RECEIVED
Oct 11 2023
SC Court of Appeals

STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM GREENVILLE COUNTY
Court of General Sessions
The Honorable Edward W. Miller, Circuit Court Judge

Appellate Case No. 2022-001618

THE STATE, Respondent,

v.

QUAVON DESHAY EDMUNDS, Appellant.

FINAL BRIEF OF RESPONDENT

ALAN WILSON
Attorney General

JOSHUA A. EDWARDS
Assistant Attorney General

Post Office Box 11549
Columbia, SC 29211
(803) 734-3727

W. WALTER WILKINS, III
Solicitor, Thirteenth Judicial Circuit

305 E. North St.
Greenville, SC 29601
(864) 467-8647

ATTORNEYS FOR RESPONDENT

TABLE OF CONTENTS

TABLE OF AUTHORITIES ii

STATEMENT OF ISSUES ON APPEAL 1

STATEMENT OF THE CASE 2

STATEMENT OF FACTS 3

ARGUMENT 7

I. The trial court correctly charged the law of accomplice liability. 7

A. Standard of review. 7

B. An accomplice liability charge was proper because Edmunds acted in concert with others and the evidence was equivocal as to who shot the victim. 7

i. Applicable law 7
ii. Discussion. 8
iii. Harmless error. 12

C. The trial court's charge was not a comment on the facts. 13

i. Issue preservation. 13
ii. Discussion. 13
iii. Harmless error. 15

II. The trial court properly denied Edmunds's motion for a directed verdict because there was evidence he agreed with others to commit an unlawful act, and the shooting of the victim was a foreseeable consequence of the conspiracy. 16

A. Standard of review. 16

B. Discussion. 16

CONCLUSION 20

TABLE OF AUTHORITIES

Cases

Barber v. State, 393 S.C. 232, 237, 712 S.E.2d 436, 439 (2011) 8, 10

Commonwealth v. Alexander, 260 Va. 238, 241, 531 S.E.2d 567, 568 (2000) 11, 18

State v. Arnold, 361 S.C. 386, 389, 605 S.E.2d 529, 531 (2004) 17

State v. Bennett, 415 S.C. 232, 235, 781 S.E.2d 352, 353 (2016) 16, 17

State v. Byers, 392 S.C. 438, 448, 710 S.E.2d 55, 60 (2011) 15

State v. Chhith-Berry, 437 S.C. 527, 548, 878 S.E.2d 352, 363 (Ct. App. 2022) 13

State v. Condrey, 349 S.C. 184, 192, 562 S.E.2d 320, 323–24 (Ct. App. 2002) 11, 18

State v. Dickey, 380 S.C. 384, 402, 669 S.E.2d 917, 927 (Ct. App. 2008) 14, 18

State v. Harry, 420 S.C. 290, 803 S.E.2d 272 (2017) 11, 17

State v. Littlejohn, 228 S.C. 324, 329, 89 S.E.2d 924, 926 (1955) 16

State v. Mattison, 388 S.C. 469, 479, 697 S.E.2d 578, 584 (2010) 7, 8

State v. Nix, 288 S.C. 492, 496, 343 S.E.2d 627, 629 (Ct. App. 1986) 16

State v. Pearson, 415 S.C. 463, 469, 783 S.E.2d 802, 805 (2016) 17

State v. Rios, 388 S.C. 335, 342, 696 S.E.2d 608, 612 (Ct. App. 2010) 13

State v. Smith, 288 S.C. 329, 331, 342 S.E.2d 600, 601 (1986) 14

State v. Washington, 431 S.C. 394, 406, 848 S.E.2d 779, 785 (2020) 7, 10

Wilds v. State, 407 S.C. 432, 756 S.E.2d 387 (Ct. App. 2014) 10

STATEMENT OF ISSUES ON APPEAL

I. An accomplice liability charge is warranted if there is any evidence a defendant is guilty as an accomplice rather than a principal. The evidence showed Edmunds joined with others in an unlawful agreement that resulted in the shooting of the victim, but the evidence was equivocal as to who fired the shots. Did the court err by giving an accomplice liability charge?

