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S.C. SUPREME COURT

STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM LEXINGTON COUNTY
Court of General Sessions

Appellate Case No. 2021-001405

The Honorable Walton J. McLeod, Circuit Court Judge

The State of South CarolinaRespondent,

v.

Shantrez Alejandro RobertsonPetitioner.

APPENDIX

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**THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE
CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING
EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.**

**THE STATE OF SOUTH CAROLINA
In The Court of Appeals**

The State, Respondent,

v.

Shantrez Alejandro Robertson, Appellant.

Appellate Case No. 2021-001405

Appeal From Lexington County
Walton J. McLeod, IV, Circuit Court Judge

Unpublished Opinion No. 2025-UP-002
Heard November 5, 2024 – Filed January 2, 2025

AFFIRMED

Elizabeth Anne Franklin-Best and Jillian Marie Lesley,
of Elizabeth Franklin-Best, P.C., of Columbia, for
Appellant.

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Deputy Attorney General Melody Jane Brown, and
Assistant Attorney General Tommy Evans, Jr., of
Columbia; and Solicitor Samuel R. Hubbard, III, of
Lexington, all for Respondent.

PER CURIAM: Shantrez Alejandro Robertson appeals his convictions for murder and attempted murder, arguing the circuit court erred in (1) denying his motion for a directed verdict and (2) instructing the jury on accomplice liability. We affirm.

Facts and Procedural History

On the night of July 5, 2015, and into the early morning hours of July 6, 2015, Brandon "Pedro" Jeffery, William Tyrone "Shine" Gantt, Dominique "Dee" Williamson, O'Brien "OB" Gilliam, and Andy "Teddy" Barnes attended a party at a local club called "The Spot." The group arrived in two vehicles and parked adjacently at the top of a hill.

Immediately upon entering the club, Jeffery saw Donovan Tirrell "Fresh" Brannon. When Jeffery saw Brannon "jumping around" and "throwing up signs," Jeffery pulled Gilliam out of the crowd and told him, "we ain't here for that." According to Jeffery, Robertson saw their exchange and "kind of bumped" Jeffery on his way over to Brannon. Shortly thereafter, Jeffery's group decided to leave.

As the group walked back to their vehicles, Jeffery, Gilliam, and Barnes heard Brannon say, "Where them p*ssy motherf*ckers at?"¹ Gantt responded to Brannon; Brannon replied, "not you"; and multiple shots were then fired. Jeffery was shot in both legs but was able to crawl under Williamson's vehicle. Barnes "dove" into his vehicle, retrieved his nine-millimeter, and returned fire.² Jeffery, Gilliam, and Barnes testified that Robertson, Brannon, and possibly a third individual jumped into the Grand Marquis driven by Antonio "Boosie" Stroman and left the scene.³

¹ According to Jeffery, both Brannon and Robertson were holding pistols at this time. However, Jeffery did not know who shot first and did not see anyone pull a trigger. Gilliam also saw Brannon holding a gun.

² Although Barnes testified he saw Brannon "coming up the hill, swinging his gun," he claimed he did not actually see Brannon fire the weapon. On cross, however, Barnes admitted Brannon shot first.

³ Stroman gave three different statements, two of which indicated Robertson was in the vehicle with Stroman and Brannon. While the State provided evidence that Stroman made contradictory statements after the shooting, Stroman claimed he did

Williamson, Gilliam, and Barnes then helped Jeffery get out from under and into Williamson's car. They found Gantt dying on the ground behind Barnes's vehicle. Before leaving the scene, Barnes handed his gun and the gun found with Gantt's body to a bystander. Barnes later retrieved both guns and provided them to law enforcement.

Upon arriving at the nearby Hill View Truck Stop, a member of Jeffery's group called 911. Deputy Daniel Schirra of the Lexington County Sheriff's Department (LCSD) was the first to respond at 3:27 am. LCSD Deputy Timothy Franklin also responded to Hill View, where he found Jeffery with gunshot wounds to both legs—one to his ankle and the other in the knee/thigh area.

Deputy Schirra rode in the ambulance with Jeffery to Lexington Medical Center, and Jeffery named Robertson as a shooter. Jeffery told Deputy Schirra that when he and Gantt were leaving the club, Robertson and Brannon "[r]an up the hill screaming, 'Where them N words at?'" Gantt replied, "What N words?" Robertson then presented "a chrome and black handgun" and Brannon presented "an all-black handgun, and they began shooting in that direction." Jeffery recalled hearing "12 to 14 gunshots." While in the emergency room, Jeffery told Detective Franklin multiple times that he was shot by Robertson and Brannon.

Corporal Deepak Harpalani, of the Batesburg-Leesville Police Department, found Stroman in the back of a burgundy Grand Marquis parked at the Creek View Apartments.⁴ Stroman had a gunshot wound to the neck, and Brannon was standing outside the vehicle. LCSD Investigator Michael Phipps processed the Grand Marquis at Creek View and collected Brannon's cell phone and gunshot residue test kit. Investigator Phipps also observed "projectile strike" damage to the car's rear door and trunk area as well damage to the "trunk lid and rear window." He discovered an empty Ruger nine-millimeter nearby.

not recall making the statements. He further alleged the police made certain promises and even threatened him to get him to change his statement.

⁴ A witness who lived at Creek View saw a burgundy sedan park near her building on the night of the shooting. Four people were in the car, and the witness heard a female "screaming saying, [s]trip all your clothes off." Two other vehicles then pulled up—a truck and car—and two people from the burgundy sedan got into the other car before it drove away.

Following Brannon's arrest for disorderly conduct, LCSD Sergeant Shawn Spivey transported him to headquarters. There, Sergeant Spivey read Brannon his *Miranda*⁵ rights, and Brannon stated he and Stroman went to The Spot together. Brannon claimed he returned fire in self-defense only after he and his friend were shot at while leaving the club. Brannon realized Stroman was hit "halfway from the club" because Stroman said, "I'm hit, cuz." He admitted the Ruger was his and that he threw the gun in the bushes when the police arrived.

A Lexington County grand jury subsequently indicted Robertson and Brannon for murder and attempted murder. The two men were tried jointly.

