

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Jasper County
The Honorable Robert Bonds, Circuit Court Judge
Appellate Case No. 2022-001213

RECEIVED

Feb 16 2024

SC Court of Appeals

THE STATE

Respondent,

v.

BRIAN JAMEL REDDING,

Appellant.

INITIAL BRIEF OF RESPONDENT

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TABLE OF CONTENTS

TABLE OF AUTHORITIES	ii
STATEMENT OF ISSUE ON APPEAL.....	1
STATEMENT OF THE CASE.....	2
STATEMENT OF FACTS	3
STANDARD OF REVIEW	11
ARGUMENT	12
Judge Bonds properly denied Appellant's directed verdict motions because there was sufficient circumstantial evidence from which the jury could find Appellant murdered the victim.....	12
CONCLUSION.....	17

TABLE OF AUTHORITIES

Cases

<u>State v. Dent</u> , ___ S.C. ___, ___ S.E.2d ___) (S.C. Ct. App. Op. No. 6034, filed November 8, 2023 (2023 WL 7374131)).....	11, 12
<u>State v. Bennett</u> , 415 S.C. 232, 781 S.E.2d 352 (2016).....	11, 12
<u>State v. Butler</u> , 407 S.C. 376, 755 S.E.2d 457 (2014)	11
<u>State v. Lindsey</u> , 355 S.C. 15, 583 S.E.2d 740 (2003)	11
<u>State v. Rogers</u> , 405 S.C. 554, 748 S.E.2d 265 (Ct. App. 2013)	12
<u>State v. Tillman</u> , 433 S.C. 58, 856 S.E.2d 168 (Ct. App. 2021).....	11, 12, 13, 14, 15
<u>State v. Weston</u> , 367 S.C. 279, 625 S.E.2d 641 (2006).....	11, 12

STATEMENT OF ISSUE ON APPEAL

Judge Bonds properly denied Appellant's directed verdict motions because there was sufficient circumstantial evidence from which the jury could find Appellant murdered the victim.

STATEMENT OF THE CASE

The State concurs with Appellant's procedural Statement of the Case.

STATEMENT OF FACTS

On October 10, 2021, the Jasper County Grand Jury indicted Appellant Brian Jamel Redding on one count of murder and one count of possession of a weapon during a violent crime, arising from the September 2020 shooting death of Appellant's sixteen-year-old girlfriend (Victim). The matter was called for a jury trial in August 2022 before the Honorable Robert Bonds, Circuit Court Judge.

On September 6, 2021, a 911 call came into the Jasper County Emergency Services reporting a female at the Forest Motel in Ridgeland was unresponsive and had a gunshot wound to her head. The caller identified himself as Brian Redding. Officer Christopher Warren of the Ridgeland Police Department was dispatched to the Forest Motel, and he entered the room where the caller indicated the female was located. He testified he found a white female laying on the bed slumped over. She had a gunshot wound to her forehead and was unresponsive. (Trial Transcript [TT], pp. 154-166; Record on Appeal [R.], pp. ____).

Officer Warren testified Appellant was inside the room sitting on the bed with a cellphone in his hand. There were no signs of a struggle, and Officer Warren did not locate a firearm in the room, but a single shell casing was on the floor. Appellant seemed upset and was "making crying sounds," but Officer Warren never saw any tears on Appellant's face. (TT, pp. 167-168, 177-178; R., pp. ____).

Jasper County Sheriff's Deputy John Croft testified he was a criminal investigator with the Ridgeland Police Department in September 2020, and he was called to the Forest Motel on a report of a suspicious death. He determined Appellant rented the room where the Victim was located, and they lived there together. He performed a gunshot residue kit on Appellant, and Appellant gave him the Victim's cellphone. The decision was made to request assistance from the State Law

Enforcement Division (SLED), and after the SLED crime scene team arrived, Deputy Croft started canvassing the other motel rooms to see if anyone had any information. He also obtained a hotel manifest and spoke with the motel owner. (TT, pp. 213-217, 219-221, 250-251; R., pp. ____).