II. A directed verdict is only warranted if there is a total failure of competent evidence. In this attempted murder and conspiracy case, there was circumstantial evidence that Edmunds planned unlawful deadly violence against the victim. Did the court properly refuse to grant a directed verdict?

STATEMENT OF THE CASE

A Greenville County grand jury indicted Appellant Quavon Edmunds for two counts of attempted murder, discharging a firearm into an occupied vehicle, criminal conspiracy, and possession of a weapon during the commission of a violent crime. He proceeded to jury trial on November 7–9, 2022, before the Honorable Edward W. Miller, Circuit Court Judge. Edmunds was convicted as charged and sentenced to 25 years' incarceration on each attempted murder charge, ten years for discharging a firearm into an occupied vehicle, five years for conspiracy, and five years for possession of a weapon during the commission of a violent crime, with the sentences to be served concurrently. This direct appeal follows.

STATEMENT OF FACTS

On February 7, 2018, the primary victim in this case, Fred Miller-Knowles, burglarized the home of Appellant Quavon Edmunds. (R.p.132). Miller-Knowles and a friend stole a gun, dog, marijuana, and other belongings. (R.p.133). Miller-Knowles dropped off his friend and picked up his girlfriend to take her to work. (R.p.134). He received a call telling him Edmunds and others were looking for him. (R.p.134).

Miller-Knowles was at a stoplight on North Main Street in Greenville when a blue Camaro pulled up next to him. A person inside the car shot Miller-Knowles in the head three times. (R.p.134, 140). His girlfriend, Jaton Lomax, was not hit. A school bus was behind the victims' car and captured the shooting on camera. (State's Exhibit #1). The bus driver saw a person with a "gloved hand" shoot into the victims' car. (R.p.67–68). The victims did not see the shooter and did not know Edmunds. (R.p.137, 159).

A firefighter witnessed the shooting. He saw three cars speed away from the scene: a grey or black Camaro with oversized rims, a dark-in-color Impala, and another Camaro. (R.p.164). The Impala returned to the scene shortly after. (R.p.165–66). Police soon arrived and pursued the Impala, effecting a traffic stop of the car. Inside were three individuals who would ultimately be charged and plead guilty as accessories: Jaquin Dodd, Curtis Collins, and Damous Beasley. Collins, the front passenger, had a 40 caliber Glock under his seat. (R. 203; R. 210—11; 416). The driver of the black Camaro, Justin Miller, also pled guilty as an accessory.

Dodd testified he was with his friend, Collins, when they received a call from Edmunds's housemate, Damous Beasley, telling them about the burglary. (R.p.175). Dodd and Collins went to the house and got into Beasley's Impala. (R.p.178–79). Dodd testified they were riding around listening to music, and claimed he was not present when the shooting took place. (R.p.185). Dodd denied discussing anything with Edmunds beforehand. (R.p.185). However, when Dodd pled guilty to conspiracy and accessory he acknowledged under oath that "there was a coordinated effort among several cars that surrounded the victims before shots were fired," and "the defendants armed themselves for the confrontation and fled the scene to avoid being identified." (R.p.188).

Collins testified he went to "help" Beasley, and the group discussed getting the stolen items back. (R.p.199–200). The group went looking for the victim at his home, but did not find him there. (R.p.202). Collins testified he wasn't sure who was driving either Camaro. (R.p.204, 213).

Justin Miller worked with Edmunds. (R.p.217). He went home with Edmunds after work on the day of the shooting and discovered Edmunds's house had been burglarized. (R.p.217). Edmunds was mad. (R.p.219). Edmunds viewed security video showing two men burglarizing the home. (R.p.218–19). Miller testified he went home to eat and then met up with Edmunds at a gas station. (R.p.219–20). Miller told police they were riding around looking for the men who burglarized Edmunds's house. (R.p.223). Miller testified he was in a black Camaro and no one was riding with him. (R.p.223). Miller told police he spoke with

Edmunds on the phone and Edmunds told him he was lagging behind. (R.p.226). Miller told police he was there to make sure his friends "didn't get hurt." (R.p.226; Court's Exhibit #2). Miller told police Edmunds didn't drive his own car because the people he was looking for would recognize it. (R.p.237). Miller told police they were looking for a red car. (R.p.239).

