

PRO SE BRIEF OF APPELLANT\*

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

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SC Court of Appeals

APPEAL FROM GREENVILLE COUNTY  
Court of General Sessions

The Honorable **Perry H. Gravely, Circuit Court Judge**

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**Case No. 2024-001102**

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State of South Carolina

Respondent

V.

David Christopher Bernard Mosley

Appellant

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-INITIAL-PRO SE BRIEF OF APPELLANT

David Christopher Bernard Mosley Pro Se  
1578 Clarence Coker Hwy  
Turbeville, SC 29162

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### STATEMENT OF JURISDICTION

This direct appeal is filed pursuant to the SC Court of Appeals. Appellant hereby asserts that this court has jurisdiction over this appeal. The judgement appealed was rendered on June 21, 2024 and criminal defense attorney Kraig Pringle filed a notice of appeal in accordance with the applicable rules.

### STATEMENT OF ISSUES PRESENTED

1. Trial court denied motion for a directed verdict
  2. Improper testimony
  3. Insufficient evidence

## STATEMENT OF CASE

### A. Background and proceedings

On December 30, 2019, appellant David Mosley was 15 years old and charged as a Juvenile with the Murder of 15- year- old Kerolos Mina Zaky, Conspiracy, Armed Robbery, and Possession of a weapon during a commission of a crime.

On June 17, 2024, the day of trial, the appellant didn't have the armed robbery charge instead an attempted armed robbery after being held since 2019 and indicted on Armed Robbery on December 22, 2020. Greenville County Circuit Court the Honorable Judge Perry H.Gravely presided over the proceedings.The jury reached a verdict on June 21, 2024 of not guilty of murder, guilty of attempted armed robbery, and guilty of conspiracy. The defendant received 18 years for the attempted armed robbery with 1,635 days credit, 5 years for conspiracy with 1,635 days credit, to run concurrently, and the possession of weapon charge was dismissed on the appellant the second day of trial on June 18, 2024. Appellant timely filed post-trial motions, which were denied by the trial court. The motions included a directed verdict, and motion for a mistrial due to jury issues and defense attorney Kraig Pringle not having adequate time preparing for this trial .

### B. Summary Of Relevant Facts

Appellant David Mosley is accused of Attempted Armed Robbery and Conspiracy based upon statements and testimony of co-defendant Jamazeeo Glover, Who was facing the same charges plus more. After the jury reached a verdict, Glover pleaded guilty to Accessory After The Fact Of A Common Law Unclassified. However, this testimony is replete with inconsistencies and lacks any corroborative evidence to substantiate its claims. The victim's phone and shoes were missing at the scene and were never confiscated, which led the state to charge defendant Mosley with attempted armed robbery.

Attempted Armed Robbery states that a person commits attempted robbery while armed with a pistol, dirk, slingshot, metal knuckles, razor, or other deadly weapon, or while alleging, either by action or words, he was armed while using a representation of a deadly weapon or any object which a person present during the commission of the robbery reasonably believed to be a deadly weapon, is guilty of a felony and, upon conviction, must be imprisoned not more than twenty years. On the second day of trial, Solicitor Doug Richardson dismissed the Possession of weapon during the commission of a crime on defendant Mosley, as well for Braelon Brown and Jaylin Hill, who were the other two co-defendants facing the same charges at trial court.

Conspiracy is a combination between two or more persons for the purpose of accomplishing an unlawful object or lawful object by unlawful means.---

State witness/suspect Jamazeeo Glover was called upon to testify. Upon his testimony, Solicitor Doug Richardson asked him:

RICHARDSON: "Sir, are you presently incarcerated at the law enforcement center here in Greenville County?"

GLOVER: "Yes, sir I am".

RICHARDSON: "And you presently have pending charges that include two armed robberies, possession of a weapon during a violent crime, burglary in the first degree, and a conspiracy, two counts of conspiracy?"

GLOVER: "Yes sir."

RICHARDSON: "And you're also charged with murder and attempted armed robbery?"

GLOVER: "Yes sir, that's right."

