RECEIVED

Apr 21 2025

S.C. SUPREME COURT

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Certiorari to the Court of Appeals
Appeal from Lexington County
The Honorable Walton J. McLeod, Circuit Court Judge
Appellate Case No. 2021-001405

THE STATE,……RESPONDENT

v.

SHANTREZ ALEJANDRO ROBERTSON,……..PETITIONER

Opinion No. 2025-UP-002 (S.C. Ct. App. Filed January 2, 2025

RETURN TO PETITION FOR WRIT OF CERTIORARI TO THE COURT OF APPEALS

ALAN WILSON
Attorney General

DONALD J. ZELENKA
Deputy Attorney General

MELODY J. BROWN
Senior Assistant Deputy Attorney General

S.R. HUBBARD, III
Solicitor, Eleventh Judicial Circuit

TOMMY EVANS, JR.
Assistant Attorney General
S.C. Bar No. 65282

Office of the Attorney General
P.O. Box 11549
Columbia, South Carolina 29211-1549
Telephone No.: (803) 734-6305

ATTORNEYS FOR THE RESPONDENT

TABLE OF CONTENTS

PETITIONER'S QUESTIONS PRESENTED

1. Did the trial court err 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?

2. Did the trial court err when allowing 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?

RESPONDENT'S COUNTER STATEMENT OF QUESTIONS PRESENTED

1. Did the Court of Appeals correctly find that the trial court did not err in denying the Petitioner's motion for directed verdict, when sufficient evidence was presented revealing that Petitioner committed this crime?

2. Did Court of Appeals correctly find that the trial court did not err in charging the jury "the hand of one is the hand of all," since evidence was presented that the Petitioner was not only present but actively participated in this crime?

STATEMENT OF THE CASE

On February 8, 2016, Shantrez Alejandro Robertson (Petitioner) was indicted by the Lexington County Grand Jury for the offense of murder and attempted murder. (R. p. 1313-1314; p. 1317-1318).

On November 15, 2021, the Petitioner appeared before the Honorable Walton J. McLeod, III for a trial before a jury of his peers. The Petitioner's trial was held simultaneously with his co-defendant, Donovan Tirrell Brannon (co-defendant). Present representing Petitioner was his trial counsel David Michael Mauldin, his co-defendant was represented by attorney Robert T. Williams. Representing the State of South Carolina was Assistant Solicitor's Alicia Fuller and Robert E. McNair, III of the Eleventh Circuit Solicitor's Office.

After five days of testimony, a jury of his peers found the Petitioner guilty of both murder and attempted murder. (R. p. 1285 l. 20-25). After the reciting of the verdict the Petitioner appeared before the trial judge, and received a sentence of thirty-two years' incarceration for the offense of murder, and thirty-years for attempted murder. The trial judge ordered that these sentences were to be served concurrently. (R. p. 1311 l. 12-17). While serving his sentence, Petitioner filed a timely notice of appeal.

On January 2, 2025, the South Carolina Court of Appeals issued an unpublished opinion affirming the decision of the trial court. *State v. Robertson,* 2025 WL 18423 (Ct. App. 2025). In this case Judges Williams, McDonald, and Turner unanimously decided that the trial court did not err in the denial of the Petitioner's motion for directed verdict because there both direct and substantial circumstantial evidence exists from which the jury could properly conclude Petitioner actively participated in this murder. *Id,* at 4. The Court of Appeals also decided that the trial judge did not err in charging the jury on the "hand of one is the hand of all." Because the evidence

revealed that the Petitioner was not only present during the crime but was an active participant. *Id,* at 5.

The Petitioner now files this petition for writ of certiorari. Petitioner argues that the Court of Appeals erred in affirming the decision of the trial judge. The Respondent will argue that the Petitioner has failed to reveal how the Court of Appeals erred when there was sufficient evidence revealing that he committed this crime, so he was not entitled to a directed verdict; and, evidence revealed that he was not only present at the crime scene but actively participated; therefore, giving a jury charge of "a hand of one is the hand of all" was lawful. The Respondent would respectfully request this Court to dismiss this petition.

