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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM ANDERSON COUNTY
General Sessions Court
Hon. R. Lawton McIntosh, Circuit Court Judge

Appellate Case No. 2025-001295
Lower Case Nos 2022GS0401524, 1525, 1794, 2024GS0402053

The State Respondent

vs.

Carles Brandon Scruggs Appellant

FINAL BRIEF OF APPELLANT

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Statement of Issues Presented

I. Did the trial court err in failing to direct a verdict of not guilty when the testimony and exhibits showed that the alleged sawed-off shotgun did not fit the definition of a sawed-off-shot gun and had been purchased legally by the wife of Carles Brandon Scruggs?

II. Did the trial court err in failing to direct a verdict when the State failed to produce substantial circumstantial evidence that Carles Brandon Scruggs possessed any of the weapons named in the indictment that were found in the residence owned by his father and where he was staying?

III. Did the trial court err in granting a permanent restraining order for Misty Poole when Ms. Poole was not in the courtroom and did not on the record request such a restraining order?

Statement of the Case

On April 6, 2022, the deputies from the Anderson County Sheriff's Office searched the residence of Roger Scruggs, the father of Carles Brandon Scruggs. Carles Brandon Scruggs resided there with his common law wife, Christy Bryant. ROA at 68, ll 23-25. At the time of the search they seized numerous weapons of various types. On September 20, 2022, the Anderson County Grand Jury indicted him for a violation of South Carolina Code § 16-23-230.¹ ROA at 509. On November 19, 2024, the Anderson County Grand Jury indicted Mr. Scruggs on thirty-seven count indictment for the unlawful possession of a firearm by a person convicted of a violent crime and unlawful possession of ammunition. ROA at 472-514. Thirteen of these counts were dismissed before trial.² Count fourteen of the thirty-seven counts was for the alleged sawed-off shot gun which was contained in a separate indictment. This was one of the thirteen dismissed charges.

Mr. Scruggs was tried before the Honorable Lawton McIntosh and a jury from June 16-18, 2025. The jury convicted Mr. Scruggs on all counts. On the unlawful possession of firearms charges he was sentenced to five years suspended upon 18 months incarceration and five years probation. As to the unlawful possession of a shot gun, He was sentenced to ten years suspended upon the service of 18 months, 42 months home detention and five years probation.

Mr. Scruggs filed his notice of appeal on June 26, 2025.

¹ The indictment is entitled "UNLAWFUL POSSESSION OF A MACHINE GUN OR SAWED-OFF SHOTGUN OR RIFLE." The body of the indictment stated that on April 6, 2022 Mr. Scruggs possessed sawed-off rifle." ROA at 509.

² While the record is not clear, some of the dismissals may have been that the state returned several weapons to the father of Mr. Scruggs and Christy Bryant pursuant to a consent order. ROA at 520.

Standard of Review

Issues I and III involve statutory interpretation. “Questions of statutory interpretation are questions of law, which are subject to *de novo* review and which we are free to decide without any deference to the court below.” *State v. Whitner*, 399 S.C. 547, 552, 732 S.E.2d 861, 863 (2012). Issue II involves a legal question as to the sufficiency of the evidence and the standard of review is *de novo*. “But when such a purported finding is appealed, whether it was grounded upon any competent, substantial evidence is a question of law for decision by the Court, and it will be reversed in the absence of such basis.” *In re Crawford*, 205 S.C. 72, 30 S.E.2d 841, 851 (1944) The legal conclusion from the facts is viewed *de novo*.

Question I

Did the trial court err in failing to direct a verdict of not guilty when the testimony and exhibits showed that the alleged sawed-off shotgun did not fit the definition of a sawed-off-shot gun and had been purchased legally by the wife of Carles Brandon Scruggs?

The State contends the Remington 870 firearm is a sawed-off shotgun possessed in violation of S.C. Code § 16-23-230. The testimony at trial and an exhibit show this firearm was legally purchased by Christy Bryant from Pack Arms, LLC on March 5, 2020. ROA at 321, 519.

As Ms. Bryant testified:

Q. Okay. And that really short barrel -- that short Remington firearm, there's a picture here somewhere, it looks almost like a 12-gauge sawed-off shotgun.

A. It's a 12-gauge firearm. I purchased it through Pack Arms, the FFL.

Q That's your firearm?

