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S.C. SUPREME COURT

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to the Court of Appeals
Appeal from Jasper County
Honorable Robert J. Bonds, Circuit Court Judge

Opinion No. 6152 (S.C. Ct. App. Filed July 1, 2026)

Lower Court Case No. 2020-GS-27-00701, 2020-GS-27-00702

THE STATE,

PETITIONER,

V.

BRIAN J. REDDING,

RESPONDENT

APPELLATE CASE NO. 2026-001682

RETURN TO PETITION FOR WRIT OF CERTIORARI TO THE COURT OF APPEALS

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INDEX

INDEX i

QUESTION PRESENTED 1

STATEMENT OF THE CASE 2

ARGUMENT

The Court of Appeals correctly held that the trial court erred by denying Respondent's motion for a directed verdict when the state failed to present any direct or substantial circumstantial evidence Respondent shot his girlfriend rather the evidence merely raised a suspicion Respondent was involved in the murder. 9

CONCLUSION 14

QUESTION PRESENTED

Whether the Court of Appeals correctly held the trial court erred by denying Respondent's motion for a directed verdict when the state failed to present any direct or substantial circumstantial evidence Respondent shot his girlfriend rather the evidence merely raised a suspicion Respondent was involved in the murder?

STATEMENT OF THE CASE

Respondent and Cypress Noonan, the decedent, met in January 2020 at a laundromat in Ridgeland. App. 703, ll. 14-20. Cypress, who was driving her sister's van, backed into Respondent's car. The two talked, exchanged phone numbers, and "made plans to get together later." App. 703, l. 16 – 704, l. 1. Cypress was only sixteen years old. She had dropped out of high school and was living in the van. She did not have a good relationship with her mother and, while she had several older sisters, they argued and bickered a lot. App. 705, ll. 10-16.

Within a few months of meeting, Respondent and Cypress developed a romantic relationship. Respondent was drawn to Cypress because she was kind and funny and she could relate to him. App. 704, ll. 2-15. Respondent "felt obligated" to provide for Cypress and do what he could so Cypress did not have to sleep in her sister's van. Respondent bought Cypress basic toiletries, such as deodorant, and underwear. App. 704, ll. 23-25. The couple also began staying in daily rental motels, including the Forest Motel in Ridgeland. App. 707, l. 14 – 708, l. 12. A room was forty dollars a night. App. 705, l. 22 – 706, l. 3. If Respondent could not afford a room on any particular night, he would sleep with Cypress in the van, either in his mother's driveway or Cypress's sister's driveway. While Respondent was welcome to stay at his mother's house, Cypress was not because Respondent's mother did not approve of their relationship due to their age difference.[1] App. 706, l. 4 – 707, l. 1. Likewise, while Cypress was welcome to stay at her sister's house, Respondent was not, again, because Cypress's sister did not approve of the relationship. App. 252, l. 9 – 253, l. 14. Rather than be apart, Respondent and Cypress chose to sleep together in the van. App. 706, ll. 11-16.

[1] Respondent was thirty-one years old at the time.

On the morning of September 6, 2020, Respondent discovered Cypress's body in the room they shared together at the Forest Motel. Respondent had been gone most of the morning and returned to the motel around 9:45 a.m. App. 571, l. 20 – 572, l. 5. He saw Peter Patel, the owner of the motel, outside near the utility room and said good morning. Respondent then used his key to unlock the door to his room. When he entered, Respondent saw Cypress sitting up in bed. However, he quickly noticed blood on the sheets. Respondent ran to Cypress and grabbed her. He then saw a gunshot wound on her forehead. Respondent was "stunned." He ran outside and asked Patel if he had seen anyone or heard anything. When Patel answered no, Respondent immediately ran back into the room and called 911. App. 730, l. 11 – 731, l. 12.

When patrol officers with the Ridgeland Police Department arrived, Respondent was sitting on the side of the bed next to Cypress. App. 53, ll. 17-22. He was asked to leave the room. Respondent sat in a chair just outside the door to the room and used Cypress's phone to call her sisters and tell them what happened. App. 732, l. 6 – 733, l. 15.

The Ridgeland Police Department requested assistance from the South Carolina Law Enforcement Division (SLED). App. 101, ll. 11-16. While the Ridgeland officers waited for SLED to arrive, they merely secured the scene. They did not canvass the area for witnesses nor did they question any other occupants of the motel. SLED Agent Katie McCallister, who was the first agent from SLED to arrive, led the investigation. App. 102, ll. 1-5. She arrived around 12:15 p.m. It was then that law enforcement finally began to question individuals at the motel. However, no one heard a gunshot or any disturbance. App. 408, l. 11 – 409, l. 22.

