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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 REPLY BRIEF OF APPELLANT

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Index

Table of Authorities	ii
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Argument:

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? . . .	1
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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?.....	4
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Table of Authorities

	Page:
Cases:	
<i>State v. Weston</i> , 367 S.C. 279, 625 S.E.2d 641 (2006)	6
<i>Gastineau v. Murphy</i> , 331 S.C. 565, 503 S.E.2d 712 (1998).	7
<i>Heatley v. State</i> , Op. No. 28344(S.C.Sup.Ct. filed July 22, 2026) (Howard Adv.Sh. No. 27)... 6, 7	
<i>Lyman v. State</i> , 45 Ala. 72, 79 (1871)	3
<i>Schlup v. Delo</i> , 513 U.S. 298 (1995)	3
<i>State v. Brandt</i> , 393 S.C. 526, 542, 713 S.E.2d 591, 599 (2011)	6
<i>State v. Cashen</i> , 789 N.W.2d 400 (Iowa 2010)	3
<i>State v. Littlejohn</i> , 228 S.C. 324, 89 S.E.2d 924 (1955).	7
<i>State v. McHoney</i> , 344 S.C. 85, 544 S.E.2d 30 (2001)	3
<i>State v. Mitchell</i> , 341 S.C. 406, 409, 535 S.E.2d 126, 127 (2000)	8
<i>State v. Rogers</i> , 405 S.C. 554, 748 S.E.2d 265 (Ct. App. 2013)	8
<i>Strickland v. United States</i> , 155 F.2d 167 (5th Cir. 1946)	4
<i>Town of Mt. Pleasant v. Roberts</i> , 393 S.C. 332, 713 S.E.2d 278 (2011)	2
<i>United States v. Griffin</i> , 684 F.3d 691 (7 th Cir. 2012)	5
<i>Wiborg v. United States</i> , 163 U.S. 632 (1896).	4
Statutes:	
South Carolina Code § 16-12-210	1
South Carolina Code § 16-12-210(c)	1

Rules:

Rule 19, South Carolina Rules of Criminal Procedure	2, 4
Rule 50a of the South Carolina Rules of Civil Procedure	2

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 incorrectly argues, “This is not a statutory interpretation case.” Br. of Resp. at 12. The State argues the evidence is sufficient to identify the Remington 870 introduced into evidence as a shotgun. In support they argue, “Campbell, one of the officers who secured the large quantity of firearms and ammunition found at Appellant’s residence, identified State’s Exhibit 19-A as a ‘[t]welve-gauge shotgun.’ ROA at 199, ll 13-14. Therefore, direct testimony concerning the firearm at question tends to show it was, indeed, a shotgun.” Br. of Resp. at 12. This simply ignores the issue of whether Exhibit 19-A fits the statutory definition of a shotgun. Definitions matter. If the weapon does not fit the statutory definition of shotgun, then all the testimony of all the officers identifying the exhibit as a shotgun does not and cannot legally turn the weapon onto a shotgun. The argument of the state is a tacit admission that the exhibit does not fit the definition of a shotgun and therefore does not fit the definition of a sawed-off shotgun.¹ If the exhibit fits the definition, the State would have pointed out that fact.

The State completely failed to discuss in any manner South Carolina Code § 16-12-210(c). The section is not even mentioned in their brief. This section states, “(c) ‘Shotgun’ means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder” The State has not argued that the weapon in question was ever designed to be

¹ The State in its response ignores the undisputed testimony of Christy Bryant that the Remington was legally purchased and court exhibit 4 (ATF Trace Report) that shows it was legally purchased.

fired from the shoulder. The simple act of viewing Exhibit 19-A shows the weapon has a pistol grip and is not designed to be fired from the shoulder. The State has never contended the weapon in question was designed to be fired from the shoulder. As noted in the opening brief, and not disputed by the State, no evidence shows this weapon has been modified in any manner. The State simply elected to ignore the statutory definition of shotgun to draw the conclusion the weapon was a sawed-off shotgun. The fact the exhibit may commonly be called a shotgun does not make this weapon a sawed-off shotgun for purposes of a criminal conviction. Definitions matter.

