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SC Court of Appeals

STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM GREENWOOD COUNTY
The Honorable Frank R. Addy, Jr., Circuit Court Judge

Appellate Case No. 2022-001384

THE STATE,

Respondent,

v.

NARKEVIOUS MANQUESE REID,

Appellant.

INITIAL BRIEF OF RESPONDENT

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STATEMENT OF ISSUES ON APPEAL

The trial court correctly refused to direct a verdict because the evidence, viewed as a whole, supported a finding of guilt beyond a reasonable doubt.

STATEMENT OF THE CASE

In April 2022, a Greenwood County grand jury indicted Appellant Narkevious Reid for attempted murder, murder, possession of a weapon during the commission of a violent crime, and criminal conspiracy. Reid proceeded to jury trial before the Honorable Frank R. Addy on August 15–24, 2022. Dashawn Hurley and Xavion Hill were tried along with Reid as co-defendants. Reid was convicted of attempted murder and conspiracy but acquitted of murder and possession of a weapon during the commission of a violent crime and sentenced to 18 years' incarceration for attempted murder and five years for conspiracy, with the sentences to be served concurrently. This direct appeal follows.

STATEMENT OF FACTS

On April 8, 2020, Gabriel Goode and Justin Parks were sitting on Goode's porch smoking when they were both shot by unknown assailants. The State alleged Appellant Narkevious Reid was one of a group of four individuals who carried out the shooting. One of the group, Trivoriaye Alston, was accidentally shot and killed by Hill during the episode. The State alleged Hill also accidentally shot himself. The State theorized Hill, Hurley, and Reid were seeking revenge for the murder of their friend, Jakevius Parker. Parker had been murdered the previous month by one of Parks and Goode's friends, Ji'Tavius Adams. Tr.p.86. The State theorized the shooting was gang-related, but the trial court excluded all evidence of gang affiliation after a pretrial hearing.

Parks and Goode were at Goode's apartment at Hillcrest Apartments smoking on the porch when someone started shooting from a nearby bush. Tr.p.427-31. Goode saw a muzzle flash and someone in a black ski mask. Tr.p.431-32. Goode was hit in the foot and Parks was hit in the hand and leg. Neither Goode nor Parks was able to identify the shooters. Tr.p.446, 450. Neither Goode nor Parker returned fire. Tr.p.432. Police found a handgun in Goode's apartment but it was cold to the touch and did not smell like it had been recently fired. Tr.p.403. Goode and Parks both testified they knew and hung out with Ji'Tavius Adams. Tr.p.439, 452.

Jameel Wilson was a handyman at the Cardinal Glen Apartments, which is across the road from Hillcrest Apartments. Tr.p.331, 336-37. After lunchtime, he saw a black Camry drive around Cardinal Glen "a couple times." Tr.p.335. There were several people in the car and "it looked like they were looking for something." Tr.p.335. The car had tinted windows, but he could tell the two back seat passengers had "twists" in their hair. Tr.p.338-39. The second time the Camry rode through, it paused at the back side of the complex and then sped away onto

the main road. Tr.p.336. Shortly after, he heard shots coming from Hillcrest Apartments. Tr.p.337.

Stephanie Moss was in her first-floor apartment at the Gardens at Parkway apartment complex, next door to Hillcrest Apartments. Tr.p.349–50. She saw a black car—which she at first thought was her cousin’s Camry—pull up outside and “about three” boys got out. Tr.p.351, 361. During cross-examination, Moss said she only saw one person “specifically,” but there were multiple people in the car. Tr.p.357, 362. He wore a white shirt with blue anchors. Hillcrest Apartments is accessible from her apartment complex by a path through some trees. Tr.p.352, 385. She heard gunshots and went into her bedroom with her son. Five minutes later she went outside and saw a gun laying in the parking lot. Tr.p.353.

Laurel Bollinger lived at Hillcrest Apartments. Tr.p.365. She was in her apartment with her family when she heard what she thought were fireworks. Tr.p.368. She looked outside and saw two people crouched behind a large bush. Tr.p.368. One had on a white shirt and the other had on a dark shirt. She then saw someone else run by with a handgun. Tr.p.368–69. He “didn’t seem like a big guy.” Tr.p.369. He was not wearing a shirt and had hair that was shaved around the sides but with “baby dreads” on top. Tr.p.369, 375. They were all African-American. Tr.p.372–73. Alston did in fact have “twists” in his hair that day. Tr.p.557.