Jasmine Pringle, Robertson's former girlfriend, testified that Robertson called her in the early morning hours of June 6 and asked her to pick him up in a "country area." Robertson was with Tyrone "Boosie" White when Pringle arrived. Pringle's cousin, who was spending the night with Pringle at her apartment, was getting ready for work when she saw Pringle, Robertson, and another male enter the apartment between 5:30 am and 6:00 am on June 6.⁶

Forensic firearms identification expert Michelle Eichenmiller, of the South Carolina Law Enforcement Division, testified she was able to conclusively match or group all of the forty-one casings recovered by law enforcement to four firearms involved in the shooting, but two of the guns had not been found. Agent Eichenmiller received three firearms, a Walther Model P22 semi-automatic (associated with Gantt); a Jimenez Arms model JA9 semi-automatic nine-millimeter (associated with Barnes); and Brannon's Ruger model L9 semi-automatic nine-millimeter. Gantt's weapon "was excluded as firing any of the projectiles" submitted for SLED's analysis.

Of the forty-one cartridges, fifteen were fired from the same gun, which Agent Eichenmiller stated could have been a nine-millimeter Smith and Wesson. She testified the projectile collected from Gantt's left arm "was most consistent with a bullet or a jacket portion of a bullet loaded into nine-millimeter Ruger caliber

⁵ *Miranda v. Arizona*, 384 U.S. 436 (1966).

⁶ By contrast, Robertson claimed in his statement to a detective that he called Pringle between 2:00 am and 2:30 am and asked her to pick him up from The Spot; he further stated they got back to the apartment between 2:45 am and 3:15 am.

cartridges. It was a nine-millimeter bullet." She identified the projectile recovered from Gantt's right leg as most consistent with a 40-caliber or ten-millimeter auto bullet, which excluded the firearms recovered in the case. She concluded the projectile collected from Williamson's Dodge Charger was fired from the Ruger.

Dr. Janice Ross, who performed Gantt's autopsy, determined his manner of death was "exsanguination, which means to bleed out due to perforation of lungs, laceration of both lungs, due to a gunshot wound of the arm going into the chest." Dr. Ross noted Gantt suffered five gunshot wounds; she opined he could have been running and was likely "standing with all these wounds coming fairly quickly."

FBI Special Agent Robert Clayton Simmons, who was admitted as an expert in the analysis of historical cell phone records, determined Pringle's cell phone had no activity between 11:56 pm on June 5 and 4:31 am on June 6. Agent Simmons testified Robertson sent a message to Pringle at 4:11 am, which Pringle received at 4:28 am. The next incoming communication was from Boosie White at 4:34 am. Agent Simmons explained Pringle's phone utilized the cell tower near her apartment between 4:00 am and 4:59 am. Pringle's phone subsequently utilized the tower near I-20 and U.S. 1 at 5:06 am before returning to the cell tower near her apartment at 5:56 am. While Agent Simmons testified White's cell phone was using the tower near Pringle's apartment around 5:56 am, he was unable to establish a location for Robertson between 1:36 am and 4:28 am.

LCSD Detective Brannon Marthers testified that on the evening of June 4, Robertson texted Trenton Sampson stating, "I got a Smith and Wesson nine-millimeter brand new 17 shots." On June 5 at 3:49 pm, Robertson received a text message inquiring, "How much you want for the nine-millimeter?" Two minutes later, Robertson responded, "\$250." On June 6 at 2:43 p.m., Robertson sent an outgoing text message to Pringle stating, "Baby, when your people leave, I need a place to lay low for a while."

Detective Marthers pulled surveillance footage from the truck stop, a three-minute drive from The Spot, for the period covering the two hours before the shootings. The footage shows Stroman, White, and Robertson—who is wearing a white t-shirt and white pants with stars—exiting a burgundy Grand Marquis.⁷

⁷ At trial, Gilliam testified the man walking up the hill with Brannon wore a white t-shirt and he was one of the men who raised his hand before shots were fired. Jeffery testified Robertson wore white jogging pants with black stars that night.

At the conclusion of the four-day trial, the jury found Robertson guilty on both charges.⁸ The circuit court sentenced Robertson to thirty-two years for murder and a concurrent thirty years for attempted murder.

Analysis

I. Directed Verdict

Robertson argues the circuit court erred in denying his motion for a directed verdict because the evidence was insufficient to establish his involvement in the crimes charged. We disagree.

"We review the denial of a directed verdict motion in a criminal case under the any evidence standard of review." *State v. Cain*, 419 S.C. 24, 33, 795 S.E.2d 846, 851 (2017). When reviewing a directed verdict motion, courts view the evidence and all reasonable inferences in the light most favorable to the State. *State v. Harris*, 413 S.C. 454, 457, 776 S.E.2d 365, 366 (2015). "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.* (quoting *State v. Brandt*, 393 S.C. 526, 542, 713 S.E.2d 591, 599 (2011)).

Here, the State presented video evidence showing Stroman, White, and Robertson, who is wearing a white t-shirt and white pants with stars, getting out of a burgundy Grand Marquis at a truck stop three minutes from The Spot just hours before the shootings occurred. Jeffery testified Robertson was wearing white jogging pants with black stars that night. Moreover, Gilliam testified he saw a man wearing a white t-shirt walking up the hill with Brannon, and that he was one of the men who raised his hand before shots were fired. Although some witnesses gave conflicting testimony, there is evidence in the record—most specifically Jeffery's statements to Deputy Schirra and Detective Franklin—indicating Robertson and Brannon both fired multiple shots at Jeffery and Gantt.

The State also presented phone records demonstrating Robertson was untruthful regarding his whereabouts at the time of the shootings. And, the State presented evidence that fifteen of the forty-one cartridges recovered at the crime scene came from the same gun, which Agent Eichenmiller testified could have been a nine-millimeter Smith and Wesson. Robertson's own text messages establish he

⁸ Brannon was convicted as well.

was trying to sell "a Smith and Wesson nine-millimeter brand new 17 shots" just two days before the shootings. Agent Eichenmiller further opined that a bullet recovered during Gantt's autopsy was likely fired from a Smith and Wesson nine-millimeter. Finally, Robertson texted Pringle that he needed "a place to lay low for a while" approximately twelve hours after the shootings.