Agents with SLED's crime scene unit processed the motel room where Cypress was found. App. 157, ll. 2-20. There were no signs of forced entry or of a struggle inside the room. App. 165, ll. 7-10; App. 168, ll. 21-25. A white powdery substance, razor blades, and bags

consistent with narcotic packaging where found on a table in the corner of the room. App. 169, ll. 1-16; App. 112, l. 2 – 113, l. 4. A cartridge case was found on the floor between the bed and the wall. It was collected and submitted to the firearms department for analysis. App. 166, l. 16 – 168, l. 14. It was later determined to be a nine millimeter caliber cartridge case. App. 357, ll. 3-6. Cypress's DNA was found on the cartridge case, but Respondent was excluded as a possible contributor. App. 487, l. 18 – 491, l. 3.

During the autopsy, the pathologist found a fired bullet in Cypress's hair. App. 444, ll. 11-21. The bullet was collected and submitted to the firearms department for analysis. App. 175, ll. 13-21. The bullet was consistent with a nine millimeter Luger caliber. Based on the caliber and the width, number, and direction of twist of the lands and groves on the bullet, it was determined the bullet was fired by a gun manufactured by SCCY. App. 359, l. 10 – 360, l. 5. SCCY manufactures thousands of firearms in a multitude of colors, including teal. It was never determined which firearm actually fired the bullet as no firearm was ever submitted to SLED for analysis. App. 366, ll. 6-10.

Respondent fully cooperated with law enforcement that day and during the two months following Cypress's death before he was ultimately arrested. Respondent consented to a gunshot residue (GSR) test, which was collected at 10:25 that morning.[2] App. 102, ll. 6-24; App. 115, l. 13 – 117, l. 23. He also gave a written statement at the scene shortly after police arrived and agreed to accompany Investigator John Croft to the Ridgeland Police Department to be interviewed. This interview, which was audio and video recorded, lasted over an hour. App. 118, l. 9 – 121, l. 8. During this interview, Respondent consented to provide a "DNA sample"

[2] No particles consistent with GSR were found on Respondent's hands. App. 468, ll. 10-14.

for comparison purposes, which was collected through use of a buccal swab. App. 164, ll. 6-20. He also voluntarily gave law enforcement the clothing he was wearing. App. 173, ll. 16-19.

After his interview with Croft was over, Respondent returned to the Forest Motel. He was there when Agent McCallister arrived. Respondent also agreed to speak with McCallister. He spoke to McCallister at the Ridgeland Police Department for nearly three hours and told her about his whereabouts that morning. Respondent voluntarily gave McCallister his two cell phones and provided his passcode. He also shared information about his and Cypress's Facebook accounts. App. 410, l. 2 – 414, l. 16.

Respondent was driving Ashley Dodson's car that day. Law enforcement executed three separate search warrants on the vehicle. Nothing of evidentiary value was ever found. App. 415, ll. 3-15.

Desiree Noonan, Cypress's sister, testified that about a month before Cypress's death, she was visiting Cypress at the Days Inn where Cypress was living with Respondent at the time. Desiree claimed she saw a turquoise gun in the room. However, she did not pay attention to the gun and did not know anything else about it, such as the manufacturer or the caliber. App. 235, l. 21 – 237, l. 11. Desiree admitted she had never seen Respondent with a gun. App. 244, ll. 3-5.

Taylor Cowherd, Cypress's eldest sister, testified that one day, about two months before Cypress's death, she pulled up to her mother's house and saw Respondent and Cypress sitting in a car parked in the driveway. Taylor claimed she walked up to the car and saw Respondent with a teal or aqua colored gun. While she touched the gun, Taylor could not recall any details about the firearm, such as the manufacturer. App. 234, ll. 6-24; App. 263, l. 22 – 264, l. 6.

Paige Mayma, another one of Cypress's sisters, also claimed that she saw Respondent with a turquoise gun on several occasions. She said "it looked like" a nine millimeter. The last

time she saw Respondent with this gun was sometime during the week before Cypress's death. App. 324, l. 23 – 325, l. 21. Paige also claimed there were "difficulties" or "problems" within Respondent and Cypress's relationship and that she once saw Cypress cry as a result of something Respondent did. Paige also witnessed Respondent's "controlling behavior" toward Cypress. App. 331, l. 5 – 332, l. 1. Despite these allegations, Paige admitted she had never seen any bruises on Cypress or any "signs" she "had been beaten." App. 333, ll. 9-14.

