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SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Fairfield County
Honorable Bentley Price, Circuit Court Judge
Appellate Case No. 2024-000164

THE STATE,

Respondent,

vs.

CORTEZ JAVAR WHITENER,

Appellant.

INITIAL BRIEF OF RESPONDENT

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STATEMENT OF ISSUE ON APPEAL

"In this trial for breach of peace of a high and aggravated nature and unlawful carrying of a pistol, both based on shooting a pistol at a block party, did the trial judge err in refusing to direct a verdict of acquittal when the State failed to prove the corpus delicti of both charges from a source other than Appellant's statements?"

COUNTER-STATEMENT OF ISSUE ON APPEAL

Did the trial judge somehow err by denying Appellant's motion for a directed verdict when the evidence and testimony presented during trial established Appellant's guilt for all the elements of both indicted offenses and was sufficient to independently corroborate Appellant's statements to law enforcement such that all the evidence viewed *collectively* supported a reasonable belief Appellant was guilty of the charged crimes?

STATEMENT OF THE CASE

In November of 2020, Appellant Cortez Javar Whitener was arrested following an investigation into a fatal shooting that had occurred a few months earlier during a block party attended by numerous individuals. Between May of 2021 and January of 2024, the Fairfield County Grand Jury indicted Appellant for one count of murder, four counts of attempted murder, one count of breach of peace of a high and aggravated nature, one count of unlawful carrying of a pistol, two counts of discharging a firearm into an occupied vehicle, and one count of possession of a weapon during the commission of a violent crime in connection to the incident. On January 29, 2024, a jury trial was commenced solely on the breach of peace of a high and aggravated nature and unlawful carrying of a pistol charges in the Fairfield County Court of General Sessions with the Honorable Bentley Price, circuit court judge, presiding. At the conclusion of the two-day trial, the jury convicted Appellant as indicted. Following the verdict, the trial judge sentenced Appellant to concurrent terms of imprisonment of ten years suspended to five years for the breach of peace of a high and aggravated nature conviction and one year for the unlawful carrying of a pistol conviction.[1] Appellant then timely filed a notice of appeal.

[1] On the same date the verdict was returned, the solicitor dismissed Appellant's remaining indicted charges stemming from the incident. Records for Cortez Javar Whitener, Fairfield County Sixth Judicial Circuit Public Index, https://publicindex.sccourts.org/fairfield/publicindex/.

STATEMENT OF FACTS

On August 1, 2020, Shontal Wright posted an invitation to social media indicating the "biggest 90s birthday yard party" would be held that night at an address in Blair, South Carolina, to celebrate her birthday.[2] (Tr. pp. 49-50; pp. 55-56; State's Ex. # 1 (Social Media Post)); State's Ex. # 2 (Social Media Post)). And, along with her invitation, Wright expressly instructed anyone who came to "LEAVE THE BS AT HOME!!" (State's Ex. # 2). In response, a large number of people, including some who lived outside Fairfield County, saw the invitation, came to Wright's block party that night, and celebrated in a peaceful and problem-free manner. (Tr. pp. 54-57; pp. 60-63; p. 66). Unfortunately though, not everyone who attended the party ended up complying with Wright's seemingly-simple directive about leaving the "BS" at home. (Tr. pp. 52-53; pp. 57-58; pp. 64-65; pp. 71-72; State's Ex. # 2).

Specifically, as the party was winding down in the early morning hours of August 2, 2020, numerous gunshots rang out from a nearby hill, and bullets peppered two vehicles—including one being driven by Cierra Barefoot—that were leaving the scene. (Tr. pp. 52-54; pp. 57-60; pp. 64-65; (State's Ex. # 9 (Photograph); State's Ex. # 10 (Photograph); State's Ex. # 11 (Photograph); State's Ex. # 12 (Photograph)). Barefoot responded by swerving in panic and crashing the vehicle she was driving into a ditch. (Tr. p. 58). In addition to that, Barefoot's passenger, Brianna Gallman, was grazed in the lip by a bullet, and the occupants of the vehicle in front of them—Andrew Trapp and Stefan Gibson—were both also shot. (Tr. p. 58; p. 60; p. 70). Tragically, Trapp's wounds were fatal, and he died as a result of the shooting. (Tr. p. 71).