Even when we view all reasonable inferences in the light most favorable to Robertson, the evidence in the record reasonably tends to prove his guilt. *See Harris*, 413 S.C. at 457, 776 S.E.2d at 366 ("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." (quoting *Brandt*, 393 S.C. at 542, 713 S.E.2d at 599)). Our concern—and the circuit court's inquiry at the directed verdict stage—lies with the existence of evidence rather than its weight. *See State v. Zeigler*, 364 S.C. 94, 101, 610 S.E.2d 859, 863 (Ct. App. 2005) ("When ruling on a motion for a directed verdict, the trial court is concerned with the existence or nonexistence of evidence, not its weight."). Accordingly, we find the circuit court did not err in denying the directed verdict motion because there was both direct evidence and substantial circumstantial evidence from which a jury could properly conclude Robertson participated in the murder of Gantt and the attempted murder of Jeffery. *See State v. Bennett*, 415 S.C. 232, 237, 781 S.E.2d 352, 354 (2016) ("[A]lthough the jury must consider alternative hypotheses, the court must concern itself solely with the existence or non-existence of evidence from which a jury could reasonably infer guilt.").

II. Jury Instruction

Robertson next argues the circuit court erred in instructing the jury on the doctrine of accomplice liability because there was insufficient evidence to support this jury charge. We disagree.

"In reviewing jury charges for error, we must consider the court's jury charge as a whole in light of the evidence and issues presented at trial." *Zeigler*, 364 S.C. at 106, 610 S.E.2d at 865. "To warrant reversal, a trial judge's charge must be both erroneous and prejudicial." *State v. Otts*, 424 S.C. 150, 155, 817 S.E.2d 540, 543 (Ct. App. 2018) (quoting *State v. Taylor*, 356 S.C. 227, 231, 589 S.E.2d 1, 3 (2003)). "It is error to give instructions which may confuse or mislead the jury." *Id.* (quoting *State v. Rothell*, 301 S.C. 168, 169-70, 391 S.E.2d 228, 229 (1990)).

"Ordinarily, the State convicts a defendant of a crime by proving that he personally committed the criminal act." *State v. Sellers*, 442 S.C. 140, 148, 898 S.E.2d 116,

120 (2024). "The doctrine of accomplice liability arises from the theory that 'the hand of one is the hand of all.'" *State v. Reid*, 408 S.C. 461, 472, 758 S.E.2d 904, 910 (2014) (quoting 23 *S.C. Jur. Homicide* § 22.1 (2014)). "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. Campbell*, 443 S.C. 182, 193, 904 S.E.2d 441, 446-47 (2024) (quoting *State v. Condrey*, 349 S.C. 184, 194, 562 S.E.2d 320, 325 (Ct. App. 2002)). While mere presence at a scene is insufficient to establish guilt, "[a]ny person who is present at a homicide, aiding and abetting, is guilty of the homicide as a principal, even though another does the killing." *State v. Mattison*, 388 S.C. 469, 480, 697 S.E.2d 578, 584 (2010) (quoting *Zeigler*, 364 S.C. at 103, 610 S.E.2d at 864).

As discussed in Section I, *supra*, the evidence presented by the State demonstrates that Robertson, along with Brannon, was not only present during the shootings in this case, but he was an active participant, and he quite possibly fired the shots that killed Gantt and wounded Jeffery. Because the State presented evidence sufficient to support an accomplice liability instruction, we find the circuit court correctly charged the jury regarding the "hand of one is the hand of all." *See Zeigler*, 364 S.C. at 106, 610 S.E.2d at 865 ("In reviewing jury charges for error, we must consider the court's jury charge as a whole in light of the evidence and issues presented at trial."); *id.* ("A jury charge that is substantially correct and covers the law does not require reversal.").

AFFIRMED.

WILLIAMS, C.J., and MCDONALD and TURNER, JJ., concur.

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Jan 16 2025

SC Court of Appeals

IN THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM LEXINGTON COUNTY
Court of General Sessions

Appellate Case No. 2021-001405

The Honorable Walton J. McLeod, Circuit Court Judge

The State of South Carolina.....Respondent,

v.

Shantrez Alejandro Robertson.....Petitioner.

PETITION FOR REHEARING

Pursuant to SCAR, Rule 221, petitioner respectfully asks this Court to rehear his case. Respectfully, counsel submits this Court overlooked the abject lack of evidence tending to prove that Robertson is guilty of this crime, or any role at all in the death of the decedent. Petitioner’s conviction is based on nothing but a mere suspicion of his guilt and is contrary to this State’s law requiring that substantial evidence be presented in a circumstantial case to prove guilt. Respectfully, this Court should grant rehearing.

Relevant Facts

Shantrez A. Robertson was tried along with his co-defendant Donovan Tirrell Brannon for the murder of William T. Gantt and the attempted murder of Brandon Jeffery. As discussed in significant detail below, the State presented copious exhibits, but failed to meet its burden of proving direct or accomplice liability for either charge. Still, Robertson’s motion for directed verdict at the end of the State’s case was denied.

At trial, the State's evidence failed to provide any indication that Robertson killed William Gantt or attempted to kill Brandon Jeffery. Indeed, the overwhelming evidence presented at trial demonstrated that Robertson was merely present at "The Spot" that night. Neither Robertson's DNA nor his fingerprints were found on the three weapons. Tr. 645-51. Furthermore, the State's own expert conclusively stated that the nine-millimeter weapon placed in evidence, along with two other guns that did not kill Gantt, and the additional projectiles found in Gantt during the autopsy were not fired by any of the guns in evidence. Tr. 566-67.

Additionally, while the State provided evidence that the co-defendants communicated earlier that day, were together before going to the Spot, and were present at the Spot, they failed to provide any evidence of a common plan or scheme to commit any of the crimes charged. Yet, the trial court judge charged the jury with the "hand of one, is the hand of all" theory of culpability. Tr. 1134.

