STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Lexington County
Honorable George C. James, Jr., Circuit Court Judge

Appellate Case No: 2012-212210

THE STATE,

Respondent,

v.

CARRIE CALLAHAM,

Appellant.

FINAL BRIEF OF RESPONDENT

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ATTORNEYS FOR RESPONDENT

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STATEMENT OF THE CASE

A Lexington County Grand Jury indicted Appellant for first-degree burglary and armed robbery. (R.pp.401-404.) On May 23, 2012, Appellant proceeded to trial before a jury. Attorneys Robert M. Madsen and Bennett E. Casto represented Appellant, and Assistant Solicitors Lawrence G. Wedekind and Will Whetstone represented the State. The jury found Appellant guilty, and the Honorable George C. James, Jr., sentenced her to fifteen years' imprisonment. (R. p.384, 398.)

On May 30, 2012, Appellant filed a Notice of Appeal.

STATEMENT OF FACTS

Between midnight and 1:00 a.m. on June 16, 2010, Marcelo Prado Serna (Prado) and a friend returned to Prado's trailer park after getting something to eat. (R. p.229, lines 4-13.) He saw a woman sitting inside an unfamiliar blue SUV with the engine running. (R. p.229, lines 10-24.) After they finished eating, Prado's friend left and shortly thereafter called Prado to tell him he saw a black man committing a robbery outside trailer #6. (R. p.230, lines 1-3.) After talking to his friend, Prado called 911 to report the robbery. (R. p.231, lines 3-13.)

Sergeant Robert McIntyre of the West Columbia Police Department received a call from dispatch to be on the lookout for a dark blue Chevrolet Tahoe. (R. p.95, lines 1-8.) As Sgt. McIntyre drove to the incident location, he saw a vehicle matching the description about a block away. (R. p.95, lines 9-13.) He initiated a traffic stop along with two other officers who were in their own vehicles. (R. p.98, line 21-R. p.99, line 4.) Sgt. McIntyre made contact with Appellant, who was the driver, and the other two officers made contact with the passengers. (R. p.99, lines 7-25.) When Sgt. McIntyre asked Appellant for her license, she said she did not have it and gave the name Myra Nicole. (R. p.100, line 7-R. p.101, line 8.) Sgt. McIntyre attempted to find her driver's license information through the Department of Motor Vehicles, but no driver's license was attached to that name. (R. p.101, lines 13-17.) After contacting dispatch to report he had located the Tahoe, he learned the nature of the 911 call was an armed robbery. (R. p.102, lines 3-20.)

Based on that information, he and the other officers got all three individuals out of the vehicle, handcuffed them, and placed them in three different police cars. (R. p.102, line 21-R. p.103, line 8.) As the front passenger got out, a gold chain fell from his lap

onto the floorboard of the vehicle. (R. p.103, lines 11-18.) When recovering the gold chain, the officers observed the butt of a pistol in plain view and decided to do a probable cause search. (R. p.103, lines 19-25.) The officers found another handgun in the back seat. (R. p.104, lines 1-2.) The officers also located a pink wallet and a blue wallet in the vehicle. (R. p.105, lines 2-24.) The pink wallet contained the identifications of Rigiberto Ramirez and Mirna Herrera. (R. p.107, lines 1-9.) Additionally, the officers found three or four 9-millimeter rounds in Appellant's front pocket when they searched her incident to arrest.[1] (R. p.121, lines 7-12.)

At trial, the State called Abdul Bargas Perez. (R. p.70.) Perez testified that on June 16, 2010, he lived in a trailer in West Columbia with his wife Mirna Herrera, his brother-in-law Rigiberto[2] Ramirez, and two children. (R. p.71, lines 4-25.) He testified that some time after midnight, Rigiberto went outside to use the phone. (R. p.72, lines 7-14.) Perez fell asleep watching TV in the living room and awoke to find two black men inside the home asking for money and holding Rigiberto at gunpoint. (R. p.72, lines 20-22; R. 82, lines 9-12.) One of the men picked up Perez's one-and-a-half-year-old son by the foot and pointed a pistol at the child's head, demanding money. (R. p.72, line 22-R. p.73, line 5.) Mirna gave the men money, but they demanded more and hit Rigiberto in the head with the pistol. (R. p.73, lines 7-17.) At that point, Rigiberto gave the men a gold chain. (R. p.73, lines 16-17; R. p.74, lines 1-12.) The men also took Mirna's and Rigiberto's wallets. (R. p.75, lines 5-11.)

