

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

RECEIVED
Nov 26 2025
SC Court of Appeals

Appeal from Horry County

Honorable George M. McFaddin, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

JESSIE SALCEDO BUENO,

APPELLANT

APPELLATE CASE NO. 2025-000341

ANDERS BRIEF OF APPELLANT

JESSICA M. SAXON
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
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STATEMENT OF ISSUE ON APPEAL

Whether the trial court erred in failing to direct a verdict of acquittal where the state failed to present direct or substantial circumstantial evidence that Appellant had possession and knowledge of the marijuana seized from his girlfriend's home?

STATEMENT OF THE CASE

Appellant was indicted during the January 2023 term of the Horry County grand jury for trafficking marijuana 10–100 pounds. R. 171. The state, represented by David Beamer and Joshua D. Holford, called the case to trial on February 10, 2025, before the Honorable George M. McFaddin, Jr., and a jury. Appellant was represented by Clay Pinkerton. R. 1. On February 11, 2025, the jury found Appellant guilty as indicted. R. 157, ll. 16-23. Judge McFaddin sentenced Appellant to three years' imprisonment with credit for one day served pre-trial. R. 167, ll. 1-3.

STANDARD OF REVIEW

“When ruling on a motion for a directed verdict, the trial court is concerned with the existence or nonexistence of evidence, not its weight.” State v. Passio, 433 S.C. 666, 673, 861 S.E.2d 785, 789 (Ct. App. 2021) *quoting* State v. Hernandez, 382 S.C. 620, 624, 677 S.E.2d 603, 605 (2009). “A defendant is entitled to a directed verdict when the state fails to produce evidence of the offense charged.” Id. “If there is any direct evidence or substantial circumstantial evidence reasonably tending to prove the guilt of the accused, the Court must find the case was properly submitted to the jury.” State v. Passio, 433 S.C. 666, 673, 861 S.E.2d 785, 789 (Ct. App. 2021) *quoting* State v. Frazier, 386 S.C. 526, 531, 689 S.E.2d 610, 613 (2010). “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.” Id.

ARGUMENT

The trial court erred in failing to direct a verdict of acquittal where the state failed to present direct or substantial circumstantial evidence that Appellant had possession and knowledge of the marijuana seized from his girlfriend's home.

Relevant Facts

On September 23, 2022, Agent Dylan Oates with the South Carolina Law Enforcement Division (SLED) was conducting parcel interdiction at the FedEx facility at 1600 Stockholder Avenue in Myrtle Beach, SC, when he noticed a suspicious box with excessively taped seams. The box was shipped from a third party in Washington¹ to a partial name on Edgewood Circle in Conway, SC. The partial name on the box had no relation to the recipient address. Oates presented a five-box array to his K-9 Rex. Rex alerted on the box Oates had deemed suspicious. A search warrant for the box was obtained and executed. Oates discovered seventeen individually vacuum-sealed packages containing a green plant material believed to be marijuana. Each package weight approximately one pound. Oates contacted members of the Horry County Police Department (HCPD) to take custody of the box and continue the investigation. R. 34, l. 21 – 35, l. 6; R. 36, l. 16 – 38, l. 24; R. 39, ll. 5-13; R. 40, l. 7 – 41, l. 20; R. 42, l. 20 – 43, l. 9; R. 45, l. 7 – 46, l. 21.

Members of the HCPD organized a controlled delivery of the box to the recipient address. Surveillance began on the address, roughly one-to-two hours before the box was delivered. During the surveillance, HCPD officers saw a vehicle driven by a female come to the residence as well as an individual leaving through the back door. After the box was delivered to the back porch, officers watched as an individual they believed to be Appellant retrieved it from

¹ Washington is considered a “source state” – a place from which legal marijuana is bought and shipped to another state where the marijuana is illegal. R. 38, ll. 1-7.

the porch and took it into the house. R. 54, ll. 14-20; R. 57, l. 15 – 58, l. 8; R. 75, l. 10 – 76, l. 12; R. 79, l. 17 – 80, l. 19.

