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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

Appellate Case No. 2024-002102

THE STATE,RESPONDENT

v.

TRAMPAS ADAM PRATER,APPELLANT.

FINAL BRIEF OF RESPONDENT

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APPELLANT’S 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?

RESPONDENT’S COUNTERSTATEMENT OF ISSUE ON APPEAL

Did the trial court abuse its discretion in denying Appellant’s motion for a directed verdict where the State presented the testimony of multiple eyewitnesses who observed Appellant next to Victim immediately preceding a gunshot, and then witnessing Appellant walking away with a handgun—and where witnesses observed no one else with a handgun at the scene?

STATEMENT OF THE CASE

During their November, 2023 term, a Hampton County grand jury indicted Appellant Trampas Adam Prater for the offenses of murder and possession of a weapon during the commission of a violent crime. (R. pp. 494–500 (Indictments)). From December 2–4, 2024, Appellant proceeded to a jury trial before the Honorable Carmen T. Mullen, Circuit Court Judge. Appellant was represented by Chad Shelton, Esq. while Assistant Solicitor Reed Evans represented the State. (R. p. 1). At the end of trial, the jury found Appellant guilty as indicted. (R. pp. 481–484). Judge Mullen sentenced Appellant to concurrent terms of life imprisonment for murder and five years for possession of a weapon during the commission of a violent crime. (R. pp. 490–491).

This appeal follows.

STATEMENT OF FACTS

On May 26, 2022, Appellant, Stuart Miller (Victim), Hunter Plummer, Johny Breadon, Dean Jarrell, Jesse Hadwin, and others were in the backyard of Josh Plummer's mobile home in Varnville hanging out and/or working on preparing a truck to be hauled to a scrapyard. Witnesses observed Appellant and Victim standing in close proximity on one side of the truck, whereupon they heard a gunshot, saw Victim collapse (or collapsed) to the ground, and then saw Appellant walk away with a gun in his hand. No witness testified to seeing anyone else with a gun that day. Almost as soon as Victim collapsed to the ground, all the eyewitnesses fled—none called 911. A neighbor, Alexis Mixson, testified she woke up late that morning to a loud “clanging noise” next to her property, loud enough that she “got up because [she] thought people were breaking into [her] house.” (R. pp. 113–115). She looked out of her back door and saw “a guy standing on top of a truck,” but went about her normal activities thinking nothing was wrong. However, sometime that afternoon around 3:00 PM, she went to the pump house to turn on the water and saw a man lying face down on the other property. Thereafter, she spoke to a neighbor and her sister before calling 911. On cross-examination, Mixson stated she thought she heard the clanging noise around 11:00 AM. (R. pp. 116–122).

When law enforcement arrived, they found Victim dead and no one else on the property. (R. pp. 126–127). Officers recovered a single .40 S&W shell casing near Victim's body. Other than the shell casing and photographs taken showing the scene, no other physical evidence was recovered outside of the residence. (R. pp. 142–148; State's Exs. 10, 12–14). Inside of the mobile home, officers found a wallet containing Appellant's ID and a debit card belonging to Appellant, in addition to other documents with Appellant's name on them. (R. pp. 149–151; State's Exs. 17, 20). A useful diagram was prepared sketching out the crime scene with all the vehicles in the yard

and the position of Victim's body, the cartridge casing, and more. (R. pp. 151–156; State's Ex. 2 (Chart)).

The forensic autopsy conducted on Victim revealed a single gunshot wound to the front of the upper chest with tightly concentrated stippling, suggesting Victim was shot from approximately two to four feet away. (R. pp. 316–321).

