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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM GREENVILLE COUNTY
Court of General Sessions

Honorable Alex Kinlaw Jr., Circuit Court Judge

Appellate Case No. 2024-00963

THE STATE,

Respondent,

v.

TYRIESE N. ROBINSON,

Appellant.

INITIAL BRIEF OF RESPONDENT

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STATEMENT OF ISSUE ON APPEAL

Appellant's Issue Statement

Whether the court abused its discretion by refusing to direct a verdict of acquittal where the state failed to present any direct or substantial circumstantial evidence that appellant shot and killed the victim or was aiding and abetting another person in the victim's shooting since appellant was entitled to a directed verdict under these circumstances?

Respondent's Counterstatement

Whether the trial court correctly denied Appellant's motion for directed verdict, as there was substantial circumstantial evidence tending to prove Appellant murdered Victim?

STATEMENT OF THE CASE

A Greenville County grand jury indicted Appellant in December 2021 for the murder of Jermaine Alan Gipson, Jr., (2021-GS-23-8418), and the possession of a weapon during the commission of a violent crime, (2021-GS-23-8420).¹ (R. p. *). A four-day jury trial was held before the Honorable Alex Kinlaw Jr. on May 28 through May 31, 2024. Appellant was represented by Justin Martin Kata, Esquire. The State was represented by assistant solicitors William Ryan Holloway and Edward W. Miller. (Tr. 1). At the conclusion of the trial, the jury found Appellant guilty on both counts and Judge Kinlaw sentenced him to forty-five years imprisonment for murder and a five-year consecutive sentence for possession of a weapon during the commission of a violent crime. (Tr. 453-457).²

This appeal followed.

¹ After jury selection and without objection by the defense, the State amended the firearm charge indictment to strike out the type of firearm used. (Tr. 39-40).

² Appellant was also indicted for criminal conspiracy and possession of a weapon by a person convicted of a violent felony; however, the State elected to go to trial on only the indictments for murder and possession of a weapon during the commission of a violent crime. (Tr. 11). The Greenville County Public Index shows both of the remaining charges were dismissed on May 31, 2024, the date of Appellant's conviction and sentencing on the trial charges. See <https://www2.greenvillecounty.org/SCJD/PublicIndex/PISearch.aspx> (2020A2330209511 and 2020A2330209513) (last checked Nov. 19, 2025).

STATEMENT OF FACTS

On September 26, 2020, Jermaine Alan Gipson, Jr. (“Victim”) was shot and killed outside the Highland Square Apartments. Appellant’s image, holding his gun, was captured on the apartment complex cameras at the time that he shot toward Victim. Victim died quickly as a result of two bullets hitting arteries causing major loss of blood. (Tr. 143-145). In addition to seeing the video with Appellant’s image as identified by those who knew him, the jury heard the following evidence:

Appellant was dating Victim’s sister, Annette (a/k/a “Jay”). (Tr. 163, 196). Victim’s mother Eva Gipson testified that Annette was estranged from the family for reasons that included specifically a belief that Victim had allegedly cashed a COVID stimulus check that belonged to her. (Tr. 166-167). Ms. Gipson testified that Annette and Appellant would come banging on her door unannounced to argue with Victim about the check. (Tr. 167). She also testified that on the day of the shooting, when she was leaving out her door and passed Appellant, he had a smirk on his face and was looking at her “like she was crazy.” (Tr. 175). Ms. Gipson identified Appellant from a still-photograph taken from the surveillance footage where Appellant was standing in the breezeway of building H with a red shirt on. (State’s Exhibit 122, Tr. 182).

Jermika Taylor (formerly Jermika Gipson), another sister to Victim, testified that Appellant had made threats to her family and that Appellant made a live Facebook video, with sister Annette, where he said he was going to shoot Victim’s mother and Victim’s daughter in the face. (Tr. 197). Victim had called her, upset, describing the videos and noting “AD” had been making the threats, with “AD” being Appellant’s nickname. (Tr. 197). Those threats had been made at the end of the summer before the September murder. (Tr. 197-198). Jermika Taylor also identified Appellant from a still-photograph from the surveillance footage. (State’s Exhibit 123, Tr. 205).

