the presumption of innocence and the infringement of this important principle that occurs when one is tried in jail or prison clothes. One court has dealt with the problem from the angle of equal protection of the laws. In *People v. Zapata*, 220 Cal. App. 2d 903, 34 Cal. Rptr. 171 (1963), the court said, concerning a trial to a judge with the defendant in jail denims:

> A defendant who can afford bail appears for trial in the best array he can muster. He may be a veritable satyr clad like Hyperion himself. Imposition of jail clothing on a defendant who cannot afford bail subjects him to inferior treatment. He suffers a disadvantage as a result of his poverty. Our traditions do not brook such disadvantages. . . .

In the case, however, the court found no prejudice in the trial for possession of narcotics before a judge without a jury.

Appellant contends that his trial in the garb he was wearing was not fair in that the presumption of innocence was abrogated. In a case of this nature, the jury's duty was simply deciding who was telling the truth, Mr. Sahm or appellant. That is, where the truth and veracity of the witness was the crucial aspect of the case, and it was the jury's duty to decide if Mr. Sahm was telling the truth when he said appellant robbed him, or if appellant was telling the truth about the struggle inside Mr. Sahm's cab, the sheer appearance of the witnesses was no doubt crucial in the jury's determination as to which one to believe. All things being equal, it is appellant's contention that the jury would more likely believe Mr. Sahm than him because of the differences in appearance and the resulting inferences that would arise in the jury's deliberations. Most simply stated, and while a barren record can not accurately describe appellant's appearance at trial, appellant contends that he should not have been tried in jail clothes and it was reversible error to allow the trial to proceed when he was so attired and he is entitled to a new trial in dignity and self-respect and in the "garb of innocence," to accompany the presumption of innocence.

CONCLUSION

For the reason above stated, that the court below erred in denying appellant's objection to proceeding

with the trial while he was in jail clothes, appellant respectfully submits that he is entitled to a reversal of the conviction and a new trial.

Respectfully submitted,

BRUCE C. LUBECK

Attorney for Appellant