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[1] The evidence bag contained four rounds, but the property report only listed three. (R. p.120, lines 17-25.)

[2] Rigiberto is also referred to as Roberto and Rigaberto at different times throughout the record. The name is spelled Rigiberto in the indictments, so the State will use that spelling throughout this brief. (R. pp.401-404.)

The State also called Perez's wife, Mirna Herrera, to the stand. (R. p.82, lines 19-20.) She testified she had fallen asleep watching TV and awoke to see two black men with a pistol against Rigiberto's head. (R. p.83, line 22-R. p.84, line 6.) The men asked for money and grabbed Mirna's son and hung him by the leg. (R. p.84, lines 9-11.) Mirna gave them all the money she had in her wallet, but the men demanded more. (R. p.84, lines 15-23.)

The State then called Prado to the stand. (R. p.227, lines 21-22.) He testified he saw a woman sitting inside an unfamiliar blue SUV with the engine running when he and a friend returned to the trailer park after getting something to eat between midnight and 1:00 a.m. on June 16, 2010. (R.p.228, line 25-R. p.229, line 24.) Shortly after he left, Prado's friend called Prado to tell him he saw a black man committing a robbery outside trailer #6. (R. p.230, lines 1-3.) Prado then called 911 to report the robbery. (R. p.231, lines 3-13.) While he was on the phone with 911, he saw the blue SUV drive away and reported to police the direction it went. (R. p.243, lines 4-7.)

Next, the State called Investigator Page Moore. (R. p.256, lines 4-5.) She interviewed the three suspects after they were arrested. (R. p.258, lines 6-9.) Investigator Moore interviewed Appellant, who gave three false names before finally giving her real name. (R. p.260, line 2-R. p.269, line 9.) Investigator Moore read the following statement given by Appellant:

> On June 15, 2010, I, Carrie Callaham, met Black on Farrow. I only known him for a couple of days. Mr. Black and his friend asked me to drive them to West Columbia so they can deal with something.
>
> Mr. Black had a gun and his friend. It was two auto guns. Mr. Black dropped some shells in the car. I picked them up and put the shells in my pocket. At this time I was parked in front of some trader (verbatim).

[The State]: Is that trailer or trader?

[Moore]: It says trader but you can assume it's trailer.

[The State]: Okay.

Mr. Black and his friend told me if I opened my mouth, I would be hurt. They got out of the car and walked away. When they returned to the car, Mr. Black still had the gun, telling me to drive.

When the police came behind us, he told me if I say anything, me and my kids will be hurt. At this time I see two handguns, one little one and one large gun.

Mr. Black put his gun under the seat of the car. At this time I did not know what him or his friend was doing. I asked them where their (verbatim) get the gun. He would not let me know at this time. I was contact at 10:00 p.m. I met Mr. Black friend tonight of this (verbatim).

(R. p.274, line 24-R. p.275, line 24.)

On cross-examination, defense counsel inquired into whether Appellant requested assistance or communicated that she was in danger while Investigator Moore was on the scene, and Moore testified Appellant did not. (R. p.280, lines 21-24.) Moore further testified Appellant did not call 911 or offer an explanation as to why she did not drive away when alone in the car at the trailer park. (R. p.281, lines 8-13.)

After the State rested, Appellant moved for a directed verdict based on several grounds. (R. p.303, line 23-R. p.304, line 4.) First, Appellant argued sufficient evidence did not exist to support the indictment's indication that the first-degree burglary occurred at the dwelling home of Rigiberto Ramirez. (R. p.304, lines 5-14.) Second, Appellant argued there was a lack of testimony as to how the individuals who committed the crimes got into the home because both occupants of the home testified the men were there when they woke up. (R. p.304, line 23-R. p.305, line 12.) Third, Appellant argued a directed verdict should be granted on the theory of mere presence. (R. p.305, lines 13-15.)

Fourth, Appellant argued the State did not show sufficient evidence to corroborate Appellant's statement. (R. p.306, line 3-R. p.307, line 11.) Finally, Appellant argued the evidence would at most show Appellant guilty of accessory after the fact because no testimony showed any type of communication or planning. (R. p.307, lines 12-22.)