A witness to the shooting, Felica Mayes, lived in the F building across from the H building. (Tr. 271). Mayes saw a black man in a red shirt, average height and a short haircut shooting from the

breezeway of the H building towards the G building. (Tr. 273-274). Mayes testified that she had seen this man in the red shirt around previously and that he lived in the H building with his sister. (Tr. 274).

Investigator Garrett testified regarding the contents of a 911 call placed right after the shooting. The 911 caller witnessed two individuals running from the Highland Square Apartments, and they each appeared to be concealing something as they fled. He described the two individuals to be two black males, one in a red shirt and black pants and one in a black hoodie and blue jeans. (Tr. 321). The 911 caller provided the license plate of the vehicle the suspects used to flee. Investigator Garrett ran this plate and learned that Yolanda Sondra was the registered owner. Yolana Sondra is Appellant's sister. (Tr. 322). Appellant also had another sister who lived on the bottom floor of Building H. (Tr. 331). Surveillance video shows Appellant, with a red shirt on, standing in front of the door of his sister's apartment building earlier in the day before the shooting occurred. (Tr. 334). Appellant's sister is also shown standing outside of building H. (State's Exhibit 165, Tr. 339).

The forensic evidence technician, Darbi Jackson, testified that the projectile that struck the victim is estimated to have been fired from the breezeway of Building H. (Tr. 238). A surveillance video from the apartments captured Appellant in a red shirt and a man in a black shirt in the breezeway of building H firing firearms in the direction of the parking lot. (Tr. 332, 333, States Exhibit 1).

Appellant fled and was located in Suffolk Conty, New York six days after the shooting. (Tr. 346). He was with Annette. (Tr. 346).

STANDARD OF REVIEW

“In reviewing a motion for directed verdict, the trial judge is concerned with the existence of the evidence, not with its weight.” State v. Walker, 349 S.C. 49, 53, 562 S.E.2d 313, 315 (2002) (citing State v. Mitchell, 341 S.C. 406, 409, 535 S.E.2d 126, 127 (2000)). “On appeal from the denial of a directed verdict, an appellate court must view the evidence in the light most favorable to the State.” Id. (citing State v. Burdette, 335 S.C. 34, 46, 515 S.E.2d 525, 531 (1999)). “[I]f there is any direct or substantial circumstantial evidence which reasonably tends to prove the guilt of the accused or from which guilt may be fairly and logically deduced, refusal by the trial judge to direct a verdict is not error.” State v. Long, 325 S.C. 59, 62, 480 S.E. 2d 62, 63 (1997). “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.” State v. Arnold, 361 S.C. 386, 389, 605 S.E.2d 529, 531 (2004).

ARGUMENT

The trial court correctly denied Appellant's motion for directed verdict, as there was substantial circumstantial evidence tending to prove Appellant murdered Victim.

Appellant contends the court erred in denying his directed verdict motion. In particular he claims there is no eyewitness testimony, and the video footage from the security cameras is "partially blurry and inconclusive." (Brief of Appellant, p. 4). Yet, there was witness testimony of the shooting of the weapon, and Appellant's assertion that the video was "inconclusive" is odd considering the plain ability to identify the Appellant in multiple ways from the image captured. At any rate, pieces of evidence are not viewed in isolation but in the collective. State v. Rogers, 405 S.C. 554, 567, 748 S.E.2d 265, 272 (Ct. App. 2013) ("Circumstantial evidence ... gains its strength from its combination with other evidence, and all the circumstantial evidence presented in a case must be considered together to determine whether it is sufficient to submit to the jury."). When the evidence presented at trial is viewed in the light most favorable to the State, the court's finding that substantial circumstantial evidence was presented from which a jury could find Appellant guilty beyond a reasonable doubt is amply supported.

