

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

**RECEIVED**

**Oct 22 2025**

**SC Court of Appeals**

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Appeal from Lee County

Honorable R. Ferrell Cothran, Circuit Court Judge  
\_\_\_\_\_

THE STATE,

RESPONDENT,

V.

SHONTRELL LAMONT BLYTHER,

APPELLANT

APPELLATE CASE NO. 2025-000797  
\_\_\_\_\_

INITIAL BRIEF OF APPELLANT  
\_\_\_\_\_

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## **STATEMENT OF ISSUE ON APPEAL**

Whether the trial court erred in failing to direct a verdict of acquittal for burglary in the first degree, where the State failed to present any direct or substantial circumstantial evidence that Appellant committed the offense, since a defendant is entitled to a directed verdict when the evidence merely raises a suspicion of guilt?

## STATEMENT OF THE CASE

On February 27, 2025, a Lee County Grand Jury indicted Shontrell Blyther, Appellant, for first-degree burglary. R. \*(indictment all pages). Appellant was tried before the Honorable R. Ferrell Cothran, Jr., and a jury, from April 14 – 15, 2025. Matthew Hicks represented Appellant. Ernest Finney, III, prosecuted the case. Tr. 1; Tr. 22. Appellant was convicted as indicted. Tr. 130, ll. 13-18. Appellant was sentenced to serve a thirty-year term of incarceration. Tr. 136, ll. 1-4.

This appeal follows.

### STANDARD OF REVIEW

“A case should be submitted to the jury when the evidence is circumstantial ‘if there is any substantial evidence which reasonably tends to prove the 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 a verdict of acquittal is not error.” *Id.* at 139, 708 S.E.2d at 776-777. “On appeal of the denial of a directed verdict of acquittal, this Court must look at the evidence in the light most favorable to the state.” *Id.* at 139, 708 S.E.2d at 777; *see also State v. Hepburn*, 406 S.C. 416, 429, 753 S.E.2d 402, 409 (2013). 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’s denial of the directed verdict motion. *Hepburn*, 406 S.C. at 429, 753 S.E.2d at 409.

## ARGUMENT

The trial court erred in failing to direct a verdict of acquittal for burglary in the first degree, where the State failed to present any direct or substantial circumstantial evidence that Appellant committed the offense, since a defendant is entitled to a directed verdict when the evidence merely raises a suspicion of guilt.

### *Relevant facts*

On the morning of October 8, 2024, Appellant was arrested while sitting on his mother's porch at the Cloverleaf Apartments in Bishopville. Two televisions and a crock pot were on the porch as well. Tr. 56, ll. 11-16; Tr. 63, ll. 6-11; Tr. 75, l. 20 – 76, l. 1; Tr. 77, ll. 19-22; Tr. 84, ll. 13-22; R. \*(indictment all pages). Appellant's mother testified she saw Appellant sitting on the porch and saw the items on the porch and she "got nervous," so she contacted her daughter and asked her to call the police. According to Appellant's mother, Appellant knocked on her window at approximately 6:30 a.m. She looked out and saw him sitting on the porch. Then he was gone. Then he was back. Tr. 64, l. 3 – 72, l. 21.

Police arrived at approximately 8:12 a.m. Tr. 84, ll. 20-22. One officer detained Appellant while another looked around the complex. Police found a broken window at the back of the apartment across the street, and some items were determined to be missing from that apartment. Tr. 86, l. 1 – 90, l. 7. The apartment across the street belonged to Sheryl Slater, who was in the hospital. Tr. 56, l. 11 – 59, l. 15. The comings and goings of Slater's daughter established that Slater's apartment was broken into sometime after approximately 5:30 p.m. the prior day. Tr. 53, l. 24 – 55, l. 3. Two televisions and a crock pot were missing. Slater identified the televisions and crock pot on Appellant's mother's porch as her missing items. Tr. 57, l. 14 – 58, l. 24; Tr. 45, l. 18 – 52, l. 25.