A. Yes, ma'am.

Q. Even if it's classified as a sawed-off shotgun, it's your firearm.

A. It's not classified as a sawed-off shogun. I purchased it from the FFL.

Q. Why is it not classified as a sawed-off shotgun?

A. Because it's had a stock put on it where it could be fired from the shoulder.

Q. Okay. How long is the barrel?

A. It's tactical. I really don't know. I purchased it from the FFL and it's never had the stock handle removed. Now, if the handle were removed and a stock was put on it to be fired from the shoulder, and then say I went to put the original handle back on it, that would still be considered a sawed-off shotgun. But it's never had that grip removed.

Q. What makes it a saw off shotgun?

A. The barrel being sawed-off.

Q. Okay.

A. The barrel has not been sawed-off.

ROA at 321, l 25 to 322, l 14.

No witness for the state refuted anything Ms. Bryant said. The trace report introduced backed up her testimony. The fact is undisputed that she legally purchased the firearm from Pack Arms, LLC.

The trouble with the State's case on this issue is that they simply did not understand the definition of shotgun as used in the South Carolina Code.³ The code is very clear as to what is a shotgun. The South Carolina Code § 16-12-210(c) states, "(c) 'Shotgun' means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder, and designed or redesigned and made or remade to use the energy of the explosive in a fixed shotgun shell to fire through a smooth bore either a number of ball shot or a single projectile for each pull of the trigger."⁴ From the picture of the Remington 870 introduced as State's Exhibit 19-A, the

³ This confusion was transferred to the jury when the trial judge failed to charge the jury as to the proper definition of a shotgun.

⁴ This definition tracks the federal definition of a "shotgun." 26 U.S.C. § 5845 ("(d) Shotgun.--The term "shotgun" means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed shotgun shell to fire through a smooth bore either a number of projectiles (ball shot) or a single projectile for each pull of the trigger, and shall include any such weapon which may be readily restored to fire a fixed shotgun shell.")

weapon shown was not designed to be fired from the shoulder. No testimony by the State refuted this fact. As the weapon is not designed to be fired from the shoulder, it is not a shotgun under South Carolina law. The statute must be given its plain meaning. As the South Carolina Supreme Court has said, "The cardinal rule of statutory construction is that words used therein must be given their plain and ordinary meaning without resort to subtle or forced construction to limit or expand its operation." *Hitachi Data Sys. Corp. v. Leatherman*, 309 S.C. 174, 178, 420 S.E.2d 843, 846 (1992). The definition of shotgun is plain and unambiguous. The Statute requires the weapon to be designed to be fired from the shoulder. The weapon in question clearly is not so designed. As the weapon was sold by a licensed firearms dealer, the possibility of the weapon being illegal is virtually nil.

While the cases on this issue are very scant, the court in Maryland, which has a similar statute, noted the shortening of the stock can cause a weapon to lose its status as a shotgun. The court noted, "In contrast, a shotgun altered at its stock may lose its status as a 'shotgun' within the meaning of § 36F(g) if the stock is shortened to such an extent that the weapon is incapable of being fired from the shoulder." *Parrison v. State*, 335 Md. 554, 562, 644 A.2d 537, 541 (1994)

Ms. Bryant, in her testimony, referred to the weapon as a firearm and not a shotgun. No officer for the State ever testified as to how the weapon not designed to be fired from the shoulder is in fact a sawed-off shotgun. The State did not introduce any evidence the weapon had been modified since it had been purchased. In fact, the State offered no testimony to describe the weapon in any manner except as a Remington 870. Under the statutory definition, the Remington 870 is not classified as a shotgun.

In addition to not meeting the statutory definition, if the weapon were a shotgun, the State

offered no testimony as to whether the weapon in question was shorter than the required overall length or barrel length. The statute requires the barrel to be not less than 18 inches and the overall length is less than 26 inches. South Carolina Code § 16-23-210. No officer testified the exhibit was a sawed-off shot gun nor did the State produce any evidence as to the length of the barrel or the overall length of the weapon. In response to the defense motion for directed verdict, the State noted no testimony existed as to the length of the barrel and argued, "I think the jury can determine from its appearance and make that decision. I think it's a question for them. If they want to measure it back there, they can." ROA at 400, ll 2-5. When the jury specifically asked for a ruler, apparently so they could measure the exhibit, the following exchange occurred:

[The Court] First, what's your feeling about the tape measurer?

MR. HARBIN: The tape measurer is the problem I thought we would run into.

THE COURT: Yeah.