Paul Hawthorne worked at the Gardens at Parkway. Tr.p.379. He was outside smoking a cigarette when he heard what he thought were fireworks. He got into his car and drove in that direction. He encountered Hill “hopping and waving.” Tr.p.380, 384. Hill said he had been shot and asked Hawthorne to take him to the hospital. Hill had “blood on his backside” and was bleeding profusely. Tr.p.382. Hawthorne saw a black car leaving the apartment complex. Tr.p.382. The back passenger side door was open and there were feet hanging out. Tr.p.383.

Hawthorne called 911 and took Hill to the hospital. Hill told police he had been riding in a Honda with a friend named Breezy and did not know how he had been shot. Tr.p.562.

Almost contemporaneously, Hurley and Reid dropped off Alston at the hospital. Hospital surveillance video showed Hurley and Reid in the black Camry dropping Alston's body at the hospital entrance, where he was pronounced dead shortly after. State's Exhibit #96; Tr.p.506–07, 528, 651–52. About a minute later, the video shows Hawthorne dropping off Hill. Tr.p.508–09. Police put out a BOLO for the Camry and an officer identified the driver as Hurley and stated the car belonged to Hurley's mother. Tr.p.512. Police later performed a traffic stop on the car and found Hurley's sister driving, but Hurley was not in the car. Tr.p.512, 654, 1004. The vehicle was impounded and searched three days later. Reid and Hurley were not taken into custody until July. Tr.p.514.

A gun found at the woodline separating Hillcrest Apartments from the Gardens at Parkway Apartments was a Taurus second generation 9mm. The gun recovered from the parking lot by Moss's apartment was a Taurus third generation 9mm. Tr.p.673. Police recovered 13 shell casings. Tr.p.667. All of the casings were 9mm. Tr.p.719. Six casings matched the gun recovered from the woodline and seven matched the gun recovered from the parking lot. Tr.p.721. No .40 caliber casings were recovered, the caliber of the pistol located in Goode's apartment. Tr.p.721–22.

The DNA profiles from both handguns were mixtures. Tr.p.741. Alston's DNA and a mixture of three other individuals' DNA was on the pistol recovered from the parking lot. Tr.p.743. Reid and Hurley were excluded as contributors. Tr.p.744. Hill could not be excluded, but it was unlikely that his DNA was on the gun. Tr.p.745–48. DNA swabs from the pistol located at the woodline were not suitable for comparison. Tr.p.749.

Hurley and Reid both testified and denied any involvement in the shooting. They claimed Hurley went to pick up Reid from nearby Cardinal Glen Apartments and they saw Alston running down the road with a gunshot wound. They claimed they merely drove Alston to the hospital, and their presence at the scene at the time of the shooting was mere coincidence.

Tr.p.956–1020.

STANDARD OF REVIEW

On appeal from the denial of a directed verdict, this Court views the evidence and all reasonable inferences in the light most favorable to the State. State v. Butler, 407 S.C. 376, 381, 755 S.E.2d 457, 460 (2014). If there is any direct evidence or any substantial circumstantial evidence reasonably tending to prove the guilt of the accused, the Court must find the case was properly submitted to the jury. Id.

ARGUMENT

The trial court correctly refused to direct a verdict because the evidence, viewed as a whole, supported a finding of guilt beyond a reasonable doubt.

The trial court correctly denied Reid's motion for directed verdict. The evidence, viewed as a whole and in the light most favorable to the State, showed Reid participated in a scheme to murder Parks and Goode. This Court should affirm.

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. Bennett, 415 S.C. 232, 236–37, 781 S.E.2d 352, 354 (2016). "The court must concern itself solely with the existence or non-existence of evidence from which a jury could reasonably infer guilt. This objective test is founded upon reasonableness. Accordingly, in ruling on a directed verdict motion where the State relies on circumstantial evidence, the court must determine whether the evidence presented is sufficient to allow a reasonable juror to find the defendant guilty beyond a reasonable doubt." Id.

Circumstantial evidence is based on inferences. It is "proof of a chain of facts and circumstances indicating the existence of a fact. The law makes absolutely no distinction between the weight or value to be given to either direct or circumstantial evidence. Nor is a greater degree of certainty required of circumstantial evidence than of direct evidence." State v. Grippon, 327 S.C. 79, 83–84, 489 S.E.2d 462, 464 (1997), holding modified by State v. Cherry, 361 S.C. 588, 606 S.E.2d 475 (2004). Crimes may be proved solely by circumstantial evidence. See State v. Bratschi, 413 S.C. 97, 775 S.E.2d 39 (Ct. App. 2015) (collecting cases).

