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SC Court of Appeals

STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHESTER COUNTY
Court of General Sessions
The Honorable Donald B. Hocker, Circuit Court Judge

Appellate Case No. 2024-002039

THE STATE, Respondent,

v.

JAMES JEFFREY BOATWRIGHT, Appellant.

INITIAL BRIEF OF RESPONDENT

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TABLE OF CONTENTS

TABLE OF AUTHORITIES ii

COUNTER-STATEMENT OF ISSUE ON APPEAL 1

STATEMENT OF THE CASE 2

STATEMENT OF FACTS 3

STANDARD OF REVIEW 5

ARGUMENT 6

I. The trial judge properly denied Appellant's directed verdict motion on the charge of first-degree burglary. 6

CONCLUSION 10

TABLE OF AUTHORITIES

Cases

People v. Rossi, 112 Ill.App.2d 208, 250 N.E.2d 528 (1969) 8

Pinckney v. State, 368 S.C. 502, 629 S.E.2d 367 (2006) 7

State v. Bennett, 415 S.C. 232, 781 S.E.2d 352 (2016) 7

State v. Butler, 407 S.C. 376, 755 S.E.2d 457 (2014) 7

State v. Condrey, 349 S.C. 184, 562 S.E.2d 320 (Ct. App. 2002) 5

State v. Curtis, 356 S.C. 622, 591 S.E.2d 600 (2004) 5, 7

State v. Dantonio, 376 S.C. 594, 658 S.E.2d 337 (Ct. App. 2008) 5

State v. Gaster, 349 S.C. 545, 564 S.E.2d 87 (2002) 5

State v. Gracely, 399 S.C. 363, 731 S.E.2d 880 (2012) 5

State v. Haney, 257 S.C. 89, 184 S.E.2d 344 (1971) 7, 8

State v. Meggitt, 398 S.C. 516, 728 S.E.2d 492 (Ct. App. 2012) 6

State v. Parker, 344 S.C. 250, 543 S.E.2d 255 (Ct. App. 2001) 9

State v. Pinckney, 339 S.C. 346, 529 S.E.2d 526 (2000) 5, 7, 8

State v. Pitts, 256 S.C. 420, 182 S.E.2d 738 (1971) 8

State v. Shands, 424 S.C. 106, 817 S.E.2d 524 (2018) 7

Statutes

S.C. Code Ann. § 16-11-311 7

Rules

Rule 19(a), SCRCrimP 7

COUNTER-STATEMENT OF ISSUE ON APPEAL

The trial judge properly denied Appellant's directed verdict motion on the charge of first-degree burglary.

STATEMENT OF THE CASE

A Chester County Grand Jury indicted Appellant in March of 2024 for second-degree burglary. Appellant proceeded to a jury trial November 18, 2024, in front of the Honorable Donald B. Hocker. Prior to the start of Appellant's trial, the State moved to amend the indictment to change the offense from second-degree burglary to first-degree burglary. Appellant consented to the amendment. The jury found Appellant guilty of first-degree burglary. He was sentenced to fifteen years' imprisonment.

STATEMENT OF FACTS

On August 4, 2023, 911 received a call at 6:36 in the morning from a man who identified himself as James Boatwright (Appellant). (Tr. 94, State's Exhibit 1). He stated that he was homeless and had been sleeping in the park when a man and a girl were trying to rob him. (Tr. 91-94, State's Exhibit 1). Deputy Brian Radford was dispatched to Appellant's location in response to this call. (Tr. 236). Radford attempted to locate the men that were allegedly chasing Appellant but did not find anyone in the area.

On August 5, 2023, 911 received another call from Appellant at 4:21 in the morning. (Tr. 88). Appellant never spoke to the dispatcher but can be heard yelling about someone following him and trying to kill him. (State's Exhibit 1). No other person is heard in the phone call. Deputies Kendall Pollard and Caleb Toldson with the Chester County Sheriff's Office were dispatched to Wylie Park in response to Appellant's 911 call. (Tr. 100, 129). They arrived at the park at 4:26 am. (Tr. 101). They did not see any cars, nor did they encounter anyone in the park. (Tr. 102-103, 129-132). After six to seven minutes of searching they left abruptly after they received a call from dispatch regarding a burglary in progress. (Tr. 100-104, 131-133).