MR. HARBIN: I think they are having to take the place of what had to come from the stand. And asking the question can they get a tape measurer -- you know, there's a difference between a 14- and 16-inch. Like, they can't eyeball it. So the only way to do it --

THE COURT: I always had to do, you know, that's an inch. You know, you need walk down the thing. I mean, they can try that.

MR. HARBIN: But, on the record, I object to the idea that the jury would be allowed or asked to do that.

MS. FERGUSON: Or they can -- that's 8 and a half by 11.

THE COURT: Do what?

MS. FERGUSON: This is 8 and a half by 11. It's a common sense determination.

THE COURT: The question is, in my mind, do they get -- is that new evidence in the case?

MR. HARBIN: I would -- you know, most of the time, I'm, kind of, dissatisfied with this particular response from the bench in questions, but I would think this is the appropriate response: All the facts that are to be considered or are already in evidence.

MS. FERGUSON: I concur.

THE COURT: Okay. So no ruler -- or no tape measurer.

ROA 433, l 3 to 434, l 10

When asking for a directed verdict, defense counsel noted to the trial judge that the length of the barrel was an element the State had to prove. ROA at 400, ll 6-10. The State argued in return:

MS. FERGUSON: I think the jury can determine from its appearance and make that decision. I think it's a question for them. If they want to measure it back there, they can.
ROA at 400, ll 2-5.

The record does not reflect how the jury determined the length of the barrel. Nor does the record reflect how the jury determined where the barrel began. The barrel obviously ended at the end of the barrel. The length of the barrel is an element of the crime which the State is required to prove. "Although the shotgun itself was admitted into evidence without objection, the State presented no testimony or other evidence to prove the actual barrel length. This deficiency is fatal to the State's case." *Carlson v. State*, 597 So. 2d 657, 659 (Miss. 1992). The exact same facts occurred in this case. Speculation is not an adequate basis for a conviction. *See, also, Commonwealth v. Rapp*, 253 Pa. Super. 31, 34, 384 A.2d 961, 962 (1978)("In the case at bar, the Commonwealth's case was fatally deficient because there was no evidence regarding the length of the shotgun's barrel and, therefore, there was no proof that the shotgun constituted a prohibited 'firearm' within the ambit of Section 6105.") This error is compounded by the fact that the record reflects the trial judge instructed the jury the barrel had to be at least 16 inches. He stated, "A sawed-off shotgun or rifle means a gun having a barrel or barrels 16 inches in length" ROA at 424, ll 3-5.⁵ Even though the State offered no proof of the length of the barrel, the issue is

⁵ Whether the judge mis-spoke or the court reporter was wrong has not been determined by this counsel. The only testimony as to the required length of the barrel was given by Ms. Christy Bryant who correctly stated the barrel had to be at least 18 inches. ROA at 323, ll 3-6

truly not relevant as the weapon in question does not meet the statutory definition of a shotgun.

Question II

Did the trial court err in failing to direct a verdict when the State failed to produce substantial circumstantial evidence that Carles Brandon Scruggs possessed any of the weapons named in the indictment that were found in the residence owned by his father and where he was staying?

This issue causes this court to discuss, and hopefully define, the term “substantial circumstantial evidence.” No appellate court in South Carolina has ever defined this term. Also, Mr. Scruggs suggests that the term “constructive possession” be more clearly defined to be limited to a means of proving prior actual possession. If the State cannot prove prior actual possession, how have they proven possession?

The trial of the case by the State seemed to be more focused on the concept that Mr. Scruggs could have possessed the weapons as opposed to did he in fact possess the weapons. For a jury to determine that Mr. Scruggs could have possessed the weapons does not mean he was in constructive possession of the weapons. The appellate courts of our State have reversed several constructive possession cases as to drugs where the jury was easily able to determine the defendant could have had access to the drugs, but the courts found the facts were not sufficient to convict. *See, State v. Jackson*, 395 S.C. 250, 717 S.E.2d 609 (Ct. App. 2011); *State v. Hernandez*, 382 S.C. 620, 677 S.E.2d 603 (2009); *State v. Heath*, 370 S.C. 326, 635 S.E.2d 18 (2006); *State v. Brown*, 267 S.C. 311, 227 S.E.2d 674 (1976). Without a jury finding that the defendants could have known about the drugs and had legal access to the drugs, there would have been no conviction. What was missing in each of the cases was proof that the defendants either