Consequently, Robertson was found guilty on all charges. A motion for a new trial was denied and Robertson was subsequently sentenced to thirty-two years for murder and thirty years for attempted murder. Tr. 1161-62; 1180.

ARGUMENTS

I. The trial court erred in denying Robertson's motion for directed verdict when the evidence adduced at trial was insufficient to establish Robertson's involvement in the crimes charged.

The State presented and introduced numerous exhibits at trial but failed to meet its burden of proving direct or accomplice liability for either charge. Indeed, the evidence was overwhelming insufficient to show that Robertson killed William Gantt and intended to kill Brandon Jeffrey, or that a common plan or scheme existed between Robertson and Brannon. The evidence presented

at trial regarding the events of the evening were confusing at best. However, the constant theme surmised from the State's evidence was that Robertson was, at most, merely present at The Spot that evening.

On the night of July 6, 2015, Brandon Jeffrey, William Gantt, Dominique Williamson, O'Brien Gilliam, and Andy Barnes attended a party at a local club called "The Spot". Tr. 131-136, 477-78. The night ended in tragedy when William Gantt was shot and killed, and Brandon Jeffrey was shot in the leg. According to Jeffrey, the members of his group arrived at The Spot in two separate vehicles and parked at the top of the hill. Tr. 136. Once they made it to the entrance of the club, Gantt was initially denied entry because he had a gun in his possession. Tr. 137, 481. Andy Barnes, who was with Gantt at the time, testified that Gantt took Barnes' car keys to presumably place the gun back into the car. Tr. 481. After a second pat down at the club, they were allowed to enter. Tr. 481-82.

As soon as they were inside the club, Jeffrey immediately saw co-defendant Donovan Tirrell Brannon. Tr. 140. At some point later in the evening, Jeffrey pulled Gilliam off the dance floor. Tr. 139-40. According to Jeffrey, "Red Nose" saw this exchange and went over to Brannon. Tr. 140. Jeffrey testified that he believed Red Nose was the nickname for Shantrez Robertson. Tr. 140. However, he admitted that he did not know him, had never heard of him prior to the incident, and had never seen him before that night. Tr. 140, 217. Shortly after pulling Gilliam off the dance floor, Brannon came over to him and they "dapped and said what's up", a sign of friendship. Tr. 140, 205. Jeffrey testified that even though they decided to leave, there were no altercations in the club. Tr. 143-45, 199.

Once they were almost to the vehicles, Jeffrey, Gilliam, and Barnes each heard Brannon say some variation of, “where them pussy motherfuckers at?” Tr. 145, 492, 684. Gantt approached Brannon and responded to him. Brannon replied, “not you” and then everyone *heard* shots fired. Tr. 147, 200, 514. It is at this point in the State’s evidence where the versions of what happened varied significantly.

Witness Testimony

According to Jeffrey, Red Nose was walking up the hill with Brannon. He believed they both had guns in their hands, but he never saw either of them raise or fire a gun. Tr. 147-48, 200. When the shots rang out, Jeffrey was shot instantly by an unidentified shooter and crawled under the car. Tr. 148, 204.

In contrast, Barnes testified that they were hanging out at the cars waiting on Gilliam when he saw Brannon walking up the hill swinging a gun. Tr. 492. Barnes saw two unidentified individuals walking up the hill behind Brannon and he believed they were part of another group. Tr. 515. The two unidentified individuals behind Brannon were not talking to him, and there was no indication that they were part of the same group or even knew each other. Tr. 515. Additionally, he did not see either of them with a gun. Tr. 523. According to Barnes, a burgundy Grand Marquis or Crown Vic drove up and boxed them all in. Tr. 492-94. Barnes testified that he only saw one person, the driver, in the vehicle and did not know who it was. Tr. 494, 522. Moreover, Barnes testified that he did not see anyone shoot because once the shots rang out, he jumped into his car and grabbed his nine-millimeter Jimenez from the glove box and returned fire. Tr. 495-97, 514. He then saw Brannon and an unknown individual jump in the backseat of the Grand Marquis and leave.

Tr. 498. According to Barnes, at least three to four people were in the car when it drove off. Tr. 498.

Gilliam provided different testimony to that of Barnes. As he was walking up the hill, he heard Brannon coming out of the club. Tr. 684. When he looked back at Brannon, he saw he had a gun in his hand and there were three unidentified individuals with him. Tr. 684. Gilliam testified that a white Crown Vic also drove up and two individuals got out of the car, but the driver remained inside the vehicle. Tr. 688-89, 693, 702-06. According to Gilliam, there were three people in total inside the car: a driver; a light-skinned male front passenger wearing a white shirt; and a short, dark-skinned male rear passenger. Tr. 688, 702. According to Gilliam, when the light-skinned male got out of the car he stumbled over to Brannon. Tr. 688. Moments later he saw that same unidentified individual raise his hand and then Gilliam *heard* shots. Tr. 688.

Notably, while Gilliam described the two passengers, he too could not identify anyone at the top of the hill that night other than Brannon. Tr. 688-89. Simply put, neither Barnes nor Gilliam identified Robertson at trial, and neither testified to seeing Robertson at the top of the hill or in the car that evening. Jeffrey, on the other hand, was unable to identify the person with Brannon as anything other than Red Nose. In fact, he was unable to pick Robertson out of the police lineup. Tr. 217. He stated that he knew everyone in the lineup except for Robertson. Tr. 217. Remarkably, Jeffrey did not identify Robertson until a few weeks after the incident when his cousin Aiesha Brannon showed him Facebook pictures of Robertson. Tr. 172-73; 217-18. The photographs depicted Robertson wearing white pants with stars, which according to Jeffrey appeared to be similar pants worn by Red Nose the night of the shooting. Tr. 164, 170-71. Armed with the photos

of Robertson, Jeffrey scheduled a meeting with police and used the images on his phone to identify Robertson as the individual with Brannon that night. Tr. 172-73.

