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SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Hampton County

Honorable Carmen T. Mullen, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

TRAMPAS PRATER,

APPELLANT

APPELLATE CASE NO. 2024-002102

INITIAL BRIEF OF APPELLANT

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STATEMENT OF ISSUE ON APPEAL

Did the trial court err denying Appellant's motion for a directed verdict where there was insubstantial circumstantial evidence that Appellant shot and killed Decedent?

STATEMENT OF THE CASE

On November 30, 2023, a Hampton County grand jury indicted Appellant for murder and for possession of a weapon during the commission of a violent crime. Indictments. On December 2, 2024, Appellant's case was called to trial before the Honorable Carmen T. Mullen, and a jury.[1] Tr. 1. Chad Shelton represented Appellant. Tr. 1. Reed Evans prosecuted for the state. Tr. 1.

On December 4, 2024, the jury found Appellant guilty as indicted. Tr. 481, ll. 7-17. Judge Mullen sentenced Appellant to concurrent terms of life for murder and five years for possession of a weapon during the commission of a violent crime. Tr. 490, l. 6—491, l. 10.

This appeal follows.

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[1] The trial transcript is dated incorrectly as December 2-4, 2025.

STANDARD OF REVIEW

"[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); *see Hepburn,* 406 S.C. at 429, 753 S.E.2d at 408 (2013) ("In cases where the State has failed to present evidence of the offense charged, a criminal defendant is entitled to a directed verdict.").

Further, when the State relies exclusively on circumstantial evidence and a motion for a directed verdict is made, the trial judge is concerned with the existence or non-existence of evidence, not with its weight. *State v. Cherry*, 361 S.C. 588, 594, 606 S.E.2d 475, 478 (2004). The trial judge "should not refuse to grant the directed verdict motion when the evidence merely raises a suspicion that the accused is guilty." *Id.* "'Suspicion' implies a belief or opinion as to guilt based upon facts or circumstances which do not amount to proof." *Id.*

"However, a trial judge is not required to find that the evidence infers guilt to the exclusion of any other reasonable hypothesis." *State v. Ballenger*, 322 S.C. 196, 199, 470 S.E.2d 851, 853 (1996). "On appeal from the denial of a directed verdict, [the] Court views the evidence and all reasonable inferences in the light most favorable to the State." *State v. Butler*, 407 S.C. 376, 381, 755 S.E.2d 457, 460 (2014).

ARGUMENT

The trial court erred denying Appellant's motion for a directed verdict where there was insubstantial circumstantial evidence that Appellant shot and killed Decedent.

Relevant facts

On May 26, 2022, Stuart Miller was shot and left for dead on Josh Plummer's property in Hampton County. Tr. 124, l. 17—125, l. 2; 129, ll. 19-23; 238, ll. 6-23; 296, ll. 2-11. Several individuals were present when Miller was shot and none called for help. Tr. 197, ll. 1-8; 247, ll. 2-10; 227—230; 287, ll. 1-15; 296, ll. 12-17; 359, ll. 1-7. Instead, everyone fled. Tr. 127, ll. 11-21; 245, ll. 1-9; 294, ll. 1-7; 296, ll. 2-11; 355, ll. 4-17. Miller's body was discovered by a neighbor who called 911. Tr. 117, l. 16—118, l. 7. Days later witnesses were found and interviewed by law enforcement as to what occurred on Mr. Plummer's property. Tr. 243, ll. 13-17; 296, ll. 14-25; 359, ll. 8-15.

Daniel Boone testified he was with Appellant, Stuart Miller, and Hunter Plummer the night before Miller was killed. Tr. 178, ll. 11-16; 183, ll. 5-23. He stated Miller and Appellant had a disagreement. Boone was adamant that it was a verbal altercation, and it did not get physical. Boone said the two men made up after the misunderstanding and all was well. Tr. 178, l. 18—179, l. 24; 180, l. 23—181, l. 13. Boone testified that to his knowledge Miller and Appellant were not together the following day, the day Miller was killed. 190, ll. 2-17.

Josh Plummer rented and lived on the property where Stuart Miller was killed. His son, Hunter, stayed with him on the Varnville property. Tr. 192, ll. 8-23. Plummer testified that on the morning of May 26, 2022, there were people outside his home. Tr. 196, ll. 18-25. He identified the people as his son, Hunter, Stuart Miller, Cleveland Maxwell, and a man called Rico. Tr. 197, ll. 1-8. He left in the morning and was not present when Miller was shot. Tr.

199, ll. 2-15. Plummer said Appellant was not on the property when he left for the day. Tr. 198, ll. 20-25.