As the South Carolina Supreme Court has said, “When a statute is penal in nature, it must be strictly construed against the State and in favor of the defendant.” *Town of Mt. Pleasant v. Roberts*, 393 S.C. 332, 342, 713 S.E.2d 278, 283 (2011). Such a rule of interpretation does not give the state the right to water down a definition based upon what an officer, without reference to the statute, says. The Exhibit 19-A does not fit the statutory definition of a sawed off shotgun.

Error preservation

The error of the state as to issue preservation is that in South Carolina a trial judge is under an obligation to direct a verdict in a criminal case. Rule 19 of the South Carolina Rules of Criminal Procedure uses the mandatory word “shall.” It provides, “On motion of the defendant or on its own motion, the court shall direct a verdict in the defendant’s favor on any offense charged in the indictment after the evidence on either side is closed, if there is a failure of competent evidence tending to prove the charges in the indictment.” As the rule requires a judge to direct a verdict on their own motion, there is no need for trial counsel for the defendant to make a motion for a directed verdict. On the civil side, Rule 50a of the South Carolina Rules of

Civil Procedure uses the word “may.” The civil rule does not give a trial judge the right to direct a verdict. The motion must be made by the attorney for either party.

As the trial judge in a criminal case is required to direct a verdict on their own motion, then the issue as to the sufficiency of the evidence to convict is always preserved. The reason for this conclusion is very simple. As the Alabama Supreme Court stated over 150 years ago, “The State has no interest in convicting an innocent person.” *Lyman v. State*, 45 Ala. 72, 79 (1871). The South Carolina Supreme Court has stated, “A defendant is entitled to a directed verdict when the State fails to produce evidence of the offense charged.” *State v. McHoney*, 344 S.C. 85, 97, 544 S.E.2d 30, 36 (2001). If a defendant is entitled to a directed verdict and the Rule requires the trial judge to grant it on his own motion, then the issue is preserved. The United States Supreme Court has also expressed this same sentiment when it stated, “Indeed, concern about the injustice that results from the conviction of an innocent person has long been at the core of our criminal justice system.” *Schlup v. Delo*, 513 U.S. 298, 325 (1995). *State v. Cashen*, 789 N.W.2d 400, 407–08 (Iowa 2010) (“Because of the importance of the public interest in not convicting an innocent person of a crime, any standard should resolve doubts in favor of disclosure.”). As concern about convicting the innocent is at the core of our criminal justice system, this court should hold the failure of a trial judge to address the issue of actual innocence should preserve the issue for appellate purposes. This is not a technical issue. The weapon introduced simply does not fit the statutory definition of a sawed-off shotgun. The State could not have corrected this error at trial with any witness.

As to the importance of protecting the innocent from a wrongful conviction, the Fifth Circuit Court of Appeals said, “While it is the general rule that unless a motion to direct a verdict

was made, an appellate court will not consider the evidence in a criminal case, nevertheless, where there is not sufficient evidence to support the conviction and error is apparent, then it becomes the duty of the court to reverse the judgment.” *Strickland v. United States*, 155 F.2d 167, 168 (5th Cir. 1946). If it is the duty of the appellate court to reverse the conviction, it is also the duty of the trial court to prevent the conviction. *See also, Wiborg v. United States*, 163 U.S. 632, 658 (1896)(“And, although this question was not properly raised, yet if a plain error was committed in a matter so absolutely vital to defendants, we feel ourselves at liberty to correct it.”) Under Rule 19 of the Rules of Criminal Procedure, this court should find the issues as to a directed verdict based upon the failure of proof that the weapons came under the definition of a sawed-off shotgun to be preserved. Why does the State urge this court to continue the punishment of Mr. Scruggs when as a matter of law he has not committed the crime for which he was charged? This court should immediately reverse the conviction for the possession of a sawed-off shot gun and end the home incarceration of Carles Brandon Scruggs.

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?