WHY CERTIORARI SHOULD BE DENIED

The Supreme Court reviews the Court of Appeals by writ of certiorari only where special reasons to justify the exercise of that power. *Douglas v. State,* 369 S.C. 213, 216, 631 S.E.2d 542, 544 (2000). Pursuant to Rule 242 of the South Carolina Rules of the Appellate Court, "a writ of certiorari is not a matter of right, but of sound judicial discretion and will be granted only where there are special and important reasons. The following, while neither controlling nor fully measuring the Supreme Court's discretion or power to grant review in general, indicates the character of reasons which will be considered:

1. Where there are novel questions of law;
2. Where there is a dissent in the decision of the Court of Appeals;
3. Where the decision of the Court of Appeals is in conflict with a prior decision of the Supreme Court;
4. Where substantial constitutional issues are directly involved;
5. Where a federal question is included and the decision of the Court of Appeals conflicts with a decision of the United States Supreme Court"

Rule 242, SCACR.

In reviewing each of these criteria none apply in the present case. The Court of Appeals properly and unanimously affirmed the decision of the trial court. There have been numerous South Carolina Supreme Court decisions that address direct verdict motions and accomplice liability otherwise known as "a hand on one is the hand of all." So this is not a novel question of law.

There was no Constitutional question raised by the Petitioner; this decision was not in conflict with any prior decision made by this court; there was no federal question included within the Court of Appeals opinion that conflicted with a prior opinion made by the United States

Supreme Court; and the decision was unanimous, there was no dissenting opinion. The Court of Appeals decision was lawful, so their opinion should not be subject to review.

STATEMENT OF FACTS

On June 5, 2015, Brandon "Pedro" Jeffrey (Jeffrey), O'Brian "OB" Gilliam (Gilliam), Tyrone "Shine" Gantt (Gantt) and Andy "Teddy P" Barnes (Barnes) were at a friend's house playing "Madden" on Playstation. (R. p. 259 l. 10 – p. 260 l. 11). Jeffrey's cousin Dominique "Dee Dee" Williamson (Williamson) came to the house telling them that she was going to a party at a club called "The Spot." (R. p. 262 l. 8-10). Williamson wanted to know it they wanted to go with her, they all agreed to go so they all left for "The Spot." Williamson was driving her Dodge Charger and riding with her was Jeffrey and Gilliam. Gantt rode with Barnes who was driving his Dodge Stratus. (R. p. 264 l. 10-11). Once arriving at the club they both backed up their cars up on a hill side by side. (R. p. 264 l. 25 – p. 265 l. 8). Each of them were allowed in the club except Gantt. He was denied entry because of a firearm he had on his person. (R. p. 609 l. 7-8). Gantt got the keys from Barnes, walked back to the car and placed his gun back into the vehicle. (R. p. 609 l. 13-18). Gantt was then allowed into the club.

Inside, the co-defendant was on the dance floor with some others dancing around, throwing up "signs." (R. p. 267 l. 25 – p. 268 l. 2) Gilliam got in the middle of them and he was pulled off the floor by Jeffery. Jeffrey then told Gilliam "we ain't here for that." (R. p. 268 l. 2-4). Both defendants then bumped Jeffrey. (R. p. 268 l. 6-10) however, the co-defendant and Jeffrey shook hands and greeted each other in a friendly manner. (R. p. 268 l. 11-13). Jeffrey then walked out of the club, and once outside, he saw Gantt and Barnes. Jeffrey had a concerned look on his face and wanted to go home. (R. p. 615 l. 5-8). Then they walked up to the hill to their cars. While waiting for Gilliam, the co-defendant walked up to them with a gun saying, "where them pussy niggas at?" (R. p. 273 l. 2; p. 619 l. 20-21). The co-defendant was standing there with two other individuals, one described as wearing the identical clothing the Petitioner was found wearing that night. Gantt

answered, “who y’all looking for?” The co-defendant stated, “we ain’t looking for you.” (R. p. 277 l. 4-7) The co-defendant and Petitioner raised their hands then everyone heard gun fire. (R. p. 817 l. 1-14; R. p. 273 l. 8-10).