The Victim's sister, Desiree, testified she "hung out" with Appellant and the Victim one time, but was not allowed to after that one time. She went into the Victim's room one time when Appellant was not there, and he came home while she was there. She testified Appellant "just stared at [the Victim]" and "slammed the door when he got upstairs." Desiree also testified she saw a "pretty blue" or "turquoise" gun in the motel room approximately one month before the Victim was killed. (TT, pp. 349-351, 354; R., pp. ____).

Another of Victim's sisters, Taylor, testified she had concerns about the Victim's relationship with Appellant and advised the Victim to "get away" from Appellant because it was not a good relationship. She also testified the Victim was always welcome in her home, but Appellant was not. She stated she knew Appellant had an aqua or teal colored gun that she saw in the car when the Victim and Appellant were sitting in the car outside her mother's house.

On the day the Victim was killed, Taylor was on her way back from Florida when she received a call from the Victim's phone. Appellant was calling, and all he kept saying was "she's unresponsive." When Appellant would not say anything else, Taylor hung up and called her husband to ask him to go over to the motel and find out what was happening. She then called Appellant back for more information, and Appellant "proceeded to tell me what he did that morning" before he told her the Victim had been shot. (TT, pp. 364-370, 373, 377-378; R., pp. ____).

Whitney testified she grew up with the Victim and they were very close. She stated the Victim was always cheerful and outgoing, but the Victim's personality changed after she started

dating Appellant and she was never out around town and stopped communicating with Whitney. Whitney testified she never met Appellant. On the one occasion when Whitney and her sister visited the Victim at the Forest Motel, the Victim opened the door a crack to see who was there before inviting Whitney and her sister inside and then locked the door after they entered the room. Appellant was not there, but the Victim kept mentioning when Appellant was expected to return and Whitney got the impression she and her sister needed to leave before Appellant returned. (TT, pp. 403-408; R., pp. ____).

Taniya testified she was friends with the Victim from the fifth grade until she died. She hung out with the Victim and Appellant after they started dating. She witnessed the Victim upset by the relationship with Appellant and saw Appellant was controlling with the Victim. She saw Appellant with a turquoise/blue gun when she was visiting the Victim at the Forest Motel, and the Victim posted videos on social media of the Victim holding the blue gun. Taniya also saw Appellant with a silver gun.

When Taniya visited the Victim at the Forest Motel, the Victim would let her in if it was a planned visit, but would not let her inside if she arrived unannounced. The Victim would not come outside, but would text Taniya to just leave. Taniya testified the Victim always locked the room door, and she was not the type to answer the door for strangers. Taniya stated she saw the Victim with a gun about a week and a half before the Victim's death. (TT, pp. 418-434; R., pp. ____).

The Victim's sister, Paige, testified she saw the Victim regularly in the month before the Victim's death, and she and her boyfriend hung out with the Victim and Appellant in Paige's room. Paige also went to see the Victim at the Forest Motel and the Victim always had the door locked and checked to see who was at the door before she opened it. When she was with Appellant and the Victim, Paige saw Appellant exhibiting controlling behavior toward the Victim and saw the

Victim cry as a result of Appellant's actions. Paige testified she saw Appellant with a turquoise 9mm gun several times, and she gave him a grip for it. She also saw the Victim with the gun one time. The last time she saw the gun was a couple of days before the Victim's death. (TT, pp. 435-446; R., pp. ____).

A firearms expert testified the bullet casing recovered from the crime scene was consistent with a Luger 9mm caliber firearm. The casing's measurements and other information were entered into a database of manufacturers that make firearms with those specifications, and the manufacturer was identified as SCCY. The expert testified the bullet could have only come from a SCCY 9mm firearm. She further testified SCCY manufactures teal colored 9mm firearms. (TT, pp. 467-478; R., pp. ____).

SLED agent Katie McCallister testified she responded to a reported homicide scene in Ridgeland on September 6, 2020. After she arrived at the scene, she consulted with the crime scene investigators and conducted numerous interviews, but no one reported witnessing the shooting or hearing a gunshot. They investigated and ruled out many individuals whose names came up in the investigation, and the investigation eventually focused on Appellant.

During the investigation, law enforcement obtained a convenience store surveillance video from the day of the murder. According to the video, Appellant stopped at the store at 6:33 a.m. that morning, and was wearing a black shirt with a Batman emblem on the front. Appellant was present when Agent McCallister arrived at the crime scene, but he was wearing a red t-shirt at that time. Even though Appellant reported he had touched the Victim on the head and arms, and there was blood around the Victim's head, Appellant did not have any blood on him.