In discussing this issue, the State appears to suggest that constructive possession is different legally from actual possession. This argument is misleading. The crime with which Mr. Scruggs is charged is possession of a firearm by a convicted felon. All constructive possession means is there is proof beyond a reasonable doubt that while Mr. Scruggs was not in

actual possession at the time of his arrest, but there are sufficient facts to show he was in prior actual possession. This was fully discussed in the opening brief. The State did little to refute this.

The State appears to argue that because the wife of Mr. Scruggs had the combinations to the safes, she could have given the combinations to Mr. Scruggs and he would have had access to all the weapons. The State argues Mr. Scruggs had constructive possession because he “had the ability to exercise dominion and control over the firearms and ammunition.” Br. of Resp. at 16. This ability to exercise dominion and control was completely dependent upon his wife giving him the combinations to the safes. No evidence exists in this case that the wife gave him the combinations to the safes. The mere ability to ask or even force his wife to give him the combinations does not make Mr. Scruggs guilty of the possession of the firearms. The state needed substantial evidence that this in fact actually happened on the day of his arrest. If the state had proven that at one time in the past Mr. Scruggs’ wife gave him one combination to one safe, that does not mean he had the combinations and the right to enter any safe on the day of his arrest. Such evidence is completely missing in this case.

As noted in the opening brief, if the weapons were in no safe but were simply stored out in the open, Mr. Scruggs would have easy access to the weapons. But this easy access is not sufficient to convict until the state proves he did in fact actually possess one or more of the firearms. As previously noted, the crime is the actual possession of a firearm and not living in a residence where firearms are out in the open. *See, United States v. Griffin*, 684 F.3d 691 (7th Cir. 2012). The response of the State does not refute this conclusion.

What facts, not inferences, has the state produced that Mr. Scruggs had actual access to

the safes and did in fact have actual physical possession of all the firearms on April 6, 2022? If he had access to a firearm on March 2, 2022, that may be some evidence he had access to that firearm on April 6, 2022, but it is not substantial circumstantial evidence he had access to all the weapons on April 6, 2022. The record contains no such facts showing he had access to all the weapons on April 6. The State quotes cases decided by our courts that say all facts and inferences must be viewed in the light most favorable to the state. See, *State v. Weston*, 367 S.C. 279, 625 S.E.2d 641 (2006). If such a rule were literally applied, as the state asks this court to do in this case, no circumstantial evidence case would ever be overturned. In every circumstantial evidence reversed by this court or the South Carolina Supreme Court, there were always inferences that would support a conviction. Notwithstanding this, the cases were overturned. What the rule has to mean is does the reasonable inferences, not just any inference, support a conviction beyond a reasonable doubt. As is often said, “When reviewing a denial of a directed verdict, an appellate court views the evidence and all reasonable inferences in the light most favorable to the State.” *State v. Brandt*, 393 S.C. 526, 542, 713 S.E.2d 591, 599 (2011). An inference not based upon a proven fact is not a reasonable inference.

If the reasonable inferences between guilt and innocence are equal, how can a court conclude there is substantial circumstantial evidence to sustain the conviction. At the least, if the phrase “substantial circumstantial evidence” has any meaning, it must mean the inferences favoring the state are substantially more likely than the inferences favoring the defendant.

Recently, our supreme court addressed the issue of circumstantial evidence. *Heatley v. State*, Op. No. 28344(S.C.Sup.Ct. filed July 22, 2026) (Howard Adv.Sh. No. 27 at 31). The impact of *Heatley* is with a jury charge and not how a circumstantial evidence case should be

reviewed or evaluated for directed verdict purposes. As the *Heatley* court stated, “We begin our more detailed review of the history of charging the jury on circumstantial evidence with *State v. Littlejohn*, 228 S.C. 324, 89 S.E.2d 924 (1955), a case which did not even involve a jury charge but presented only the question whether the State introduced sufficient circumstantial evidence to withstand the defendant's directed verdict motion” *Id.* at 34. Thus, *Heatley* appears to leave intact the directed verdict rule that a trial judge, and an appellate court on appeal, must look to see if the state has eliminated a reasonable hypothesis of innocence before sending the case to the jury.²

Such an analysis seems logical. If the trial judge makes an independent determination that there is no logical explanation of innocence, viewing all the disputed facts and reasonable inferences based upon proven facts in favor of the state, then the case should be sent to the jury to determine if the jury agrees with the facts most favorable to the State. On review, an appellate court, again reviewing all the disputed facts in the light most favorable to the state, is able to judge the validity of the determination of the trial judge. Using this analysis, the trial judge in this case erred in failing to direct a verdict.