Plummer's son, Hunter Plummer, also testified regarding the events of May 26, 2022. Admittedly, his memory was not great because he was using methamphetamine at the time. Tr. 209—264; 221, ll. 4-20; 243, ll. 16-21; 246, ll. 18-24. Hunter testified he was at Daniel Boone's home the evening before along with Appellant and Stuart Miller. Tr. 218, ll. 8-23. Contrary to Daniel Boone's testimony, Hunter contended the argument between Appellant and Miller was a "fist fight." Tr. 219, ll. 1-13. However, he agreed they made up and all seemed well. Tr. 219, ll. 15-17; 220, ll. 8-15.

Hunter testified that on the day Miller was shot and killed, the individuals who were present were Dean Jarrell, Jesse Hadwin, Rico, Johney Breadon, Stuart Miller, and Appellant. Tr. 227—230. He stated his girlfriend at the time, Kaisee Gibson, arrived right before Miller was shot. Tr. 233, ll. 18-19; 237, ll. 11-17.

Hunter did not see who shot Miller. Tr. 235, ll. 21-24. Hunter did not see Appellant with a gun the day Miller was shot. Tr. 243, ll. 5-7; 244, ll. 3-24. Hunter claimed he had seen Appellant with a shotgun in the past. Tr. 243, ll. 9-12. Hunter stated after Miller was shot, he went to see if Miller was breathing. Miller appeared not to be breathing, and Hunter got in a truck with Dean Jarrell and left Miller laying on the ground. Tr. 238, ll. 5-23; 245, ll. 1-24. Hunter did not speak with police until June 2; he did not recall the interview because he was "high." Tr. 243, ll. 13-21.

Johney Breadon, another witness to the murder of Miller, testified for the state. Tr. 278—313. Breadon testified that on May 26, he went to the Plummer property to help tow a truck. Tr. 282, ll. 2-22. He claimed the other persons at the property were Kaisee Gibson, Dean

Jarrell, Appellant, Stuart Miller, Hunger, and Jesse Hadwin. Contrary to both the Plummers' testimonies, Breadon did not mention a man called Rico. Tr. 287, ll. 1-15. Breadon did not see who shot Miller. Tr. 292, ll. 17-23. However, he alleged twenty or thirty minutes before Miller was shot, he heard Appellant announce he was going to shoot Miller. Breadon also claimed, he saw a pistol in Appellant's hands that day. Tr. 290, ll. 6-12; 291, ll. 2-12; 295, ll. 2-14. Breadon fled after the shooting. Tr. 294, ll. 1-7. He did not call the police; he simply went home. Tr. 296, ll. 5-19.

During cross-examination, Breadon denied he told police he felt uncomfortable at the Plummer property. Tr. 305, ll. 16-25. Breadon acknowledged he told police that Hunter would go on "rampage[s]" and had issues. Tr. 306, ll. 3-22. On re-direct Breadon stated, "I didn't see exactly who pulled the trigger. My heart says who I seen with a gun prior to the shooting." Tr. 311, ll. 22-24.

Dean Jarrell, a cousin of Josh and Hunter Plummer, testified for the state about the murder of Stuart Miller. Tr. 345—380. Jarrell testified he was going to the Plummer property to collect some of his tools on the day Miller was killed. Tr. 348, l. 10—349, l. 15. He stated as he was leaving, he heard a gunshot but did not see anyone fire a gun. Jarrell said he saw Miller spitting up blood and he "freaked out" "jumped in [his] truck and left." Tr. 355, ll. 4-17. He stated he took Jesse Hadwin and Hunter with him. Tr. 355, ll. 19-23. Jarrell alleged he saw Appellant with a pistol after Miller was shot. Tr. 357, ll. 1-9.

The mother of Hunter's young child, Kaisee Gibson, testified for the state. Tr. 381—416. Like all the other witnesses Gibson did not see the shooting. However, Gibson claimed that after the gunshot she saw Appellant standing, arm out, a gun in his hand. Tr. 397, l. 5—398, l. 4. Gibson testified that after Miller was shot Jesse Hadwin and Hunter got in her car and they left.

Tr. 398, ll. 18-21.

On cross-examination Gibson admitted Hunter hit her with a pistol. Tr. 402, ll. 12-22. She also agreed Appellant was not known to be violent and she had never before seen him with a gun. Tr. 403, ll. 18-22; 404, ll. 1-16.

At the conclusion of the state's case, defense counsel moved for a directed verdict where there was no testimony, other than Gibson's, which alleged Appellant murdered Miller. Tr. 418, ll. 2-8. The court denied the motion. Tr. 418, ll. 15-25.

Discussion

Appellant was tried and convicted of murder in a case where there was no physical evidence tying him to the scene and none of the witnesses testified they saw him shoot and kill Stuart Miller. The trial court erred in denying Appellants' motion for a directed verdict where the state presented insufficient circumstantial evidence.