At 4:32 am, Diane Simpson (Victim) called 911 to report that someone had broken into her house near Wylie Park. (State's Exhibit 1). She testified that she was asleep in her bed when she heard two or three indistinguishable voices loudly yelling and glass breaking. (Tr. 171-173). She called 911 and hid in her closet until police arrived on scene. (Tr. 172-173).

Deputies Pollard and Tolson arrived at Victim's house at 4:37 am. (Tr. 106, 137). As they were approaching the home, Appellant came out of the front door armed with two kitchen knives. (Tr. 107, 137). Appellant dropped the knives and was immediately apprehended. (Tr. 106-109, 137-139). Pollard and Tolson thoroughly searched Victim's house but no one besides Victim was found inside or outside the property. (Tr. 109-110). Appellant told Pollard that two

men “Junior” and “Leon” were chasing him and that he broke into the home to get away from them. (Tr. 113-115, State’s Exhibit 5).

The crime scene investigator collected a latent print from the inside of the glass storm door and swabs of suspected blood from the inside of the front door frame and the trim of the archway at the entrance to the living room. (Tr. 191). The DNA profile developed from the swabs of blood matched Appellant’s DNA profile. (Tr. 196). The latent print lifted from inside the glass storm door was identified as Appellant’s print. (Tr. 198).

STANDARD OF REVIEW

In an appeal of a ruling involving a challenge to the sufficiency of the evidence in a criminal case, the appellate court must necessarily apply the same standard that should have been applied by the trial judge and view the evidence and all reasonable inferences in the light most favorable to the State. State v. Gracely, 399 S.C. 363, 371-372, 731 S.E.2d 880, 884 (2012). "In reviewing a refusal to grant a directed verdict, we must view the evidence in the light most favorable to the State and determine whether there is any direct or substantial circumstantial evidence that reasonably tends to prove the defendant's guilt or from which his guilt may be logically deduced." State v. Pinckney, 339 S.C. 346, 348, 529 S.E.2d 526, 527 (2000). On a motion for a directed verdict in a criminal case, the trial court is concerned with the existence or non-existence of evidence, not its weight. State v. Curtis, 356 S.C. 622, 633, 591 S.E.2d 600, 605 (2004); State v. Condrey, 349 S.C. 184, 190, 562 S.E.2d 320, 323 (Ct. App. 2002). If the State presents any evidence which reasonably tends to prove the defendant's guilt, or from which the defendant's guilt could be fairly and logically deduced, the case must go to a jury. Id. The appellate court may only reverse the trial judge's denial of a directed verdict motion if there is no evidence supporting the trial judge's ruling or if the ruling is based on an error of law. State v. Gaster, 349 S.C. 545, 555, 564 S.E.2d 87, 92 (2002); State v. Dantonio, 376 S.C. 594, 603, 658 S.E.2d 337, 342 (Ct. App. 2008).

ARGUMENT

I. The trial judge properly denied Appellant's directed verdict motion on the charge of first-degree burglary.

Appellant argues the trial court erred in denying Appellant's motions for directed verdict for first-degree burglary because the State failed to present any direct or substantial circumstantial evidence that Appellant had an intent to commit a crime in the dwelling he entered without consent. Appellant's argument lacks merit because there is circumstantial evidence showing criminal intent by Appellant.

After the State rested, Appellant moved for a directed verdict. (Tr. 253-254). Counsel for Appellant conceded that Appellant did enter into the dwelling without consent; however, she argued there was no evidence Appellant intended to commit a crime inside the dwelling. (Tr. 254-255). The State cited to State v. Meggitt[1] arguing that whether a defendant possessed the requisite intent at the time the crime was committed is typically a question for jury determination because, without a truthful statement of intent by the defendant, proof of intent must be determined by inferences from conduct and, if intent is the only thing that was potentially missing, it was a question for the jury to determine. (Tr. 256). The State further argued that the credibility of the witnesses is for the jury to decide and "evidence that [Appellant] did steal two knives from this house and walk out. That in and of itself is a crime, but further, the—or the jury—excuse me, can further infer what other crimes would have been committed based on his conduct." (Tr. 257). The trial court found there was enough evidence based on the totality of circumstances to send the case to the jury. (Tr. 257).

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[1] State v. Meggitt, 398 S.C. 516, 728 S.E.2d 492 (Ct. App. 2012).