An acquaintance of Appellant and Victim, Daniel Boone, testified that the day before the shooting, the two of them were at his house helping Boone fix the head gaskets on Boone's sister's car. While there, Boone testified that Appellant and Victim got into an argument but disclaimed that it was serious or that it was "a fist fight." Boone stated the two "shook hands" afterwards. (R. pp. 178–181). Boone stated that they both left his house between 8:30 and 9:00 PM, but clarified that Victim actually slept over at his house. Boone also stated that Hunter Plummer was at his house at some point that night briefly before leaving. Boone testified that the following morning, Victim left his house on a "mini bike" around 11:00 AM. (R. pp. 182–184; State's Ex. 9). He also said that Appellant left his house around the same time—clarifying that Appellant did not sleep over at his house but had returned the following morning to finish working on the car. Appellant left with another person. (R. pp. 185–186).

Josh Plummer, the father of Hunter Plummer and who lived at the home where Victim was killed, testified that he woke up that morning to his son, Victim, Jesse Hadwin, and others in his yard. (R. pp. 341–342). Thereafter, Josh stated he left to go work on a job around 9:30 AM. Josh did not recall telling law enforcement that Appellant was at his house that morning. Teddy Scott, one of the officers who initially spoke with Josh at the scene, would later testify that Josh told him that Appellant was at his house that morning. (R. pp. 341–342). Josh testified that he returned home later that day only after hearing that his son Hunter had been killed. When he returned

however, he realized Victim had died—not Hunter—after seeing Victim’s body from the end of the driveway. (R. pp. 193–204). Josh conceded having trouble recalling details from that day due to poor health and memory. (R. pp. 202–208).

Hunter Plummer, Josh Plummer’s son, testified he lived with his father in his mobile home. Hunter was friends with both Appellant and Victim but knew Victim longer. (R. pp. 213–217). He also personally witnessed the altercation between Appellant and Victim at Boone’s house, noting that *it was* a fist fight, yet still corroborated Boone’s account that the two appeared to reconcile afterwards. (R. pp. 218–220). Hunter stated he was at Boone’s until approximately 4:00 AM, at which point he went back to his house. Hunter stated he was able to stay up that late because he was using methamphetamine and was already up for multiple days by that point. (R. pp. 220–221). Back at the house, Hunter testified he was helping prepare a Dodge truck to be scrapped with the help of Appellant and Victim. (R. pp. 241–243). This involved cutting the cab off from the rest of the frame. Hunter testified that Appellant owned the vehicle. (R. pp. 222–225). After cutting the cab off, the plan was for another individual, Johny Breadon (AKA “Hot Rod”) to tow the truck to the scrapyard. Breadon’s truck was hooked up to the towing dolly the Dodge was sitting on at the time of the shooting. (R. pp. 225–226, 259, 262; State’s Exs. 7–8). Hunter testified that Victim arrived on a mini-bike around 8:00 AM. (R. pp. 229–230; State’s Ex. 9). Appellant also arrived sometime that morning, a couple of hours before the incident, with Breadon. (R. pp. 241–242, 257). Hunter described the various vehicles that were on the scene, including the positioning of the people there with the use of a chart and stickers provided by the solicitor. (R. pp. 239–241).¹

¹ It appears that the solicitor was having Hunter and other witnesses look at State’s Ex. 2, but the undersigned could not find any stickers associated with the chart or the trial file generally from a review in the clerk’s office.

Essentially, Hunter, Breadon, and Dean Jarrell were near or by the driver's side of the Dodge, with Hunter actively using a "sawzall" to cut the corners of the cab, while Victim and Appellant were on or near the passenger side of the truck, the side closer to the house. Hunter stated he was actively cutting the cab when he heard a gunshot, which he initially thought was the roof of the cab falling. After grabbing money from the mother of his child, Kaisee Gibson, who arrived at some point during this, Hunter went around to the other side of the truck and saw Victim dead.² Noticing everyone else was scattering, Hunter stated he got in Dean Jarrell's truck with Jesse Hadwin and left. (R. pp. 231–239, 263).

Hunter disclaimed seeing Appellant with a gun but noted he went inside the house after the shooting. Hunter could also not recall his prior statement to law enforcement that he saw Appellant with a gun—explaining that he was "high" at the time he spoke to them. (R. pp. 243–244, 262). Hunter did not call 911. Instead, he spoke to law enforcement about a week later when they contacted him. Hunter testified he was with Appellant a couple of times after the incident, but neither the shooting nor Victim were discussed. (R. pp. 245–249).