In the aftermath of the shooting, law enforcement was quickly alerted, and deputies from the Fairfield County Sheriff's Office arrived at the scene within approximately twenty minutes.

[2] The address was for Wright's uncle's house. (Tr. p. 52).

(Tr. p. 72; p. 81; p. 94). By that point, the scene was chaotic, and roughly fifty to seventy-five people were "screaming," "hollering," and running around the area.[3] (Tr. p. 81). Ultimately, in the ensuing investigation, the deputies located numerous fired cartridge cases near the intersection of Goodlett Lane and Cole Trestle Road that were later determined to have been fired by at least four separate firearms. (Tr. pp. 75-78; pp. 85-87). However, the deputies were not yet able to identify any suspects at that time. (Tr. p. 82).

Nevertheless, as the investigation into the incident continued, the Fairfield County Sheriff's Office received some anonymous tips about who might have been involved. (Tr. pp. 82-83). Based on the information received, Appellant was identified as a potential suspect, and he was questioned in September of 2020. (Tr. p. 83). During that questioning, Appellant denied being at the party and provided an alleged alibi, claiming he was at someone's home in Columbia at the time of the incident. (Tr. pp. 75-76). However, subsequent analysis of his phone records refuted Appellant's alibi and established he was, in fact, at the party at the time of the shooting. (Tr. p. 75; pp. 91-92; p. 94). Accordingly, Appellant was brought back in for further questioning on November 13, 2020, and, after initially trying to stick to his false alibi and then providing a variety of divergent accounts, he eventually admitted he was at the party, brought a nine-millimeter pistol with him that night, and fired his gun.[4] (Tr. pp. 73-76; p. 97; pp. 101-102; p. 109; State's Ex. # 3 (Waiver Form); State's Ex. # 4 (Written Statement); State's Ex. # 13 (Interview Recording); State's Ex. # 15 (Interview Recording)). Appellant further provided information placing himself on the hill where the fired cartridge cases were found after the shooting. (Tr. p. 103; State's Ex. # 8 (Map); State's Ex. # 15). As a result, Appellant was

[3] One investigator later described the scene he encountered as "pandemonium." (Tr. p. 81).

[4] During the interview, Appellant also claimed to sold the gun subsequent to the incident. (Tr. p. 103).

arrested and charged with numerous offenses, including breach of peace of a high and aggravated nature and unlawful carrying of a pistol, stemming from the incident.[5] (Tr. pp. 4-6; p. 11; p. 83; Indictments; Arrest Warrants).

During Appellant's ensuing trial for breach of peace of a high and aggravated nature and unlawful carrying of a pistol, Wright recounted what occurred at her block party on the date of the incident and confirmed she never witnessed any fights or other problematic occurrences at the party *until* someone suddenly began firing multiple gunshots as the party was ending. (Tr. p. 4; p. 11; pp. 49-55). Wright further confirmed she had *not* given anyone permission to bring handguns to the party. (Tr. p. 52). Additionally, Barefoot recounted the terrifying details of the shooting and confirmed it caused her to crash the vehicle she was driving into a ditch. (Tr. pp. 54-61). Likewise, Gallman also provided the details concerning the sudden eruption of gunfire that occurred at the party, and, just like Wright, she indicated she never saw any fights or arguing prior to the shooting. (Tr. pp. 62-72). Furthermore, all three confirmed they did not personally see and were not capable of identifying who was actually firing the shots. (Tr. p. 53; p. 61).