During the shooting Jeffrey was shot in both legs. He crawled under Williams’s Dodge Charger. (R. p. 277 l. 8-14). Barnes went back to his car, retrieved his gun, and returned fire. (R. p. 624 l. 3-4). The Co-defendant and Petitioner got into a burgundy Grand Marquis and rode off. (R. p. 626 l. 10-12). After the Defendants left everyone helped Jeffrey from under the car and into the Dodge Charger. They looked in the back of Barnes’ car finding Gantt on the ground dead. (R. p. 627 l. 1-4)

After being placed in Williamson’s vehicle, Jeffrey was driven to the Hill View Truck Stop, where they called law enforcement. The first to respond was Deputy Daniel Schirra, of the Lexington County Sheriff's Department. Deputy Schirra spoke to Jeffrey who told him that the Petitioner killed Gantt. (R. p. 226 l. 15-16). Jeffrey also told Deputy Schirra that the co-defendant and Petitioner presented handguns and started shooting. (R. p. 226 l. 21 – p. 227 l. 15-16). Deputy Timothy Franklin also of the Lexington County Sheriff’s Department later responded. Deputy Franklin saw Jeffrey with two gunshot wounds to both legs, one in the ankle and the other in the knee/thigh area. (R. p. 233 l. 8-10). Jeffrey was transported to the Lexington Medical Center. While in the Emergency Room Deputy Franklin also spoke to him. Jeffrey informed him that he was shot by the co-defendant and Petitioner. (R. p. 243 l. 21 – p. 244 l. 4).

During the shooting the driver of the Grand Marquis, Antonio Stroman (Stroman), was shot in the neck. Petitioner and co-defendant drove him to Creek View Apartments. During trial Ms. Demetrich Harris testified. Ms. Harris testified that she saw the Grand Marquis drive up with four individuals inside. (R. p. 363 l. 19-22). She stated that she saw two other cars and a truck also

pulling up. (R. p. 365 l. 9-10) She testified that she saw an individual get into the truck and leave the scene. (R. p. 365 l. 15-17). Corporal Deepak Harpalani of the Batesburg- Leesville police department was called to the Creek View Apartments. Corporal Harpalani observed Stroman with a gunshot wound to the neck sitting in the rear passenger side of a burgundy Grand Marquis. (R. p. 372 l. 8-14; p. 373 l. 5-9). Corporal Harpalani also observed the co-defendant standing beside the vehicle. (R. p. 374 l. 20 – p. 375 l. 5).

Investigator Michael Phipps of the Lexington County Sheriff's Department was called to Creek View Apartments to process the Grand Marquis. (R. p. 399 l. 18-19). Investigator Phipps collected the co-defendant's cell phone. The co-defendant was also submitted to a gunshot residue test. (R. p. 400 l. 8-10). Investigator Phipps observed some damage to the rear trunk and rear window which looked like projectile strikes. (R. p. 402 lines 20-22; p. 403 l. 9-13). An empty Ruger nine-millimeter was also recovered. (R. p. 405 l. 8-9; R. p. 405 l. 16). Co-defendant was arrested and charged for disorderly conduct.

Co-defendant was later picked up by Sergeant Shawn Spivey and driven to the Lexington County Sheriff's Department for questioning. After being given his *Miranda* rights the co-defendant informed Sergeant Spivey that he and Stroman went to the "The Spot" together and while leaving they were shot at so he shot back in self-defense. He stated that during this shooting Stroman was shot in the neck. (R. p. 58 l. 7-21). Co-defendant also admitted that the Ruger nine-millimeter was his gun, and that he threw the gun away as the police pulled up. (R. p. 61 l. 3-10). He identified it as the identical gun they found near the Grand Marquis, which was later determined to be one of the weapons that matched cartridges found at the crime scene.

Petitioner was later brought in for questioning. After his Miranda rights were read he informed law enforcement that he was with Stroman and the co-defendant at the incident location.

Co-defendant stated that he along with the Petitioner got into a minor altercation with some other people. After that he wanted to leave so between 2:00am and 2:30am he called his girlfriend Ms. Jasmine Pringle (Pringle) to pick him up. Petitioner told law enforcement that he got to her house around 3:15am. Both the Petitioner and co-defendant were later arrested and charged with the offenses of murder and attempted murder.

ARGUMENTS

1. **Court of Appeals correctly found that the trial court did not err in the denial of a directed verdict motion since ample evidence exists revealing the Petitioner's guilt. During a directed verdict motion the court must look at the evidence in favor of the State, and is only obligated to look at its existence and not its weight.**

At the conclusion of the State's case the Petitioner made a motion for a directed verdict. It was the position of the Petitioner that the State failed to present sufficient evidence revealing he committed these crimes. At the conclusion of his argument the trial judge stated, "I think there's evidence to send to this jury that is appropriate. Whether they find the burden of proof has been met is an entirely different matter. But I think that is ultimately the factfinders' decision in this case. These motions will be respectfully denied." (R. p. 1186 l. 4-9). The Court of Appeals found that the trial judge was correct in these findings due to the fact there was so much evidence provided by the State proving his guilt.