After listening to both sides' arguments, the trial court found the evidence supported the conclusion that Rigiberto lived at the dwelling. (R. p.316, line 23-R. p.317, line 3.) Further, the trial court found circumstantial evidence sufficient to show entry into a dwelling without consent and with the intent to commit a crime. (R. p.317, lines 4-8.) The trial court also disagreed with Appellant about mere presence and whether there was corroboration of Appellant's statement. (R. p.317, lines 9-18.) Finally, the trial court found the evidence that would point to Appellant's being an accessory after the fact also would support the "hand of one, hand of all" theory. (R. p.317, line 19-R. p.318, line 1.) The trial court denied the motion. (R. p.318, lines 1-2.)

In its jury charges, the trial court instructed the jury on "hand of one, hand of all" accomplice liability, but it did not instruct the jury on accessory. The trial court charged as follows:

> If a crime is committed by two or more people who are acting together in committing the crime, the act of one is the act of all. . . . Guilt as a principal is shown by actual or constructive presence at the scene as a result of a prior arrangement. Therefore, a finding of prior arranged plan or common scheme is necessary for a finding of guilt as a principal. The State must prove beyond a reasonable doubt by competent evidence the theory of the hand of one is the hand of all. . . . [A] principal, as I have used that term, is one who either actually commits the crime or who is present aiding, abetting, or assisting in the crime. . . . To be present at the commission of a crime means to be sufficiently near, to aid and abet and assist in the commission of the crime. However, mere presence at the

> scene of a crime is not sufficient to convict one as a principal on the theory of aiding and abetting.

(R. p.372, lines 3-6, 25; R. p.373, lines 1-10, 17-22.) The trial court also charged the jury on Appellant's defense of coercion or duress. (R. p.348, line 10-R. p.379, line 7.)

Ultimately, the jury found Appellant guilty of both charges, and the trial court sentenced her to fifteen years' imprisonment for each charge, to be served concurrently. (R. p.384, 398.)

ARGUMENTS

I.

The trial court properly denied Appellant's motion for a directed verdict because the State presented sufficient evidence to establish guilt under a theory of accomplice liability.

Appellant argues the trial court erred in denying her directed verdict motion because the State presented insufficient evidence to establish guilt under a theory of accomplice liability. Specifically, she argues she was merely present near the scene of the crime and the State failed to prove there was an agreement between Appellant and the co-defendants to assist in the commission of the crime. However, the State did present sufficient evidence showing Appellant was seen waiting in the running vehicle a very short distance from the scene of the crime after, in her own words, the two men asked her "to drive them to West Columbia so they can deal with something." Further, Appellant's own statement established she knew the two men had guns when they went to deal with the matter. Additionally, circumstantial evidence showed Appellant knew the guns were loaded because Appellant had rounds of ammunition in her pocket when she was searched. Thus, the trial court correctly denied the directed verdict motion and allowed the case to be submitted to the jury for resolution.

In criminal cases, the appellate court sits to review errors of law only. State v. Wilson, 345 S.C. 1, 5, 545 S.E.2d 827, 829 (2001). "When ruling on a motion for a directed verdict, the trial court is concerned with the existence or nonexistence of evidence, not its weight." State v. Weston, 367 S.C. 279, 292, 625 S.E.2d 641, 648 (2006). When reviewing a trial court's denial of a defendant's motion for a directed verdict, an appellate court must view the evidence in a light most favorable to the State.

State v. Venters, 300 S.C. 260, 264, 387 S.E.2d 270, 272 (1990). An appellate court must find a case is properly submitted to the jury if any direct evidence or any substantial circumstantial evidence reasonably tends to prove the guilt of the accused. Weston, 367 S.C. at 292-93, 625 S.E.2d at 648. An appellate court may reverse a trial court's denial of a motion for a directed verdict if there is no evidence to support the trial court's ruling or if the ruling is based on an error of law. State v. Dantonio, 376 S.C. 594, 603, 658 S.E.2d 337, 342 (Ct. App. 2008).

Critically, the appellate court may only reverse the trial judge's denial of a directed verdict motion if there is no evidence supporting the trial judge's ruling. State v. Gaster, 349 S.C. 545, 555, 564 S.E.2d 87, 92 (2002). **"[U]nless 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) (emphasis added).