In addition to that, Investigator Michael Autry of the Fairfield County Sheriff's Office discussed Appellant's incriminating statements, including his initial attempt to mislead the investigation by providing a false alibi, and a recording of the investigator's interview of Appellant was admitted into evidence and presented to the jury along with a recording of a candid jail call Appellant placed to his mother after his arrest. (Tr. pp. 72-94). Notably, on the candid jail call recording, Appellant admitted: (1) he lied to law enforcement about where he was on the night of the incident; (2) he did, in fact, bring a gun to the party; and (3) he fired that weapon at the party that night. (State's Ex. # 4 (Jail Call Recording)). Furthermore, Investigator

[5] In addition to Appellant, other unidentified individuals were also arrested and charged in connection to the shooting. (Tr. p. 83).

Autry confirmed Appellant's phone records placed him at the scene of the shooting at the time it occurred, Appellant did *not* have a concealed weapons permit at that time, and numerous fired cartridge cases—including some fired by a nine-millimeter gun—were recovered from the vicinity of where Appellant had been that night. (Tr. pp. 75-78; pp. 85-87; pp. 91-92; p. 94). Beyond that, Lieutenant Bill Dover of the Fairfield County Sheriff's Office discussed the additional incriminating statements Appellant made to him, and both Appellant's signed written statement and a recording of the lieutenant's interview of Appellant were admitted into evidence and shown to the jury. (Tr. pp. 97-110).

After all that testimony and evidence was presented, the solicitor rested the State's case, and defense counsel promptly moved for a directed verdict. (Tr. p. 111). As support for that motion, defense counsel argued the corpus delicti rule required corroborating evidence in addition to a defendant's statement and alleged no such corroborating evidence was presented in Appellant's case. (Tr. pp. 111-112). More specifically, defense counsel claimed nothing other than Appellant's statements established what happened during the incident or placed a gun in Appellant's hand. (Tr. p. 112). In addition to that, defense counsel argued the directed verdict motion should also be granted because the peace could not have been breached due to size of the party alone, which was large enough that the community was supposedly not at peace even before the gunfire erupted. (Tr. pp. 113-114). Conversely, the solicitor argued the directed motion should be denied because: (1) there was, in fact, sufficient corroborating evidence presented by virtue of the testimony about the gunshots being fired and the vehicles being hit by gunfire during the incident; and (2) Appellant's actions contributed to the breach of peace and, thus, were sufficient to support a conviction under the circumstances involved. (Tr. pp. 115-

116). Upon considering the matter, the trial judge declined to grant a directed verdict, finding Appellant's case presented a "matter of facts for the jury to consider." (Tr. pp. 116-117).

Thereafter, the defense elected not to introduce any additional evidence, the parties presented their closing arguments to the jury, and the trial judge instructed the jury on the applicable law. (Tr. pp. 121-146). The case was then submitted to the jury, and, after a little under one hour of deliberations, the jury convicted Appellant as indicted of breach of peace of a high and aggravated nature and unlawful carrying of a pistol. (Tr. pp. 146-148).

STANDARD OF REVIEW

In criminal cases, appellate courts sit to review errors of law only. State v. Wilson, 345 S.C. 1, 5, 545 S.E.2d 827, 829 (2001). On appeal from the denial of a directed verdict, the appellate court must view the evidence and all reasonable inferences in the light most favorable to the State. State v. Weston, 367 S.C. 279, 292, 625 S.E.2d 641, 648 (2006). If there is any direct evidence or substantial circumstantial evidence reasonably tending to prove the guilt of the accused, the appellate court must affirm the trial judge's ruling. State v. Cherry, 361 S.C. 588, 593-594, 606 S.E.2d 475, 478 (2004); see Cavazos v. Smith, 565 U.S. 1, 2 (2011) ("[I]t is the responsibility of the jury—not the court—to decide what conclusions should be drawn from evidence admitted at trial. A reviewing court may set aside the jury's verdict on the ground of insufficient evidence only if no rational trier of fact could have agreed with the jury."). In other words, "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); see United States v. Ashley, 606 F.3d 135, 138 (4th Cir. 2010) ("Reversal for insufficient evidence is reserved for the rare case where the prosecution's failure is clear." (citation and internal quotations omitted)).