After approximately fifteen minutes, HCPD officers moved to execute the search warrant for the address where the box was delivered. Entry was eventually made through a large glass window. Officers detained a second man who was on the sofa in the residence without incident. Appellant was detained after he was tased for failing to follow commands. Appellant was described as argumentative and extremely sweaty with fibers “like insulation or something” all over his black tank top. During a search of the attic, officers found the box² that had been delivered along with sixteen of the seventeen suspected marijuana packages hidden behind the insulation. R. 58, l. 9 – 60, l. 13; R. 66, l. 1 – 67, l. 21. R. 76, l. 16 – 77, l. 12; R. 87, ll. 3-21.

Law enforcement determined Appellant lived at the target residence based on several law enforcement databases that showed he was associated with the address.³ They found mail addressed to Appellant’s girlfriend and another individual named Eric Alston but did not find any mail addressed to Appellant. R. 90, l. 20 – 91, l. 10; R. 93, l. 6 – 94, l. 10. Subsequent testing of eleven of the packages confirmed marijuana weighing at approximately 10.74 pounds. Because the minimum statutory threshold had been met, and the remaining quantity of plant material would not equal over 100 pounds, the state did not test the remaining packages of suspected marijuana. R. 119, ll. 13 – 120, l. 7.

² Officers also found another box in the home with a similar shipping label from Washington that had been mailed to an “Ed Miriam” in July of 2022. R. 85, l. 25 – 86, l. 4; R. 89, ll. 3-12.

³ Officers also determined that Appellant was associated with an address in Yakima, Washington.

Discussion

“The circuit court should not refuse to grant the directed verdict motion when the evidence merely raises a suspicion that the accused is guilty. Suspicion implies a belief or opinion as to guilt based upon facts or circumstance which do not amount to proof.” State v. Cherry, 361 S.C. 588, 594, 606 S.E.2d 475, 478 (2004). “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. 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. State v. Hepburn, 406 S.C. 416, 429, 753 S.E.2d 402, 409 (2013).

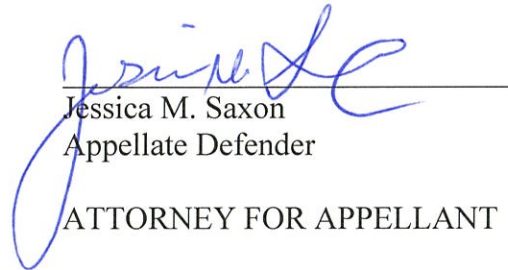
Our Supreme Court “has repeatedly affirmed the principle that when the State fails to produce substantial circumstantial evidence that the defendant committed a particular crime, the defendant is entitled to a directed verdict.” State v. Odems, 395 S.C. 582, 720 S.E.2d 48 (2011). In Odems, this Court cited State v. Bostick, 392 S.C. 134, 708 S.E.2d 774 (2011), and State v. Lollis, 343 S.C. 580, 541 S.E.2d 254 (2001), as “jurisprudence . . . instructive in explaining the proof required in cases built wholly on circumstantial evidence.” Id. Specifically, the trial court “should grant a directed verdict motion when the evidence merely raises a suspicion that the

accused is guilty.” Odems, 395 S.C. at 586, 720 S.E.2d at 50 (citation omitted). “Suspicion implies a belief or opinion as to guilt based upon facts or circumstances which do not amount to proof.” See State v. Buckmon, 347 S.C. 316, 322, 555 S.E.2d 402, 404-05 (2001) (internal quotation omitted).