The Directed Verdict Motion:

Defense counsel moved for a directed verdict alleging that the State had not "present[ed] any direct or circumstantial evidence that goes towards the identity of Mr. Robinson as being the person that committed the crime." (Tr. 367). In response, the State noted the abundance of evidence, that if credited, would support identity, including: the location of the shooter near Building H; the defendant's connection to the Victim's sister; evidence supporting motive; the connection to Appellant's sister in the building; and the very fact that Appellant was there according to the video evidence, "within a few feet of the doorway to [his] sister's apartment, in clothes matching the description of the shooter as related by a witness, Ms. Mayes. (Tr. 368). In denying the motion, the

court found: “I think there’s enough evidence in terms of circumstantial or the record to be submitted to the jury for the jury to make that determination, so I’m going to go ahead and deny your motion at this time.” (Tr. 368-369).

Discussion:

The only issue in this case was identity, and there was an abundance of evidence, if believed (as it most surely was by the jury given the verdict), that supported Appellant fired shots at the Victim. The most inescapable is Appellant’s own image shooting his gun in the Victim’s direction as captured in real time and identified by people who knew him. Thus, there was sufficient evidence to send the case to the jury.

“When reviewing a denial of a directed verdict, this Court views the evidence and all reasonable inferences in the light most favorable to the state.” State v. Weston, 367 S.C. 279, 292, 625 S.E.2d 641, 648 (2006). Both the trial court and the reviewing court focus on the existence of evidence, not its weight. See Rogers, 405 S.C. at 563, 748 S.E.2d at 270 (“If there is any direct evidence, or if there is substantial circumstantial evidence, that reasonably tends to prove the defendant’s guilt, we must find the trial court properly submitted the case to the jury.”). Circumstantial evidence is not somehow inferior to direct evidence. See State v. Grippon, 327 S.C. 79, 83-84, 489 S.E.2d 462, 464 (1997). And not “all circumstances” must be consistent; rather, “[i]t should be left to the jury—aided by arguments of the lawyers—to determine whether a conflict between circumstances is sufficiently significant to give rise to reasonable doubt.” State v. Herndon, 430 S.C. 367, 369, 845 S.E.2d 499, 500 n. 1 (2020) (modifying State v. Logan, 405 S.C. 83, 747 S.E.2d 444 (2013)). To be clear, though, “the lens through which a court considers circumstantial evidence when ruling on a directed verdict motion is distinct from the analysis performed by the jury” with the trial judge assessing only “the existence or non-existence of evidence from which a jury could reasonably infer guilt.” State v. Bennett, 415 S.C. 232, 236–37, 781 S.E.2d 352, 354

(2016). Specifically, for a directed verdict motion consideration, “the court must determine whether the evidence presented is sufficient to allow a reasonable juror to find the defendant guilty beyond a reasonable doubt.” Id., at 237, 781 S.E.2d at 354. The evidence shown in the record here meets that broad test and the case was correctly submitted.

Appellant argues, however, that the case was not correctly submitted because the video and stills from that video were not “straightforward evidence, much less eyewitness evidence” that identified Appellant. (Brief of Appellant, p. 14). That is merely a suggestion for a different kind of evidence, but the law permits proof by circumstantial evidence which we have here. Appellant fails to argue why the link between video and identification, as expressed by the witnesses, somehow is insufficient “to allow a reasonable juror to find the defendant guilty beyond a reasonable doubt.” Bennett, at 237, 781 S.E.2d at 354. Moreover, the identification evidence before the court was not so limited. The evidence did indeed include the video and stills from the video used in identification, but that identification was also corroborated by clothing and stature, (see Tr. 212-213), and Appellant’s connection to the building and the getaway car (his sister’s car), (see Tr. 321-322). Further, the identification is strengthened by evidence showing motive (though not an element of murder) such as presence with Annette during confrontation the family particularly accusing Victim of taking her money, (Tr. 167); Appellant’s own prior threats to the family, (Tr. 197); and Appellant’s immediate flight not just from the scene, but from the state, (Tr. 346). See State v. Pagan, 369 S.C. 201, 208, 631 S.E.2d 262, 266 (2006) (“Flight from prosecution is admissible as [evidence of] guilt.”). Notably, he was with Annette when located in New York. (Tr. 346). Appellant’s position that the identification evidence is speculative does not square with the facts.