ARGUMENT

The trial judge correctly denied Appellant's motion for a directed verdict because the evidence and testimony presented during trial established Appellant's guilt for all the elements of both indicted offenses and was sufficient to independently corroborate Appellant's statements to law enforcement such that all the evidence viewed *collectively* supported a reasonable belief Appellant was guilty of the charged crimes.

Appellant contends the trial judge reversibly erred by failing to grant his directed verdict motion during trial. In support of that contention, Appellant maintains a directed verdict should have been granted because the State purportedly failed to present sufficient "independent evidence" of any actions on his part that would have constituted the indicted offenses of breach of peace of a high and aggravated nature and unlawful carrying of a pistol and, thus, failed to prove the corpus delicti of those offenses "from a source other than [his] statements." (App. Br. p. 1; p. 4). To the contrary, the evidence and testimony presented during trial *taken together with Appellant's statements* permitted a reasonable belief the charged crimes occurred and Appellant was guilty of them such that both the purpose and requirements of the corpus delicti rule were satisfied. As a result, the trial judge had a duty to and did properly deny Appellant's directed verdict motion, and there are no valid grounds upon which that sound ruling could validly be disturbed on appeal. Appellant's convictions should be affirmed.

In a criminal case in South Carolina, the prosecution obviously must present proof of the corpus delicti of the charged offense before the case can be submitted to the jury. State v. McCombs, 335 S.C. 123, 126, 515 S.E.2d 547, 548 (Ct. App. 1999). Significantly, "[a] conviction cannot be had on the extra-judicial confessions of the defendant unless corroborated by proof aliunde of the corpus delicti." State v. Williams, 321 S.C. 381, 384, 468 S.E.2d 656, 657 (1996); see Black's Law Dictionary 433 (11th ed. 2019) (defining "corpus delicti" as "[t]he fact of a transgression" and explaining it reflects "the simple principle that a crime must be

proved to have occurred before anyone can be convicted for having committed it"); Black's Law Dictionary 433 (11th ed. 2019) (explaining the "corpus delicti rule" is a "doctrine [that] prohibits the prosecution from proving the corpus delicti *solely* on a defendant's extra-judicial statements" (emphasis added)). That "rule with regard to the proof of the corpus delicti, apart from the mere confession of the accused, proceeds upon the theory that the general fact, without which there could be no guilt in the accused or in anyone else, must be established before anyone could be convicted of the alleged criminal act which caused it; for otherwise, the accused might be convicted when there was no criminal agency involved." State v. Thomas, 222 S.C. 484, 486-487, 73 S.E.2d 722, 723 (1952); see United States v. Henderson, 107 F.4th 287, 293 (4th Cir. 2024) (explaining the corpus delicti rule exists to prevent confessions to crimes that never occurred and convictions based solely on untrue confessions); City of Easley v. Portman, 327 S.C. 593, 602-603, 490 S.E.2d 613, 618 (Ct. App. 1997) (Anderson, J., concurring) ("The requirement that the corpus delicti be sufficiently corroborated by independent evidence is rooted in the premise that the examination of this additional evidence will avert the danger that a crime was confessed when in fact no such crime was committed. Thus, the rule exists to prevent the conviction of an innocent person." (citations omitted)).

Pursuant to the corpus delicti rule, *some* proof of the corpus delicti must come from a source other than the defendant's out-of-court statements. State v. Saltz, 346 S.C. 114, 137, 551 S.E.2d 240, 253 (2001); see Opper v. United States, 348 U.S. 84, 93 (1954) ("[T]he corroborative evidence *need not be* sufficient, independent of the statements, to establish the corpus delicti." (emphasis added)). Importantly though, the corpus delicti rule can be satisfied by purely circumstantial evidence, and "[i]ndependent proof of the defendant's identity as the guilty party is not required to prove the corpus delicti." Portman, 327 S.C. at 596, 490 S.E.2d at

