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**SC Court of Appeals**

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

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APPEAL FROM GREENWOOD COUNTY  
Court of General Session

Frank R. Addy, Jr., Circuit Court Judge

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Appellate Case No.: 2023-000501

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THE STATE,

RESPONDENT,

V.

SCOTTY JOE FOWLER,

APPELLANT.

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FINAL BRIEF OF APPELLANT

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STATEMENT OF ISSUES ON APPEAL

1. Did the Trial Court err in failing to direct a verdict for the offenses of Attempted Murder and Possession of a Weapon During the Commission of a Violent Crime?

STATEMENT OF THE CASE

Appellant was indicted by the Greenwood County Grand Jury for Attempted Murder and Possession of a Weapon During the Commission of a Violent Crime. ROA 507-510. On February 27, 2023, Appellant was called to trial before the Honorable Frank R. Addy, Jr. and a jury. ROA 1. Appellant was represented by Stephen Geoly and Tristan Shaffer. ROA 1. The State was represented by Madison Hoffman and Micah Black. ROA 1.

At the conclusion of the trial, Appellant was found guilty of both offenses. ROA 483. Appellant was sentenced to 15 years for attempted murder and a consecutive 5 years for possession of a weapon during the commission of a violent offense. ROA 498, ll. 10-17.

Appellant filed a timely Motion to Reconsider the Sentence. ROA 511-513. This motion was denied in a written order dated March 21, 2023. ROA 518-519.

This appeal follows.

## ARGUMENT

### I. The Trial Court erred in failing to direct a verdict for the offenses of Attempted Murder and Possession of a Weapon During the Commission of a Violent Crime.

#### **Relevant Facts**

On the night of April 13, 2021, Lesa Speir came home to the property she shared with Scotty Fowler and Joey Matthews, to find Scotty frantically yelling, “Mama, Mama, call 911. Joye’s been accidentally shot” ROA 144, l. 12—145, l.4. Scotty told Lesa he could not find his phone and to call 911. ROA 145, ll. 5-11.

When law enforcement arrived on the scene, Scotty was trying to provide lifesaving measures to Joye. ROA 71, ll. 18-26. Joye had been shot in the head. Scotty informed law enforcement that the firearm accidentally discharged after hitting a coffee table. ROA 63, ll. 1-15; States Exhibit 2.

Joye survived the gunshot wound but could not remember the shooting. ROA 107, ll. 19-19. She testified that the last thing she remembered was riding the motorcycle with Scotty earlier that day. ROA 107, ll. 25. She said that at that time her and Scotty “were getting along.” ROA 125, ll. 24-25.

Scotty and Joye had a tumultuous relationship. Scotty was known to carry a gun and shoot it around the property. Joye testified that in the afraid of him. Although they were getting along on the day of the shooting, she also testified at trial in the days leading up to shooting he had threatened the kill her if she left him. ROA 113, l. 19—114, l. 3. Additionally, Joye testified that Scotty had previously put a gun to her head. ROA 124, ll. 11-13. However, Joye did not recall any argument immediately prior to the shooting. ROA 114, ll. 5-10.

Scotty was ultimately charged with Attempted Murder and Possession of a Weapon During the Commission of a Violent Crime. ROA 507-510.

At trial, the State called neurosurgeon, Dr Charles Kanos, to testify concerning Joye's wounds. Dr. Kanos would testify that the bullet entered the left frontal part of the head and had a downward trajectory. ROA 194, ll. 4-11; 202, ll. 23-25.

At the conclusion of the State's case, Appellant moved for a directed verdict. ROA 394, l. 9—400, l. 18. Appellant argued that there was insufficient evidence to proceed forward on either charge. Appellant argued both that there was no evidence of an assault nor was there any evidence of specific intent to kill. ROA 394, ll. 9-22; 397, ll. 8-15. Appellant argued that establishing that a defendant lied is insufficient to prove he participated in a crime.

The State responded by arguing that the bullet's trajectory was downward which did not support the statement made by Appellant at the scene. ROA 397, l. 19—398, l. 4. The State also argued that the prior threats and incident where Scotty allegedly put a gun to Joye's head was sufficient evidence to go forward. ROA 398, ll. 5-23.

