STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM HORRY COUNTY
Court Of General Sessions
The Honorable Benjamin Culberson, Circuit Court Judge

Appellate Case No. 2025-000769

THE STATE, Respondent,

v.

TAI'YUAN JA'REL JACKSON, Appellant.

INITIAL BRIEF OF RESPONDENT

ALAN WILSON
Attorney General

ANDREW D. POWELL
Assistant Attorney General

Post Office Box 11549
Columbia, SC 29211
(803) 734-3727

JIMMY A. RICHARDSON
Solicitor, Fifteenth Judicial Circuit

P.O. Box 1276
Conway, SC 29526
(843) 915-5460

ATTORNEYS FOR RESPONDENT

TABLE OF CONTENTS

TABLE OF AUTHORITIES

South Carolina Cases:

Other Cases:

Other Authorities

STATEMENT OF ISSUES ON APPEAL

I. Whether the trial court erred under Rule 403, SCRE, in admitting a photograph, taken several hours before the shooting, which depicted Appellant, Hickson, and four other individuals making various unsavory gestures?

II. Whether the trial court erred in refusing to grant Appellant's renewed motion for directed verdict, after the jury returned a guilty verdict of voluntary manslaughter, when no evidence supports that verdict?

III. Whether the trial court gave an ambiguous supplemental jury instruction in response to the jury's first question?

COUNTER-STATEMENT OF ISSUES ON APPEAL

I. Whether the trial court properly admitted State's Exhibits 42 and 43 where any unfair prejudice did not substantially outweighed the probative value?

II. Whether the trial court properly denied Appellants motion for directed verdict where the State presented some evidence of Appellant's guilt?

III. Whether the court properly instructed the jury where the instruction was a correct statement of law?

STATEMENT OF THE CASE

A Horry County Grand Jury indicted Appellant Tai'Yuan Ja'rel Jackson, for murder and possession of a weapon during the commission of a violent crime. Jackson and his co-defendant, Jerelle Hickson proceeded to a jury trial on April 7, 2025, before the Honorable Benjamin Culbertson. Appellant was found guilty of voluntary manslaughter and unlawful possession of a weapon during the commission of a violent crime.[1] Appellant was sentenced to thirty years' imprisonment for voluntary manslaughter and five years' imprisonment for unlawful possession, to be run concurrently. Appellant filed a timely notice of appeal.

[1] Hickson was found guilty of voluntary manslaughter and sentenced to thirty years' imprisonment.

STATEMENT OF FACTS

Appellant and Hickson's convictions arise out of a shooting in April of 2022 in the early morning hours at a parking lot in Myrtle Beach. (Tr. p. 515). Dy'Quavyon Dickens, the victim, was shot in the left buttock which ultimately caused his death. (Tr. p. 518). The shot caused significant internal injuries and massive bleeding. (Tr. p. 518). At trial, a photograph of Appellant, Hickson, and others was admitted into evidence. (State's Exhibit 42). In the photograph, Appellant is seen wearing green clothing with what appears to be a firearm in his pocket. (State's Exhibit 42). Hickson is also seen with a firearm. (State's Exhibit 42).

Video evidence captured the event, which was completed within three minutes. (State's Exhibit 234). In the video, two Tahoes can be seen pulling up to the scene. (State's Exhibit 234). The cars are left running with their headlights on. (State's Exhibit 234). Appellant is seen wearing green clothing. (State's Exhibit 234). Shortly after the shooting, the group is seen fleeing the scene in the two Tahoes. (State's Exhibit 234). Mya Goodman, an eyewitness, stated she was at the parking lot and heard shots fired at the nightclub but did not know who fired them. (Tr. p. 100; 120-2). Goodman did not identify a shooter. (Tr. p. 120-2). Goodman testified her car was hit by the shots fired. (Tr. p. 102). Goodman further stated that the trucks were in front of her and that her vehicle was hit in the front. (Tr. p. 101-2).

Shakira Hickson, a cousin of both Appellant and Hickson, testified she was at the parking lot on the night of the shooting. (Tr. p. 134; 138). She testified that Appellant was wearing the green clothing depicted in the photograph. (Tr. p. 168; 195). She testified that Appellant drove a gold Tahoe and another member of the group drove a black Tahoe. (Tr. p. 185; 188). She testified that neither Tahoe was hit by bullets. (Tr. p. 147). Shakira also testified that Appellant's truck had stickers on the back. (Tr. p. 163).