Once the shooting stopped, Barnes helped Jeffrey into Williamson's car and he stayed with Gantt who was coughing up blood, and barely breathing. Tr. 499. Gantt passed away moments later. Tr. 499. While sitting with Gantt, Barnes testified that a stranger came up behind him and said, "let me get them guns." Tr. 500. Without hesitation, Barnes handed over his gun to the unknown individual. Tr. 500. He then retrieved Gantt's .22 caliber gun off him and handed it him. Tr. 500, 517-518. Remarkably, despite testifying that he gave his keys to Gantt earlier that night so that he could place his .22 caliber gun in the car when the bouncer refused to let them in the club, Gantt had his gun on him when the shooting took place. Tr. 517-18. According to Barnes, his personal nine-millimeter Jimenez was the only gun in the glove box. Tr. 517-18. Nonetheless, Barnes testified that he was able to retrieve both guns several days later through a friend who knew the individual that took the guns from him. Tr. 501. Once he retrieved them, he turned them over to law enforcement. Tr. 501.

Another shooting victim, Antonio Stroman, also provided contradictory testimony at trial. Tr. 753. In 2015, Stroman drove a Grand Marquis and was at a cookout earlier that day with Robertson and Brannon. Tr. 775-76. According to Stroman, he left the cookout and went home with a girl. Tr. 776. While he testified that he did not remember seeing Brannon or Robertson inside the Spot that night, he did remember that he was shot in the neck when he was leaving the club, and Brannon was in the backseat of his car. Tr. 780-84. While the State provided evidence that he made contradictory statements to police after the shooting, he was unable to recall making the

statements. Tr. 791-805. However, he testified that while he was in the hospital, police threatened him and tried to promise him with stuff in order to get him to change his statement. Tr. 807.

In contrast, Officer Todd Garrick with the Lexington County Sherriff's department testified that he met with Stroman in the emergency room on June 6, 2015. Tr. 811. Garrick testified that he did not threaten Stroman, but he admitted that he warned Stroman that if he failed to tell the truth, he would charge him. Tr. 812-18, 824. As a result, Stroman gave three different statements.

According to Garrick, Stroman's first statement indicated that he parked in the lower lot of The Spot and left the club around 2:50am and heard gunshots. Tr. 812-13. He was stuck in the dirt, his gas pedal got stuck while trying to leave, and the car shot across the field. The glass broke in his car, and he realized he was shot. Brannon, who was the only person in the car with him, got in the driver's seat and they drove to Creek View Apartments. Tr. 812-813.

That same day Stroman gave a second statement that stated that when the initial shots rang out, he was in his car and heard Brannon yell at him "woah"; and both Brannon and Robertson jumped in the car. Tr. 814-15. The car was stuck, tires spinning, more shots were fired, the back glass broke, and he was shot in the neck. Tr. 814-15. Brannon got in the front seat, and he got in the backseat, but he did not know where Robertson went. Tr. 814-15. Brannon then drove him to Creek View Apartments. Tr. 814-15.

Stroman's third statement was given to law enforcement two days later. Tr. 816-18. In that statement, Stroman maintained as he had in all three statements that he heard gun shots, his car was stuck, glass broke, and he was shot in the neck. Tr. 816-18. In this statement, however, he stated that similarly to the second statement, when he was shot, Brannon got in the driver's seat,

and he got in the back. However, in this statement Robertson rode with them to Creek View Apartments. Tr. 816-18.

Presumably, in an attempt to corroborate this version of the events, the State presented testimony from Demetrich Harris who lived at Creek View Apartments on June 6, 2015. Tr. 235. Harris testified that she observed a burgundy Crown Vic drive up and park down past her apartment building. She witnessed four people in the car, and she also heard a female telling them to change their clothes, but she was unable to identify anyone. Tr. 235-38. After the Crown Vic parked, another car and an SUV pulled up and she saw people leave in those two vehicles. Tr. 240. Notably, she did not testify what time this occurred, and the State did not provide any evidence to corroborate that this occurred after the shooting.

Additional witness testimony confirmed that Robertson was likely at the club that night but still failed to connect him to the incident. Specifically, Corporal Harpalani testified that only Brannon and Stroman were present at Creek View Apartments when he responded to the scene. Tr. 244-46. Anija Sales, Stroman's cousin, testified that Robertson was her boyfriend at the time of the incident. Tr. 721. Sales testified that she saw Robertson inside the club that evening; however, she did not witness the shooting because she was in her car in the lower lot when the shooting started. Tr. 721-22.

In contrast, Jasmine Pringle testified that she was also Robertson's girlfriend in June 2015. Tr. 849. Pringle testified that Robertson called her late that night to come pick him up in a country area. Tr. 851-52. Pringle testified that she remembered putting in her statement that a guy named "Boosie" was with Robertson that night, but she could not remember if he stayed with them the entire weekend. Tr. 852-54. On the other hand, Adrian Parker testified that she stayed with her

cousin Jasmine Pringle that night. Tr. 868. While she was getting ready for work that morning Parker witnessed Pringle, Robertson, and another male come home around 5:30am-6:00am. Tr. 870-71.

Significantly, there were two Boosie's discussed by witnesses at trial. According to testimony, Stroman and a man identified as Tyrese White were both known as Boosie. Tr. 754, 907. Remarkably, a warrant for White was issued only a few weeks prior to trial. Tr. 967. Indeed, despite having five years to develop the case, the State pursued White for his alleged involvement mere weeks before trial. Tr. 967. As a result, the State presented evidence that White was also with Stroman, Brannon, and Robertson that evening and attempted to draw conclusions that he too was involved in the shooting. Nonetheless, akin to Brannon and Robertson, the State failed to provide any direct or circumstantial evidence of his involvement that night. Tr. 890-91, 1046.

Physical Evidence

In addition to confusing and contradictory witness testimony regarding the events of that night, the State's physical evidence also failed to connect Robertson to the shooting. Specifically, Michael Phillips, crime scene investigator with the Lexington County Sherriff's Department, testified that he responded to Creek View Apartments on the night of the shooting where only Brannon was being held. Tr. 271. While on the scene, he recovered a nine-millimeter Ruger LC9. Tr. 271. The only other firearms collected in connection with the shooting were the Walther .22 caliber and Jimenez nine-millimeter turned over by Barnes days later. Tr. 541.