knew of the drugs or knowing of the drugs did not have legal access to them. As noted by the Fourth Circuit Court of Appeals in *Goldsmith v. Witkowski*, 981 F.2d 697, 702 (4th Cir. 1992), “In this case, however, the prosecution presented only an evidentiary picture of an accused sitting at a table laden with narcotics and narcotic paraphernalia in an apartment where other drugs and paraphernalia were later discovered.” Thus, knowledge and easy access to the drugs is not constructive possession. The State had to prove the defendant had the right to exercise dominion and control over the drugs. The same is true in this case. Granted Mr. Scruggs knew the firearms were in the house, but the State failed to show Mr. Scruggs had in fact exercised dominion and control over all the firearms.

If the State in this case had proven the firearms were kept throughout the house and not in a safe, the State would still have to offer some evidence that Mr. Scruggs had in fact exercised some dominion and control over the firearms for which he was indicted to sustain a conviction. Under the later circumstances, even if Mr. Scruggs had expressed a desire to hold and fire each firearm, the State still would not have been successful as they had to prove Mr. Scruggs had the right to exercise dominion and control over the firearms. The State has not produced any direct evidence Mr. Scruggs had such a right. The State has also failed to produce any substantial circumstantial evidence he had such a right.

In reviewing the facts of this case to determine if there is substantial circumstantial evidence to sustain the conviction, this court should be guided by the South Carolina Supreme Court where they said, “[S]ubstantial evidence is ‘not a mere scintilla of evidence, nor the evidence viewed blindly from one side of the case, but is evidence which, considering the record as a whole, would allow reasonable minds to reach the conclusion the administrative agency

reached in order to justify its action.”” *Etheredge v. Monsanto Co.*, 349 S.C. 451, 456, 562 S.E.2d 679, 681–82 (Ct. App. 2002)(internal citations omitted). This standard is expressed in a civil case where the burden of proof is not as high as a criminal case. In this case is it the conclusion the jury reached in finding a conviction that this court must examine. The standard is beyond a scintilla of evidence. As the United States Supreme Court said, “Any evidence that is relevant—that has any tendency to make the existence of an element of a crime slightly more probable than it would be without the evidence, . . . could be deemed a ‘mere modicum.’ But it could not seriously be argued that such a ‘modicum’ of evidence could by itself rationally support a conviction beyond a reasonable doubt.” *Jackson v. Virginia*, 443 U.S. 307, 239 (1979). Put another way, what proof is there that the State’s position that Carles Brandon Scruggs knowingly and intentionally possessed all the firearms is substantially more likely than Mr. Scruggs position that he did not possess them. To the extent that an appellate court determines there is substantial circumstantial evidence to support the verdict, an appellate does, notwithstanding claims to the contrary, in fact weigh the evidence to determine if the evidence is substantial and not a mere scintilla.

No evidence was presented that showed Mr. Scruggs touched any or all the firearms seized from the residence of his father where he was living. No picture was introduce showing Mr. Scruggs holding any of the firearms seized. No fingerprint or DNA of Mr. Scruggs was found on any weapon. The sole testimony that suggested Mr. Scruggs possessed any firearm came from Misty Poole. She testified that she saw Mr. Scruggs with a pistol in his waistband. She also testified she saw him with a rifle shoot a crow out of her yard. ROA 71, ll 17 -21. In her words, “It was daily. It got worse and worse over time.” ROA 72, ll 15-16.

The problem with her testimony is that she also testified that she installed cameras on her property in late October or early November of 2020. State's Exhibit 1 shows the location of the cameras around her property. She further testified she preserved the surveillance videos. ROA 75, ll 8-10. Only one flash drive was introduced, State's Exhibit 2. This video shows what appears to be Mr. Scruggs walking in the backyard of his father's house with nothing in his hands. Several shots can be heard on the video. She had no video of Mr. Scruggs possessing a rifle or pistol of any type. As Ms. Poole had testified his possession of a firearm was an almost daily occupancy, not having a single video of him with a firearm is literally impossible, if what she said had happened. Mr. Scruggs was arrested on April 6, 2022. At that time Ms. Poole's camera had been operating for slightly over 17 months with no video of Mr. Scruggs with a single firearm. When 17 months of surveillance video fails to support her testimony of seeing Ms. Scruggs almost daily with a firearm, the evidence cannot be said to be substantial.