*Tr. 324*

The State allowed a person who's obviously a criminal and charged with all violent charges to testify and swear on the Bible to tell the honest truth. Mr Richardson showed Glover exhibit 51 and asked Glover if he recognized it and did he create the chart. Glover : "yes sir" and Mr Richardson moved exhibit 51 into evidence.

Defense attorney Kraig Pringle objected to this exhibit on behalf of defendant Mosley. PRINGLE: It allegedly was prepared by this witness. That looks like something that's a bit higher production value than something that he either drew up or prepared for himself. So I guess it seems to me that it was probably prepared by someone other than the witness." Honorable Judge Perry H. Gravely asked Mr Richardson to lay a better foundation. It's clear that the State prepared the witness.

*Tr. 328-329.*

Mr Richardson : "So Dre being defendant Hill asked the victim, Kerolos, if he had change for \$20?"

GLOVER: He said, "No. I only have a hundred dollars " .

RICHARSON: At what point in time what happened?"

GLOVER: "That's when Jaylin Hill , had posted on Snapchat but didn't send it , he was like " y'all want to rob him or not". Defense attorney Kraig Pringle objected to ruling hearsay.

PRINGLE: We don't have any idea who —anything that he says that he saw. We don't know who it came from, where it's going . I mean just because he says that it's Jaylin Hill or anybody else , it's clearly hearsay what they're trying to elicit". "We don't know that it's a statement by a defendant". Honorable judge Perry H. Gravely asked Mr Richardson to lay a better foundation.

*Tr. 338-339*

RICHARSON: "What did Hill do with the phone the second time?"

GLOVER: "He said again, "Do y'all want to rob him?"

RICHARSON: “ And did he show this to everyone?”

GLOVER :“he showed it to Brealeon and David this time”

RICHARSON: “What did the defendants do at that point in time?”

GLOVER: “Brown nodded his head in a “yes” motion.

RICHARSON:”Did Mosley do anything”

GLOVER:”No he just sat there”.

*Tr.345*

Glover testified that defendant Brown had a gun and pistol whipped the victim Kerolos.

*Tr.347*

According to his testimony, defendant Mosley didn't plan or engage in planning this attempted armed robbery.And the witness testified defendant Brown had the gun not defendant Mosley.

## SUMMARY OF ARGUMENT

The trial court failed to prove what defendant Mosley took or attempted to take by force. There was no testimony or any admitted evidence that proves Mosley had any weapon or that he tried to take anything from the deceased by force. Defendant Mosley was indicted on an Armed Robbery for four and a half years and arrived at court with an Attempted armed robbery charge. The courts failed to properly charge defendant Mosley and dismissed the Possession of a weapon charge they had on him for four and a half years. This had an effect on the verdict because there was evidence and testimony that pertained to other defendants that sat at trial beside him and he was not treated fairly because of what was said about the other defendants. The trial courts denied the defendant's motion for a directed verdict. Defendant Mosley was in a different position than the other defendants because no witness or any testimony states that Mosley had a gun or planned to rob or intended to kill anyone. The transcript of trial and Court records proves this. Defendant Mosley never had a preliminary hearing for these charges and all were indicted by a grand jury, but he was never updated on his attempted armed robbery charge. This made the trial unfair to the defendant because after all this time of being charged and indicted on Armed Robbery, how did this change four and a half years later to an attempted armed robbery. This is a violation of the defendant's due process that he has the right to. In People v Stone, 46 Cal. 4th 131 (2009), Defendant Stone's case was reversed and dismissed due to a reduced file never being admitted into evidence. In Aiken v. Byars, 410 S.C. 534, 765 S.E.2d 572 (2014) defendant Aiken's case was reversed due to the The Eighth Amendment to the United States Constitution provides, "Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted." Aiken was a juvenile likewise defendant Mosley he was only 15 years old. Specifically, the Court noted juveniles differ from adults in their general "lack of maturity and [] underdeveloped sense of responsibility," "vulnerab[ility] . . . to negative influences and outside pressures, including family and peers," and still evolving character and personality traits in Aiken v. Byars. In State v. Terry Lee Nesbit (2001) Nesbit was sentenced to 10 years for attempted armed robbery, in State v. Herriott (2019) Herriott was sentenced to 6 years for attempted armed robbery. Honorable Judge Perry H. Gravely sentenced defendant Mosley to 18 years for a charge originally the defendant didn't have which is cruel when the defendant was only 15 when he was incarcerated and originally attempted armed robbery was not the defendant's charge." The circuit court should not grant the directed verdict motion when the evidence merely raises a suspicion that the accused is guilty. Suspicion implies a belief or opinion as to guilt based upon facts or circumstances which do not amount to proof." State v. Cherry, 361 S.C 588, 594, 606 S.E.2d 475, 478, (2004). "A case should be submitted to the jury when the evidence is circumstantial '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. Bostick, 392 S.C 134, 139, 708, S.E.2d 774, 776 (2011) (quoting State v. Mitchell, 341 S.C. 406, 409, 535, S.E.2d