"On appeal from the denial of a directed verdict, this court views the evidence and all reasonable inferences in the light most favorable to the State." State v. Bennett, 415 S.C. 232, 235, 781 S.E.2d 352, 353 (2016) (citing State v. Butler, 407 S.C. 376, 381, 755 S.E.2d 457, 460 (2014)). On a motion for a directed verdict in a criminal case, the trial court is concerned with the existence or non-existence of evidence, not its weight. State v. Curtis, 356 S.C. 622, 633, 591 S.E.2d 600, 605 (2004). See also Rule 19(a), SCRCrimP. If the State presents any evidence which reasonably tends to prove the defendant's guilt, or from which the defendant's guilt could be fairly and logically deduced, the case must go to a jury. Pinckney, 339 S.C. at 349, 529 S.E.2d at 527. The task of the trial court is to simply 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).

"A person is guilty of burglary in the first-degree if the person enters a dwelling without consent and with intent to commit a crime in the dwelling." S.C. Code Ann. § 16-11-311."The only requirement is that there be intent to commit any crime at the time of entry." Pinckney v. State, 368 S.C. 502, 505, 629 S.E.2d 367, 369 (2006). The person's actions after entering the dwelling can be evidence in determining whether the person had the intent to commit a crime at the time of entry. Id.

Intent is defined as the state of mind required for the commission of a crime. State v. Shands, 424 S.C. 106, 131, 817 S.E.2d 524, 537 (2018). "Absent an admission by the defendant, proof of intent necessarily rests on the inference from conduct." State v. Haney, 257 S.C. 89, 91, 184 S.E.2d 344, 345 (1971). In Haney, the defendants broke into a school. The court held evidence of intent to commit a crime was sufficient because the defendants broke into a room where movie projectors and other visual aids were kept. Id. The defendants tried to flee when

police arrived. Id. "In the absence of inconsistent circumstances, proof of unlawful entry into a building which contains personal property that could be the subject or larceny gives rise to an inference that will sustain a conviction of burglary. The inference is grounded in human experience which justifies the assumption that the unlawful entry was not purposeless, and, in the absence of other proof, indicates theft as the most likely purpose." Id. at 92, 184 S.E.2d at 345. (citing People v. Rossi, 112 Ill.App.2d 208, 211-212, 250 N.E.2d 528, 530 (1969)). A defendant's actions after entering the dwelling may be used to determine his intent to commit a crime in the dwelling. State v. Pinckney, 339 S.C. 346, 349, 529 S.E.2d 526, 527 (2000). In Pinckney, the Court of Appeals held that the only evidence in the record of intent was that the respondent entered the house to escape from the people that he believed were after him, but the South Carolina Supreme Court held that the defendant's actions after he entered the house by barricading himself in a bathroom and threatening to kill himself and others was enough for intent to commit a crime. "A motion for directed verdict of acquittal is properly refused where the determination of guilt is dependent upon the credibility of a witness, as this is a question that goes to the weight of the evidence and is clearly a determination by a jury." State v. Pitts, 256 S.C. 420, 427, 182 S.E.2d 738, 742 (1971).

In this case, there was evidence that showed that Appellant did not have permission to be on the property or consent to come inside the dwelling. Indeed, Appellant was only able to get into the residence, which was not his, by breaking the glass, and then went into the kitchen and armed himself with two knives that obviously did not belong to him. The victim called 911 at 4:32 am to report that someone had broken into her house. (Tr. 85). Law enforcement arrived approximately four to five minutes later. (Tr. 106, 107). This left little to no time for Appellant to commit a crime inside the dwelling. The jury can infer Appellant's intent by his conduct once he

entered the dwelling. Larceny involves the taking and carrying away of the goods of another, which must be accomplished against the will or without the consent of the other. State v. Parker, 344 S.C. 250, 543 S.E.2d 255 (Ct. App. 2001). Here, Appellant did in fact arm himself with two kitchen knives and taking knives from Victim's house would be considered larceny. Whether the jury found Appellant's story of being chased and breaking into Victim's house because for protection and because he feared for his life credible is a question for the jury and, therefore, the trial judge did not err in denying Appellant's motion for a directed verdict.

CONCLUSION

For all the foregoing reasons, it is respectfully submitted that the judgments and convictions of the lower court should be affirmed.

Respectfully submitted,

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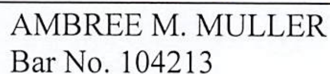

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