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SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Hampton County

Honorable Robert J. Bonds, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

LORENZO BOLES,

APPELLANT

APPELLATE CASE NO. 2023-001824

FINAL REPLY BRIEF OF APPELLANT

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The state completely ignores the elements of accessory before the fact in its analysis, fails to understand what constitutes consciousness of guilt and erroneously concludes such evidence exists in this case, and unreasonably relies on *State v. Lane*, 410 S.C. 505, 765 S.E.2d 557 (2014), which is easily distinguishable from this case.

The state completely ignores the elements of accessory before the fact in its analysis. "The elements that must concur to justify the conviction of one as an accessory before the fact are: (1) that the defendant advised and agreed, or urged the parties or in some way aided them, to commit the offense; (2) that the defendant was not present when the offense was committed; and (3) that the principal committed the crime." State v. Bixby, 373 S.C. 74, 75 n. 2, 644 S.E.2d 54, 55 n. 2 (2007) (citing State v. Smith, 316 S.C. 53, 447 S.E.2d 175 (1993)). The state did not argue there was evidence Appellant "advised and agreed, or urged" the perpetrators to commit murder and armed robbery. Likely because no such evidence exists. The state merely asserted the prosecution "produced *some* evidence that Appellant assisted" Tyrase Collins since the vehicle Appellant was known to drive was supposedly seen traveling toward and away from the decedents' trailer around the timeframe of the murders, the decedent's blood was later found in this vehicle, Appellant was seen driving the vehicle thirty hours after the murders, and the car was found at Tyrase Collins's house when police arrived to execute a search warrant. See Brief of Respondent at 12 (emphasis added).

However, the state failed to explain how this evidence supports its conclusion that Appellant allegedly "assisted" Collins or some other perpetrator in committing the murders and armed robbery. There was no evidence Appellant had control of the vehicle specifically around the time of the murders. The evidence was simply that Appellant, as well as others, was known

to drive the vehicle, which was supposedly owned by Appellant's brother. There was no evidence Appellant allowed Collins or some other perpetrator to use the vehicle. There was also no evidence as to who was driving the vehicle when the murders occurred.

Significantly, the state wholly failed to acknowledge the second element of accessory before the fact: the defendant was not present when the offense was committed. There was absolutely no evidence presented that Appellant was not present when the murders and armed robbery were committed.

Moreover, the state appears to misunderstand the concept of consciousness of guilt and repeats on appeal the assistant solicitor's faulty argument at trial that there was evidence of flight. While law enforcement suspected Appellant was present at 53 Crews Street when law enforcement arrived to execute a search warrant roughly thirty hours after the murders and armed robbery and that Appellant fled, the state presented *no* evidence to support this suspicion. Investigator Chancey Soloman admitted Appellant was *not* present when law enforcement arrived ("He wasn't there.") Police merely "believe that he [Appellant] was one of the ones that escaped through the back." See R. 403, l. 2 – 404, l. 22.

Even if Appellant was present at 53 Crews Street and fled, there was no evidence that Appellant had knowledge he was being investigated *related to this case* and fled as a result. Simply put, there was no evidence of a nexus between the alleged flight and the offenses charged in this case. If Appellant was present and fled, it is possible he fled because he knew he had *unrelated* outstanding warrants for his arrest (although, again, the state presented no evidence Appellant knew he was being sought by law enforcement). As far as Appellant ultimately being found and arrested in Savannah, Georgia, there was no evidence as to *when* this arrest occurred or that Appellant had knowledge he was being sought by authorities related to this case and fled as a result. See State v.

Pagan, 369 S.C. 201, 631 S.E.2d 262 (2006) ("The *critical factor* to the admissibility of evidence of flight is whether the totality of the evidence creates an inference that *the defendant had knowledge that he was being sought by the authorities*. It is sufficient that circumstances justify an inference that the defendant's actions were motivated as a result of his belief that police officers were aware of his wrongdoing and were seeking him for that purpose. Flight evidence is relevant when there is *a nexus between the flight and the offense charged*.") (emphasis added) (internal citations omitted).