126,127(2000).”Evidence must constitute positive proof of facts and circumstances which reasonably tends to prove guilt” Id. “Unless there is a total failure of competent evidence as to the charges alleged, refusal by the trial judge to direct verdict of acquittal is not error.” Id. At 139,708, S.E.2d at 776-777. If the State failed to present any direct evidence or any substantial circumstantial evidence reasonably tending to prove guilt of the accused, the appellate court must reverse the lower Court denial of the directed verdict motion. State v. Hepburn, 406 S.C. 416, 429,753 S.E.2d 402,409(2013) . Our Supreme Court “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. Odems, 395 S.C. 582, 720 S.E.2d 48 (2011). In Odems, this Court cited State v. Bostick, 392 S.C. 134, 708 S.E.2d. 774(2011), and State v. Lollis, 343 S.C. 580, 541 S.E.2d 254 (2001), as “jurisprudence... instructive in explaining the proof required in cases built wholly on circumstantial evidence “. Id. Specifically, the trial court “should grant a directed verdict motion when the evidence merely raises a suspicion of guilt.” Odems, 395 S.C. at 586, 720 S.E.2d at 50 (citation omitted). “Suspicion implies a belief or opinion as to guilt based facts or upon facts or circumstances which do not amount to proof see State v. Buckmon, 347 S.C. 316,322,555, S.E.2d 402, 404-05 (2001) (internal quotation omitted). However evidence does not dictate that appellant was involved in any conspiracy or attempted armed robbery. At most ,such evidence merely raised a suspicion of Appellant’s guilt . The evidence did not constitute sufficient proof from which a jury could have fairly and logically deduced Appellant a direct verdict of acquittal.

### STANDARD OF REVIEW

“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. Passio, 433 S.C. 666, 673, 861 S.E.2d 785, 789 (Ct App. 2021), aff’d as modified, 440 S.C. 1, 889 S.E.2d 584 (2023) quoting State v. Hernandez, 382 S.C. 620, 624, 677, S.E.2d 603, 605 (2009). “A defendant is entitled to a directed verdict when the state fails to produce evidence of the offense charged.” Id. “If there is any direct evidence or substantial circumstantial evidence reasonably tending to prove the guilt of the accused, the Court must find the case was properly submitted to the jury.” State v. Passio, 443 S.C. 666, 673, 861, S.E.2d 785, 789 (Ct. App. 2021) quoting State v. Frazier, 386 S.C. 526, 531, 689 S.E.2d 610, 613 (2010). “When reviewing a denial of a directed verdict, an appellate court views the evidence and all reasonable inferences in the light most favorable to the State”.

**STATEMENT OF CONCLUSION**

For the foregoing reasons, Appellant respectfully requests that this Court:

- A. Reverse Appellant's conviction;
- B. In the alternative, vacate the sentence imposed and modify the judgment accordingly; and
- C. Grant any other relief that this Court deems just and proper.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing brief was served on the following counsel of record or party in interest on this the 16th day of May, 2025, by first-class mail delivery.

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