Damous Beasley testified Edmunds got a call at some point which led him to believe the victim's friend Lee Moss was responsible for breaking into the house. (R.p.256). Beasley testified Collins and Dodd were in the car with him, Miller was in a black Camaro, and he wasn't sure which car Edmunds was in. (R.p.258). However, Beasley told police Edmunds was in the blue Camaro with another co-defendant, Xavier Concepcion. (R.p.258, line 10; Court's Exhibit #3). Beasley testified when they left home, Concepcion was driving the blue Camaro. (R.p.259). Beasley told police Concepcion switched cars at some point and got into a silver Mercedes. (R.p.260–61). Beasley told police someone else got into the blue Camaro with Edmunds. (R.p.261; Court's Exhibit #3).

Tim Harrison, an investigator with the Greenville Police Department, analyzed Edmunds's cell phone location data. Harrison testified he received location data pursuant to a subpoena directed to T-Mobile for records for Edmunds's phone number. (R. 378). He testified Edmunds's cell phone was in the area of shooting incident at the time of the shooting. (R.p.386–87).

A little over a mile away from the location of the shooting, Wendy Arnold was coming home from work when she noticed two African-American males walking

through her neighborhood. She identified one as thin with braids, while the other as shorter, heavyset, with "gold tips on the ends of his hair." The heavyset man with gold tips in the hair description matched Appellant's description when he later turned himself into police on February 21, 2018. (R.p. 423, 429, 435–37). The State's theory was that the thinner man was the driver of the blue Camaro during the shooting, but he was never identified or apprehended. After noticing the elevated police presence in the area, Arnold became suspicious and called 911. (R.p. 295). By this point, the two men had split from each other. (R.p. 303–05). When she turned around to go back towards her house, Arnold noticed "a dark car," later identified to be the same blue Camaro involved in the shooting, parked at the bottom of her driveway, unoccupied. (R.p. 296–97, 307). Arnold saw a Cadillac pull up to her driveway and drop off another young black man who subsequently got into the driver's seat of the Camaro before police showed up "from all sides and surrounded the car." (R.p. 297–300, 417). This individual was identified as co-defendant Xavier Concepcion. Concepcion's charges were pending at the time of trial, and he did not testify. (R.p. 417–18, 430). The blue Camaro belonged to Concepcion, and police found his personal belongings in the car. (R.p.322–23).

Edmunds presented his grandmother as an alibi witness. She testified Edmunds was at her house setting up a tent some time that day. (R.457—69). However, cell phone records showed Edmunds's phone was only placed at her house making a call or text around 6:00 PM, roughly four hours after the shooting. (R. 388).

ARGUMENT

I. The trial court correctly charged the law of accomplice liability.

The trial court correctly charged the law of accomplice liability. The evidence supported a finding that Edmunds acted in concert with others in furtherance of an unlawful purpose. The evidence was equivocal as to who shot the victim, and therefore supported a finding of guilt either as a principal or as an accomplice. The charge was not a comment on the facts because it did not suggest the court held an opinion about the facts of the case. This Court should affirm.

A. Standard of Review.

A trial judge's decision regarding a jury charge is reviewed for an abuse of discretion. State v. Mattison, 388 S.C. 469, 479, 697 S.E.2d 578, 584 (2010). To warrant reversal, the charge must be erroneous and prejudicial. Id.

B. An accomplice liability charge was proper because Edmunds acted in concert with others and the evidence was equivocal as to who shot the victim.

i. Applicable law.

One who joins with another to accomplish an illegal purpose is liable criminally for everything done by his confederate incidental to the execution of the common design and purpose. Mattison, 388 S.C. at 479, 697 S.E.2d at 584. If a co-conspirator's crime is a "natural and probable" consequence of the unlawful agreement, both actors are responsible for the acts of the principal. State v. Washington, 431 S.C. 394, 406, 848 S.E.2d 779, 785 (2020). In other words, "the hand of one is the hand of all." Id.