The State admitted a Facebook photo of Brannon holding a firearm that appeared to be consistent in shape and design to the gun Phillips recovered from Creek View Apartments. Tr. 924-25. However, in addition to finding no gunshot residue on Brannon's hands that night, there

were no fingerprints or DNA matching Robertson or Brannon on the gun recovered from Creek View. Tr. 272, 368-70, 661-672, 741-42. Additionally, the State's fingerprint expert testified that she found no prints of value on any of the weapons recovered. Tr. 643-658. Similarly, the State's DNA expert was unable to find a DNA profile inside Grand Marquis or on the weapons recovered. Tr. 661-672.

Notably, the State's forensic firearms expert testified that there were 66 items of evidence relating to firearms analysis. Tr. 552. According to her testimony, when analyzing simply the shell casings she believed four firearms were used; however, she testified that if all of the evidence including the projectiles, fragments, and shell casings were included she could not conclusively state how many firearms were involved. Tr. 579, 603. Regardless, she was able to match shell casings to an unidentified nine-millimeter, an unidentified .40 caliber, the nine-millimeter Ruger recovered from Creek View and Barnes' nine-millimeter Jimenez. Tr. 579.

Significantly, the State's expert testified that the projectiles found in the deceased matched to a nine-millimeter but did not match any of the guns in evidence. Tr. 566. Specifically, she testified that the database indicated that the weapon could be a Ruger, Smith and Wesson, or Fabrique Nationale, but she was unable to determine which of the three would be responsible, if any, for the fatal shot. Tr. 566.

The State also attempted to provide evidence of the defendant's location that evening through the testimony of FBI historical cell phone records analyst, Robert Clayton Simmons. Tr. 1004. Specifically, Simmons testified that Brannon and Robertson were roughly in the same area after 11:50pm; there was no activity on Pringle's phone between 11:56pm and 4:31am; and White was using the tower at Pringle's residence around 5:56am. Tr. 1010, 1022. Regardless, Simmons

testified that he was unable to establish a location for Robertson between 1:36am and 4:28am on June 6th. Tr. 1046.

The evidence presented at trial firmly established that Robertson did not participate in this shooting. In fact, even though the State provided evidence that Robertson may have owned, and was attempting to sell, a Smith and Wesson nine-millimeter *two days* prior to the shooting, they unequivocally failed to connect that specific gun to Robertson beyond the scope of those messages, and more importantly, they failed to connect that specific gun to the shooting. Tr. 894, 899, 904. Indeed, the messages raised, at most, a mere suspicion that Robertson may have been in possession of a gun and was trying to sell it days prior to the shooting at The Spot.

Beyond that, the overwhelming evidence presented at trial indicated that Robertson was simply present at The Spot that night for a party. Undeniably, the evidence established that Robertson communicated with Brannon, White, and Stroman earlier in the day, and was with them at Hill View Truck Stop several hours prior to the incident. Tr. 884-891, 909-10. However, the evidence falls short of evidencing any form of demonstrable plan between the parties. Tr. 884-891.

As established, the State presented copious exhibits and testimony, but undeniably failed to meet its burden of proving direct or accomplice liability for the crimes charged. Still, Robertson's motion for directed verdict was denied by the trial court. Tr. 1054. The State's case against Robertson, even when viewed in the light most favorable to the State, did not meet the requisite standard for allowing a case to go to the jury.

It is well established under South Carolina law, that the State, by bringing the case, "assumes the burden of proving that the accused was at the scene of the crime when it happened and that he committed the criminal act." See *State v. Mayfield*, 235 S.C. 11, 109 S.E.2d 716, *cert.*

denied, 363 U.S. 846, 80 S.Ct. 1616, 4 L.Ed.2d 1728, *rehearing denied*, 364 U.S. 857, 81 S.Ct. 36, 5 L.Ed.2d 81 (1959); *State v. Bealin*, 201 S.C. 490, 23 S.E.2d 746 (1943). Indeed, the jury weighs the evidence; however, when there is an absence of evidence, it becomes the duty of the trial judge to direct a verdict. *State v. Schrock*, 283 S.C. 129, 134, 322 S.E.2d 450, 452-53 (1984). Evidence must constitute positive proof of facts and circumstances which reasonably tends to prove guilt. *Id.* at 133, 322 S.E.2d at 452 (citing *State v. Manis*, 214 S.C. 99, 51 S.E.2d 370 (1949)); *State v. Bostick*, 392 S.C. 134, 139 (S.C. 2011).

The Supreme Court of South Carolina has repeatedly affirmed the principle that “when the State fails to produce substantial circumstantial evidence that the defendant committed a particular crime, the defendant is entitled to a directed verdict.” *State v. Rothschild*, 351 S.C. 238, 243, 569 S.E.2d 346, 348 (2002); *State v. Odems*, 395 S.C. 582, 586 (S.C. 2012). Moreover, a directed verdict motion should be granted when the evidence “merely raises a suspicion that the accused is guilty.” *State v. Irvin*, 270 S.C. 539, 243 S.E.2d 195 (1978).

In *State v. Bostick*, 392 S.C. 134, 141-42, 708 S.E.2d 774, 778 (2011), the Supreme Court of South Carolina held that the evidence only raised a suspicion of guilt. In *State v. Arnold*, 361 S.C. 386, 605 S.E.2d 529 (2004), the South Carolina Supreme court found evidence insufficient when the defendant’s fingerprints only raised a suspicion of guilt, and it was not sufficient to uphold the conviction.

In *State v. Odems*, 395 S.C. 582, 720 S.E.2d. 48 (2001) the Supreme Court of South Carolina reversed the conviction based on circumstantial evidence. In *Odems*, the State’s case against Petitioner relied primarily on three pieces of circumstantial evidence: “1) the fact that less than ninety minutes after the burglary, police located Petitioner in the getaway car with the burglars and

the stolen goods; (2) Petitioner fled from law enforcement; and (3) Petitioner asked an uninvolved person to lie for him.” *Id.* at 588.