No forensic evidence tied Appellant to the burglary, and Appellant did not make any incriminating statements. Tr. 117, ll. 8-13; Tr. 96, l. 3 – 97, l. 19. The defense’s theory of the case was that Appellant was simply in the neighborhood where a crime was committed—and there was no evidence Appellant was even there when the crime was committed. Tr. 114, l. 13 – 115, l. 20. At the conclusion of the State’s case, Appellant moved for a directed verdict. Tr. 102, l. 9 – 104, l. 24. The court denied the motion, finding “the jury could find that the circumstances are such that he would be guilty of burglary first,” noting that the break-in occurred “across the street” from “where [Appellant] was and where the goods were.” Tr. 105, ll. 1-15.

### ***Discussion***

Evidence must constitute positive proof of facts and circumstances which reasonably tends to prove guilt.” *State v. Bostick*, 392 S.C. 134, 139, 708 S.E.2d 774, 776 (2011). An accused “is entitled to a directed verdict when the State fails to present evidence on a material element of the offense charged.” *State v. Brown*, 360 S.C. 581, 586, 602 S.E.2d 392, 395 (2004) (citations omitted). *See also State v. Hepburn*, 406 S.C. 416, 429, 753 S.E.2d 402, 408 (2013) (same). “[W]hen there is an absence of evidence, it becomes the duty of the trial judge to direct a verdict.” *State v. Mitchell*, 341 S.C. 406, 409, 535 S.E.2d 126, 127 (2000). *See also* Rule 19, SCRCrimP (“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 of competent evidence tending to prove the charge 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.”).

Denial of a directed verdict motion is only proper where viewing the evidence in the light

most favorable to the State, the evidence could induce a reasonable juror to find the defendant guilty. *State v. Pearson*, 415 S.C. 463, 474, 783 S.E.2d 802, 808 (2016). The trial court should grant the motion for a directed verdict “where the evidence merely raises a suspicion that the accused is guilty.” *State v. Mitchell*, 341 S.C. at 409, 535 S.E.2d at 127. “‘Suspicion’ implies a belief or opinion as to guilt based upon facts or circumstances which do not amount to proof. However, a trial judge is not required to find that the evidence infers guilt to the exclusion of any other reasonable hypothesis.” *State v. Pearson*, 415 S.C. at 469–70, 783 S.E.2d at 805 (cleaned up).

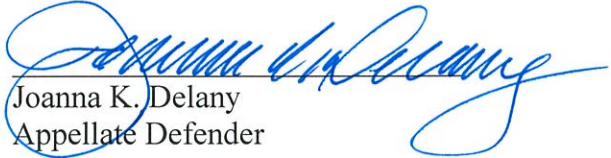
“It is the trial court’s duty to submit the case to the jury where the evidence is circumstantial, if there is any substantial evidence which reasonably tends to prove the guilt of the accused, or from which his guilt may be fairly and logically deduced.” *State v. Childs*, 299 S.C. 471, 477, 385 S.E.2d 839, 843 (1989). “[W]hen 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, 586, 720 S.E.2d 48, 50 (2011). “[I]n ruling on a directed verdict motion where the State relies on circumstantial evidence, the court must determine whether the evidence presented is sufficient to allow a reasonable juror to find the defendant guilty beyond a reasonable doubt.” *State v. Bennett*, 415 S.C. 232, 237, 781 S.E.2d 352, 354 (2016).

There was no direct evidence that Appellant committed the burglary, and the circumstantial evidence was not substantial. All the State showed was that Appellant was found near stolen goods. There was no evidence that placed him in Slater’s apartment, i.e., committing the burglary. The evidence amounted to mere suspicion; it was not substantial circumstantial evidence. “Circumstantial evidence that is not substantial is insufficient to go to a jury.” *State v.*

*Odems*, 395 S.C. at 592, 720 S.E.2d at 53. When viewed in the light most favorable to the State, the evidence did not reasonably tend to prove Appellant's guilt. The court should have directed a verdict of acquittal. *E.g.*, *State v. Mitchell*, 341 S.C. at 409, 535 S.E.2d at 127.

**CONCLUSION**

Based on the foregoing argument, Appellant respectfully requests this Court reverse his conviction and sentence and remand for entry of a directed verdict of acquittal.

  
Joanna K. Delany  
Appellate Defender

ATTORNEY FOR APPELLANT

This 22nd day of October, 2025.

**CERTIFICATE OF COUNSEL**

The undersigned certifies that to the best of my ability this Initial 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.”

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