Nikera McAlister also testified concerning the incident. (Tr. p. 219). McAlister testified that her sister used to date Appellant. (Tr. p. 220). She testified that she was at parking lot to meet up with Appellant and Hickson, who were already there. (Tr. p. 223-4). She testified that while she was there shots were fired and that she saw Hickson fire. (Tr. p. 225-6). McAlister stated she initially did not tell police that Hickson was the shooter because she did not want to say anything. (Tr. p. 228).

Damoni Clayton, another individual at the incident, testified that Dickens was outside when the shooting started. (Tr. p. 258). He then got in a vehicle and was shot. (Tr. p. 258). At that point, Clayton drove trying to find a hospital. (Tr. p. 259). They ended up in an alleyway while on the phone with 911. (Tr. p. 259). Clayton stated the ambulance arrived shortly thereafter. (Tr. p. 259-60).

Cole Kyer, an officer with the Myrtle Beach Police Department, spoke with Jackson in an interview room. (Tr. p. 236). At the beginning of the interview Appellant was adamant that he did not fire a weapon on the night of the incident. (Tr. p. 244). After speaking with investigators, Appellant stated that he did in fact fire a weapon on the night of the incident. (Tr. p. 244). At first, Appellant stated he fired once but later stated he may have fired multiple times. (Tr. p. 245). Appellant informed police that his weapon was in his Tahoe. (Tr. p. 247). Appellant stated he fired the weapon police found in his vehicle. (Tr. p. 247-8). Police also located Appellant's green clothing. (Tr. p. 423). The clothing later tested positive for gunshot residue. (Tr. p. 463). Additionally, testimony indicated that the stickers on the back of the Tahoe were removed after the incident. (Tr. p. 302).

An expert testified that the fragment retrieved from Dickens was not fired from the gun found in Appellant's vehicle. (Tr.p. 445-6). However, the expert testified that twenty casings found in the parking lot were fired from Appellant's weapon. (Tr. p. 431).

STANDARD OF REVIEW

"In criminal cases, an appellate court reviews errors of law only and is bound by the factual findings of the trial court unless clearly erroneous." State v. Bryant, 372 S.C. 305, 312, 642 S.E.2d 582, 586 (2007). "The conduct of a criminal trial is left largely to the sound discretion of the trial judge, who will not be reversed in the absence of a prejudicial abuse of discretion." Id. "An abuse of discretion occurs when a trial court's decision is unsupported by the evidence or controlled by an error of law." Id.

On appeal from the denial of a directed verdict, courts view the evidence in the light most favorable to the State. Id. If any direct evidence or substantial circumstantial evidence tending to prove the accused's guilt exists, courts must conclude the trial court properly submitted the case to the jury. State v. Dixon, 337 S.C. 455, 458, 523 S.E.2d 784, 786 (Ct. App. 1999).

"In reviewing jury charges for error, this [c]ourt must consider the [trial] court's jury charge as a whole in light of the evidence and issues presented at trial." State v. Simmons, 384 S.C. 145, 178, 682 S.E.2d 19, 36 (Ct. App. 2009). "If, as a whole, the charges are reasonably free from error, isolated portions which might be misleading do not constitute reversible error." Id. "A jury charge is correct if, when the charge is read as a whole, it contains the correct definition and adequately covers the law." Id. "To warrant reversal, a [trial] court's refusal to give a requested jury charge must be both erroneous and prejudicial to the defendant." Id.

ARGUMENT

I. The trial court properly admitted State's Exhibits 42 and 43 because any unfair prejudice did not substantially outweigh the probative value.

The trial court properly allowed the State to admit the photograph of Appellant because it showed Appellant and Hickson, mere hours before the incident, in the same clothing seen in video evidence and described by eyewitnesses. Additionally, any unfair prejudice is limited because the image poses minimal risk since Appellant admitted to owning and firing the weapon.

Relevant Facts

During Shakira's testimony, the State offered a photograph showing Appellant and Hickson wearing the same clothing as they were wearing on the night of the incident. (Tr. p. 149-155; State's Exhibit 43). Appellant objected noting potential unfair prejudice associated with the hand signals made by the group, the bottle of alcohol, and the firearm in Hickson's possession. (Tr. p. 150-151). The State argued it established Appellant's clothing and showed evidence of premeditation. (Tr. p. 152). Appellant argued that other evidence establishing Appellant's clothing was available. (Tr. p. 153). The court found that the probative value outweighed the danger of unfair prejudice. (Tr. p. 153).

Discussion

"All relevant evidence is admissible, except as otherwise provided by the Constitution of the United States, the Constitution of the State of South Carolina, statutes, these rules, or by other rules promulgated by the Supreme Court of South Carolina." Rule 402, SCRE. Evidence is relevant if it "make[s] more or less probable the matter in controversy." State v. Preslar, 364 S.C. 466, 476, 613 S.E.2d 381, 386 (Ct. App. 2005).

