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Apr 27 2026

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Spartanburg County

Honorable J. Mark Hayes, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

JERMAINE CULVER,

APPELLANT

APPELLATE CASE NO. 2025-000568

FINAL BRIEF OF APPELLANT

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STATEMENT OF ISSUE ON APPEAL

The trial judge erred in charging the jury on the law of accomplice liability with respect to the offenses of murder and armed robbery charged against appellant because the facts of the case did not support such a charge, and because the prejudicial impact of an accomplice liability instruction without an evidentiary basis improperly bolstered the state's case against appellant, particularly where the jury did not convict on the murder charge in the case.

STATEMENT OF THE CASE

Appellant Jermaine Culver was tried by jury on the offenses of murder and armed robbery charged against him during the March 2025 term of the Spartanburg County General Sessions Court before Judge Lora L. McDaniel. Appellant was found guilty of armed robbery and sentenced to thirty years imprisonment. Attorney Zachary Farr represented appellant at trial, and Assistant Solicitor William G. Rhoden prosecuted the case.

Appellant appealed. This brief follows.

STANDARD OF REVIEW

In criminal cases an appellate court sits to review errors of law only. State v. Baccus, 367 S.C. 41, 48, 625 S.E.2d 216, 220 (2006). An appellate court will not reverse the trial court's decision regarding jury instructions unless the trial court abused its discretion. Clark v. Cantrell, 339 S.C. 369, 389, 529 S.E.2d 528, 539 (2000). 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." Id.

ARGUMENT

The trial judge erred in charging the jury on the law of accomplice liability with respect to the offenses of murder and armed robbery charged against appellant because the facts of the case did not support such a charge, and because the prejudicial impact of an accomplice liability instruction without an evidentiary basis improperly bolstered the state's case against appellant, particularly where the jury did not convict on the murder charge in the case.

The state's theory of the case was that appellant and Antoin Bobo worked together to commit armed robbery in the case. The state alleged that on March 12, 2022, Jarqueze Williams exited his vehicle parked at the Valero Gas Station in Spartanburg County, entered the store, and then returned outside to find his vehicle occupied, but was struck by fatal gunfire emanating from the vehicle as he attempted to enter his vehicle from the front passenger side. The events described from the incident as seen from the store surveillance tape follow:

- 1.) One male (Antoni Bobo), who was identified as wearing a hoodie, was seen walking in the parking lot of the store on the night in question.
- 2.) Another male (appellant), who was identified as wearing a beanie hat and striped pants, was also seen walking in the parking lot of the store on the night in question.
- 3.) At some point, appellant entered a parked vehicle at the store from the driver's seat.
- 4.) Then, Bobo seated himself in the back seat (behind the driver) of the same vehicle.
- 5.) Shortly thereafter, Williams exited the store and attempted to enter his vehicle.
- 6.) Next, a gunshot was fired from inside the vehicle in the direction of Williams.

R. 309, 1. 1 – p. 318. 1. 17.

The forensic evidence taken from the vehicle revealed that appellant's DNA was found on the steering wheel and gear shift of the vehicle, and that Bobo's DNA was found on the hoodie left inside the vehicle. R. 295, l.1 – p. 303, l. 6.

Defense counsel's objection to an accomplice liability charge follows:

Your Honor, I'm objecting to the jury charge of hand of one, hand of all. I still don't think the state has proved enough in this case to say [appellant] two or more people in this case, and he was acting in this case.

R. 345, lines 8-11.

The trial judge charged the jury on the law of accomplice liability as follows:

Ladies and gentlemen, if a crime is committed by two or more people who are acting together in committing a crime, the act of one is the act of all. 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 the common plan and purpose.

If two or more people are together, acting together, assisting each other in committing this offense, the act of one is the act of all or, as sometimes said, the hand of one is the hand of all.

Prior knowledge that a crime is going to be committed, without more, is not sufficient to make a person guilty of the crime. Mere knowledge that another person is going to commit a crime, even if the Defendant is present when the crime is committed, it's not sufficient to convict the Defendant as a principal. Guilt as a principal is shown by actual or constructive presence at the scene as a result of prior arrangement.