The law charged must be determined based on the evidence presented at trial, and a trial court should not decline to charge the law on any issue raised by the evidence. Mattison, 388 S.C. at 479, 697 S.E.2d at 583. A defendant may be convicted on a theory of accomplice liability pursuant to an indictment charging him only with the principal offense. Id. at 479, 697 S.E.2d at 584. If there is any evidence supporting a defendant's guilt on an accomplice liability theory, the charge should be given. Barber v. State, 393 S.C. 232, 237, 712 S.E.2d 436, 439 (2011). If the evidence is "equivocal on some integral fact," and thus alternatively supports a finding of defendant's guilt as either a principal or an accomplice, an accomplice liability charge should be given. Id. at 236, 712 S.E.2d at 439. The question is whether there is any evidence another co-conspirator was the principal and the defendant was his accomplice. Id. at 237, 712 S.E.2d at 439.

ii. Discussion.

Edmunds argues "there was no evidence anyone other than Edmunds might be the shooter." Brief of Appellant at 15. This contradicts Edmunds's stance at trial, where defense counsel argued the school bus video showed the driver of the blue Camaro was the shooter. The State presented evidence Edmunds was the passenger in that vehicle when it departed Edmunds's house, and argued in closing Edmunds shot the victim from the passenger's seat. No witness identified the shooter, meaning the jurors were left with equivocal circumstantial evidence from which they could have concluded alternatively that Edmunds was the shooter or an

accomplice. The trial court correctly instructed the jury on the law of accomplice liability.

The evidence was equivocal as to the central fact in the case: the identity of the person who shot the victim. It is clear from the school bus video that someone fired from within the blue Camaro. (State's Exhibit #1). However, there was no testimony proving whether it was the passenger or driver. Co-defendant Damous Beasley told police Xavier Concepcion was driving the blue Camaro when they left Edmunds's house, and Edmunds was his passenger. (R.p.258–59; Court's Exhibit #3). At some point, Concepcion vacated the Camaro and got into a silver Mercedes. (R.p.260–61; Court's Exhibit #3). Beasley told police an unidentified person got into the Camaro with Edmunds, but he did not know whether the person got into the driver's or passenger's seat. (R.p.261, Court's Exhibit #3). By the time Wendy Arnold saw Edmunds, he and the other individual were walking away from the Camaro. (R.p.294).

In cross-examining the police investigator, defense counsel suggested the driver of the blue Camaro was the shooter. (R.p.444, lines 13–20). Counsel asserted the school bus video showed the hand wielding the gun "barely comes out of the window." (R.p.444, line 14). He insinuated it was "more consistent with someone leaning over and shooting." (R.p.444, line 18). In closing, defense counsel again argued the driver was the shooter. (R.p.505, lines 13–24).

The solicitor argued Edmunds was the passenger, and that he shot the victim. (R.p.477–80). However, the solicitor further argued Edmunds was guilty as

an accomplice even if he wasn't the shooter. (R.p.490). Thus, there were differing views as to whether the shot was fired from the driver's or passenger's seat, and there was no evidence definitively proving which seat Edmunds was in when the shot was fired. The evidence supported either view, and was therefore equivocal as to this integral fact.

This case is similar to Barber. There, Barber and three others conspired to rob a drug dealer. Two victims were shot with a .380 caliber handgun. Barber's co-defendants identified him as the shooter and testified he was the only person armed with a handgun. However, defense counsel elicited testimony that another co-defendant was also armed with a handgun. Barber, 393 S.C. at 237, 712 S.E.2d at 439. Barber argued this person was the shooter, even though there was no testimony to that effect. The Supreme Court found testimony that "there may have been two robbers armed with handguns," along with evidence of concerted action, was sufficient to warrant an accomplice liability charge. Id. at 239, 712 S.E.2d at 440.

As in Barber, the evidence was equivocal as to who shot the victim. Unlike in State v. Washington, 431 S.C. 394, 848 S.E.2d 779 (2020), and Wilds v. State, 407 S.C. 432, 756 S.E.2d 387 (Ct. App. 2014), there was no direct evidence as to who pulled the trigger. Edmunds's ultimate role is susceptible to differing interpretations, and not merely based on the possibility that the jury would disbelieve part of the State's evidence. A charge on accomplice liability was therefore appropriate.

