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SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Florence County

Honorable H. Steven DeBerry, IV, Circuit Court Judge

THE STATE, RESPONDENT,

V.

DERRICK LAMONT BRUNSON, APPELLANT

APPELLATE CASE NO. 2025-001937

INITIAL BRIEF OF APPELLANT

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TABLE OF CONTENTS

TABLE OF AUTHORITIES

United States Cases

South Carolina Cases

Rules

Constitutional Provisions

STATEMENT OF ISSUES ON APPEAL

I.

Whether the trial court erred in admitting the statement Appellant gave to law enforcement while illegally detained in violation of the Fourth Amendment of the United States Constitution?

II.

Whether the trial court erred in admitting evidence obtained from Appellant's home where no search warrant was acquired for Appellant's home, Appellant did not consent to a search, there were no exigent circumstances justifying the warrantless search, and the plain view exception did not apply?

III.

Whether the trial court erred in admitting the testimony of state's witnesses Nyoka Carter, Riley Carter, Colette Wilke, and Rhakise Smalls who testified that they saw significant and various injuries to the decedent in the months and weeks leading up to her death, where the state argued that those injuries were caused by Appellant when there was no evidence to support that contention?

IV.

Whether the trial court erred in denying the motion for directed verdict where the evidence only raised a mere suspicion of guilt?

STATEMENT OF THE CASE

The October 2021 term of the Florence County grand jury indicted Appellant for the offense of murder in the death of Katelynn Schippnick. On September 8, 2025, the state called the case to trial before the Honorable H. Steven DeBerry, IV, and a jury.[1] Appellant was represented by William "Josh" Edgeworth; the state was represented by Todd Tucker. Tr. 1. After a five-day trial, the jury found Appellant guilty as indicted. Tr. 686. The court sentenced him to life without the possibility of parole. Tr. 701. Appellant timely noticed his intent to appeal.

This appeal follows.

1 The state called the case to trial in July 2024; that trial resulted in a hung jury. Tr. 43, ll. 14-16.

ARGUMENTS

I.

<u>The trial court erred in admitting the statement Appellant gave to law enforcement while illegally detained in violation of the Fourth Amendment of the United States Constitution.</u>

Standard of Review

"[A]ppellate review of a motion to suppress based on the Fourth Amendment involves a two-step analysis." <u>State v. Frasier</u>, 437 S.C. 625, 633, 879 S.E.2d 762, 766 (2022). The appellate court will "review the trial court's factual findings for any evidentiary support, but the ultimate legal conclusion . . . is a question of law subject to de novo review." <u>Id.</u> at 633-34, 879 S.E.2d at 766.

Relevant Facts

On May 21, 2021, members of the Florence County Sheriff's Office responded to a 9-1-1 call reporting a possible gunshot victim. Chris Owens was the first officer on scene, and he was met by Appellant waving him down and yelling for help. Tr. 94, ll. 1-10. Owens followed Appellant into the home to the back bedroom which had an attached bathroom. Inside the bathroom, the decedent was located laying on the floor, on her back, with a towel under her head and a towel across her upper body. She was wearing black pants. State's Exhibit No. 96. (photograph) (on file with this Court).[2] Appellant attempted rescue breathing on the decedent prior to law enforcement removing him from the scene. Tr. 79, ll. 1-7; Tr. 95 ll. 3-21. First responders quickly determined that the individual, identified as Appellant's long-time significant other, was deceased. Tr. 55, ll. 1-7; Tr. 96, ll. 16-24.

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2 All photo exhibits referenced to herein are on file with this Court.

Appellant was described as upset, emotional, and distraught. Tr. 78, l. 22 – 79, l. 21. In his highly emotional state, Appellant requested to go back inside the residence and made "motions" as if he was going to go back into the residence. Due to this emotional behavior, and the fact that the body of the decedent would need to be removed from the scene, officers decided to detain Appellant for "officer safety at that time," and Appellant was placed in handcuffs. Tr. 81, ll. 1-15. He remained in handcuffs and in law enforcement custody for hours.