Whitney Uva, Cypress's friend, vaguely claimed there was a time when she saw Cypress upset about her relationship with Respondent. App. 292, ll. 21-25. However, Whitney also never saw Cypress with bruises or any signs that she was being abused. App. 298, ll. 8-20.

Taniya Payne, Cypress's friend, claimed she saw Respondent with two different guns on separate occasions. One was blue and the other was silver. While Taniya told Agent McCallister four days after Cypress's death that she saw Respondent with a blue firearm at the Sure Stay Motel, during her testimony, she claimed she also saw Respondent with a gun at the Forest Motel. Taniya never mentioned the silver gun to McCallister.[3] App. 308, l. 17 – 313, l. 9.

Taniya also claimed that Respondent was "controlling with Cypress" and that she witnessed "difficulties between the two of them" one day when she visited them at the Forest Motel. App. 305, ll. 23-25; App. 307, ll. 10-15.

Respondent presented an alibi defense. At the time, he was driving Ashley Dodson's car. Ashley had to be at work at 7:00 a.m. on September 6, 2020. Respondent set an alarm and left the motel early to pick up Ashley from Beaufort. He stopped at a gas station along the way at 6:30 a.m., which was confirmed by surveillance footage. After picking up Ashley, Respondent

[3] Despite testimony from witnesses that they had seen Respondent with a blue or teal gun in the months before Cypress's death, Investigator McCallister admitted there was no evidence this gun was a SCCY. App. 425, l. 7 – 426, l. 10.

drove her to a McDonald's in Bluffton where she worked. He then drove to Simmonsville Road to pick up his cousin, Danielle Smith. Respondent had agreed to drive Smith to their uncle's house in Pineland so Smith could see her children. On the way to Pineland, Respondent stopped at the Forest Motel to get his wallet. Cypress was alive and lying in bed at the time. This was around 8:10 a.m. Once Respondent got to Pineland, he stayed at his uncle's house for a while to work on Ashley's car. The dust cover panel underneath the car was dragging. After securing the dust cover panel, Respondent changed his shirt because it was covered in dirt from working underneath the vehicle.[4] Respondent then returned to the Forest Motel and discovered Cypress's body. App. 713, l. 2 – 731, l. 9. The cell site location information (CSLI) from Respondent's cell phone verified his alibi. See App. 543, l. 16 – 580, l. 17. Danielle Smith and Alvin Shiggs, Respondent's uncle, testified and further corroborated Respondent's alibi.

At the time of Cypress's death, her sister Paige was dating Dervon Jones, also known as "Popeye." Paige told Investigator McCallister on September 25, 2020, that Jones had passed a bag over the fence from the Forest Motel, where Cypress was killed, to the Siesta Motel next door on the morning Cypress died. Jones handed the bag to Matthew Hatchell. App. 337, l. 5 – 339, l. 14. Hatchell admitted that Jones passed him a draw string bag over the fence separating the Forest Motel from the Siesta Motel on the morning Cypress died. Jones was on the Forest

[4] Respondent was wearing a black Batman shirt earlier that morning and changed into a red Adidas shirt after the Batman shirt got dirty while Respondent was working on Ashley's car. Respondent put the Batman shirt in his laundry basket inside his uncle's house. App. 726, l. 16 – 727, l. 23. After Cypress died, Respondent lived with his uncle, Alvin Shiggs, until his arrest in November 2020. After Respondent was arrested, Shiggs bagged up Respondent's clothing and possessions, including the Batman shirt, and took them to Respondent's mother's house. An investigator contacted Respondent's mother during the trial and came to collect the Batman shirt, which was still in the bag Shiggs had delivered. Appellant attempted to admit the Batman shirt into evidence, but the state's objection to lack of chain of custody was sustained. See App. 644, l. 25 – 646, l. 24; App. 652, l. 22 – 653, l. 25; App. 657, l. 19 – App. 663, l. 25.

Motel side of the fence and Hatchell was on the Siesta Motel side. About twenty minutes later, Jones came and got the bag from Hatchell. App. 678, l. 4 – 680, l. 18.

Investigator McCallister testified that despite her efforts, Jones never came in for an interview. McCallister asked Paige to see if Jones would come speak with McCallister, but Jones refused. App. 339, l. 15 – 340, l. 1. App. 426, l. 11 – 431, l. 24.