In *State v. Schrock*, 283 S.C. 129, 134, 332 S.E.2d 450, 452-53, the Supreme Court of South Carolina reversed a conviction where the State did not offer any evidence that the defendant was at the scene and could not definitely testify that the footprints at the scene were that of the defendant.

Here, like *Bostick*, *Odems*, and *Schrock*, the State failed to connect Robertson to the crimes charged and the motion for directed verdict should have been granted. In fact, in *Bostick*, *Odems*, and *Schrock* the State arguably had more evidence connecting the defendant to the crimes charged than what was provided in the instant case.

Specifically, in the instant case there was an undeniable absence of any direct or circumstantial evidence proving Robertson killed Gantt or attempted to kill Brandon Jeffery. Neither Robertson’s DNA nor his fingerprints were found on the three weapons recovered. Tr. 645-51. Furthermore, the State’s own expert conclusively stated that the nine-millimeter placed in evidence, along with the two other guns did not kill Gantt; and the additional projectiles found in Gantt during the autopsy were not fired by any of the guns in evidence. Tr. 566-67.

While the State introduced messages that Robertson was trying to sell a Smith and Wesson nine-millimeter two days prior to the shooting, they failed to connect that firearm beyond the scope of the messages. At best, the State presented a mere suspicion that Robertson was attempting to sell a gun, not that he had one with him that night, or that it was involved in the shooting. Lastly, the only consistent testimony between the State’s key witnesses was that: 1) Brannon, not Robertson, was walking up the hill; 2) Brannon, not Robertson, was looking for someone other than

the Gantt; and 3) they heard gun shots but did not see anyone fire the first shot. Tr. 145-48, 200, 492, 495-97, 514, 684, 688.

As to the attempted murder of Jeffrey, for the same reasons, the court should have granted the directed verdict. The record lacks any evidence reflecting an attempt to kill Jeffrey. On the contrary, Jeffrey testified that he did not know Robertson, but he and Brannon “dapped” in the club that night. Tr. 140, 205. He further testified that there were no altercations in the club. Tr. 143-45, 199. Simply put, there was no evidence of any attempt to kill Jeffrey. Accordingly, the State’s case against Robertson for the murder of Gantt and attempted murder of Jeffery under a direct liability theory failed and the directed verdict should have granted.

Similarly, the State’s case against Robertson under a “hand of one is the hand of all theory” also fails and the directed verdict should have been granted. The overwhelming evidence presented at trial demonstrated that Robertson was merely present at The Spot that night. In fact, the record is devoid of any evidence, direct or circumstantial, that there was a common plan or scheme between the co-defendants to kill Gantt and attempt to kill Jeffrey. The evidence indisputably established that Robertson communicated with Brannon, White, and Stroman earlier in the day, and was with them at Hill View Truck Stop several hours prior to the incident. Tr. 884-891, 909-10. However, this is where the connection stops.

The witness testimony is undeniably inconsistent and categorically fails to corroborate the events of that night. Again, the only consistent testimony between the witnesses was that Brannon was walking up the hill looking for someone other than Gantt, and they heard the shots but did not see who took the first shot. Tr. 145-48, 200, 492, 495-97, 514, 684, 688. While they each testified that they saw Brannon with other individuals, they could not identify anyone. Neither Barnes nor

Gilliam identified Robertson at trial, and neither testified to seeing Robertson at the top of the hill or in the car that evening. Jeffrey, on the other hand, was unable to identify the person with Brannon as anything other than Red Nose and was unable to pick Robertson out of the police lineup. Tr. 217. Jeffrey did not identify Robertson until several weeks after the incident when his cousin showed him Facebook pictures of Robertson. Tr. 172-73; 217-18.

Even with Jeffery's questionable identification, it suggests a mere suspicion that Robertson may have been present at the top of the hill, not that he had a common plan or scheme with Brannon to kill Gantt or attempt to kill Jeffrey. Undeniably, the State's evidence falls short of establishing any form of demonstrable plan between the parties. Accordingly, the State's evidence under an "hand of one is the hand of all theory" rises at most to a mere suspicion.

The State failed to meet their burden of proving direct or accomplice liability for the crimes charged. At best they only raised a mere suspicion of Robertson's involvement. The law is clear: even in the light viewed most favorable to the State, when the evidence "merely raises a suspicion" that Robertson was involved, a motion for directed verdict should have been granted. *State v. Irvin*, 270 S.C. 539, 243 S.E.2d 195 (1978).

Respectfully, this Court should enter a judgment of acquittal because the evidence offered by the State was insufficient to support Robertson's conviction and sentence.

II. The trial court judge erred when she allowed the charge of "hand of one is the hand of all" because the State's evidence to support the jury charge was insufficient to warrant the charge.

As discussed above, even though the State provided evidence that the co-defendants communicated earlier that day, were together before going to The Spot, and were present at The Spot, they failed to provide any evidence of a common plan or scheme to commit any of the crimes

charged. Yet, the trial court judge charged the jury with the “hand of one, is the hand of all.” Tr. 1134.

“An appellate court will not reverse the trial [court]’s decision regarding a jury charge absent an abuse of discretion.” *State v. Marin*, 415 S.C. 475, 482, 783 S.E.2d 808, 812 (2016) (quoting *State v. Mattison*, 388 S.C. 469, 479, 697 S.E.2d 578, 584 (2010)). “An abuse of discretion occurs when the conclusions of the trial court either lack evidentiary support or are controlled by an error of law.” *State v. Pagan*, 369 S.C. 201, 208, 631 S.E.2d 262, 265 (2006).

“The doctrine of accomplice liability arises from the theory that the hand of one is the hand of all.” *State v. Reid*, 408 S.C. 461, 472, 758 S.E.2d 904, 910 (2014) (internal quotation marks omitted). Under this 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. Condrey*, 349 S.C. 184, 194, 562 S.E.2d 320, 325 (2002) (quoting *State v. Langley*, 334 S.C. 643, 648-49, 515 S.E.2d 98, 101 (1999)). The State must prove beyond a reasonable doubt that the parties agreed to “achieve an illegal purpose, thereby establishing presence by pre-arrangement.” *State v. Gibson*, 390 S.C. 347, 354, 701 S.E.2d 766, 770 (2010). While the State is not required to show a formal express agreement, they must prove the same by circumstantial evidence and the conduct of the parties. *State v. Gibson*, 390 S.C. 347, 354, 701 S.E.2d 766, 770 (2010).