Johney Breadon testified he was a friend of Josh Plummer, Hunter's father. Appellant, Victim, and others were people he knew through Josh and Hunter, though he was not personally friends with them. Breadon testified Hunter had asked him to come over to help pull a truck to the junkyard. In addition to towing, Breadon testified he physically assisted in cutting the cab off. (R. pp. 279–284). Breadon stated he arrived at the property sometime around "mid-morning" and was helping for a couple of hours. He stated that Appellant, Victim, Hunter, Dean Jarrell, and Kaisee Gibson were all there, but could not recall what order people arrived in or who was already there

² Hunter's testimony was equivocal as to whether Kaisee Gibson had been there for a longer duration of time or had just shown up right before/during the shooting. (R. pp. 262–263).

when Breadon arrived. (R. pp. 285–288). Breadon testified he was helping Hunter with the sawzall on the driver’s side of the truck and that “[e]veryone else was pretty much gathered in the yard on the opposite side of the truck[,]” including Victim and Appellant. Breadon testified that at some point before the shooting, Appellant said he was going to shoot Victim.³ (R. pp. 289–290). At first, Breadon said he thought Appellant was joking but became concerned when he saw “the look in his eyes[.]” He described the “look” as “crazy” and testified he saw a “black” handgun in Appellant’s hand—what Breadon thought was either a 9mm or a .40 caliber. (R. pp. 290–291, 311).

Breadon stated he did not see anyone else with a gun that day. Breadon testified he did not see anyone shoot Victim but heard a single gunshot, saw Victim grabbing his chest, and saw Appellant walking back towards the trailer with a gun in his hand while everyone else was running. Breadon estimated that about 20 or 30 minutes had passed between Appellant stating he was going to shoot Victim and the gunshot. Breadon then unhooked his truck and left. Breadon stated he was the last person to leave. (R. pp. 292–296, 306–307). Breadon did not call 911 or contact law enforcement until a few days later due to his fear that Appellant or “the people he knows” could harm him. (R. p. 296). Like with Hunter, the solicitor had Breadon identify the relative position of the people there using a chart and stickers, likely State’s Ex. 2. (R. pp. 298–299). Breadon could not recall if he brought Appellant with him to the house that morning. (R. p. 307).

Next, Dean Jarrell, the first cousin of Josh Plummer and second cousin of Hunter Plummer, testified he went to the house that morning to pick up some tools he had lent to Josh. (R. pp. 346–349). Jarrell testified it took him about ten minutes to retrieve his tools from inside the house and then put them back into his truck. Jarrell testified he gave Appellant a cigarette by his truck and

³ Breadon stated this happened about a minute before the events, but later clarified this was more like 20 to 30 minutes. (*See* R. pp. 292–296, 306–307).

then, shortly after, Jarrell heard a gunshot, but he did not see who shot. Jarrell testified he was in his truck “about to crank it up” when heard the gunshot.⁴ Jarrell looked over and saw Victim “backing up from behind another vehicle” and “spitting up blood.” Jarrell stated that Jesse Hadwin and Hunter got in his truck as he was leaving. (R. pp. 352–355). Jarrell said that as he was leaving, he saw Appellant holding a gun while walking towards the house. (R. pp. 357, 366–368). Jarrell also did not call 911 or contact law enforcement but spoke to them eventually when they came to him a few days later. (R. pp. 358–359, 379–380). While speaking to law enforcement, Jarrell drew a rough diagram describing the scene and the people there from memory. (R. pp. 362–366; State’s Ex. 22 (Diagram)). Jarrell testified he was “100 percent” sure that Hunter was on the driver’s side of the truck when Victim was shot, though he noted that Breadon and everyone else was on the passenger side. Jarrell stated he did not see anyone else with a gun. (R. pp. 366–369, 376–377).