A Jasper County grand jury indicted Respondent on June 10, 2021, for murder and possession of a weapon during the commission of a violent crime. App. 878-881. Respondent's case was called to trial on August 15, 2022, before the Honorable Robert Bonds, and a jury. App. 1. Assistant Solicitor Hunter Swanson represented the state. App. 1. Carolyn Carmody represented Respondent. App. 1.

On August 19, 2022, the jury found Respondent guilty as indicted. App. 858, ll. 5-14. He was sentenced to forty-eight years for murder and five years concurrent for the weapons offense. App. 877, ll. 3-18.

Respondent timely filed a notice of appeal. On appeal, Respondent argued the trial court erred by denying his motion for a directed verdict. In a published opinion filed July 1, 2026, the Court of Appeals agreed. The Court of Appeals held there was no direct or substantial circumstantial evidence and therefore, the trial court erred by submitting the case to the jury. The court concluded the state's evidence raised only a mere suspicion of Respondent's guilt.

On July 13, 2026, the state filed a petition for rehearing. By order dated July 21, 2026, the Court of Appeals denied the petition for rehearing. On July 30, 2026, the state filed a petition for writ of certiorari with this Court asking the Court to review the decision of the Court of Appeals. This return to the petition for writ of certiorari follows.

ARGUMENT

The Court of Appeals correctly held that the trial court erred by denying Respondent's motion for a directed verdict when the state failed to present any direct or substantial circumstantial evidence Respondent shot his girlfriend rather the evidence merely raised a suspicion Respondent was involved in the murder.

Relevant Facts

After the state rested, Respondent moved for a directed verdict. Defense counsel argued the state failed to present any evidence that Respondent killed Cypress Noonan. She also emphasized there was no evidence of malice either express or implied. The judge found that, while it was a circumstantial case, there was substantial circumstantial evidence to submit the case to the jury. App. 504, l. 13 – 509, l. 5.

Respondent renewed his directed verdict motion after his presentation of evidence. Defense counsel argued there was no evidence of malice or hostility between Cypress and Respondent on September 6, 2020. She also emphasized that Respondent had an alibi which was corroborated by witness testimony and his cell site location information. The judge denied the motion reasoning that he was concerned with the existence of evidence, not its weight. He emphasized the testimony that there was "potential animus [between Cypress and Respondent], dominating behavior on [Respondent's] part, that they [Cypress and Respondent] argued, that she [Cypress] wasn't happy . . ." App. 765, l. 2 – 769, l. 14.

Discussion

The Court of Appeals correctly held the trial court erred by denying Respondent's motion for a directed verdict when the state failed to present any direct or substantial circumstantial

evidence Respondent shot Cypress Noonan rather the evidence merely raised a suspicion Respondent was involved in the murder since he was the last known person to see Cypress alive.

A defendant is entitled to a directed verdict when the prosecution fails to provide evidence of the offense charged. State v. Brown, 103 S.C. 437, 88 S.E. 21 (1916); State v. Weston, 367 S.C. 279, 292, 625 S.E.2d 641, 648 (2006); State v. McHoney, 344 S.C. 85, 97, 544 S.E.2d 30, 36 (2001). "If there is any direct evidence or any substantial circumstantial evidence reasonably tending to prove the guilt of the accused," the trial judge may deny the motion for directed verdict. State v. Lollis, 343 S.C. 580, 584, 541 S.E.2d 254, 256 (2001); State v. Pinckney, 339 S.C. 346, 349, 529 S.E.2d 526, 527 (2000); State v. Martin, 340 S.C. 597, 533 S.E.2d 572 (2000). When the prosecution relies exclusively on circumstantial evidence, the trial judge must direct a verdict in the defendant's favor unless there is substantial circumstantial evidence which reasonably tends to prove the guilt of the defendant 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); State v. Mitchell, 341 S.C. 406, 535 S.E.2d 126 (2000).

Likewise, a directed verdict is appropriate when the evidence produced "merely raises a suspicion the accused is guilty." Lollis, 343 S.C. at 584, 541 S.E.2d at 256; State v. Arnold, 361 S.C. 386, 389-390, 605 S.E.2d 529, 531 (2004); State v. Schrock, 283 S.C. 129, 132, 322 S.E.2d 450, 451-452 (1984); State v. Muhammed, 338 S.C. 22, 524 S.E.2d 637 (Ct. App. 1999). Our courts define suspicion as "a belief or opinion as to guilt based upon facts or circumstances which do not amount to proof." Lollis, 343 S.C. at 584, 541 S.E.2d at 256; State v. Hyder, 242 S.C. 372, 131 S.E.2d 96 (1963).