Edmunds further claims there was no evidence Edmunds and his co-defendants intended to "engage in any unlawful act and certainly not murder." Brief of Appellant at 16. The record contradicts this assertion. An unlawful agreement may be shown by circumstantial evidence. State v. Condrey, 349 S.C. 184, 192, 562 S.E.2d 320, 323–24 (Ct. App. 2002). A person may not use deadly force to reclaim personal property. Commonwealth v. Alexander, 260 Va. 238, 241, 531 S.E.2d 567, 568 (2000). The circumstances of this case, including the fact that multiple members of Edmunds's posse were armed, strongly indicates an unlawful agreement to use deadly force if necessary. The shooting of the victim was a foreseeable consequence of this unlawful agreement. Even if Edmunds was attempting to reclaim his property, he was not entitled to use deadly force to do so.

This case bears a striking similarity to State v. Harry, 420 S.C. 290, 803 S.E.2d 272 (2017). There, Harry and two confederates, one of whom was armed, attempted to retrieve a stolen television from the victim. When the victim refused to hand over the television, Harry "gave . . . a head nod" and his confederate shot the victim. Harry, 420 S.C. at 300, 803 S.E.2d at 277. The Supreme Court explained "the evidence yielded a reasonable series of inferences consistent with the State's theory—that Petitioner devised a plan to retrieve, by force if necessary, his television from Victim . . . . The State therefore presented sufficient evidence that Petitioner was engaged in a scheme to commit an illegal act, the result of which was Victim's shooting death . . . ." Id.

Alternatively, the evidence suggests reclamation of the property was not the true goal of this expedition. The occupants of the blue Camaro made no attempt to retrieve their property. They tracked down the victim's vehicle, shot him in the head, and fled. (State's Exhibit #1). The evidence supports a finding not only that the shooting of the victim was foreseeable, but that this was Edmunds's intended purpose.

Edmunds was the person wronged when the victim stole his belongings. Edmunds was the person who was motivated to kill. Edmunds was mad, and Edmunds led his posse to find the men who burglarized his house and retrieve his property by any means necessary. (R.p.218–19). As the solicitor argued, Edmunds was "the glue in this case that holds everything else together." (R.p.490). The evidence supports a finding that Edmunds acted in concert with others to achieve an illegal purpose. The evidence was equivocal as to who actually shot the victim, and supported alternative theories of guilt. Accordingly, an accomplice liability charge was warranted.

iii. Harmless error.

Even if the charge was not warranted, the error is not reversible. Based on the evidence, if Edmunds was not an accomplice then he was the shooter. In that case, he is clearly guilty of attempted murder. This was not a case where the jury was invited to use the doctrine of accomplice liability to speculate as to Edmunds's potential involvement. Edmunds was not prejudiced by the charge. This Court should affirm.

C. The charge was not a comment on the facts.

i. Issue preservation.

Edmunds failed to contemporaneously object to the portion of the charge he now complains was a charge on the facts. At the conclusion of the charge, the trial court asked whether the parties had any objections. Defense counsel stated he did not. (R.p.525, line 16). Later, the jury asked to hear the accomplice liability instruction again, and the court repeated the instruction. Only then did defense counsel object. (R.p.531).

A defendant must object at his first opportunity to preserve an issue for appellate review. State v. Chhith-Berry, 437 S.C. 527, 548, 878 S.E.2d 352, 363 (Ct. App. 2022), cert. denied (May 24, 2023) (citing State v. Aldret, 333 S.C. 307, 312, 509 S.E.2d 811, 813 (1999)). Because the jury had already begun deliberations after Edmunds failed to object to the court's charge, his later objection was not timely. Because Edmunds did not contemporaneously object to the charge, this claim is not preserved for review. See State v. Rios, 388 S.C. 335, 342, 696 S.E.2d 608, 612 (Ct. App. 2010).

ii. Discussion.

Even if preserved, the claim is meritless. The trial court charged the jury:

> Now, if a crime is committed by two or more people who are acting together in committing a crime, the act of one is the act of all. A person who joins with another to accomplish an illegal purpose is criminally responsible for everything done by the other person which occurs as a natural consequence of the acts done in carrying out the common plan and purpose. For example, two people can be guilty of killing another person when only one of the two had a gun, there was only one bullet, and only one of the two fired the shot that caused the death. If two or more people are together, acting together, assisting

> each other in committing the offense, the act of one is the act of all, or as it's sometimes said, the hand of one is the hand of all.