To prove Ms. Scruggs was in constructive possession of the 27 firearms and ammunition introduced the State is required to prove Mr. Scruggs knew the firearms were present. As this court has said, "Conviction of possession requires proof of possession, either actual or constructive, coupled with knowledge of its presence. 'Actual possession occurs when the drugs are found to be in the actual physical custody of the person charged with possession. To prove constructive possession, the State must show a defendant had dominion and control, or the right to exercise dominion and control . . .'" *State v. Muhammed*, 338 S.C. 22, 26-27, 524 S.E.2d 637, 639 (Ct. App. 1999)(internal citations omitted). The fact should be noted that the State must prove Mr. Scruggs had the right to exercise dominion and control over the firearms and not just the ability. In *Goldsmith*, the facts showed that Mr. Goldsmith had the ability to seize the drugs

on the table before him, but the State was required to prove he had the right in addition to the ability.

Properly understood, constructive possession is simply a mean of proving prior actual possession. If illegal drugs are found in a safe to which only the defendant had access, this would be very strong proof that the defendant at one time possessed the drugs and placed them in the safe. As the Minnesota court has said, "The purpose of the constructive-possession doctrine is to include within the possession statute those cases where the state cannot prove actual or physical possession at the time of arrest but where the inference is strong that the defendant at one time physically possessed the substance and did not abandon his possessory interest in the substance but rather continued to exercise dominion and control over it up to the time of the arrest." *State v. Florine*, 303 Minn. 103, 104–05, 226 N.W.2d 609, 610 (1975). So, in this case the State is required to establish sufficient facts to show beyond a reasonable doubt that Mr. Scruggs at one time physically possessed the 27 firearms and ammunition. In this, the State has failed.

The first fact to consider is that, even assuming the testimony of Ms. Poole is correct, she never identified any of the alleged firearms she saw Mr. Scruggs with were any of the firearms introduced against him. For all the evidence in this case shows, any firearm allegedly seen by Ms. Poole could have been a firearm different from the 27 introduced at trial. The indictment in this case alleges Mr. Scruggs possessed specific firearms on April 6, 2022 and not on some unknown firearm on some unknown date prior to April 6, 2022.

This case is very analogous to *United States v. Grubbs*, 506 F.3d 434 (6th Cir. 2007). In *Grubbs*, the defendant was accused of possessing a firearm found in the residence of his mother

where he was an overnight visitor, but did not live there. To establish his guilt, the government introduced an altercation Mr. Grubbs had with Edward Jones a month or two before the day the firearm was seized. Jones could not identify the firearm seized as the one he saw Mr. Grubbs with previously. Mr. Jones testified the firearm he saw Mr. Grubbs with was black and a semiautomatic, the same general description as the firearm seized from the residence of Mr. Grubbs' mother. In holding the facts were not sufficient to convict, the Sixth Circuit said, "[T]he Government does not argue that Grubbs had physical control over the nine-millimeter handgun found under his brother Paul's mattress at the time of the arrest. Nor is there any basis for concluding so: the Government presented no evidence that Grubbs had immediate access to the weapon. The mere fact that the police arrested Grubbs in the same house where they found a handgun is, without more, insufficient to support a conviction for actual possession." *Id.* at 439.

As to the testimony of Mr. Jones that Mr. Grubbs had previously brandished a similar weapon in front of him, the court said, "Although it is true the recovered firearm matched Jones's generic description, these attributes are too common to support a conviction for constructive possession." *Id.* at 441. The court further held that, "Finally, Jones's testimony does not go to the actual possession of the nine-millimeter, but instead suggests that at some earlier time, Grubbs might have possessed some dark-colored handgun that was never recovered. To sustain a conviction, the evidence must show that the defendant 'possess[ed] the firearm and ammunition specified in the indictment.'" *Id.* at 443 (internal citations omitted)

Also in *Grubbs*, the brother of Mr. Grubbs testified the firearms belonged to him. In convicting Mr. Grubbs, the jury obviously rejected this testimony. In this case the wife of Mr.

Scruggs testified the firearms belonged to her.⁶ As to the jury rejecting the testimony of his brother, the court said, “But even if the jury disbelieved all the witnesses, that disbelief alone cannot constitute affirmative proof of constructive possession.” *Id.* at 440. The obligation to prove constructive possession is on the State. The failure of a defendant to prove they did not possession the firearm is not proof of possession.