"Under an accomplice liability theory, a person must personally commit the crime or be present at the scene of the crime and intentionally, or through a common design, aid, abet, or assist in the commission of that crime through some overt act." State v. Gibson, 390 S.C. 347, 354-55, 701 S.E.2d 766, 770 (Ct. App. 2010). "A formally expressed agreement is not necessary to establish the conspiracy. It may be shown by circumstantial evidence and the conduct of the parties." State v. Condrey, 349 S.C. 184, 194, 562 S.E.2d 320, 325 (Ct. App. 2002) (citations and internal quotation marks omitted). In Gibson, this Court found the trial court properly denied Gibson's motion for a directed verdict based on sufficient evidence presented on the "hand of one, hand of all" theory of liability. Gibson, 390 S.C. at 355, 701 S.E.2d at 770. It based its decision on the fact that the State presented sufficient circumstantial evidence that Gibson agreed to

act in concert with his co-defendant by calling him to the scene, pointing out a group of rival men, retrieving a gun from his co-defendant's car, and fleeing the scene together. Id. at 345, 701 S.E.2d at 770. See also State v. Langley, 334 S.C. at 649, 515 S.E.2d at 101 (1999) (indicating evidence that the defendant and co-defendant were seen together, circumstantial evidence placing defendant at the scene of the crime, and eye-witness testimony, was sufficient to warrant submitting the case to the jury on any theory of liability, including the hand of one is the hand of all theory). The Supreme Court has held a defendant who acted as lookout and getaway driver was appropriately exposed to prosecution as a principal. State v. Smith, 357 S.C. 182, 187, 592 S.E.2d 302, 305 (2004); see State v. Gates, 269 S.C. 557, 238 S.E.2d 680 (1977) (getaway driver guilty as principal in armed robbery).

Here, the State presented Appellant's statement to police in which she stated: (1) the co-defendants asked her to drive them to West Columbia so they could deal with something, (2) she knew they had automatic guns with them, and (3) she picked up some rounds one of the co-defendants dropped in the car. Furthermore, she stated to police that she parked in the trailer park and was still there when the men came back from "dealing with something." In addition to presenting Appellant's statement, the State also presented evidence that several rounds of ammunition were found in Appellant's pocket when she was searched. Furthermore, police stopped Appellant and the two co-defendants in her vehicle approximately one block from the scene and recovered two guns, the wallets of the victims, and a gold chain taken from one of the victims during the robbery. As the trial court pointed out, based on the evidence, the jury could find Appellant was at least the transporter of the two men who actually committed the

burglary, and based on the "hand of one, hand of all" theory of accomplice liability, the jury could find Appellant guilty.

Appellant argues the State failed to prove Appellant agreed to assist with the commission of an armed robbery and burglary. However, the State was not required to show a formal agreement between the parties. See Condrey, 349 S.C. at 194, 562 S.E.2d at 325 ("A formally expressed agreement is not necessary to establish the conspiracy. It may be shown by circumstantial evidence and the conduct of the parties."). The State demonstrated Appellant's assistance through circumstantial evidence and by presenting Appellant's conduct of driving the co-defendants to the trailer park with guns and waiting in the running vehicle for them to come back, and then driving away. The overt act Appellant committed was agreeing to drive the co-defendants to the trailer park, with guns, to "deal with something." The jury was entitled to base its decision on whether Appellant assisted in the commission of the crimes by considering her conduct. See id. (noting a conspiracy may be shown by circumstantial evidence and conduct of the parties).

In sum, sufficient evidence existed to support the denial of Appellant's directed verdict motion, and the trial court properly submitted the case to the jury for its resolution. Contrary to what is required before a directed verdict should be granted, Appellant's case did not present a complete failure of evidence of her guilt. See State v. Brown, 205 S.C. 514, 520, 32 S.E.2d 825, 827 (1945) ("Where there is any evidence, however slight, on which the jury may justifiably find the existence or the non-existence of material facts in issue, or if the evidence is of such character that different conclusions as to such facts reasonably may be drawn therefrom, the issues should be submitted to the jury.").

II.

The trial court properly denied Appellant's motion for a directed verdict where the State presented sufficient independent evidence of the *corpus delicti* to corroborate Appellant's extra-judicial statement and, together with such statement, establish a jury question as to whether Appellant was guilty of armed robbery and first-degree burglary under the "hand of one, hand of all" accomplice liability theory.