Investigators also seized and examined multiple cellphones, including two belonging to Appellant and one that belonged to the Victim. In the course of searching the Victim's cellphone,

Agent McCallister found a Facebook post of a video showing Appellant holding a blue or turquoise firearm. (TT, pp. 489-499, 512; R., pp. ____).

The pathologist who performed the Victim's autopsy testified there was a contact gunshot wound to the Victim's head that went through the Victim's skull and brain then exited the back of her head. She was unable to determine the time of death because the autopsy was performed a couple of days after the murder, but stated in her report that the time of death was 9:00 a.m. because that was the time provided to her by the Jasper County Coroner's Office. The pathologist determined that the manner of death was homicide. (TT, pp. 557-574; R., pp. ____).

A SLED trace analysis expert testified she analyzed gunshot residue kits from the Victim, Appellant and the shorts Appellant was wearing the day of the murder. There was no gunshot residue on Appellant's hands, but there was gunshot residue on the right front of Appellant's shorts. (TT, pp. 575-593; R., pp. ____).

A SLED DNA expert testified she processed buccal swaps from Appellant and the Victim and developed DNA profiles for comparison purposes. She found DNA on the bullet casing from the scene that matched the Victim's profile, but excluded Appellant. She also analyzed swabs of suspected blood from the crime scene, including the door, and the exterior and interior door handles of the room.

She determined the swab from the exterior door handle presumptive tested for blood, and contained the Victim's DNA and DNA from Appellant's bloodline. Analysis of the blood swab from the room's interior door handle indicated both Appellant and the Victim contributed to the mixture of DNA found on the door handle. Swabs from the interior of the door presumptively tested for blood and contained the Victim's DNA. Analysis of fingernail scrapings from the Victim contained only the Victim's DNA. (TT, pp. 595-614; R., pp. ____).

After the State rested its case, Appellant moved for a directed verdict on the grounds that the State failed to present any evidence of malice to support the murder charge, and the State failed to present evidence that Appellant killed the Victim. The State responded there was sufficient circumstantial evidence to submit the case to the jury, including: the execution style murder; witnesses' testimony regarding prior difficulties between the Victim and Appellant; testimony regarding Appellant's possession of a blue 9mm firearm; expert testimony that the murder weapon could only be a SCCY 9mm firearm; Appellant changing clothes the morning of the murder; the absence of blood on Appellant even though he claimed he touched the Victim's head and arm; blood smears on the door that contained a mixture of Appellant's and the Victim's DNA; and all the evidence indicated Appellant was the last one to see the Victim alive. (TT, pp. 619-622; R., pp. ____).

Judge Bonds denied the motion, finding there was sufficient evidence from the testimony from which malice could be inferred. He further noted there was evidence of prior difficulties, Appellant's controlling behavior, Appellant's changing clothes, as well as the blood and DNA evidence, and even though it was a circumstantial case, evidence did exist to warrant submitting the case to the jury. (TT, pp. 622-624; R., pp. ____).

Appellant presented an expert in digital forensic cellular communications data, who testified regarding where Appellant's cellphones were located at certain times on September 6, 2020, as reflected by cell tower data. He created a map showing a timeline from 6:14 a.m. to 9:36 a.m. on that date, and the proximity of Appellant's cellphones to various cell towers during that time. (TT, pp. 663-694; R., pp. ____).

The expert also analyzed and prepared a timeline of data from the Victim's cellphone. He testified the Twitter application was used on the Victim's phone at 6:09 a.m. At 6:16 a.m., a

picture file was created via the Facebook application. The next activity on the Victim's phone was at 8:09 a.m., and a Twitter application entry at 8:12 a.m.¹ (TT, pp. 694-700; R., pp. ____).

On cross-examination, the expert admitted there were no voice calls made by the Victim's phone until 9:53 a.m., which was after Appellant placed the 911 call. He also admitted that the cell tower data and phone extraction data only show a phone was in use the morning of the murder, and do not indicate who shot the Victim and when. (TT, pp. 700-705; R., pp. ____).