615; see State v. Van Hook, 530 N.E.2d 883, 889 (Ohio 1988) ("[T]he identity of the criminal agent is not part of the corpus delicti, since the purpose is simply to establish that the crime occurred."); cf. State v. Townsend, 321 S.C. 55, 58, 467 S.E.2d 138, 140 (Ct. App. 1996) ("Townsend was at the scene where his car had been involved in a wreck. He smelled like alcohol, failed field sobriety tests, and appeared to be intoxicated. A breathalyzer test showed his blood alcohol level to be .21. This is enough evidence, albeit circumstantial evidence, to submit the case to the jury."). Furthermore and even more importantly, the corroborative evidence *need not be* sufficient to establish the corpus delicti of the offense *independent* of the defendant's incriminatory statements and, instead, only must *support* the essential facts admitted in those statements and *tend* to establish the trustworthiness of the confession in order to satisfy the requirements of the corpus delicti rule. Henderson, 107 F.4th at 293.

Thus, "the corroboration rule is satisfied if the State provides sufficient independent evidence which serves to corroborate the defendant's extra-judicial statements and, *together with such statements*, permits a reasonable belief that the crime occurred." State v. Osborne, 335 S.C. 172, 180, 516 S.E.2d 201, 205 (1999) (emphasis added). Critically, "[i]f the statement is independently corroborated, then *the combination of* the statement and the State's remaining evidence may be considered by the trial court to determine if there is any evidence tending to establish the corpus delicti." State v. Russell, 345 S.C. 128, 132-133, 546 S.E.2d 202, 205 (Ct. App. 2001) (emphasis added); see Smith v. United States, 348 U.S. 147, 156 (1954) ("[C]orroborative evidence does not have to prove the offense beyond a reasonable doubt, or even by a preponderance, as long as there is substantial independent evidence that the offense has been committed, and the evidence as a whole proves beyond a reasonable doubt that defendant is guilty."); see also United States v. Abu Ali, 528 F.3d 210, 235 (4th Cir. 2008)

("Independent evidence adequately corroborates a confession if it supports the essential facts admitted sufficiently to justify a jury inference of their truth; the facts admitted plus the other evidence besides the admission must, of course, be sufficient to find guilt beyond a reasonable doubt. Thus, corroborative evidence does not have to prove the offense beyond a reasonable doubt, or even by a preponderance, as long as there is substantial independent evidence that the offense has been committed, and the evidence as a whole proves beyond a reasonable doubt that the defendant is guilty." (citations, brackets, and internal quotations omitted)).

And, if there is any evidence presented tending to establish the corpus delicti of the charged offense, it is the trial judge's *duty* to pass that question on to the jury. State v. Dodd, 354 S.C. 13, 18, 579 S.E.2d 331, 334 (Ct. App. 2003). Therefore, when presented with a motion for a directed verdict in a case in which an argument is raised pursuant to the corpus delicti rule, the trial judge—just like in any other criminal case—is concerned solely with the existence or non-existence of evidence and should submit the case to the jury if there is any substantial evidence reasonably tending to prove the guilt of the accused or from which guilt may be fairly or logically deduced. State v. Long, 325 S.C. 59, 62, 480 S.E.2d 62, 63 (1997); see State v. Littlejohn, 228 S.C. 324, 329, 89 S.E.2d 924, 926 (1955) ("[O]n a motion for direction of verdict, the trial judge is concerned with the existence or non-existence of evidence, not with its weight; and, although he should not refuse to grant the motion where the evidence merely raises a suspicion that the accused is guilty, it is his duty to submit the case to the jury if there be any substantial evidence which reasonably tends to prove the guilt of the accused, or from which his guilt may be fairly and logically deduced."); see also Crawford v. United States, 375 F.2d 332, 334 (D.C. Cir. 1967) ("The jury question of whether there was proof of guilt beyond a reasonable doubt presents a stricter or higher standard than the trial court's consideration of

whether there is sufficient evidence to allow the jury to find guilt beyond a reasonable doubt, and it rests in the unreviewable ratiocinations of twelve reasonable persons whose deliberations are protected by the highest security.").