"Probative value is the measure of the importance of that tendency to the outcome of a case." United States v. Stout, 509 F.3d 796, 804 (6th Cir. 2007). It is the weight that a piece of

evidence will carry in helping the jury make a determination. "The more essential the evidence, the greater its probative value." Id.

"All evidence is meant to be prejudicial; it is only unfair prejudice which must be avoided." State v. Bratschi, 413 S.C. 97, 115, 775 S.E.2d 39, 49 (Ct. App. 2015). Evidence that is unfairly prejudicial is evidence that suggests a decision on an improper basis. State v. Holder, 382 S.C. 278, 290, 676 S.E.2d 690, 697 (2009) (quoting State v. Alexander, 303 S.C. 377, 382, 401 S.E.2d 146, 149 (1991)).

Probative value is "the measure of the importance of that tendency to prove or disprove the outcome of a case; it is the weight that a piece of relevant evidence will carry in helping the trier of fact decide the issues." State v. Thompson, 420 S.C. 386, 399, 803 S.E.2d 44 (Ct. App. 2017).

Low probative value alone does not exclude evidence; the probative value must be substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence. Rule 403, SCRE. Unfair prejudice refers to evidence which tends to suggest a decision on an improper basis. State v. Lee, 399 S.C. 521, 529, 732 S.E.2d 225 (Ct. App. 2012) (quoting State v. Holder, 382 S.C. 278, 290, 676 S.E.2d 690 (2009)).

A trial judge's decision regarding the comparative probative value and prejudicial effect of evidence should be reversed only in exceptional circumstances. "We ... are obligated to give great deference to the trial court's judgment." State v. Adams, 354 S.C. 361, 378, 580 S.E.2d 785, 794 (Ct. App. 2003) (citing State v. Hamilton, 344 S.C. at 357, 543 S.E.2d at 593(2001)). Because the trial court did not abuse its discretion, the ruling should not be reversed.

Here, the image provides probative value in that it again corroborates evidence establishing Appellant's clothing on the night of the incident and shows Appellant and Hickson together, while the two appear to be in possession of firearms. (Tr. p. 168). Cf. Tucker v. State, 912 S.E.2d 639, 649 (Ga. 2025) (affirming the admittance of a photograph of defendant with a firearm because "the State presented evidence that the guns depicted in the photographs and videos of Tucker were similar to the one used in the shooting.").

Even if the photograph does not contain high probative value, the court's decision should not be reversed unless the probative value is substantially outweighed by the danger of unfair prejudice. With respect to the firearms shown in the photograph, unfair prejudice is not present because Appellant, by his own admission to police, owned and fired a weapon on the night of the incident. While members in the photograph appear to make signs, the State did not argue gang affiliation. Appellant has failed to establish that the probative value is substantially outweighed by the danger of unfair prejudice and that the trial court abused its discretion.

This Court should affirm.

II. The trial court properly denied Appellants motion for directed verdict because the State presented some evidence of Appellant's guilt.

The trial court properly denied Appellant's motion for directed verdict because the State produced some evidence that Appellant was guilty of the indicted offense. Specifically, the State presented evidence that Appellant told police he fired his weapon on the night of the incident and video evidence showed Appellant and Hickson arrive at the scene right before the shooting occurred.

Relevant Facts

At the conclusion of the State's case, Appellant moved for a directed verdict. (Tr. p. 523). Appellant argued that no witness saw Appellant fire a gun and that the bullet which killed Victim was not fired from the gun found in Appellant's vehicle. (Tr. p. 523-4). The State argued that Appellant admitted to firing his weapon, that shell casings found matched the weapon, and that Apellant could be found guilty under hand of one hand of all. (Tr. p. 525). The court found that the State presented some evidence in the form of gunshot residue found on Appellant's clothing, and that the weapon found in Appellant's vehicle was fired eighteen times at the scene. (Tr. p. 526).

Discussion

One can be convicted on a theory of accomplice liability under an indictment charging him as a principal, as long as there is some evidence that the defendant and codefendant were acting pursuant to a plan to commit a crime at the time the crime occurred. State v. Leonard, 292 S.C. 133, 355 S.E.2d 270 (1987); State v. Dickman, 341 S.C. 293, 534 S.E.2d 268 (2000) (where Defendant told police he shot Victim, then at trial said Codefendant did it).

