

ORIGINAL

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

RECEIVED
JUL 08 2013

Appeal from Pickens County

SC Court of Appeals

D. Garrison Hill, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

JAMIE EDWARD MORRIS,

APPELLANT

APPELLATE CASE NO. 2012-212630

INITIAL REPLY BRIEF OF APPELLANT

ROBERT M. PACHAK
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S. C. 29211-1589
(803) 734-1343

ATTORNEY FOR APPELLANT

TABLE OF CONTENTS

TABLE OF CONTENTS1

TABLE OF AUTHORITIES.....2

ARGUMENT IN REPLY3

CONCLUSION.....4

TABLE OF AUTHORITIES

Cases

State v. Arnold, 361 S.C. 386, 605 S.E.2d 529 (2004)..... 3

State v. Cherry, 361 S.C. 588, 606 S.E.2d 475 (2004)..... 3

State v. Leonard, 292 S.C. 133, 355 S.E.2d 270 (1987)..... 3

State v. Lewis, __ S.E.2d __, 2013 WL 2017596, S.C.App., May 15, 2013 (No. 5132)..... 3

State v. Lollis, 343 S.C. 580, 541 S.E.2d 254 (2001)..... 3

State v. Schrock, 283 S.C. 129, 322 S.E.2d 452 (1984)..... 3

State v. Zeigler, 364 S.C. 94, 102, 610 S.E.2d 859, 863 (Ct.App.2005)..... 3

ARGUMENT IN REPLY

As this Court noted in State v. Lewis, __ S.E.2d __, 2013 WL 2017596, S.C.App., May 15, 2013 (No. 5132):

“The trial judge should grant a directed verdict when the evidence merely raises a suspicion that the accused is guilty.” State v. Zeigler, 364 S.C. 94, 102, 610 S.E.2d 859, 863 (Ct.App.2005) (citing State v. Arnold, 361 S.C. 386, 390, 605 S.E.2d 529, 531 (2004); State v. Schrock, 283 S.C. 129, 132, 322 S.E.2d 450, 452 (1984)). “ ‘Suspicion implies a belief or opinion as to guilt based upon facts or circumstances which do not amount to proof.’ ” Id. (quoting State v. Cherry, 361 S.C. 588, 594, 606 S.E.2d 475, 478 (2004); State v. Lollis, 343 S.C. 580, 584, 541 S.E.2d 254, 256 (2001)).

“ ‘In order to be guilty as an aider or abettor, the participant must be chargeable with knowledge of the principal’s criminal conduct.’ ” Id. at 480, 697 S.E.2d at 584 (quoting State v. Leonard, 292 S.C. 133, 137, 355 S.E.2d 270, 272 (1987)).

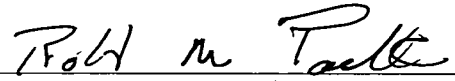
“ ‘Mere presence at the scene is not sufficient to establish guilt as an aider or abettor.’ ” Mattison, 388 S.C. at 480, 697 S.E.2d at 584 (quoting Leonard, 292 S.C. at 137, 355 S.E.2d at 272).

The State failed to show anything beyond mere suspicion in appellant’s case. It failed to show appellant had knowledge of the principal’s criminal conduct. Appellant’s mere presence was insufficient to establish guilt. The State has not shown that appellant did anything wrong.

CONCLUSION

A directed verdict should be granted in appellant's favor.

Respectfully submitted,

Handwritten signature of Robert M. Pachak in cursive script, written over a horizontal line.

Robert M. Pachak
Appellate Defender

ATTORNEY FOR APPELLANT.

This 8th day of July, 2013.

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Pickens County
D. Garrison Hill, Circuit Court Judge

THE STATE,

RESPONDENT,

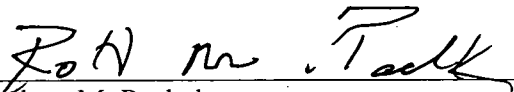
V.

JAMIE EDWARD MORRIS,

APPELLANT

CERTIFICATE OF SERVICE

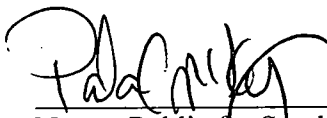
The undersigned attorney hereby certifies that a true copy of the Initial Reply Brief of Appellant in the above referenced case has been served upon J. Benjamin Aplin, Esquire, at Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, this 8th day of July, 2013.



Robert M. Pachak
Appellate Defender

ATTORNEY FOR APPELLANT.

SUBSCRIBED AND SWORN TO before me
this 8th day of July, 2013.



(L.S.)
Notary Public for South Carolina
My Commission Expires: July 24, 2022.