Appellant argues the trial court erred in refusing to direct a verdict of acquittal for armed robbery and first-degree burglary because the State failed to present sufficient independent evidence to corroborate Appellant's statement that the co-defendants were armed and one of the co-defendants asked her to drive them to West Columbia so they could "deal with something." On the contrary, the State presented sufficient independent evidence to corroborate the statement and, thus, the trial court correctly denied the motion on this basis and properly submitted the case to the jury.

"When ruling on a motion for a directed verdict, the trial court is concerned with the existence or nonexistence of evidence, not its weight." State v. Weston, 367 S.C. 279, 292, 625 S.E.2d 641, 648 (2006). When reviewing a trial court's denial of a defendant's motion for a directed verdict, an appellate court must view the evidence in a light most favorable to the State. State v. Venters, 300 S.C. 260, 264, 387 S.E.2d 270, 272 (1990). An appellate court must find a case is properly submitted to the jury if any direct evidence or any substantial circumstantial evidence reasonably tends to prove the guilt of the accused. Weston, 367 S.C. at 292-93, 625 S.E.2d at 648.

The law in South Carolina is that "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, 179-80, 516 S.E.2d 201, 204-05 (1999). "Proof of the *corpus delicti* does not have to be in the form of direct evidence; it may be established by circumstantial evidence when it is the best evidence obtainable. **If there is any evidence tending to establish the *corpus delicti*, then it is the trial court's duty to pass that question on to the jury**." Id. at 180, 516 S.E.2d at 205 (emphasis added).

In Osborne, the Supreme Court found the State provided sufficient independent corroboration evidence to support the defendant's statements to police. Id. Specifically, the Court looked at the *corpus delicti* of driving under the influence (DUI)—driving a vehicle, within this State, while under the influence—and determined the circumstantial evidence that the car had gone off the road and hit a sign, the fact the hood was still warm when law enforcement arrived, and Osborne's breathalyzer test results were sufficient, taken together with his statements to police, to allow the jury to reasonably infer a DUI was committed. Id. at 174-80, 516 S.E.2d at 202-05. The Osborne court discussed the fact that the corroboration rule applies to admissions as well as confessions. Id. at 178, 516 S.E.2d at 203-04. In that case, the defendant told police that his car was stolen, he wrecked the car, and he did not have anything to drink after the wreck. Id. at 176, 516 S.E.2d at 203.

"Before a defendant in a criminal case can be required to present a defense, the State must present some proof of the *corpus delicti* of the crime." State v. Saltz, 346 S.C. 114, 137, 551 S.E.2d 240, 253 (2001). In Saltz, the appellant contended the trial court erred in denying his motion for a directed verdict, arguing there was no evidence the victim was murdered, and the Supreme Court disagreed. Id. at 137, 551 S.E.2d at 252-53. "The trial court ruled there was sufficient circumstantial evidence to establish the

corpus delicti, including [Victim]'s good health, the rule in his house that he must be home by dark or call immediately, testimony the wooded area where [Victim]'s body was found was too thick to ride a bicycle, testimony from [Victim]'s best friend that they never played in that area, and testimony from an officer that it is very unusual for a twelve-year-old boy to be missing for any length of time." Id. at 137, 551 S.E.2d at 253. The appellant argued that evidence was also consistent with death by accident or illness. Id. However, the Court determined that because the trial court is only "concerned with the existence or non-existence of evidence, not its weight" when ruling on a motion for a directed verdict, and because the appellate court must view the evidence in the light most favorable to the State, there was "more than adequate circumstantial evidence" to prove murder. Id. Accordingly, the Court affirmed the trial court's denial of a directed verdict. Id.

Here, Appellant's statement to police does not seem to rise to the level of an admission. While Osborne admitted to wrecking the car, which satisfied the "driving the vehicle" portion of the *corpus delicti* of that crime, Appellant never admitted anything that could implicate an analysis under the rules of *corpus delicti* here. The *corpus delicti* of Appellant's first-degree burglary indictment includes: (1) entering a dwelling without consent, (2) with the intent to commit a crime in the dwelling, and (3) armed with a deadly weapon. The *corpus delicti* of Appellant's armed robbery indictment includes: (1) knowingly and willfully while armed with a handgun or conspiring with others armed with handguns, (2) feloniously taking from the person or presence of victims, (3) by means of force, threats, or intimidation wallets and contents, (4) with the intent to deprive the owners of the use of such property. Appellant did not admit to any parts of the *corpus delicti* of these crimes. In her statement to police, Appellant only admitted she

drove the two men to the trailer park and waited in the car while they went to "deal with something." Accordingly, Appellant's statement to police should not be considered an admission and, thus, the corroboration rule does not apply. Instead, a standard directed verdict analysis, as described above, should end the inquiry.