Under the "hand of one" 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. Reid, 408 S.C. 461, 758 S.E.2d 904 (2014) "One combining and confederating with others to accomplish an illegal purpose is criminally liable for everything done by either him or his confederates which follows incidentally in the execution of a common design as one of the probable and natural consequences, though not intended as a part of the original design or common plan." State v. McCall, 304 S.C. 465, 405 S.E.2d 414 (Ct. App. 1991), overruled on other grounds by Brightman v. State, 336 S.C. 348, 520 S.E.2d 614 (1999).

Under our system of justice, the judge and jury have distinct roles when a jury trial is conducted in a criminal case. Shannon v. United States, 512 U.S. 573, 579 (1994). The judge is tasked with administering the proceedings, instructing the jury on the applicable law, and ensuring all sides receive a fair trial. See State v. Brandt, 393 S.C. 526, 549, 713 S.E.2d 591, 603 (2011) (explaining a trial judge has a duty to instruct the jury on the law applicable to the case); State v. Stanley, 365 S.C. 24, 39, 615 S.E.2d 455, 463 (Ct. App. 2005) ("A judge has a responsibility for safeguarding both the rights of the accused and the rights of the public in the administration of criminal justice."). Meanwhile, the jury alone has the task of finding the facts, weighing the evidence, choosing what inferences should be drawn from it, and ultimately deciding whether the State has met its burden of proving the defendant's guilt beyond a reasonable doubt. See United States v. Gaudin, 515 U.S. 506, 514 (1995) ("[T]he jury's constitutional responsibility is not merely to determine the facts, but to apply the law to those facts and draw the ultimate conclusion of guilt or innocence.").

"When ruling on a motion for a directed verdict, the trial court is concerned only with the existence of evidence, not its weight. A defendant is entitled to a directed verdict when the State fails to produce evidence of the offense charged. 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. If there is any direct evidence or any substantial circumstantial evidence reasonably tending to prove the guilt of the accused, this Court must find the case was properly submitted to the jury." State v. Weston, 367 S.C. 279, 292-293, 625 S.E.2d 641, 648 (2006) (citing State v. Cherry, 361 S.C. 588, 591-592, 606 S.E.2d 475, 477-478 (2004)). By doing so under such circumstances, the trial judge correctly avoids improperly encroaching upon the jury's exclusive role to find the facts, weigh the evidence, evaluate witness credibility, and resolve any evidentiary conflicts that may have arisen during trial. See Jackson v. Virginia, 443 U.S. 307, 319 (1979) ("[The directed verdict] standard gives full play to the responsibility of the trier of fact fairly to resolve conflicts in the testimony, to weigh the evidence, and to draw reasonable inferences from basic facts to ultimate facts.").

On an appeal from the trial court's denial of a motion for a directed verdict, the appellate court may only reverse the trial court if there is no evidence to support the trial court's ruling. State v. Gaster, 349 S.C. 545, 555, 564 S.E.2d 87, 92 (2002).

The United States Supreme Court noted the following:

> [T]he relevant question is whether, after viewing the evidence in the light most favorable to the prosecution, *any* rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt. . . . This familiar standard gives full play to the responsibility of the trier of fact fairly to resolve conflicts in the testimony, to weigh the evidence, **and to draw reasonable inferences from basic facts to ultimate facts.**

Jackson v. Virginia, 443 U.S. 307, 319 (1979) (emphasis added). "When evidence is susceptibleof more than one reasonable inference, questions of fact must be submitted to the jury." State v. Richburg, 250 S.C. 451, 459, 158 S.E.2d 769, 772 (1968). When it comes to testimony appellate courts consider only the existence or non-existence of evidence, not witness

credibility, in reviewing the denial of a directed verdict. State v. Cherry, 348 S.C. 281, 559 S.E.2d 297 (Ct. App. 2001) (affirmed in result 361 S.C. 588, 606 S.E.2d 475).

In order to show 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. Harry, 420 S.C. 290, 803 S.E.2d 272 (2017).

In Harry, our Supreme Court found defendant was guilty of murder under the hand of one is the hand of all theory of accomplice liability was a question for the jury. Harry, 420 S.C. 290, 803 S.E.2d 272 (2017). In the murder prosecution, the State did not present any direct evidence that defendant acted in concert with alleged accomplice who admitted to shooting the victim. Id. Even so, the evidence yielded a reasonable series of inferences consistent with the State's theory, that defendant devised a plan to retrieve, by force if necessary, his television from victim, a known drug dealer whom defendant and his accomplices knew was armed before exiting their vehicles. Id. Accordingly, the Harry Court found the State presented sufficient evidence that defendant was engaged in a scheme to commit an illegal act, the result of which was victim's shooting death. Id.