(R.p.518–19).

A trial judge should not make a comment that tends to indicate to the jury his opinion on the credibility of witnesses, the weight of the evidence, or the guilt of the accused. State v. Dickey, 380 S.C. 384, 402, 669 S.E.2d 917, 927 (Ct. App. 2008), reversed on other grounds, 394 S.C. 491, 716 S.E.2d 97 (2011). However, a trial court may give "helpful illustrations" to explain the applicable law. Id. A charge that states the "legal conclusions that would result from the establishment of certain facts" is not necessarily an improper charge on the facts, nor a mandate to the jury to assume the truth of the facts as stated. Id. Jury instructions must be considered in their entirety, and if they are correct as a whole, any potentially misleading portions do not constitute reversible error. Id.

Here, the trial court did not indicate that he believed any of the evidence or express any opinion as to guilt or innocence. He merely gave a hypothetical, which he made clear was an "example," to illustrate the law of accomplice liability. While the court's hypothetical involved the use of a gun, the effect would have been the same if he illustrated the law by example of a knife or other weapon. The court did not state that any of the operative facts had been established by the State. Cf. State v. Smith, 288 S.C. 329, 331, 342 S.E.2d 600, 601 (1986), overruled on other grounds by State v. Burdette, 427 S.C. 490, 832 S.E.2d 575 (2019). The charge was proper.

iii. Harmless error.

Even if the charge was improper, it was not reversible error. The court instructed the jurors several times that they were the sole arbiters of the facts. See Dickey, 380 S.C. at 403, 669 S.E.2d at 927. The court further told the jury: "A trial judge by law is not allowed to have an opinion about the facts of the case. It is up to you all to do that. So please don't think by anything I may have said or done throughout the course of the trial that I have such an opinion. You are the sole judges of the facts." (R.p.514). The jury would not reasonably have interpreted the isolated portion of the charge, which was presented as an example, as a comment on the facts. The instruction did not reasonably affect the result of trial. See State v. Byers, 392 S.C. 438, 448, 710 S.E.2d 55, 60 (2011). This Court should affirm.

II. The trial court properly denied Edmunds's motion for directed verdict because there was evidence to support a finding of guilt on each charge.

There is evidence to support Edmunds's guilt on each charge, either as a principal or an accomplice. Edmunds acted in concert with others to achieve an unlawful purpose, and there was strong circumstantial evidence that Edmunds shot the victims, or acted as an accomplice in circumstances where the shooting of the victims was a foreseeable consequence of the unlawful agreement. The trial court correctly denied the motion for directed verdict. This Court should affirm.

A. Standard of review.

On appeal from the denial of a directed verdict, the appellate court views the evidence and all reasonable inferences in the light most favorable to the State. State v. Bennett, 415 S.C. 232, 235, 781 S.E.2d 352, 353 (2016). The court's review is limited to considering the existence or nonexistence of evidence, not its weight. Id. Unless there is a total failure of evidence tending to establish the charge laid in the indictment, the trial judge's ruling upon a motion for a directed verdict must stand absent an error of law. State v. Nix, 288 S.C. 492, 496, 343 S.E.2d 627, 629 (Ct. App. 1986).

B. Discussion.

When ruling on a directed verdict motion, the trial court views the evidence in the light most favorable to the State and must submit the case to the jury if there is any substantial evidence which reasonably tends to prove the guilt of the accused, or from which his guilt may be fairly and logically deduced. State v. Littlejohn, 228 S.C. 324, 329, 89 S.E.2d 924, 926 (1955). When the State relies on circumstantial

evidence and a motion for a directed verdict is made, the trial judge is concerned with the existence or non-existence of evidence, not with its weight. State v. Pearson, 415 S.C. 463, 469, 783 S.E.2d 802, 805 (2016). The question before the trial judge is whether any rational juror could find the essential elements of the crime beyond a reasonable doubt from the evidence viewed in a light most favorable to the State. Bennett, 415 S.C. at 237, 781 S.E.2d at 354. Unless there is a total failure of competent evidence as to the charges alleged, refusal by the trial judge to direct a verdict of acquittal is not error. State v. Arnold, 361 S.C. 386, 389, 605 S.E.2d 529, 531 (2004).