Notably, in State v. Abraham, 408 S.C. 589, 590-591, 759 S.E.2d 440, 441 (Ct. App. 2014), a law enforcement officer located Abraham at the scene of a single-vehicle crash involving a tree, and Abraham was the only individual at that location other than emergency personnel. Upon arriving at the scene, the officer spoke with Abraham, and Abraham indicated he had been driving the wrecked vehicle and had ingested some wine earlier that night. Id. As they spoke, the officer noticed Abraham smelled strongly of alcohol, so he administered field sobriety tests to Abraham and ultimately arrested him after he exhibited signs of impairment during the testing. Id. Thereafter, Abraham was transported to a police station and submitted to a breath alcohol test, which revealed his blood alcohol concentration was 0.22 percent. Id. Subsequently, Abraham was tried in magistrate court for driving under the influence ("DUI"), was convicted, and appealed. Id. On appeal, a circuit court judge reversed his conviction after finding the State failed to present sufficient evidence to establish the corpus delicti of DUI. Id. However, after the State appealed that ruling, this Court reversed and reinstated Abraham's DUI conviction. Id. at 594, 759 S.E.2d at 443. In reversing, this Court found the evidence and testimony presented regarding Abraham's *presence at the scene* of a single-vehicle crash, signs of intoxication, inability to pass field sobriety tests, and breath alcohol test results provided sufficient evidence to support the trustworthiness of his admission to driving the vehicle involved in the crash and, when considered together with his statements, allowed a reasonable inference the crime of DUI had been committed. Id. at 594, 759 S.E.2d at 442. As a result, this

Court determined the circuit court judge erred in finding the case was improperly submitted to the jury during trial. Id. at 594, 759 S.E.2d at 443.

In the case sub judice, there was no question *someone* committed the charged crimes based on the evidence and testimony presented during trial. Demonstrating that fact, the trial testimony of multiple witnesses present at the block party on the night of incident established someone suddenly began firing gunshots at a crowded event that had been peaceful and trouble-free up to that point, and that sudden eruption of gunshots resulted in panic and chaos that lasted for an extended period of time and caused a vehicle with multiple occupants to crash into a ditch. Likewise, testimony was presented confirming multiple fired cartridge cases—including nine-millimeter cartridge cases—from a variety of different guns were found at the scene, which corroborated the testimony about the shooting taking place. Therefore, sufficient evidence was presented to support a reasonable belief both a breach of peace of a high and aggravated nature had occurred and a pistol had been unlawfully carried before being fired, which was all the corpus delicti rule was designed to do. See S.C. Code Ann. § 16-23-10 (2015) (making it "unlawful for anyone to carry about the person any handgun, whether concealed or not, except" in a manner consistent with a number of exceptions that were in no way applicable under the facts of Appellant's case); State v. Simms, 412 S.C. 590, 595-596, 774 S.E.2d 445, 447-448 (2015) (explaining a breach of peace of a high and aggravated nature generally means an unlawful and unjustifiable act tending with sufficient directness to breach the peace or disturb the public tranquility where circumstances of aggravation exist); see also Anderson v. State, 442 S.C. 372, 378-379, 898 S.E.2d 218, 221 (Ct. App. 2024) (explaining corroborative evidence need *not* be sufficient to establish the corpus delicti by itself and completely independently from a defendant's statements in order to satisfy the requirements of the corpus delicti rule).