The Court ruled with the following explanation:

Well, I do believe that there is sufficient circumstantial evidence to warrant submitting this matter to the jury not only for the reasons stated by the solicitor but the testimony of the last witness about his efforts to get the gun to accidentally fire. I mean, at this stage, the only thing -- the only evidence that's been presented is the defendant's statement that the firearm fell off a -- fell out of his pocket, struck a coffee table, and then discharged, or, in the alternative, that it fell off an entertainment center and struck the floor and, presumably discharged. Essentially, the most recent testimony excludes the possibility of the gun accidentally discharging in the way described by the defendant in his statements to the police. Additionally, the testimony from the neurosurgeon indicates that the wound -- the direction of the wound was basically a 40-degree angle from the top left side of Ms. Matthew's head to the lower right side around just above the temple. That would indicate a downward trajectory as opposed to something that would be moving upward from the floor. So based on the physical evidence and the testimony or the evidence today, the Court would conclude that there is sufficient circumstantial evidence taken together to warrant sending this case to the jury."

ROA 398, l. 24—399, l. 23. The Court further stated:

And I understand your position that lying, in and of itself, is probably insufficient to maybe establish substantial circumstantial evidence, but I'm taking everything together: the threats that were made the previous day, the defendant's statement in the video that they had a little bit of a tiff earlier in the day, the nature of your client changing his story. I know that you alluded in opening that he was lying to the police initially. I understand that the defense in this case is going to be that the injury was inflicted essentially by Ms. Matthews' own hand. But I do think that there is sufficient circumstantial evidence to warrant this case moving forward. And as it relates to the specific intent to kill, the same evidence that supports the Court submitting this to the jury on a circumstantial evidence basis supports sending this to the jury and a finding that the jury could reasonably conclude that he specifically intended to kill Ms. Matthews. That's my position.

ROA 401, ll. 5-23.

Appellant elected not to present a case and renewed its directed verdict motion. ROA 404, ll. 1-16.

### **Argument**

On appeal from the denial of a directed verdict, this Court must view the evidence in the light most favorable to the State. *State v. Lollis*, 343 S.C. 580, 583, 541 S.E.2d 254, 256 (2001) (citing *State v. Burdette*, 335 S.C. 34, 46, 515 S.E.2d 525, 531 (1999)). The defendant is entitled to a directed verdict when the State fails to produce evidence of the offense charged. *State v. McHoney*, 344 S.C. 85, 97, 544 S.E.2d 30, 36 (2001). Directed verdict should be granted “when the evidence merely raises a suspicion that the accused is guilty. *State v. Arnold*, 361 S.C. 386, 390, 605 S.E.2d 529, 531 (2004).

In *State v. Odems*, 395 S.C. 582, 720 S.E.2d.48 (2011), the South Carolina Supreme Court reversed a conviction based on the State’s failure to present substantial circumstantial evidence when only the following facts were presented:

- 1) that less than ninety minutes after the burglary, police located the defendant in the get-away car with the burglars and the stolen goods;
- 2) the defendant fled from law enforcement; and

3) the defendant asked an uninvolved person to lie to the authorities on his behalf.

*Id.* at 588, 720 S.E.2d at 51.

In *Arnold*, the South Carolina Supreme Court found the circumstantial evidence to be insufficient to convict the defendant despite the following evidence:

- 1) The victim was killed in South Carolina and the victim's car was found in Tennessee;
- 2) Defendant's fingerprint was found in the victim's vehicle; and
- 3) The Defendant was found near to be staying in Tennessee.

*State v. Arnold*, 361 S.C. 386, 390, 605 S.E.2d 529, 531 (2004).

In the present case, there was not substantial circumstantial evidence of guilt. The mere fact that the story told by Scotty was not supported by physical evidence is not itself sufficient to find that he shot Joye with the specific intent to kill. *See Odems, supra*. Although the State brought up prior threats allegedly made by Scotty, they provided no evidence tying those threats to the shooting that night. To the contrary, to the best of Joye's recollection the couple was "getting along" on the day of the shooting. ROA 124, ll. 24-25.

In Sum, the Trial Court erred in failing to direct verdicts on both charges because in there was not direct evidence or substantial circumstantial evidence of either offense.

CONCLUSION

For the foregoing reasons Appellant respectfully requests that this Court reverse his convictions and sentences.

Respectfully submitted,

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This 3rd day of July 2025.