The Sixth Circuit cited several prior cases with similar result. *United States v. Beverly*, 750 F.2d 34, 37 (6th Cir. 1984)(“Beverly was in the kitchen of Hatfield's residence, that Beverly was standing close to a waste basket which contained two guns, and that Beverly had at some point touched one of the guns. This is not sufficient. Consequently, the government has not proven beyond a reasonable doubt that Beverly constructively possessed the gun.”); *United States v. Hishaw*, 235 F.3d 565, 572 (10th Cir. 2000)(“Mr. Hishaw stated that the car belonged to a friend of his brother. The government presented no evidence to rebut this statement or to show the extent of his dominion and control over the car. As to Mr. Hishaw's possession of a semiautomatic pistol on prior occasions, we agree with the government that, in certain instances, such evidence may support an inference of constructive possession. Here, however, the evidence on which the government relies is simply too remote and too vague to support the inference that Mr. Hishaw constructively possessed the pistol.”); *United States v. Kelso*, 942 F.2d 680, 682 (9th Cir. 1991)(“We find no such evidence of dominion or control in this case. Although Kelso may have had access to the gun, there is no evidence he owned it, or even was aware of its presence.

⁶ While the jury was entitled to refute the testimony of Ms. Bryant, she was the only witness to provide testimony as to the proper statutory definition of a shotgun. No police officer or firearms expert contradicted her testimony. Court's Exhibit 4 (ATF Trace Report), proved her testimony that she legally purchased the Remington 870 to be correct.

The district court applied the enhancement because he had access to the weapon and had used weapons in the commission of prior offenses. This is insufficient evidence of a relationship between Kelso and this weapon to establish constructive possession.”).

The Seventh Circuit also decided a case very similar to this case in *United States v. Griffin*, 684 F.3d 691 (7th Cir. 2012). Cory Griffin was on probation for a felony living in the house belonging to his father. His father had in the house ten firearms and five sets of ammunition. The weapons and ammunition were located in various places through out the house. None were in a gun safe. The weapons were found when the police officers executed a search warrant which authorized them to enter the house to look for his brother. Mr. Griffin was convicted for possessing a shotgun found behind the kitchen door and two sets of ammunition found on the stairs between the first and second floors. In addition to the above, the government had testimony from Mario Walker, a jailhouse informant, who testified Mr. Griffin had told him that his father had purchased some of the shotguns for the defendant and that two handguns belonged to him.

Against this background, the Seventh Circuit found the facts were not sufficient to convict. As noted by the court, “The government had no evidence that Griffin himself ever had actual physical possession of the shotgun behind the kitchen door or the ammunition on the stairs.” *Id.* at 695. The court further noted, “[W]hen the defendant jointly occupies a residence, proof of constructive possession requires the government to demonstrate a ‘substantial connection’ between the defendant and the contraband itself, not just the residence,” *Id.* at 697. In Mr. Scruggs case, the State established no such substantial connection. The court further stated that the argument of the government that Mr. Griffin knew he was not to have firearms in a

house where he was living, “[C]onfuses access with possession. Neither the felon-in-possession statute nor the terms of Griffin’s conditional release prohibited him from living in a home where firearms were otherwise lawfully present.” *Id.* at 698⁷

As to the “jailhouse” confession testimony as to Mr. Walker, the court said, “The critical problem with Walker’s testimony is that it does not attribute to Griffin possession of the specific shotgun and ammunition for which he was convicted.” *Id.* at 699. The same is true in this case. The testimony of Ms. Poole does not attribute to Mr. Scruggs the possession of any of the firearms for which he was indicted and convicted.

In this case, the State produced no evidence that Mr. Scruggs had dominion and control over the 27 firearms and ammunition. The testimony was the weapons were kept in a safe to which Mr. Scruggs had no access. The State has not shown through substantial circumstantial evidence he had access to the weapons for which he was indicted. Granted the burden of proof on the State to prove constructive possession is difficult. If we are to require the State to prove its case beyond a reasonable doubt, the burden should be difficult. No substantial circumstantial evidence shows that the State’s theory of guilt is substantially more likely than the Mr. Scruggs theory of innocence. The State offered no testimony that Mr. Scruggs had in fact handled any of the specific firearms for which he was indicted. Even if the firearms had been found strewn about the house, the State still had the burden of proving Mr. Scruggs had possessed the specific firearms and not that they were available to him to possess.. Simple access to a firearm is not,