To convict an individual of trafficking, the state must prove possession – either actual or constructive – and knowledge of the narcotics. The state failed to prove Appellant possessed the marijuana in this case. The state presented evidence that someone they believed to be Appellant took the box into the house shortly after it was delivered. The box was not addressed to Appellant. The house where the box was delivered was not owned by Appellant. There was nothing connecting Appellant to that house, but for the fact he was there when the box was delivered. That Appellant briefly possessed the box while he brought it into the house is not sufficient to prove possession or knowledge. The fact that Appellant was sweaty and had “fibers” on his shirt does nothing more than raise a suspicion of Appellant’s guilt. The trial court should have directed a verdict of acquittal, as the state failed to present direct or substantial circumstantial evidence of Appellant’s possession and knowledge of the marijuana.

CONCLUSION

Based on the above argument, Appellant respectfully requests this Court reverse his conviction and direct a verdict of not guilty on the charge of trafficking marijuana.


Jessica M. Saxon
Appellate Defender
ATTORNEY FOR APPELLANT

This 26th day of November, 2025.

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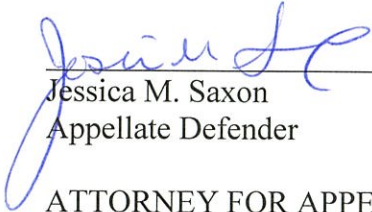
PETITION TO BE RELIEVED AS COUNSEL

Counsel for Jessie Bueno states:

1. She is Appellate Defender for the South Carolina Office of Appellate Defense and was appointed to represent appellant.
2. She has reviewed the record of appellant's trial before Judge George M. McFaddin, which was held on Feb. 11, 2025, and, in her opinion, the appeal is without legal merit sufficient to warrant a new trial.
3. She has, pursuant to Anders v. California, 386 U.S. 738, 87 S. Ct. 1396 (1967), briefed an arguable legal issue which arose during the trial.

Wherefore, she asks the Court to relieve her as counsel for Jessie Bueno.

Respectfully Submitted,



Jessica M. Saxon
Appellate Defender

ATTORNEY FOR APPELLANT

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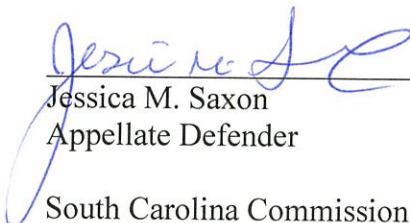
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**DESIGNATION OF MATTER TO BE
INCLUDED IN RECORD ON APPEAL**

Appellant proposes the following be included in the Record on Appeal:

- (1) True-billed indictment: 2023-GS-26-00340
- (2) Trial Transcript dated February 10 and 11, 2025

I certify that this designation contains no matter which is irrelevant to this appeal.



Jessica M. Saxon
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This 26th day of November, 2025.

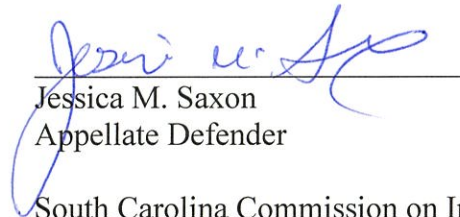
CERTIFICATE OF COUNSEL

The undersigned certifies that to the best of my ability this Anders 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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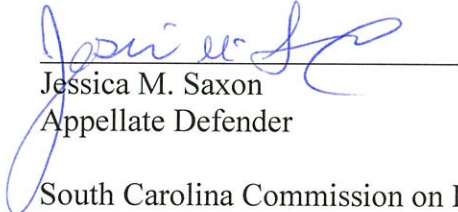
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APPELLATE CASE NO. 2025-000341

CERTIFICATE OF SERVICE

Pursuant to Rule 262(a)(3) and Rule 262(c)(3), SCACR, the undersigned hereby certifies a true copy of the Anders Brief of Appellant and Designation of Matter in the above-referenced case has been served upon Mark Farthing, Esquire, at the primary e-mail address listed in the Attorney Information System (AIS); and on Jessie Bueno, #396496, at Evans Correctional Institution, 610 Hwy. 9 West, Bennettsville, SC 29512, this 26th day of November, 2025.



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