In *State v. Mitchell*, 341 S.C. 134, 535 S.E.2d 126 (2000), the South Carolina Supreme Court held the lower court erred in failing to direct a verdict where the only evidence presented against defendant was his fingerprint at the scene of the burglary. Similarly, in *State v. Lollis*, 343 S.C. 580, 541 S.E.2d 254 (2001), the South Carolina Supreme Court directed a verdict of acquittal in defendant's favor where the state presented no direct evidence that defendant was involved in setting fire to his home. The circumstantial evidence against defendant was that his wife admitted to the arson, defendant had placed valuables in storage prior to the fire, defendant possessed a key to the storage unit, and defendant allegedly had financial troubles. In that case the Court found the evidence was insufficient. *Lollis*, at 585, 541 S.E.2d at 257.

In *State v. Martin*, 340 S.C. 597, 533 S.E.2d 572 (2000), the South Carolina Supreme Court directed a verdict of acquittal in defendant's favor where the state failed to meet the "any

substantial evidence" standard. In that case the state presented evidence that a car resembling the one defendant was driving was seen parked at the victim's apartment complex on the night of the murder. *Martin*, at 600, 533 S.E.2d at 573. The state also presented evidence defendant and co-defendant were late picking up defendant's girlfriend from work and when his girlfriend asked why they were late defendant replied, "some shit happened" and co-defendant added "somebody may have died tonight." *Id.*

In *State v. Odems*, 395 S.C 582, 720 S.E.2d 48 (2012), the South Carolina Supreme Court held defendant was entitled to a directed verdict based upon a lack of substantial circumstantial evidence that defendant was involved in the burglary. Although defendant was in a car with other individuals who admittedly burglarized a home, the state failed to provide substantial circumstantial evidence that defendant was present during the home invasion. The witness who saw individuals at the home claimed she saw two, not three as were found in the car. *Odems*, at 584, 720 S.E.2d at 49. Fingerprints collected from the stolen goods did not match defendant's but matched the other individuals in the car. *Id.* at 588, 720 S.E.2d at 51. One of the individuals who admitted his involvement claimed defendant was picked up after the burglary at a gas station. *Id.*

In *State v. Bostick*, 392 S.C. 134, 141, 708 S.E.2d 774, 778 (2011), the South Carolina Supreme Court held the state failed to present substantial circumstantial evidence of defendant's guilt. Rather, the state's evidence could produce only a suspicion of defendant's guilt. *Id.* Although the police found items belonging to the victim in a burn pile behind the home of defendant's mother, the court held no evidence linked defendant to the evidence in the burn pile and the prosecution presented no testimony that defendant had control over the burn pile. *Id.* at 137-141, 708 S.E.2d at 775-778. The only other evidence presented against defendant was that he had a

chemical pattern that matched gasoline on his shoes and gasoline was used to start the fire at the victim's home, and DNA from blood on defendant's jeans excluded ninety-nine percent of the population, but the expert could not testify the DNA matched the victim. *Id.* at 142, 708 S.E.2d at 778.

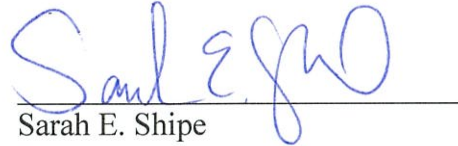
The case at bar has less circumstantial evidence than the cases mentioned above where the appellate court found the lower court should have directed a verdict in defendants' favor. In *Martin*, there was evidence presented that could be construed as an admission of guilt as well as a car matching the description of the car defendant was driving was seen at victim's apartment on the night of the murder. *Martin*, at 600, 533 S.E.2d at 573. In *Bostick*, the victim's belongings were found in a burn pile behind defendant's mother's home and defendant had blood on his jeans. Here, when the state closed its case, only the following circumstantial evidence had been presented: two witnesses' assumptions that Appellant pulled the trigger although they did not see it.

Conversely, the state offered no evidence that anyone saw Appellant shoot Stuart Miller and there was no physical evidence pointing to Appellant as the gunman. There was no testimony regarding any investigation into Hunter or any of the other individuals present who fled after the shooting without even attempting to render aid to Stuart Miller. No evidence other than photos from the residence and one single casing was collected in this case. Perhaps, had there been additional investigation into the incident more would be known about what happened to Miller.

The state presented zero direct evidence and insubstantial circumstantial evidence that the shooter was Appellant. Thus, the trial judge should have directed a verdict in Appellant's favor because the evidence presented only raised a suspicion of guilt.

CONCLUSION

Based on the foregoing, Appellant requests this Court reverse the trial court and grant his motion for a directed verdict.



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ATTORNEY FOR APPELLANT

This 16th day of January, 2026.