The last witness to testify was Kaisee Gibson, Hunter’s girlfriend at the time of the incident and the mother of his child. Gibson knew both Victim and Appellant for a number of years. (R. pp. 381–384). Gibson testified that on the day of Victim’s death, Gibson went with her mother to court in Hampton around 10:00 AM. Afterwards, they ate and retruned to their home in Varnville. Gibson stated that Hunter called her asking her to bring him a Cash App card at the house. Gibson testified she drove to the house, arriving around noon and parking somewhere up the driveway close to the Dodge. (R. pp. 387–390). When she arrived, Gibson stated she could see Hunter and “Hot Rod” (Breadon) with a sawzall cutting the roof off the truck from the driver’s side. She also said that Dean Jarrell and Jesse Hadwin were standing by Jarrell’s truck. Appellant and Victim were standing on the passenger side of the Dodge truck. Breadon’s truck was hooked up to a car dolly.

⁴ On cross-examination, Hunter had previously noted that Jarrell was in his truck when he heard the gunshot. (R. pp. 259–260).

(R. pp. 391–394). Appellant was closer to Gibson by the rear of the Dodge while Victim was closer to the front. (R. p. 396). Gibson stated that Appellant opened one of the passenger side doors, Gibson looked down briefly, heard a gunshot, and then looked up again to see Victim with blood on his face. Appellant was standing holding his arm out with a gun in his hand. (R. pp. 397–398). Gibson then left, and eventually Hunter and Jesse Hadwin got in her car.⁵ The next day, Gibson went with her mother to the sheriff's office. (R. pp. 399–400). Gibson did not see anyone else with a gun. (R. p. 402). Like with previous witnesses, the solicitor had Gibson place people at the scene using a chart and stickers. (R. pp. 412–415).

Appellant did not testify or present any witnesses.

⁵ Hunter had previously testified that after initially leaving in Dean Jarrell's truck, they briefly stopped and got into Gibson's car. (R. pp. 241, 245–246).

STANDARD OF REVIEW

“In criminal cases, the appellate court sits to review errors of law only.” *State v. Johnson*, 413 S.C. 458, 776 S.E.2d 367, 371 (2015). “We review the denial of a directed verdict motion in a criminal case under the any evidence standard of review.” *State v. Cain*, 419 S.C. 24, 33, 795 S.E.2d 846, 851 (2017). “If there is any direct evidence or any substantial circumstantial evidence reasonably tending to prove the guilt of the accused, the Court must find the case was properly submitted to the jury.” *Id.* (quoting *State v. Harris*, 413 S.C. 454, 457, 776 S.E.2d 365, 366 (2015)).

ARGUMENT

The trial court did not abuse its discretion in denying Appellant’s motion for a directed verdict where the State presented the testimony of multiple eyewitnesses who observed Appellant next to Victim immediately preceding a gunshot, and then witnessing Appellant walking away with a handgun—and where witnesses observed no one else with a handgun at the scene

Appellant argues the trial court erred in denying his motion for directed verdict, arguing the State presented insufficient circumstantial evidence to show that Appellant shot and killed Victim. Specifically, Appellant highlights the lack of physical evidence and the fact that no eyewitness personally saw Appellant pull the trigger. Respondent contends that such an argument was appropriate to make to the jury in closing arguments to undercut reasonable doubt, but it in no way shows that the State failed to meet the low bar of “any evidence.” Simply put, where multiple eyewitnesses observed Appellant and Victim together, heard a gunshot, and saw Appellant walking away with a gun in his hand as Victim lay dying, and where no one else had a gun, the State more than satisfied the “any evidence” standard to survive a motion for directed verdict.

This Court should affirm.

A. Relevant Facts

At the end of the State’s case, Appellant moved for a directed verdict, arguing:

Judge, obviously, it comes down to credibility. This last witness is the only one that says that [Appellant] is the one that actually shot and killed [Victim]. It comes down to credibility. All of her testimony is completely different than everybody else’s as to where everything is. So we’re moving for a directed verdict.

(R. p. 418, ll. 1–8).