Appellant presented testimony from various witnesses about their interactions with Appellant the morning of the murder, including the Forest Motel owner, the 911 dispatcher, Appellant's cousin (Danielle), and Appellant's uncle (Alvin). Appellant's mother testified about a container of Appellant's belongings Alvin brought to her house after Appellant's arrest which purportedly contained a Batman t-shirt. Appellant also presented evidence alluding to possible third-party guilt. (TT, pp. 708-775; R., pp. ____).

Appellant testified about his relationship with the Victim and stated he loved her. He then testified in detail about his movements on the morning of the murder. (TT, pp. 822-882; R., pp. ____).

After resting his case, Appellant again moved for a directed verdict on the grounds there was no evidence of malice, the State failed to prove the time of death, and Appellant's alibi was corroborated by his witnesses and cellular data records. Judge Gibbons denied the motion, finding there was testimony indicating potential animus and dominating behavior by Appellant toward the Victim, and the evidence was sufficient to submit the case to the jury. (TT, pp. 885-889; R., pp. ____).

¹Appellant's cellphone data showed his cellphone was in the vicinity of the Forest Motel until 6:16 a.m. and again between 8:06 a.m. and 8:27 a.m. (TT, pp. 681, 689-690; R., pp. ____).

The jury convicted Appellant of murder and possession of a weapon during a crime of violence. Appellant moved for a new trial, arguing the verdict was inconsistent with the evidence, it was “likely that the age of the victim was improperly considered,” the State failed to prove malice, and Appellant had an alibi corroborated by cellphone records. Judge Gibbons denied the motion on the same rationale he previously denied the directed verdict motions, and found there was evidence to support the jury’s verdicts. (TT, pp. 998-1001; R., pp. ____).

Judge Gibbons sentenced Appellant to forty-eight years incarceration on the murder conviction, and a concurrent term of five years incarceration on the weapon conviction, with credit for 648 days times served. (TT, p. 1011, Sentencing Sheets; R. pp. ____). This appeal followed.

STANDARD OF REVIEW

On appeal from the denial of a directed verdict in a criminal case, the appellate court views the evidence and all reasonable inferences in the light most favorable to the State, and if there is any direct evidence or substantial circumstantial evidence reasonably tending to prove the defendant's guilt, the court must find the case was properly submitted to the jury. State v. Butler, 407 S.C. 376, 755 S.E.2d 457, 460 (2014); State v. Weston, 367 S.C. 279, 625 S.E.2d 641, 648 (2006) (same). Appellate review is limited to considering the existence or nonexistence of evidence, not its weight. State v. Bennett, 415 S.C. 232, 781 S.E.2d 352, 353 (2016); State v. Tillman, 433 S.C. 58, 856 S.E.2d 168, 171 (Ct. App. 2021) (same). The appellate court may only reverse the trial court if there is no evidence to support the trial court's ruling. State v. Lindsey, 355 S.C. 15, 583 S.E.2d 740, 742 (2003); State v. Dent, ___ S.C. ___, ___ S.E.2d ___, (S.C. Ct. App. Op. No. 6034, filed November 8, 2023) (2023 WL 7374131 at *9) (same).

ARGUMENT

Judge Bonds properly denied Appellant's directed verdict motions because there was sufficient circumstantial evidence from which the jury could find Appellant murdered the Victim.

Appellant contends Judge Bonds erred in denying his direct verdict motions because the State's evidence merely raised a suspicion Appellant murdered the Victim. When the evidence presented at trial is viewed in the light most favorable to the State, Judge Bonds' finding there was substantial circumstantial evidence from which the jury could find Appellant guilty beyond a reasonable doubt is amply supported.

When ruling on a directed verdict motion, the trial court is concerned with the existence or nonexistence of evidence from which a jury could reasonably infer guilt, not its weight. State v. Bennett, 781 S.E.2d at 354; Weston, 625 S.E.2d at 648 (same); Dent, 2023 WL 7374131, at *9 (same). The trial court "is not required to find that the evidence infers guilt to the exclusion of any other reasonable hypothesis." Bennett, 781 S.E.2d at 354. "Circumstantial evidence ... gains its strength from its combination with other evidence, and all the circumstantial evidence presented in a case must be considered together to determine whether it is sufficient to submit to the jury." Tillman, 856 S.E.2d at 171 (*quoting State v. Rogers*, 405 S.C. 554, 748 S.E.2d 265, 272 [Ct. App. 2013]).