When reviewing a directed verdict motion the court must 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, 466 (2015). 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. Zeigler,* 364 S.C. 94, 101, 610 S.E.2d 859, 863 (Ct. App. 2005). There was an enormous amount of evidence provided during this trial that revealed the guilt of the Petitioner beyond a reasonable doubt.

The trial started with the testimony of Deputy Daniel Schirra of the Lexington County Sheriff's Department. Deputy Schirra was the first law enforcement officer to respond to the Hill Valley truck stop and spoke to Jeffery. Deputy Schirra questioned Jeffery about what occurred. Jeffery told him that the Petitioner shot Gantt. (R. p. 226 l. 15-16). Jeffrey also told him that he saw Petitioner with a chrome and black handgun.

Jeffery also testified that he saw the Petitioner wearing white jogging pants with black stars. (R. p. 292 l. 5-7). Gilliam testified that while walking up the hill with the co-defendant there was a man wearing a white tee shirt who was one of the individuals who when they raised their hand, and the guns were firing. (R. p. 817 l. 1-14). Detective Brannon Marthers of the Lexington County Sheriff's Department testified that he pulled surveillance footage from the Hill View Truck stop, which is located about three minutes away from "The Spot." (R. p. 1042 l. 21-23). This surveillance footage was from the incident date between 12:30am to 1:30am (R. p. 1036 l. 9-13). This is about two hours before the incident. This footage revealed the co-defendant, Stroman, Petitioner and another individual Tyrese White getting out of a burgundy Grand Marquis (R. p. 1038 l. 1-3; p. 1038 l. 6-7). In this footage the Petitioner is wearing a white shirt, and white pants with black stars. (R. p. 1038 l. 16; p. 1038 l. 21).

During the trial forensic pathologist Dr. Janice Ross testified. Dr. Ross performed the autopsy on Gantt. Dr. Ross determined the cause of death was a bleed out due to a perforation of both lungs from a gunshot wound to the arm, going through to the chest. (R. p. 738 l. 12-15). Dr. Ross testified that two projectiles were recovered from Gantt's body. (R. p. 738 l. 22-25). The bullet that went through his body was removed from his left arm. (R. p. 741 l. 10-16).

During trial South Carolina Law Enforcement Division (SLED) agent Michelle Eichenmiller testified. She was found qualified as an expert in the field of firearm identification.

Agent Eichenmiller testified that there were forty-one shell cartridges from bullets fired at the scene. Of those cartridges there were four firearms involved, two were missing. (R. p. 730 l. 4-11). Of the forty-one cartridges that were fired fifteen were fired from the same gun, a nine-millimeter Smith and Wesson. (R. p. 730 l. 12-16). The round found in the left arm of Gantt was also from a nine-millimeter Smith and Wesson. (R. p. 693 l. 14-20). According to the testimony of Dr. Ross, this was the fatal round.

According to Detective Marthers, on June 4, 2015, at 10:11pm, a couple of days before the murder occurred, Petitioner sent a text to a Trenton Sampson. This text stated, "I got a Smith and Wesson nine-millimeter brand new 17 shots." (R. p. 1032 l. 1-19). On June 5 at 3:49pm only hours before the murder the Petitioner received a text, "How much you want for the nine-millimeter." At 3:51pm the Petitioner responded "250." (R. p. 1022 l. 3-10).

Petitioner's girlfriend Jasmine Pringle also testified. She stated that she got a phone call from the Applicant after midnight. When asked if it was at 4:18am she stated that she will not dispute that because she does not remember exactly what time it was. (R. p. 981 l. 25 – p. 982 l. 9). Ms. Pringle testified that Petitioner called her and told her to meet him at "The Spot." However, she never went to the club to pick him up. (R. p. 981 l. 10-13). She could not remember where she picked him up but it was off a country road where there were no police present. (R. p. 979 l. 15-21). Ms. Pringle testified that when she picked up the Petitioner he was with a friend who went by the name of "Boosie". Law enforcement later determined that "Boosie" was another co-defendant Tyrese White. Ms. Pringle testified that she took him to the house, she did not remember if Mr. White stayed, but he did come to the house.