The state further contended, "The State presented substantial evidence that the vehicle that was under the operation and control of Appellant was used to murder the victim's [sic] inside the trailer." Brief of Respondent at 12. Respectfully, a *vehicle* was not used to murder the decedents. Rather, two separate firearms were used in the killings. Additionally, the state did not present any evidence that the red Charger was "under the operation and control of Appellant," at the time the murders occurred. Instead, the evidence presented was that Appellant's brother, Craig Collins, owned the vehicle, and Appellant and his mother, Juanita Boles, were known to drive the car, as well as unnamed others. See R. 267, ll. 1-10; R. 271, ll. 3-5; R. 393, l. 11 – 394, l. 2.

The state also argued that "Appellant's flight from officers and control of the vehicle after the incident constitute some substantial evidence of Appellant's knowledge of the murder." Brief of Respondent at 12. Whether Appellant had knowledge of the murders after they occurred is completely irrelevant to whether there was substantial circumstantial evidence Appellant committed accessory before the fact.

Lastly, the state relied on State v. Lane, 410 S.C. 505, 765 S.E.2d 557 (2014), which is easily distinguishable from this case. In Lane, our Supreme Court held there was sufficient circumstantial evidence to withstand Lane's motion for a directed verdict for the offense of first

degree burglary.[1] 410 S.C. at 507, 765 S.E.2d at 558. The state presented evidence that on the afternoon of the burglary, a neighbor observed a red Mitsubishi Gallant with gray primer paint on the front fender and a paper license plate parked in the homeowner's driveway. Two people were inside the car and one walked back and forth from the vehicle to the front door. Later that evening, after the burglary, the homeowner found a piece of paper with a "unique username and password" printed on it next to his driveway. Investigators determined the piece of paper was issued to Lane by the local unemployment office. Suspecting Lane was involved in the burglary, an investigator went to interview Lane at his girlfriend's parents' house. When the investigator arrived, he observed a red Mitsubishi Gallant with gray primer paint on the front fender and a paper license plate parked in the driveway. Lane was "initially evasive" asking his girlfriend's mother to lie and state Lane was not there. Eventually, Lane spoke to the investigator and admitted driving the Mitsubishi Gallant on the day of the burglary and obtaining the piece of paper from the unemployment office. Id. at 506-07, 765 S.E.2d at 557-58.

Notably, in this case, the red Charger was not seen at the decedents' trailer but rather traveling toward and away from the general location of the trailer around the timeframe of the murders. More importantly, however, Appellant did not admit to driving the vehicle on the morning of the murders (or allowing the perpetrator to drive the vehicle) unlike in Lane, who admitted to driving the Mitsubishi Gallant on the day of the burglary and visiting the unemployment office. Moreover, Lane was evasive, which the state argued was evidence of consciousness of guilt. In this case, however, there is no evidence of consciousness of guilt as Appellant thoroughly argued above.

[1] This Court initially held the trial court erred by denying Lane's motion for a directed verdict. See State v. Lane, 406 S.C. 118, 749 S.E.2d 165 (Ct. App. 2013). However, the Supreme Court reversed.

Respectfully, this Court should direct a verdict of acquittal for accessory before the fact of murder and armed robbery because the state failed to present substantial circumstantial evidence.

CONCLUSION

Based on the foregoing argument, Appellant respectfully requests this Court direct a verdict of acquittal for all counts of accessory before the fact of murder and accessory before the fact of armed robbery.

Respectfully Submitted,

Lara M. Caudy
Senior Appellate Defender

ATTORNEY FOR APPELLANT

This 10th day of September, 2025.

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CERTIFICATE OF COUNSEL

The undersigned certifies that to the best of my ability this Final Reply Brief of Appellant complies with Rule 211(b), SCACR, and the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

This 10th day of September, 2025.

Lara M Caudy

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APPELLATE CASE NO. 2023-001824

CERTIFICATE OF SERVICE

Pursuant to Rule 262(a)(3) and Rule 262(c)(3), SCACR, the undersigned hereby certifies a true copy of the Final Reply Brief of Appellant in the above referenced case has been served upon Andrew D. Powell, Esquire, at his primary email address listed in the Attorney Information System (AIS), this 10th day of September, 2025.

Lara M. Caudy
Senior Appellate Defender

ATTORNEY FOR APPELLANT