In State v. Mitchell, 341 S.C. at 409, 535 S.E.2d at 127, this Court held the lower court erred in failing to direct a verdict where the only evidence presented against the defendant was his

fingerprint at the scene of the burglary. Likewise, this Court in Lollis directed a verdict where the state presented no direct evidence that Lollis was involved in setting fire to his home. The circumstantial evidence against Lollis was that his wife admitted to the arson, he had placed valuables in storage prior to the fire, he possessed a key to the storage unit, and he allegedly had financial troubles. The Court found this evidence insufficient. Lollis, 343 S.C. at 584-85, 541 S.E.2d at 256-57.

In State v. Odems, 395 S.C 582, 720 S.E.2d 48 (2012), this Court held the defendant was entitled to a directed verdict based upon a lack of substantial circumstantial evidence that the defendant was involved in the burglary. Although Odems was in a car with other individuals who admittedly burglarized a home, the state failed to provide substantial circumstantial evidence that Odems 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. Fingerprints collected from the stolen goods did not match Odems, but matched the other individuals in the car. One of the individuals who admitted his involvement claimed Odems was picked up after the burglary at a gas station. Id. at 588, 720 S.E.2d at 51.

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

In State v. Arnold, 361 S.C. 386, 605 S.E.2d 529 (2004), this Court held a directed verdict of acquittal for murder should have been granted. Arnold was convicted of murdering Dr. Jennings Cox of Savannah, Georgia. Cox was last seen alive on June 18, 1997, when he borrowed a colleague's car, a BMW, to go to a dentist appointment. Three days later, his body was found off Interstate 95 in Colleton County. He was shot twice. Information on a floppy disk found on Cox's computer led the police to Bobby Ray Ware. Ware admitted to having a sexual relationship with Cox. Because Ware knew Cox "liked to have sex with truckers," Ware introduced Cox to Arnold, who was staying with Ware, on the weekend of June 14, 1997. Cox and Arnold had sex that weekend. Ware left for Chicago on June 17, 1997. When Ware left, Arnold was still staying at Ware's residence. On June 19, 1997, Ware received a message from Arnold to call him at a phone number in Tennessee. Ware later contacted Arnold at a phone number identified as belonging to Arnold's father who lived in Tennessee. On June 20, 1997, the borrowed BMW was found in a parking lot in Johnson City, Tennessee. Arnold's fingerprint was found on the tab from a coffee cup lid found in the center compartment. 361 S.C. at 388-89, 605 S.E.2d at 530. The Court held this evidence, in the light most favorable to the state, merely raised a suspicion of guilt. It was not sufficient evidence that Arnold killed Cox. Id. at 390, 605 S.E.2d at 531.

In this case, the state failed to present any evidence Respondent killed Cypress. The assistant solicitor conceded at trial that there was no direct evidence of Respondent's guilt. Because Respondent was the last known person to see Cypress alive and discovered her body, law enforcement immediately focused its investigation on him. The state's circumstantial evidence merely showed Respondent had access to a teal or aqua firearm in the months before Cypress's

death, Respondent was controlling toward Cypress and there were "difficulties" in the relationship, Respondent changed his shirt sometime between 6:30 a.m. and 9:45 a.m. that morning, Respondent had two particles of GSR on the front right side of his shorts, and, as mentioned, Respondent was the last known person to see Cypress alive.

Respondent presented an alibi that was corroborated by several witnesses as well as his cell site location information establishing that he could not have killed Cypress. There simply was not substantial circumstantial evidence Respondent murdered Cypress. Consequently, the trial judge erred by denying Respondent's motion for a directed verdict.

The state complains that the Court of Appeals applied an incorrect standard of review and improperly weighed the evidence when holding that Respondent was entitled to a directed verdict. Respondent strongly disagrees. The Court of Appeals correctly viewed the evidence in the light most favorable to the state and determined that the evidence rises only to a mere suspicion of guilt.

Respectfully, this Court should deny certiorari. In the alternative, this Court should affirm the decision of the Court of Appeals directing a verdict of acquittal.

CONCLUSION

Based on the foregoing argument, Respondent respectfully requests this Court deny the state's petition for writ of certiorari. In the alternative, Respondent requests this Court affirm the decision of the Court of Appeals directing a verdict of acquittal.

Respectfully Submitted,

Lara M. Caudy
Senior Appellate Defender

ATTORNEY FOR RESPONDENT

This 31st day of August, 2026.