However, mere presence and prior knowledge that a crime was going to be committed, without more, is insufficient to constitute guilt. *State v. Thompson*, 374 S.C. 257, 262, 647 S.E.2d 702, 705 (2007) (quoting *State v. Condrey*, 349 S.C. 184, 194, 562 S.E.2d 320, 324 (2002)). The South Carolina Supreme court has explained that, in order for a defendant to have the requisite

knowledge: “the alleged accomplice must have acted with the intention of encouraging and abetting the commission of the homicide, or at least that the commission of the murder by the principal must have been a reasonably foreseeable consequence of the defendant’s actions.” *Mattison*, 388 S.C. at 484, 697 S.E.2d at 586 (quoting 40 Am. Jur. 2d Homicide § 26 (2010) (emphasis added)).

For an accomplice liability instruction to be warranted, the evidence must be “equivocal on some integral fact and the jury [must have] been presented with evidence upon which it could rely to find the existence or nonexistence of that fact.” *Barber v. State*, 393 S.C. 232, 236, 712 S.E.2d 436, 439 (2011); *State v. Washington*, 431 S.C. 394, 407, 848 S.E.2d 779 (2020).

In *Wilds v. State*, 407 S.C. 432, 440, 756 S.E.2d 387, 391 (2014), this Court affirmed the post-conviction relief court’s grant of relief on the issue of accomplice liability. In *Wilds*, this Court found the post-conviction relief court “correctly determined the trial court erred in charging accomplice liability because neither party presented evidence that anyone besides the defendant was the shooter.” *Id.* at 440, 756 S.E.2d at 791.

In *State v. Washington*, 431 S.C. 394, 407, 848 S.E.2d 779 (2020), the South Carolina Supreme Court held that the trial court’s accomplice liability instruction prejudiced Petitioner. The Court reasoned that the evidence that Petitioner shot the victim was underwhelming, as several witnesses testified that he was unarmed and was not in the immediate area where the shooting occurred. *Id.*

In *State v. Campbell*, 5885, at *10 (S.C. Ct. App. Dec. 22, 2021), this Court held that akin to *Washington* and *Wilds* the trial court erred by charging the jury on accomplice liability because

neither party presented evidence that the defendants had joined together in a common plan or scheme to carry out the shooting.

In the instant case, similar to the aforementioned cases, the instruction was unwarranted because as discussed in significant detail in Section I *supra*, the State failed to present evidence of a pre-arranged common design or purpose between Robertson and his co-defendant for some illegal purpose; that Robertson knowingly participated in the alleged crimes; that he manifested the requisite knowledge that a crime was being committed; and that what happened at the Spot was a natural and probable consequence.

Jeffery is the only person who testified that Robertson may have been at the top of the hill that night. However, his identification of Robertson was questionable at best, and there existed no other evidence placing Robertson with Brannon when the shooting occurred. The only evidence connecting Robertson to the scene of the crime was being with co-defendant hours before heading to the club and being inside the club that night. Tr. 884-891, 909-10.

Even assuming *arguendo* that Robertson was at the top of the hill, no one saw Robertson or Brannon pull a trigger and no one retrieved a weapon from Robertson. Further, Robertson's fingerprints nor his DNA were found on the three weapons recovered, and none of the weapons recovered that night matched the bullets found in the deceased. Tr. 566-67. In fact, the overwhelming evidence presented at trial indicated that Robertson was simply present at The Spot that night for a party.

The law is clear, being merely present at the scene of the crime does not make Robertson guilty of the principal of any crime therein. *State v. Thompson*, 374 S.C. 257, 262, 647 S.E.2d 702, 705 (2007) (quoting *State v. Condrey*, 349 S.C. 184, 194, 562 S.E.2d 320, 324 (2002)). The evidence

presented at trial does not rise to the level of warranting an accomplice liability charge. The State was required to provide equivocal evidence that Robertson aided, abetted, conspired, and planned those actions with co-defendants. They categorically failed.

Accordingly, the hand of one is the hand of all charge should not have been sent to the jury as this charge was prejudicial. The trial court judge abused his discretion when he charged the jury with the hand of one is the hand of all because the State's evidence to support the jury charge was insufficient.

CONCLUSION

This Court should grant rehearing.

Respectfully submitted,

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January 16, 2025.

IN THE STATE OF SOUTH CAROLINA
In the Court of Appeals

Appeal from Lexington County
The Honorable Walton J. McLeod, Circuit Court Judge

Appellate Case No. 2021-001405

State of South Carolina Respondent,

vs.

Shantrez Alejandro Robertson, Petitioner.

CERTIFICATE OF SERVICE

I certify that I have provided a copy of the Petition for Rehearing on the following individuals on January 16, 2025:

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January 16, 2025.

The South Carolina Court of Appeals

The State, Respondent,

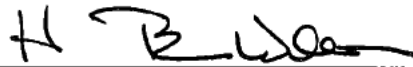
v.

Shantrez Alejandro Robertson, Appellant.

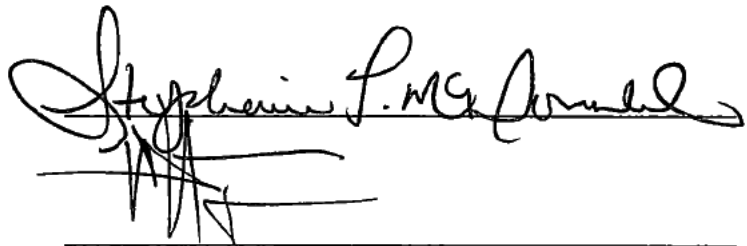
Appellate Case No. 2021-001405

ORDER

After careful consideration of the petition for rehearing, the Court is unable to discover that any material fact or principle of law has been either overlooked or disregarded, and hence, there is no basis for granting a rehearing. Accordingly, the petition for rehearing is denied.



C.J.



J.

J.

Columbia, South Carolina

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Jan 30 2025