Moreover, the video is not as unhelpful as Appellant appears to argue. Eva Gipson and Jermika Gipson identified Appellant from a picture of him from the footage where he is standing in the breezeway of building H with a red shirt on. (Tr. 182, 205; State’s Exhibits 122 State’s Exhibit

123).³ The video and the stills from the video show Appellant, with a red shirt on, standing in front of the door of his sister's apartment building earlier in the day the shooting occurred. (Tr. 334). Notably, Appellant's sister is also shown standing outside of building H. (State's Exhibit #165, Tr. 339).

Further, Appellant's assertion there is no eyewitness testimony is incorrect because there was an eyewitness—an eyewitness to the shooting, Felicia Mayes, who lived across from the H building, testified that she saw a black man in a red shirt, average height and a short haircut shooting from the breezeway of the H building towards the G building. (Tr. 273-274). Mayes testified that she had seen this man in the red shirt around and that he lived in the H building with his sister. (Tr. 274). The eyewitness's description of the shooter matched Appellant's identity as well as the fact that Appellant lived with his sister in the H building. Although the witness did not know Appellant's name, that does not diminish the fact that she witnessed him shoot the Victim. She described Appellant's appearance and said that she knew him and knew that he stayed with his sister in Building H. Therefore, contrary to Appellant's argument, there *was* an eyewitness who witnessed Appellant shoot the Victim.

In addition, the video itself was introduced. The images show a man in a red shirt and a man in a black shirt in the breezeway of building H firing firearms in the direction of the parking lot. (Tr. 332, 333, States Exhibit 1). Although the surveillance video quality is not crystal clear, it was of high enough quality for Gipson and Taylor to identify Appellant. (Tr. 182, 205).

³ Appellant concedes that Gipson identified Appellant from State's Exhibits 122 and 123. (Brief of Appellant, p. 9). These are still shots from the surveillance video which show the two men shooting and thus Appellant has understated the evidence. It is certainly evidence of guilt that the jury was entitled to judge for themselves (especially in conjunction with Ms. Mayes' testimony).

These identifications are further bolstered by substantial circumstantial evidence including flight, with Annette, as set out above. None of the cases Appellant relies upon demonstrate that a defendant was entitled to a directed verdict despite the existence of an eyewitness or surveillance video of the crime committed.⁴ Here, *both* were presented to the jury.

The evidence presented far exceeds speculation, and it is far from the “precious little” other than perhaps simply being present as Appellant contends. (Brief of Appellant, p. 21). Based on the evidence presented, there was a sound basis for the jury to find identity was proven beyond a reasonable doubt. Bennett, *supra*. The ruling of the trial court was correct, and Appellant’s conviction and sentence should be affirmed.

⁴ To the extent Appellant includes an argument about hand of one, hand of all in his directed verdict, (see Brief of Appellant, p. 16), such an argument was not raised in the directed verdict argument below; thus, is not preserved for review here. State v. Kennerly, 331 S.C. 442, 455, 503 S.E.2d 214, 221 (Ct. App. 1998) (“In reviewing a denial of directed verdict, issues not raised to the trial court in support of the directed verdict motion are not preserved for appellate review.”)

CONCLUSION

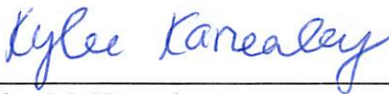
Based on the foregoing, the State requests that this Court affirm Appellant's convictions for murder and possession of a weapon during the commission of a violent crime, as well as his associated sentences.

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