

"South Carolina Supreme Court Weighs in on the Requirements for a Proper 'Chain of Custody' in Hatcher"

In State v Hatcher the South Carolina Supreme Court addressed the legal requirements that need to be present for the State to establish a proper "chain of custody" for the admission of fungible evidence offered in criminal cases. The opinion was filed on March 21, 2011, and overruled the South Carolina Court of Appeals and reinstated the conviction of the defendant Hatcher which was rendered in Circuit Court.

FACTS:

Hatcher was indicted for selling crack cocaine to an undercover informant in October of 2006. At the trial of the case, the informant testified that he went into Hatcher's residence and purchased two pieces of crack cocaine. The two individual pieces of crack cocaine were wrapped inside small pieces of plastic that had been cut from the corners of a sandwich bag.

Regarding the admission of the drug evidence, Sergeant Locklear testified that the informant gave him the crack cocaine (still tied in the original packages). He then placed it in a plastic evidence bag and sealed it. Locklear filled out all the identifying information on the bag such as the case number, who he received it from, etcetera. The evidence bag was then transported to SLED for testing. After testing, the SLED agent repackaged the drugs in a heat sealed bag. Locklear identified the heat sealed bag at trial as being the same one he had personally transported to court that day.

SLED forensic scientist Marjorie Wilson testified as to how she handled the crack cocaine while it was being tested at SLED.

A jury found Hatcher guilty. Hatcher then appealed his conviction on the basis that the State had failed to establish a sufficient "chain of custody" for the drug evidence to have been properly admitted.

ANALYSIS:

"The Court has long held that a party offering into evidence fungible items such as drugs or blood samples must establish a complete chain of custody as far as practicable." "Where the substance analyzed has passed through several hands the evidence must not leave it to conjecture as to who had it and what was done with it between the taking and the analysis." "Testimony from each custodian of fungible evidence, however, is not a prerequisite to establishing a chain of custody sufficient for admissibility." "Where other evidence establishes the identity of those who have handled the evidence and reasonably demonstrates the manner of handling of the evidence, our courts have been willing to fill gaps in the chain of custody due to an absent witness." "Proof of chain of custody need not negate all possibility of tampering so long as the chain of possession is complete." "In applying this rule, we have found evidence inadmissible only where there is a missing link in the chain of possession because the identity of those who handled the substance was not established at least as far as practicable." "We have never held the chain of custody rule requires every person associated with the procedure be available to testify or identified personally, depending on the facts of the case." "Whether the chain of custody has been established as far as practicable clearly depends on the unique factual circumstances of each case. In examining issues regarding the chain of custody, a mere suggestion that substitution could possibly have occurred is not enough to establish a break in the chain of custody. "It is unnecessary....that the police account for 'every hand-to-hand transfer' of the item; it is sufficient if the evidence demonstrates a reasonable assurance the condition of the item remains the same from the time it was obtained until its introduction at trial." "To expect the prosecuting authority to produce

every possible individual who may have had fleeting contact with the evidence would cause unnecessary logistical problems concerning chain of custody." Courts have abandoned inflexible rules regarding the chain of custody and the admissibility of evidence in favor of a rule granting discretion to the trial courts. "The trial judge's exercise of discretion must be reviewed in the light of the following factors: '...the nature of the article, the circumstances surrounding the preservation and custody of it, and the likelihood of intermeddlers tampering with it.'" "If upon the consideration of such factors the trial judge is satisfied that in reasonable probability the article has not been changed in important respects, he may permit its introduction in evidence." Considering those factors here, we find no abuse of discretion in the trial judge's admission of the drug evidence in Hatcher's case.

HOLDING:

"The State does not need to establish the identity of every person handling fungible items in all circumstances; the standard for admission is whether or not, and the discretion of the trial judge, the state has established the chain of custody as far as practicable. This determination will of course depend on the unique factual circumstances of each case. In the case at bar, the trial judge did not abuse his discretion in finding a sufficient chain of custody existed to allow admission of the drug evidence.