The solicitor responded by disagreeing with Appellant’s characterization of Gibson’s testimony, but primarily noted that even if her testimony was different, her testimony is all the Court needed to deny the motion.

The Court agreed:

Well, taking the evidence most favorable to the State, we have Hot Rod testify that he saw the defendant holding the gun and say, I'm going to shoot [Victim] and heard a gunshot. We have Dean Jarrell saying that he saw [Appellant] with a gun going in the trailer just after he heard a gunshot. And then Ms. Gibson, also, testified that she saw [Victim] with blood on his face, that he took two steps forward and fell and saw [Appellant] with his arm out holding a gun.

So based on that evidence, I think there is evidence from which this jury could determine [Appellant] shot [Victim]. So I'm going to send it to the jury at this point.

(R. p. 418, ll. 15–25). As noted above, Appellant did not testify or present any witnesses.

B. Discussion

“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. Cherry*, 361 S.C. 588, 593, 606 S.E.2d 475, 477–78 (2004) (citing *State v. Gaster*, 349 S.C. 545, 555, 564 S.E.2d 87, 92 (2002)). “When reviewing a denial of a directed verdict, this Court must view the evidence and all reasonable inferences in the light most favorable to the state.” *Id.* at 593, 606 S.E.2d at 478 (citing *State v. Burdette*, 335 S.C. 34, 46, 515 S.E.2d 525, 531 (1999)). “If there is any direct evidence or any substantial circumstantial evidence reasonably tending to prove the guilt of the accused, an appellate court must find the case was properly submitted to the jury.” *Id.* at 593–94, 606 S.E.2d at 478 (citing *State v. Harris*, 351 S.C. 643, 653, 572 S.E.2d 267, 273 (2002); *State v. Venters*, 300 S.C. 260, 264, 387 S.E.2d 270, 272–73 (1990); *Gaster*, *supra*). A motion for a directed verdict must be granted only “when the evidence merely raises a suspicion that the accused is guilty.” *State v. Schrock*, 283 S.C. 129, 132, 322 S.E.2d 450, 452 (1984).

Contrary to Appellant’s assertions on appeal, there was substantial evidence of Appellant’s guilt presented by multiple eyewitnesses. This is not a case of mere suspicion. The lack of corresponding physical evidence does not upset this notion. At most, Appellant’s arguments

plausibly challenge the credibility of the eyewitnesses and the variations in their accounts. However, this is not a sufficient reason to grant a motion for directed verdict. *See State v. Rogers*, 405 S.C. 554, 569, n.5, 748 S.E.2d 265, 273, n.5 (Ct. App. 2013) (“Although Rogers questioned Sherry’s credibility, we consider only the existence or non-existence of evidence, not witness credibility, in reviewing the denial of a directed verdict.”); *State v. Scott*, 330 S.C. 125, 131 n.4, 497 S.E.2d 735, 738 n.4 (Ct. App. 1998) (finding circumstantial evidence was substantial even though witnesses’ testimony conflicted because the jury, not the court, assesses witness credibility and weighs testimony).

Multiple witnesses testified that Appellant and Victim were standing on the same side of the truck together whereupon they heard a gunshot, saw Victim falling and/or dying, and then saw Appellant walk away with a handgun. Johny Breadon testified that at some point prior to the shooting, Appellant said he was going to shoot Victim. Kaisee Gibson testified that soon after she arrived (with a clear view of both sides of the Dodge truck), she saw Appellant and Victim standing near each other, heard a gunshot, saw Victim dying, and saw Appellant with his arm up holding a gun. No witness testified to seeing anyone else with a gun that day, and all consistently testified that Hunter Plummer was on the opposite side of the truck actively using an electric power tool on the truck. Hunter did not kill Victim. Credibility or consistency concerns aside, the State easily satisfied the any evidence standard for directed verdict, and the trial court did not err in finding so. Appellant’s concerns were proper then for arguing before a jury, but are not proper now for overturning a well-supported guilty verdict.

This Court should affirm.

CONCLUSION

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

Respectfully submitted,

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