Appellant compares his version of the evidence to circumstantial evidence found insufficient in other cases. Directed verdict considerations are "necessarily fact-intensive," and case analysis is limited to each case's peculiar facts. Tillman, 856 S.E.2d at 172 (*citing Bennett*, 781 S.E.2d at 354 n.1). Notably, Tillman is one case Appellant does not cite, or even mention, for comparison purposes, even though the evidence for directed verdict analysis in Tillman case was very similar to the circumstantial evidence presented in this case.

In Tillman, the defendant and the victim were in a romantic relationship and lived together when the victim was shot in the head and killed. The defendant claimed he left the residence around 9:00 a.m. to go to work and found the victim on the bed deceased when he returned around 6:00 p.m. There was blood down the side of the mattress around the victim's head. The defendant called 911, stating the victim had committed suicide by shooting herself. The defendant's mother was heard in the background during the call mentioning a gun. *Id.* at 170-171.

Law enforcement determined the victim had been shot in the head and shin, but no weapon was discovered on the scene. The murder weapon was subsequently found in an inoperable vehicle located on the residence's property that the defendant and the victim used for storage. The coroner determined the victim did not commit suicide, and the time of death was between 11:00 p.m. and 11:00 a.m. *Id.*

The defendant continuously asserted the victim was alive when he left for work at 9:00 that morning. He did not acknowledge the presence of a gun in the residence or mention having access to a gun until he was confronted after the murder weapon was located on the property; then he could not account for the last time he had held the gun, remember when he last accessed the vehicle used for storage, or explain why his mother mentioned a gun during the 911 call. The defendant's DNA was found on both the weapon and under the victim's fingernail clippings, and one particle of gunshot residue was found on the right sleeve of defendant's shirt. *Id.*

At trial, the defendant moved for a directed verdict at the end of the State's case, which the trial court denied, finding there was substantial circumstantial evidence from which the jury could find the defendant murdered the victim. After presenting testimony from co-workers and his uncle, the defendant again moved for a directed verdict, which was denied. *Id.* at 171.

On appeal, the court of appeals affirmed the denial of the defendant's directed verdict motion. The evidence at trial included: defendant's DNA on the murder weapon and in the victim's fingernail clippings; the gunshot residue found on the defendant's shirt; the defendant was with the victim during the time of death indicated by the coroner; during the 911 call, the defendant said the victim shot herself when the cause of death was not apparent from the position of the victim's body; the murder weapon was subsequently found in a vehicle the defendant and the victim used for storage; the defendant never mentioned the gun until confronted about it and then could not remember when he last touched it or the vehicle; the bullets that killed the victim matched a cache of bullets found inside the residence; and the defendant's mother mentioned a gun during the defendant's 911 call, which she only admitted after hearing the 911 call recording. *Id.* at 171-172.

The court noted that each piece of circumstantial evidence in isolation might only raise a suspicion of the defendant's guilt, and much of the evidence could be challenged, but considered cumulatively and in the light most favorable to the State, it was sufficient to withstand directed verdict. The court stated: "it was within the *jury's* purview to determine what each piece of evidence meant, how the pieces fit together, and whether the sum of the evidence was sufficient to convict Tillman." *Id.* at 172 (emphasis in original).

The circumstantial evidence in this case included: Appellant and the Victim were in a romantic relationship and lived together; there were problems between Appellant and the Victim and Appellant was very controlling of the Victim; the Victim was shot in the head; no gun was found in the motel room; Appellant was the last person to see the Victim alive; Appellant made the 911 call; at some point, Appellant called the Victim's sister and told her about all his movements the morning of the murder before he told her the Victim had been shot in the head;