However, to the extent Appellant's statement can be considered an admission, sufficient evidence exists to corroborate the statement. The circumstantial evidence that corroborated Appellant's statement to police included Prado's testimony about seeing a dark blue SUV parked in the trailer park, with the engine running, and a woman driver seated inside; Prado's testimony about the call from his friend who left Prado's home and shortly thereafter called Prado to tell him he saw a black man committing a robbery outside trailer #6; and the rounds that were recovered from Appellant's pocket. When considered in conjunction with Appellant's statement to police, the evidence corroborated Appellant's statement and provided a sufficient basis for the jury to reach a reasonable inference that Appellant drove the getaway car in her participation in the crime and could be found guilty under the "hand of one, hand of all" theory of accomplice liability. See State v. Gates, 269 S.C. 557, 238 S.E.2d 680 (1977) (getaway driver guilty as principal in armed robbery).

When applied to a particular offense, *corpus delicti* means that the specific crime has been committed. State v. Dodd, 354 S.C. 13, 17, 579 S.E.2d 331, 333 (Ct. App. 2003). In both Osborne and Saltz, proving *corpus delicti* was extremely important to the trial of each case to determine whether the actual crime had been committed. On the contrary, in the case sub judice, no doubt exists that the crimes of first-degree burglary and armed robbery were committed. The State presented evidence that the crime occurred by eliciting testimony from the victims. Perez testified he awoke to find two

black men inside the home asking for money and holding Rigiberto at gunpoint. (R. p.72, lines 20-22; R. p.82, lines 9-12.) He further testified one of the men picked up Perez's one-and-a-half-year-old son by the foot and pointed a pistol at the child's head, demanding money. (R. p.72, line 22-R. p.73, line 5.) He testified Mirna gave the men money, but they demanded more and hit Rigiberto in the head with the pistol. (R. p.73, lines 7-17.) Additionally, Perez testified Rigiberto gave the men a gold chain. (R. p.73, lines 16-17; R. p.74, lines 1-12.) Finally, he testified the men took Mirna's and Rigiberto's wallets. (R. p.75, lines 5-11.) In addition, Sgt. McIntyre testified that when he and the other officers stopped Appellant and her two co-defendants approximately one block away from the scene in a vehicle that matched Prado's description and searched the vehicle, they recovered a gold chain, two handguns, a pink wallet, and a blue wallet. Sgt. McIntyre testified the pink wallet contained Mirna's and Rigiberto's identification. Additionally, he testified they found rounds of ammunition in Appellant's front pocket when they searched her incident to arrest.

Having shown sufficient independent evidence to satisfy the corroboration rule, if it applies in this situation, the statement itself presented evidence of the agreement between Appellant and her co-defendants when she agreed to transport them to the trailer park between midnight and 1:00 a.m. to "deal with something" with two guns. Moreover, the *corpus delicti* was shown through direct evidence of Perez's and Mirna's testimony about the incident and Sgt. McIntyre's testimony about the evidence found in the vehicle, with all three co-defendants inside. Accordingly, the State submits the trial court properly denied Appellant's motion for a directed verdict.

CONCLUSION

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

Respectfully submitted,

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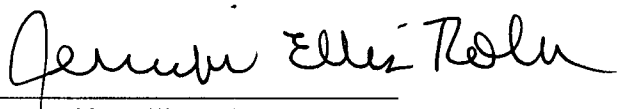
Assistant Attorney General

BY: 
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June 18, 203

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Appellant.

CERTIFICATE OF COUNSEL

The undersigned certifies that this Final Brief of Respondent complies with Rule 211(b), SCACR.

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CARRIE CALLAHAM,

Appellant.

PROOF OF SERVICE

I, Angela Bennett, certify that I have served the within Initial Brief of Respondent and Designation of Matter on Appellant by depositing two copies of the same in the United States mail, postage prepaid, addressed to:

Kathrine H. Hudgins, Esquire
S.C. Commission on Indigent Defense
Division of Appellate Defense
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I further certify that all parties required by Rule to be served have been served.
This 18th day of June, 2013.

Angela Bennett

ANGELA BENNETT
Legal Assistant

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