Ms. Pringle's cousin Ms. Adrian Parker also testified. Ms. Parker stated that on the night of the shooting she was spending the night with Ms. Pringle at her residence. Ms. Parker stated

that she is a nurse at Lexington Medical Center, and she had to be at work at 7:00am. She got up around 5:30am, and when Ms. Pringle got back with Petitioner and Mr. White, she was upstairs getting dressed. (R. p. 997 l. 20 – p. 998 l. 7). Ms. Parker knew that they got back to Ms. Pringle's apartment between 5:30am and 6:00am, because she usually leaves around 6:00. (R. p. 998 l. 10-11). During Petitioner's statement to Detective Marthers he stated that he phoned Ms. Pringle between 2:00am and 2:30am asking her to pick him up from the club. (R. p. 1003 l. 6-8). Petitioner stated that they got back to her apartment around 2:45 to 3:15am. (R. p. 1003 l. 9). This statement would have given him an alibi due to the incident occurring at the time he supposedly got back to Ms. Pringle's house. However, the facts that were established during trial revealed that this statement was false.

The phone records matched the testimony of Ms. Pringle and Ms. Parker. These records revealed that the Petitioner told an untruth to Detective Marthers during his statement. FBI Special Agent Robert Clayton Simmons testified. Agent Simmons was found qualified as an expert in the analysis of historical cell phone records. Agent Simmons analyzed the cell phone records of the Defendant and Ms. Pringle. Agent Simmons determined that Ms. Pringle's cell phone had no activity between 11:56pm on June 5th and 4:31am on June 6th. (R. p. 1145 l. 20-22). The Petitioner sent Ms. Pringle a message at 4:11am but it was not received until 4:28am. (R. p. 1147 l. 15-16; p. 1148 l. 1-6). Agent Simmons also examined the cell towers and the times that calls or activity from these cell phones pinged the nearby towers. Agent Simmons found that Ms. Pringle phone utilized the tower near I-20 and U.S. 1 at 5:06am. And it was back at her apartment at 5:56am. (R. p. 1150 l. 7-12).

Detective Marthers obtained a search warrant for all the phones of the individuals involved with this incident. With this search warrant he was able to obtain text conversations between the

Petitioner and other people involved. During his testimony Detective Marthers testified that there was a text message from the Petitioner to Ms. Pringle on June 6th, less than a day after the incident which stated, "Baby, when your people leave, I need a place to lay low for awhile." (R. p. 1021 l. 13-23). On June 8th Mr. Stroman texted the Petitioner, "Y'all ain't leave or shot in the car did y'all?" (R. p. 1024 l. 22-24). A text on June 8 to the Petitioner from another girlfriend Ms. Anija Sales which said, "Tonio said y'all need to lay low. The detective said something about my name today." (R. p. 1026 l. 1-4). Though this case primarily relies on circumstantial evidence, the amount of evidence presented linking the Appellant to the crime is overwhelming. When a motion for directed verdict is made in a criminal case where the State relies exclusively on circumstantial evidence, "the trial judge is required to submit the case to the jury if there is any substantial evidence which reasonably tends to prove guilt of the accused, or from which his guilt may be fairly and logically deduced." *State v. Lollis,* 343 S.C. 580, 584, 541 S.E.2d 254, 256 (2001), *quoting, State v. Mitchell,* 341 S.C. 406, 535 S.E.2d 126 (2000).

Petitioner argues that there was insufficient evidence to support his conviction and sentence. The weight of evidence is not what should be considered in a directed verdict motion, but the existence.[1] The Petitioner seems to argue that the evidence presented was not enough to determine guilt so he should have been awarded a directed verdict. That is not what must be considered. The Court of Appeals was correct. There was plenty of evidence presented for a jury to make a determination of his guilt or innocence.

[1] On motion of the defendant or on its own motion, the court shall direct a verdict in the defendant's favor on any offense charged in the indictment after the evidence on either side is closed, if there is a failure or competent evidence tending to prove the change in the indictment. In ruling on the motion, **the trial judge shall consider only the existence or non-existence of the evidence and not its weight.** Rule 19 SCRimP. (emphasis added).