witnesses saw a 9mm blue/turquoise gun in the motel room shared by Appellant and the Victim and in Appellant's car; a witness saw the gun in the motel room approximately a week and a half before the murder; a witness saw Appellant with the gun several times, gave Appellant a grip for the gun and saw it in the motel room a couple of days before the murder; a video found on the Victim's cellphone showed Appellant holding a blue/turquoise handgun; the bullet casing found at the scene was consistent with a 9mm firearm manufactured by a company that makes a blue colored firearm; gunshot residue was found on the front of the shorts Appellant was wearing the day of the murder; Appellant's and the Victim's DNA were found in a blood smear on the motel room's interior door handle; Appellant told responding officers he touched the Victim's head and arms, but there was no blood on him when law enforcement arrived; surveillance video showed Appellant wearing a Batman t-shirt early the morning of the murder, but he was wearing a red t-shirt when law enforcement arrived at the crime scene. In short, the circumstantial evidence in this case was very similar to the evidence the court of appeals noted in Tillman.

Significantly, Appellant's summary of the evidence in this case omits many of these pieces of evidence. (Brief of Appellant, p. 13). In turn, Appellant's truncated summary presents a flawed legal analysis when asking an appellate court to reverse a trial court's denial of a directed verdict motion.

As in Tillman, all the circumstantial evidence presented in this case could be, and was, challenged at trial, and each individual piece of evidence in isolation may only raise a suspicion that Appellant shot the Victim. When considered collectively and in the light most favorable to the State, however, the evidence was sufficient to withstand directed verdict. It was in the jury's purview to determine "what each piece of evidence meant, how the pieces fit together, and whether the sum of the evidence was sufficient to convict" Appellant beyond a reasonable doubt.

Judge Bonds properly considered the evidence presented collectively and determined there was sufficient circumstantial evidence from which the jury could find Appellant guilty of murdering the Victim. Ultimately, credibility of the witnesses and weight of the evidence were matters for the jury, and Judge Bonds' denial of Appellant's directed verdict motions should be affirmed.

CONCLUSION

For all the foregoing reasons, the State respectfully submits Judge Bonds rulings and Appellant's conviction.

Respectfully submitted,

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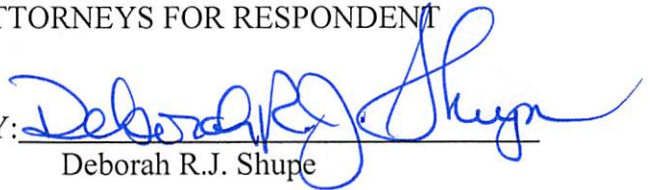
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Appellant

**DESIGNATION OF MATTER
TO BE INCLUDED IN THE RECORD ON APPEAL**

Respondent designates the following to be included in the Record on Appeal:

1. August 15-19, 2022 Trial Transcript, pp. 1-2, 117-385, 387-624, 630-889, 904-1011;
2. State's Exhibits 4, 7-8, 10-14 [Photos]; and
3. Sentencing Sheets dated August 19, 2022

To facilitate the preparation of the Final Brief, Respondent requests that counsel for Appellant retain the page numbers of the trial transcript in the Record on Appeal, in addition to the new page numbers.

The undersigned hereby certifies this Designation contains no matter which is irrelevant to this appeal.

ALAN WILSON
Attorney General

MELODY BROWN
Senior Assistant Deputy Attorney General

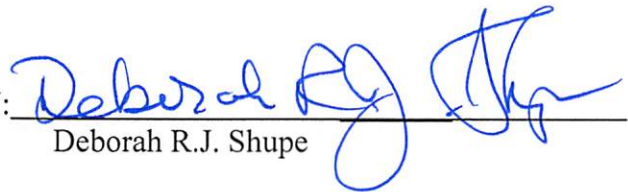
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PROOF OF SERVICE

I, Angela Brown, am an employee of the Respondent, hereby certify that as per the March 20, 2020 Order of the Chief Justice, the Initial Brief of Respondent, Designation of Matter, and Certificate of Service has been forwarded to Appellant's counsel, Lara M. Caudy, Esquire via email today, February 16, 2024 to Lcaudy@sccid.sc.gov, and to her assistant Sara McInnis, at smcinnis@sccid.sc.gov.

I further certify that all parties required by Rule to be served have been served.

This 16th day of February, 2024.

s/ Angela Brown

Angela Brown
Legal Assistant to Melody J. Brown
Senior Assistant Deputy Attorney General