Meanwhile and critically, *in addition to* that independent evidence establishing criminal acts were committed during the incident, Appellant—similar to the defendant in Abraham—eventually admitted he was present at the block party on the night of the incident, was armed with a nine-millimeter pisol that night, and was one of the people who fired a gun as the party was winding down. And, significantly, the truthfulness of Appellant's admissions in that regard was bolstered by the other evidence that established: (1) Appellant was present at the scene of the crime based on his phone records, which placed him at the spot of the shooting at the time it occurred; and (2) Appellant did not have a concealed weapon permit or permission to have a gun at the scene and, thus, could not legally carry a pistol about his person at the time of the crime under the circumstances involved. S.C. Code Ann. § 16-23-10 (2015). Beyond that, Appellant's self-admitted attempt to initially mislead the investigators by providing a false alibi supported a conclusion Appellant believed it would be damaging to his own interests to admit where he had truly been on the night of the incident, which constituted guilty conduct evidence and itself suggested guilty knowledge concerning his actions that night. See State v. Pittman, 137 S.C. 75, __, 134 S.E. 514, 526-527 (1926) (recognizing guilt can properly be inferred from an act of uttering false exculpatory statements). Based on that evidence and testimony taken together as required, a factfinder viewing everything presented *collectively* could rationally and logically infer Appellant was guilty of both breach of peace of a high and aggravated nature and unlawful carrying of a pistol. See Osborne, 335 S.C. at 180, 516 S.E.2d at 205 ("Applying this rule to the facts at hand, we find the State provided sufficient independent evidence to support the trustworthiness of [Osborne]'s statements to police. We further find this independent evidence, *taken together with the statements*, allowed a reasonable inference that the crime . . . was committed." (emphasis added)); see also Dodd, 354 S.C. at 17-18, 579 S.E.2d at 333-334 ("Once

Dodd confessed to having a gun during the commission of his robbery, the State only needed to present sufficient independent evidence to corroborate those statements so that a jury could reasonably believe an armed robbery occurred. Here, Dodd's confession to having a gun was corroborated by his threat to the clerk that he would kill her if she did not do as he told her. Although his threat, unaccompanied by any representation of a deadly weapon, would not *independently* be sufficient to establish the element of a deadly weapon, the threat *is* sufficient to corroborate Dodd's confession to being armed." (citations omitted)); cf. Abu Ali, 528 F.3d at 237 ("To be sure, the independent evidence does not *prove* Abu Ali's guilt of any crime, but this is not necessary. In his own statements, Abu Ali confessed to committing each of the crimes charged. Extrinsic proof is sufficient which merely fortifies the truth of the confessions, without independently establishing the crime charged." (citations, footnote, brackets, and internal quotations omitted)).

Under those circumstances, the evidence and testimony presented during Appellant's trial established all the elements of the indicted offenses and was sufficient to independently corroborate Appellant's statements such that corpus delicti rule was satisfied. See Williams, 321 S.C. at 385, 468 S.E.2d at 658 ("[I]f there is any evidence tending to establish the corpus delicti, then it is the duty of the trial court to pass that question on to the jury."); see also Opper, 348 U.S. at 93 ("It is sufficient if the corroboration supports the essential facts admitted sufficiently to justify a jury inference of their truth."); cf. McCombs, 335 S.C. at 127, 515 S.E.2d at 549 ("*Although no witness testified to seeing McCombs driving his truck that night*, the State offered enough evidence of the corpus delicti independent of McCombs's statements for the trial court to submit the case to the jury." (emphasis added)). Therefore, the trial judge—just like the magistrate in Abraham—properly denied Appellant's directed verdict motion and submitted the

case to the jury to allow it to resolve the factual disputes raised by the evidence, including those related to whether Appellant was truthful when he indicated he brought and fired a gun at the block party. See Abraham, 408 S.C. at 594, 759 S.E.2d at 442-443 ("The State provided sufficient independent evidence to support the trustworthiness of Abraham's statements to the police. Furthermore, this independent evidence, taken together with the statements, allowed a reasonable inference that the crime of DUI was committed. Therefore, we hold the magistrate court properly denied Abraham's motion for a directed verdict and submitted the case to the jury."); see also United States v. Small, 944 F.3d 490, 499 (4th Cir. 2019) ("A defendant who challenges the sufficiency of the evidence faces a heavy burden." (citation and internal quotations omitted)). Appellant's convictions should be affirmed.

CONCLUSION

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

Respectfully submitted,

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