Evidence presented by the State revealed that Gantt was killed and Jeffrey seriously injured at the hands of the Petitioner and his co-defendants. Petitioner lied to law enforcement about his whereabouts when the murder occurred. These lies were easily discovered through witness testimony and cell phone evidence. It was obvious that the Petitioner was involved in this crime and evidence revealed he could have possibly fired the fatal shot. There was forensic evidence revealing that the fatal bullet was fired from a Smith & Wesson nine-millimeter. Just a day before the incident the Petitioner was publicly selling a Smith & Wesson nine-millimeter on Facebook. There is also evidence that one of the victims told law enforcement that he was shot by the Petitioner. Evidence cannot get any more significant than the victim telling law enforcement who the person was that shot him. There is also evidence from another eyewitness that a person wearing white pants with black stars had a gun right before he heard gunshots. Surveillance video taken a couple of hours before the incident revealed Petitioner wearing white pants with black stars.

As was stated by the Court of Appeals in their opinion, the Court must look at the evidence in the light most favorable to the State. In this case the trial court did just that. Evidence existed proving the Petitioner committed this crime, that is all that was needed to deny a directed verdict motion. The weight of the evidence does not matter, as long as evidence exists, it must go to the jury for a determination as to innocence or guilt. The trial court made the proper determination, and it was correctly upheld by the Court of Appeals. This case should not be reviewed any further by this Honorable Court. This petition should be subject to dismissal.

2. **The Court of Appeals was correct when they affirmed the decision of the trial court in charging the jury on the law of "a hand of one is the hand of all," since the evidence presented revealed that Petitioner was not only present but actively participated in this crime.**

During the appeal the Petitioner argued that the trial court erred in charging the jury on the doctrine of the "hand of one is the hand of all." It was the position of the Petitioner that he was

merely present and there was no agreement prior to the shooting so he should not have been considered an accomplice. During the trial the State presented evidence revealing that the Petitioner was present during the commission of this crime. Petitioner arrived at the scene with the co-defendant and there was testimony revealing that Petitioner was armed when he arrived. There was also testimony revealing Petitioner along with his co-defendants shot at the victims. Petitioner could have possibly fired the fatal shot. He was not only present but was an active participant in this crime. This constitutes accomplice liability or "the hand of one is the hand of all." The trial court had the duty to charge the jury accomplice liability as well as mere presence. The trial court was correct in its decision to make these charges to the jury, so the decision of the Court of Appeals was justified.

Under the "hand of one is the hand of all" theory, one who joins with another to accomplish an illegal purpose is liable criminally for everything done by his confederate incidental to the execution of the common design and purpose. *State v. Condrey,* 349 S.C. 184, 194, 562 S.E.2d 320, 324 (Ct. App. 2002). During the trial there was testimony that the co-defendant walked up the hill with other individuals. (R. p. 620 l. 14; R. p. 812 l. 21-22). There was also testimony that one of these individuals was the Petitioner. As he walked up this hill the Petitioner was also armed, and gunshots came from their general direction. (R. p. 273 l. 8-10; R. p. 817 l. 1-14). In order to be guilty as an aider or abettor, the participant must have knowledge of the principal's criminal conduct. *State v. Leonard,* 292 S.C. 133, 137, 355 S.E.2d 270, 272 (1987). Through text messages found by law enforcement, there was evidence of the Petitioner attempting to sell a nine-millimeter Smith and Wesson just hours before the incident. (R. p. 1022 l. 3-8; p. 1032 l. 1-19). Evidence gathered at the scene revealed that forty-one shell casings were found at the scene, fifteen of which came from a Smith & Wesson nine-millimeter. (R. p. 706 l. 12-17) The autopsy also revealed that

the bullet that went through the victim's arm and through his chest causing massive bleeding which eventually lead to the victim's death came from a Smith & Wesson nine-millimeter. (R. p. 741 l. 10-16; p. 693 l. 14-20). Under 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. Langley,* 334 S.C. 643, 648-49, 515 S.E.2d 98, 101 (1999), *quoting, State v. Austin,* 299 S.C. 456, 459, 385 S.E.2d 830, 832 (1989). The evidence reveals the presence and the actual participation of the Petitioner. Cases like this are the reason "the hand of one is the hand all," doctrine was created, so no one can point the finger at others and possibly create reasonable doubt. Presence at the scene of a crime by pre-arrangement to aid, encourage, or abet in the perpetration of the crime constitutes guilt as a principle. *State v. Hill,* 268 S.C. 390, 395-96, 234 S.E.2d 219, 221 (1977). There is absolutely no doubt this charge should have been given to the jury. The Court of Appeals was correct in upholding the decision of the trial court. In reviewing jury charges for error, the court must consider a jury charge as a whole in the light of the evidence and issues presented at trial. *State v. Brandt,* 393 S.C. 526, 549, 713 S.E.2d 591, 603 (2011).