In this case, there was abundant circumstantial evidence logically tending to prove Reid acted in concert with his co-defendants to attempt to murder Parks and Goode. Jameel Wilson,

the handyman at Cardinal Glen Apartments, saw a black Camry slowly circling the apartment complex “a couple times” before the shooting. Tr.p.335. There were several people in the car and “it looked like they were looking for something.” Tr.p.335. The car had tinted windows, but he could tell the two back seat passengers had “twists” in their hair. Tr.p.338–39. The second time the Camry rode through, it paused at the back side of the complex and then sped away onto the main road. Tr.p.336. Shortly after, he heard shots coming from Hillcrest Apartments. Tr.p.337. This testimony strongly suggests a group consisting of at least three individuals—with two in the back seat—were looking for Parks and Goode or otherwise preparing to commit the shooting. His description of a “black car” matches the description of the car Hurley was driving when he and Reid dropped off Alston’s body at the hospital. His description of the car’s occupants matched the defendants, and established there were at least three people in the car.

Stephanie Moss testified she saw a black car—which she at first thought was her cousin’s Camry—pull up outside her apartment and there were “about three” boys in the car. Tr.p.351, 361. She heard gunshots and went into her bedroom with her son. Five minutes later she went outside and saw a gun laying in the parking lot. Tr.p.353. This testimony further supports that Hurley was driving the car carrying the shooters, and that a group of at least three individuals were involved in the shooting.

Laurel Bollinger saw the perpetrators from her apartment window. She testified one of them was shirtless and had a haircut that was cut closely around the sides with small twists on top. Tr.p.369. This description matched what Reid looked like that day, as seen on the hospital surveillance video. State’s Exhibit #96.

Reid admitted to being near the scene of the shooting. He claimed he had been visiting his friend Snoop, but Snoop did not testify. Tr.p.962. He claimed Snoop had to go to work, and

Reid stayed behind with Snoop's grandmother. He did not remember whether Snoop's grandmother also left before he did. Tr.p.963. Reid claimed he called Hurley to pick him up, but there was no corroboration of any phone call. Reid claimed he and Hurley saw Alston running down Parkway, the main road leading to the apartment complex, and picked him up. It would be an extraordinary and unbelievable coincidence that Reid's friend Alston happened to be shot at the exact time Hurley was allegedly picking up Reid. Alston was shot through the chest and had a ruptured aorta. Reid's story required the jury to believe Alston was able to run all the way to Parkway, the main road where Reid claimed to have picked him up. Reid's story was not believable.

Furthermore, Reid's story was inconsistent with the other evidence. Paul Hawthorne saw a black car at the Gardens at Parkway near Moss's apartment where a handgun was later recovered. Tr.p.382. The car sped away contemporaneously with Hawthorne picking up Hill to take him to the hospital. The back passenger side door was open and there were feet hanging out. Tr.p.383. This was obviously Hurley's car and contradicts his and Reid's story that he picked up Alston on Parkway rather than inside the apartment complex at the scene of the shooting. Tr.p.1014–16, 1080–81. This testimony alone defeats Reid's motion for directed verdict.

Hurley and Reid dumped Alston at the hospital and fled the scene. Reid jumped into the back seat before the car sped away. Tr.p.986. They did not call police. Hurley and Reid gave little explanation for why they fled the hospital so quickly. Reid claimed he did not stay because he "wasn't driving." Tr.p.986–87. Hurley testified: "I had a lot to do and it really threw off my schedule." Tr.p.1011. He testified Alston was covered in blood but denied cleaning the car. There was no blood in the car when it was searched. Tr.p.1017. Again, the car matched the

description given by Wilson and Moss. Hurley and Reid arrived at the hospital less than two minutes after Goode called 911. Tr.p.1069. Their story is not credible.

These facts, viewed in the light most favorable to the State, support a finding that Reid conspired to attempt to kill Parks and Goode, and at the least served as an accomplice to the shooters. The State's evidence must be viewed as a whole. When "separated out and viewed individually," individual pieces of evidence may raise only a suspicion of guilt. State v. Rogers, 405 S.C. 554, 567, 748 S.E.2d 265, 272 (Ct. App. 2013) (Few, C.J.) (holding trial court correctly refused to direct a verdict even though State did not place defendant "conclusively" at the scene of the crime). "Circumstantial evidence, however, 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." Id. The trial court correctly refused to direct a verdict, and the jury found Reid guilty beyond a reasonable doubt. This Court should affirm.

CONCLUSION


For all the foregoing reasons, it is respectfully submitted that the judgments and convictions of the lower court should be affirmed.

Respectfully submitted,

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