Here, the State presented some evidence of Appellant's guilt. First, Appellant is seen in the photograph with Hickson, appearing to be in the possession of a firearm, mere hours before the shooting. Additionally, video evidence shows the two Tahoes pulling up together to the parking lot immediately before the shooting occurred and leaving immediately after the shooting. Importantly, by Appellant's own admission, he brought and fired a weapon at the scene of the incident. Evidence indicated that Appellant fired twenty shots in the parking lot. Accordingly, the

State satisfied its burden in producing some evidence that Appellant acted with Hickson by introducing evidence showing he was at the scene and participated in the shooting.

III. The trial court properly instructed the jury because the instruction was a correct statement of law.

The court properly instructed the jury as to hand of one hand of all because the court correctly explained that the jury should find Appellant guilty if the State proved Appellant's guilt beyond a reasonable doubt. Here, the court instructed the jury to consider the law as it was charged by the court. In determining whether the instruction was valid this Court should consider the prior charge as a whole and consider whether that instruction was proper.

Relevant Facts

The court instructed the jury on accomplice liability before deliberation. (Tr. p. 619-21). As part of its instruction, the court told the jury "A person who joins with another to commit an unlawful act is criminally responsible for everything done by the other person which happens as a probable or natural consequence of the acts done in carrying out a common plan or purpose." (Tr. p. 619). It also instructed the jury that the "State must prove beyond a reasonable doubt by competent evidence the theory of the hand of one is the hand of all." (Tr. p. 620).

After deliberating for around ninety minutes the jury asked the court if hand of one hand of all law must be followed. (Tr. p. 631). Appellant requested the court instruct the jury "yes, if the state proves it beyond a reasonable doubt." (Tr. p. 632). The State requested the court instruct the jury that it follow the law presented in the court's instruction. (Tr. p. 632). The court ultimately instructed the jury "you must follow the law as it was charged to you by the court." (Tr. p. 632).

Discussion

The purpose of a trial judge's jury instructions should be to enlighten the jury and aid it in arriving at a correct verdict. State v. Stukes, 416 S.C. 493, 498, 787 S.E.2d 480, 482 (2016). The evidence in a case determines the law which must be charged and every charge of the law must

be reviewed in the light of the evidence. State v. Gates, 269 S.C. 557, 561, 238 S.E.2d 680, 681 (1977). A trial court has a duty to give a requested instruction that is supported by the evidence and correctly states the law applicable to the issues. State v. Lee-Grigg, 374 S.C. 388, 405, 649 S.E.2d 41, 50 (Ct. App. 2007). Court's maintain discretion so long as the charge is accurate and clearly presented. See Am. Future Sys., Inc. v. BBB, 872 A.2d 1202 (2005); Clark v. Cantrell, 339 S.C. 369, 529 S.E.2d 528 (2000) ("An appellate court will not reverse the trial court's decision regarding jury instructions unless the trial court abused its discretion."). An abuse of discretion occurs when the trial court's ruling is based on an error of law or, when grounded in factual conclusions, is without evidentiary support. Fontaine v. Peitz, 291 S.C. 536, 354 S.E.2d 565 (1987).

If several people, in pursuit of a common design to commit an unlawful act, set out together, and each takes the part assigned to or agreed upon by him, if the unlawful act is committed, the act of one is the act of all and all are guilty. State v. Chavis, 277 S.C. 521, 290 S.E.2d 412 (1982). The trial judge does not need to specify that a crime committed by an accomplice must be a "natural and probable consequence" of actions taken in pursuit of the accomplices' common plan when giving "hand of one" charge. State v. Curry, 370 S.C. 674, 636 S.C. 649 (Ct. App. 2006).

Here, the court properly instructed the jury concerning accomplice liability at the conclusion of trial. When examining the instruction given, the earlier charge and particular circumstances of this case should be considered. Lawson v. State, 402 S.E.2d 344, 345 (Ga. Ct. App. 1991). Instructing the jury to consider the earlier charge is appropriate in this matter because the court adequately instructed the jury in the first instance. In fact, the court's

original charge included the language requested by Appellant in his objection. Since the court properly enlightened the jury and aided it in finding the correct verdict the charge was proper. This Court should affirm.

CONCLUSION

For all the foregoing reasons, it is respectfully submitted that the judgment and conviction of the lower court be affirmed.

Respectfully submitted,

ALAN WILSON
Attorney General

ANDREW D. POWELL
Assistant Attorney General

JIMMY A. RICHARDSON
Solicitor, Fifteenth Judicial Circuit

BY: _____
Andrew D. Powell
Bar # 106415

Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211
(803) 734-3727

ATTORNEYS FOR RESPONDENT

November 14, 2025