For all the reasons discussed in the first argument section, evidence supports Edmunds's guilt as a principal or accomplice for the attempted murder of Frank Miller-Knowles, discharging a firearm into an occupied vehicle, possession of a weapon during the commission of a violent crime, and criminal conspiracy. The State proved Edmunds was motivated to kill Miller-Knowles after discovering he had burglarized Edmunds's home. The State presented evidence that Edmunds gathered an armed posse to hunt down the victim, and that Edmunds was in the car from which the shots were fired. Cell phone location data proved Edmunds was in the area when the crime was committed, and Wendy Arnold saw a person matching Edmunds's description walking away from the blue Camaro shortly after the shooting. The evidence supports a finding of guilt on all the charges, either as a principal or under a "hand of one, hand of all" theory. See Harry.

Edmunds argues that there was no evidence he conspired to attempt to kill the victims. Pointing to the criminal conspiracy indictment alleging Edmunds conspired to commit attempted murder, he argues "[n]o one enters into an agreement to collectively fail at something." Brief of Appellant at 22, footnote 5.

Criminal conspiracy is "a combination between two or more persons for the purpose of accomplishing an unlawful object or lawful object by unlawful means." S.C. Code Ann. § 16-17-410. The State was not required to prove Edmunds conspired to commit any particular underlying offense. Condrey, 349 S.C. at 191, 562 S.E.2d at 323. The evidence supports a finding that Edmunds and his confederates conspired to kill Miller-Knowles, or to reclaim his stolen property through unlawful deadly force. See Alexander, 260 Va. at 241, 531 S.E.2d at 568. Either finding is sufficient to support a conviction for criminal conspiracy.

Edmunds did not raise any objection at trial to the trial court's criminal conspiracy instruction, which defined criminal conspiracy as stated above. Nor did he argue for a directed verdict based on the language of the indictment. Regardless, two people can agree to attempt to kill another person. Such an agreement is not an agreement to fail; it is an agreement to attempt to succeed. Failure is not an element of attempted murder. S.C. Code Ann. § 16-3-29 ("A person who, with intent to kill, attempts to kill another person with malice aforethought, either expressed or implied, commits the offense of attempted murder."). If successful, the attempt merges into murder. Whether characterized as conspiracy to murder or conspiracy to attempt to murder, it is an agreement to commit an unlawful act.

The evidence also supports Edmunds's guilt for the attempted murder of Jaton Lomax. Edmunds or his accomplice fired in Lomax's direction at point blank range. Evidence supports the jury's verdict that Edmunds or his accomplice intended to kill both of them. Alternatively, the evidence supported a finding of guilt under a "hand of one" theory, as the possibility that an accomplice would attempt to kill a passenger in the victim's car was a foreseeable consequence of the unlawful agreement. This Court should affirm.

CONCLUSION

For all the foregoing reasons, it is respectfully submitted that the judgment and conviction of the lower court be affirmed.

Respectfully submitted,

ALAN WILSON
Attorney General

JOSHUA A. EDWARDS
Assistant Attorney General

W. WALTER WILKINS, III
Solicitor, Thirteenth Judicial Circuit

BY:_____
Joshua A. Edwards
Bar # 101188

Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211
(803) 734-3727

ATTORNEYS FOR RESPONDENT

October 11, 2023

RECEIVED
Oct 11 2023
SC Court of Appeals

STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM GREENVILE COUNTY
Court of General Sessions
The Honorable Edward W. Miller, Circuit Court Judge

Appellate Case No. 2022-001618

THE STATE, Respondent,

v.

QUAVON DESHAY EDMUNDS, Appellant.

CERTIFICATE OF COUNSEL

The undersigned certifies that this Final Brief of Respondent complies with Rule 211(b), SCACR, and the April 15, 2014, order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

ALAN WILSON
Attorney General

JOSHUA A. EDWARDS
Assistant Attorney General

W. WALTER WILKINS, III
Solicitor, Thirteenth Judicial Circuit

By: _____
Joshua A. Edwards
Bar # 101188

Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211
(803) 743-3727

ATTORNEYS FOR RESPONDENT

October 11, 2023