Therefore, a finding of a prior arranged plan or common scheme is necessary for a finding of guilt as a principal. The State must prove beyond a reasonable doubt by competent evidence the theory of the hand of one is the hand of all.

A principal in a crime is one who either actually commits the crime or who is present, abetting, aiding, or assisting in committing the crime. When a person does an act in the presence of and with the assistance of another, the act is done by both.

Where two or more are acting with a common plan or intent or present at the commission of a crime, it does not matter who actually commits the crime. All are guilty. The hand of one is the hand of all.

Present at the commission of a crime means to be sufficiently near to aid and abet and assist in the commission of the crime. However, mere presence at the scene of a crime is not sufficient to convict one as a principal on the theory of aiding and abetting. R. 377, 1.13-p. 378, 1.25.

Under the accomplice liability theory, a person must personally commit the crime or be present at the scene of the crime and intentionally, or through a common design, aid, abet, or assist in the commission of that crime through some overt act; and in order to establish the parties agreed to achieve an illegal purpose, there must be the establishment of presence by pre-arrangement by formal agreement or circumstantial evidence via the conduct of the parties. State v. Campbell, 443 S.C. 182, 904 S.E.2d 441 (2024). Mere presence is insufficient to prove that the participant knew of the principal's criminal conduct. State v. Reid, 408 S.C. 461, 758 S.E.2d 904 (2014). Also, circumstantial evidence can be used to establish accomplice liability. State v. Campbell, supra.

In the case at bar, the evidence only showed a male entering a vehicle, and another male following suit and entering the same vehicle. Two separate decisions made by two separate individuals to enter a vehicle did not constitute sufficient evidence of accomplice liability between appellant and Bobo. There was insufficient circumstantial evidence establishing a meeting of the minds by the two men, or some pre-arrangement by the two men, or some common design by the two men to commit armed robbery. This was happenstance and nothing more. At best, these were coincidental actions or activities wherein two men acted independently, despite the fact that the actions occurred nearly simultaneously at the same event

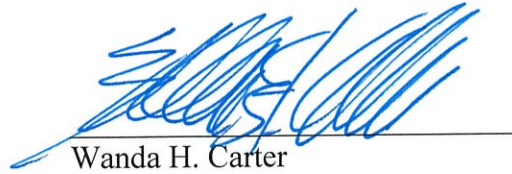
and/or opportunity. The behavior of the two men did not rise to the level of accomplice activities. If so, the jury would likely have convicted on both the murder and armed robbery charges, which the jury did not so do. Appellant was convicted of armed robbery only.

The rule is that there must be a mutual plan or agreement in existence in order to support an accomplice liability charge. See State v. Johnson, 444 S.C. 442, 908 S.E2d 102 (2024), affirmed on other grounds in State v. Johnson, Unpublished Opinion No. 2025-UP-059 (2025).

In Johnson, two men sat in a vehicle in front of a man's apartment complex for quite some time while armed with guns until they were presented with an opportunity to shoot him. To the contrary, there was no mutual plan in the instant case where appellant and Bobo were intending and waiting to commit armed robbery. The accomplice liability theory here was wrongly asserted. Unrelated mental calculations by appellant and Bobo to enter a vehicle did not rise to the level of two men acting as accomplices by agreement or prearrangement. Clearly, the accomplice liability charge was tantamount to an insurance policy used by the state to bootstrap appellant and Bobo together without evidentiary support and thereby bolster its case in order to gain convictions against appellant. The lower court erred in charging the jury on the law of accomplice liability in the case.

CONCLUSION

Based on the foregoing argument, appellant's conviction and sentence should be reversed and his case remanded to the lower court for a new proceeding.



Wanda H. Carter
Chief Appellate Defender

ATTORNEY FOR APPELLANT

This 27th day of April, 2026.

CERTIFICATE OF COUNSEL

The undersigned certifies that to the best of my ability this Final 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."

April 27, 2026.



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