Also, this court and the South Carolina Supreme Court have said on numerous occasions, “When a motion for a direct verdict is made in a criminal case where the State relies exclusively on circumstantial evidence, the lower court is concerned with the existence or nonexistence of

² In a civil case, where the burden is only a preponderance of the evidence, the supreme court has said, “Viewing the evidence in the light most favorable to Gastineau, the circumstances under which other inspections were performed do not lead with reasonable certainty to the conclusion that Hudson would have told anybody he was there because of Gastineau's report.” *Gastineau v. Murphy*, 331 S.C. 565, 570–71, 503 S.E.2d 712, 714–15 (1998). If “reasonable certainty” is the standard for an appellate court to review a civil case involving circumstantial evidence, logic would dictate a higher standard in a criminal case.

evidence, not with its weight.” *State v. Mitchell*, 341 S.C. 406, 409, 535 S.E.2d 126, 127 (2000). This simply is not completely correct. As noted in the opening brief, to make the determination as to whether the circumstantial evidence is substantial, requires a court, at least some degree, to weigh the value of the circumstantial evidence. Without weighing the circumstantial evidence, an appellate court cannot make the determination if the evidence is substantial. What the weighing must consist of is whether the inferences of guilt are reasonable and whether some reasonable inference of guilt exists. This would be in keeping with the general statement often made by this court, “If there is any direct evidence, or if there is substantial circumstantial evidence, that reasonably tends to prove the defendant's guilt, we must find the trial court properly submitted the case to the jury.” *State v. Rogers*, 405 S.C. 554, 563, 748 S.E.2d 265, 270 (Ct. App. 2013). The inference must reasonably point to guilt and not simply suggest possible guilt. Suggesting possible guilt would simply be permitting a conviction on speculation. This is improper.

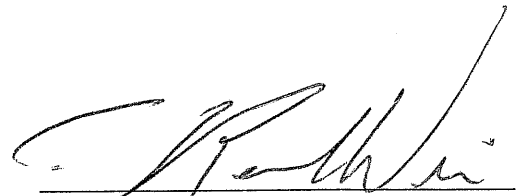
The State produced evidence that the combinations to the safes were in the possession of the wife of Mr. Scruggs. That fact was established. The question then becomes, has the state presented substantial circumstantial evidence to prove the wife of Mr. Scruggs actually gave Mr. Scruggs access to the firearms on April 6, 2022, the day alleged in the indictment. As no proven fact permits the jury to determine there is a reasonable inference Mr. Scruggs actually possessed the firearms on the day in question, then the state has failed to produce substantial evidence of the guilt of Carles Brandon Scruggs.

CONCLUSION

Fore the foregoing reasons, this court should without oral argument, reverse the conviction of Carles Brandon Scruggs as the state has not shown that the weapon in question is a sawed-off shotgun. The weapon does not fit the statutory definition of shot gun and the State has made no argument that it does fit such a definition. Mr. Scruggs should be entitled to immediate relief on this charge.

As to the charge of felon in possession, based upon the opening brief and this reply brief, this court should hold that at the trial below, the State failed to establish any facts from which the jury could reasonably infer that Carles Brandon Scruggs ever had actual possession of the weapons as charged in the indictment.

Sept 3rd, 2026



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The State Respondent

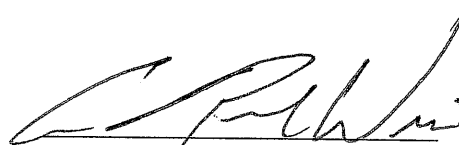
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CERTIFICATE OF COUNSEL

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

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