⁷ The court made a further comment, “We recognize that Griffin’s easy access to the weapons may have meant that, sitting in the kitchen, he was capable of violating the felon-in-possession in a matter of seconds. Without more, however, that easy access does not mean that he actually violated the felon-in-possession statute by intending to exercise control over any of the firearms.” *Id.* at 698.

and never will be a basis for proving constructive possession when the State, as in this case, is seeking to prove joint possession. “Even if the State’s evidence was sufficient to prove that Watson knew about the gun, it offered no evidence to prove the control element other than Watson’s mere proximity to it.” *Watson v. State*, 961 So. 2d 1116, 1117 (Fla. Dist. Ct. App. 2007). “[T]he State demonstrated Chouinard’s mere proximity to the weapon and his knowledge of its presence in the vehicle. This evidence, alone, does not sustain a conviction for constructive possession of a firearm.” *State v. Chouinard*, 169 Wash.App. 895, 903, 282 P.3d 117, 121 (2012).

In Illinois, the court held that knowledge of a firearm and access to it was not sufficient to convict under the theory of constructive possession where the firearm was available to other people.. The court held, “Where the State failed to prove beyond a reasonable doubt that defendant exercised immediate and exclusive control over the area where the firearm was found, his conviction for unlawful possession of a weapon in violation of section 24-1.1(a) on a theory of constructive possession cannot stand.” *People v. Wise*, 450 Ill.Dec. 844, 854, 182 N.E.3d 656, 666 (2021).

The State presented no evidence that permits a reasonable juror to infer Mr. Scruggs possessed the 27 firearms and ammunition for which he was convicted. Evidence that he may have possessed some unknown firearm at some unknown time prior to April 6, 2022, is not substantial circumstantial evidence he possessed the firearms on April 6, 2022. To reach such a conclusion, the jury would be required to draw an inference upon an inference. “A jury cannot speculate its way out of reasonable doubt.” *United States v. Katz*, 582 F.3d 749, 752 (7th Cir. 2009)

Question III

Did the trial court err in granting a permanent restraining order for Misty Poole when Ms. Poole was not in the courtroom and did not on the record request such a restraining order?

Under South Carolina Code § 16-3-1910 a person who is either a victim of a crime or has testified against a person who is convicted of a crime, may seek a restraining order against the defendant. The statute states:

- (B) To seek a permanent restraining order, a person must:
- (1) request the order in general sessions court or family court, as applicable, at the time the respondent is convicted for the criminal offense committed against the complainant;

The statute specifically provides that the restraining order is to be requested by the person. In this case the request was made by the solicitor out of the presence of Ms. Poole.

Shortly before sentencing the following occurred:

[Ms. Ferguson] The only thing the State requests is that there be a restraining order - - a permanent restraining order - -

THE COURT: That's done

MS. FERGUSON: - - on him or anyone on his behalf for Misty Poole and Poole's Used Cars.

THE COURT: Does Ms. Poole want to say anything?

MS. FERGUSON: She's not here, Your Honor.

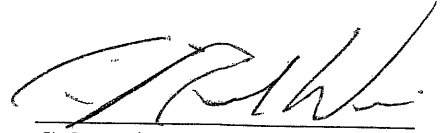
ROA 466, ll 12-21

As the statute requires that the request be made by the person, that should at least require the person to be present to agree to the request. To the extent the order purports to restrain anyone other than Mr. S cruggs, the order is invalid. Furthermore, under the statute, if this court overturns the convictions, part of the ruling should include the lifting of the restraining order.

CONCLUSION

For the foregoing reasons, this court should reverse the convictions of Carles Brandon Scruggs on the ground the evidence is not sufficient to convict and an order lifting the restraining order.

Sept 3, 2026



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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM ANDERSON COUNTY
General Sessions Court
Hon. R. Lawton McIntosh, Circuit Court Judge

Appellate Case No. 2025-001295
Lower Case Nos 2022GS0401524, 1525, 1794, 2024GS0402053

The State Respondent

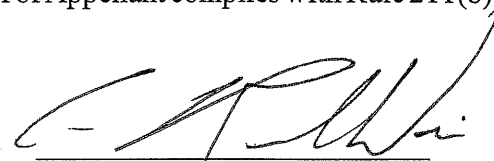
vs.

Carles Brandon Scruggs Appellant

CERTIFICATE OF COUNSEL

The undersigned certifies that this Final Brief of Appellant complies with Rule 211(b), SCACR.

Sept 2nd, 2026



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