Within his petition the Petitioner argues that even assuming *in arguendo* that he was seen at the top of the hill, no one saw him pull the trigger, which reveals that he was simply present and was not an accomplice. Mere presence at the scene is not sufficient to establish guilt as an aider or abettor. *State v. Barroso,* 328 S.C. 268, 272, 493 S.E.2d 854, 856 (1997). This was the argument of the Petitioner during trial, and reason a mere presence jury charge was also given. (R. p. 1278 l. 12-17). This way it was left up to the jury to make the determination based on the facts presented.

However, there was substantial evidence presented revealing that the Petition was not just merely present but an active participant. There was testimony that the Petitioner walked up the hill

with his co-defendants each carrying firearms. The bullet from the type of gun the Petitioner was selling just mere hours before the incident was found inside the victim. There were also fifteen shells from that same particular type of weapon found at the scene. This is sufficient evidence revealing that the Petitioner was not merely present at the scene but assisted in the shooting, which should garner a charge for accomplice liability. Any 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. Zeigler,* 364 S.C. 94, 103, 610 S.E.2d 859, 864 (Ct. App. 2005).

The Petitioner argues that there was no evidence of an actual agreement among the parties to commit this crime, so there exists no accomplice liability. There was evidence revealing that the Petitioner was an active participant along with the other two co-defendants. In order to establish the parties agreed to achieve an illegal purpose thereby establishing presence by pre-arrangement, the State need not prove a formal expressed agreement but rather can 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 (Ct. App. 2010). There is testimony stating that the Petitioner walked up the hill armed with a gun with the co-defendant prior to the shooting. These actions amount to the Petitioner either being a co-conspirator or the actual person who fired the fatal shot. When actual evidence reveals accomplice liability the trial court is obligated to charge the jury on the law. The Court of Appeals was correct in affirming the decision of the trial court regarding this matter. In reviewing jury charges for error, the Appellant court must consider the court's jury charge as a whole in light of the evidence and issues presented at trial. *State v. Marin,* 415 S.C. 475, 482, 783 S.E.2d 808, 812 (2016).

The trial court was correct in charging the jury on the "hand of one is the hand of all." The facts of this case required such a jury charge, so the Court of Appeals was correct in affirming this

decision. To warrant a reversal, the jury charge must be both erroneous and prejudicial to the defendant. *State v. Burkhart,* 350 S.C. 252, 261, 565 S.E.2d 298, 303 (2002). The Petitioner could not reveal any abuse of discretion in the decision made by the trial court in making this jury charge. So there could not be any reversal by the Court of Appeals. An appellant court will not reverse the trial judge's decision regarding a jury charge absent an abuse of discretion. *State v. Pittman,* 373 S.C. 327, 570 S.E.2d 144 (2007).

The charge given to the jury was lawful because there was evidence in the record supporting that such charge be given. The Court of Appeals was correct in affirming the decision of the trial court. A jury charge that is substantially correct and covers the law does not require reversal. *State v. Faust,* 325 S.C. 12, 16, 479 S.E.2d 50, 52 (1996). This decision should not be subject to review, this petition should be subject to dismissal.

CONCLUSION

Based on the foregoing reasons, the Respondent submits Petitioner has failed to reveal that the questions presented warrants certiorari review. This Court should deny this petition and let stand the decision of the Court of Appeals.

Respectfully submitted,

ALAN WILSON
Attorney General

DONALD J. ZELENKA
Deputy Attorney General

MELODY J. BROWN
Senior Assistant Deputy Attorney General
S.C. Bar No. 14244

TOMMY EVANS, JR.
Assistant Attorney General
S.C. Bar No. 65282

S.R. HUBBARD, III
Solicitor, Eleventh Judicial Circuit

By: *s/ Tommy Evans, Jr.*
TOMMY EVANS, JR.
S.C. Bar No. 65282

Office of the Attorney General
P.O. Box 11549
Columbia, South Carolina 29211-1549
(803) 734-6305

ATTORNEYS FOR RESPONDENT

Columbia, South Carolina
April 21, 2025