While Appellant was detained, officer Leonard Johnson testified that he was informed that Lieutenant Powell and Investigator Worsley "wanted me to transport him down to the Sheriff's Office so he can have an interview done." Tr. 81, ll. 19-25. Appellant requested that he be allowed to leave with his sister; the officers decided it was not in his best interest to go with his sister, and instead Appellant was kept handcuffed and in their custody. Tr. 65, l. 17 – 66, l. 3. It was unclear how long Appellant was on scene in police custody, but "it very well could have been" over an hour. Tr. 87, ll. 19-25. Appellant was subsequently placed in the back of a patrol vehicle, where he remained handcuffed, and was transported to the Sheriff's Office. Tr. 81, l. 21 – 82, l. 17.

The lead investigator on the case, Keith Worsley, admitted that at the time that Appellant was placed into custody, he did not have probable cause to make an arrest, and he maintained that Appellant was simply "detained." Worsley admitted that being detained meant the individual was in the custody of law enforcement. Tr. 68, ll. 4-17. Worsley further conceded that Appellant was never told that he was free to leave prior to being questioned about the events of the day. Tr. 69, ll. 1-20.

Johnson and Worsley testified that they removed the handcuffs from Appellant as soon as he arrived at the Sheriff's Office. Tr. 57, ll. 1-13; Tr. 83, ll. 8-19. This proved to be untrue.

Appellant was handcuffed for the duration of the interview, and the only accommodation made was that the handcuffs were moved from behind his back to the front of his body. State's Exhibit No. 3 (Statement of Defendant – Disk) (on file with this Court). Appellant was provided with Miranda[3] warnings at the start of the interview. R. State's Exhibit 2 (Miranda Form). Appellant was questioned in a small, windowless room by armed police officers. Tr. 69, ll. 12-19.

Appellant testified that he was with law enforcement from the time they arrived on scene until he was ultimately released after giving his statement. He maintained that at no point was he told why he was being placed in handcuffs, that he was told he could not leave the scene with his sister, that he was never told he was free to leave, and that he did not feel that he could have left the Sheriff's Office at any time. Tr. 124, l. 21 – 125, 15. When asked if he went inside the residence, Appellant testified that he could not go in and would not have been allowed inside the house after law enforcement was on scene. Tr. 137, l. 22 – 138, l. 1.

Prior to trial, defense counsel moved to suppress Appellant's statement under the fruit of the poisonous tree doctrine, arguing Appellant was illegally under arrest at the time he gave his statement, that no reasonable person would have believed that they were not under arrest, that there were other indicia of detention to support that Appellant was illegally under arrest, that the giving of Miranda warnings did not purge the taint of the illegal arrest, and that the statement should be suppressed. Tr. 181, l. 3 – 183, l. 19. Defense counsel asserted that Appellant was in custody for the purposes of the Fourth Amendment, and this went beyond what would be a simple Terry[4] strop. Defense counsel argued that a reasonable person in these circumstances would have thought they were under arrest, and that reasonable person standard is what

3 Miranda v. Arizona, 384 U.S. 436 (1966)

4 Terry v. Ohio, 392 U.S. 1 (1968).

controlled in analyzing matters under the Fourth Amendment. Tr. 187, l. 18-188, l. 12. After taking the matter under advisement, the trial court ultimately found Appellant's statement admissible and constitutionally sound, ruling as follows:

> I certainly understand the facts as they were more or less undisputed, even with the aid of the defendant's testimony. There was a situation whereby the defendant called EMS, first responders, law enforcement to respond to a situation where ultimately there was a death.
>
> There was testimony, certainly credible testimony from the first responders that the defendant was in -- in a tough mental state, as may be normal under the circumstances. That he tried to interfere, not necessarily in an unwarranted way, but certainly in a way that would prohibit the first responders from doing their jobs as they saw fit. And then that that continued throughout the process to the point where it became an officer safety issue by way of testimony from the officers. There's also testimony and evidence in the record that supports that the defendant, Mr. Brunson, was -- was compliant, was -- was willing to go to the Sheriff's Office for -- to supply a statement. He went there voluntarily.
>
> Even though he was handcuffed, he was never placed under arrest. He was transported there. As soon as -- the testimony and the evidence is as soon as they arrived, handcuffs were taken off. He freely and voluntarily walked into the detective's office, whereby he gave a statement after being mirandized. He testified that he signed the Miranda form. That he freely and voluntarily gave them his statement, and thereafter he was allowed to leave.
>
> Certainly, there was an argument that says, you know, the very fact that Miranda was even given indicates that he was in custody, but -- or indicates that he was in custody, but I certainly think that anytime under the same or similar circumstances, even when people voluntarily come to the police station on their own free will and by way of their own transportation, they're certainly mirandized before they might give any statement.
>
> So taking the totality of the circumstances, I certainly believe and rule that the defendant gave a statement freely and voluntarily, and that there was no constitutional violation as a result of the facts and the circumstances surrounding that statement.

Tr. 191, l. 13 – 193, l. 1.

After the state rested, defense counsel re-raised the motion to suppress in concert with a direct verdict motion. It had become apparent that the officers misled the court in their original testimony that Appellant was not handcuffed once he arrived at the Sherrif's Office. Tr. 611, l. 10 – 612, l. 1. The trial court declined to alter its ruling on the admissibility of Appellant's statement and focused solely on the purported voluntariness of the statement. Tr. 617, l. 18 – 618, l. 16.

Discussion

Appellant was detained, placed in the back of a patrol car, transported to the Sherrif's Office, was never told he was free to leave, and was kept in handcuffs for the duration of the interview, all without probable cause to place him under arrest. This was a seizure under the Fourth Amendment that exceeded the bounds of any lawful investigative detention and that was constitutionally infirm from the outset. The trial court should have suppressed Appellant's ill-gotten statement.

"The security and protection of persons and property provided by the Fourth Amendment are fundamental values." State v. Gamble, 405 S.C. 409, 420, 747 S.E.2d 784, 789 (2013) (*citing* Alderman v. United States, 394 U.S. 165, 175 (1969)). "No right is held more sacred, or is more carefully guarded by the common law, than the right of every individual to the possession and control of his own person, free from all restraint or interference of others, unless by clear and unquestionable authority of law." State v. Woodruff, 344 S.C. 537, 544, 544 S.E.2d 290, 294 (Ct. App. 2001) (*citing* Union Pacific Ry. Co. v. Botsford, 141 U.S. 250, 251 (1891)). The basic purpose of the Fourth Amendment, as recognized repeatedly by the United States Supreme Court, is "to safeguard the privacy and security of individuals against arbitrary invasions by government officials." Cady v. Dombrowski, 413 U.S. 433, 453 (1973) (Brennan, J. dissenting). When evaluating searches and seizures through the framework of the Fourth Amendment, "[t]he ultimate standard set forth...is reasonableness." Dombrowski at 439.

In Taylor v. Alabama, 457 U.S. 687 (1982), the United States Supreme Court held that a confession obtained through the custodial interrogation of a defendant after he had been illegally arrested should have been suppressed. The Taylor Court relied upon Dunaway v. New York, 442 U.S. 200 (1979) and Brown v. Illinois, 422 U.S. 590 (1975) wherein the Court had held that the statements of the respective defendants had to be suppressed, and were not admissible at trial, because a confession obtained through custodial interrogation after an illegal arrest had to be excluded unless intervening events broke the causal connection between the illegal arrest and the confession. There had to be "sufficiently an act of free will to purge the primary taint." Taylor v. Alabama, 457 U.S. at 689, *quoting* Wong Sun v. United States, 371 U.S. 471 (1963).

Dunaway is particularly instructive to Appellant's case. There, officers were investigating the murder and attempted robbery of the proprietor of a pizza parlor when they received information that a jail informant could supply a lead implicating Dunaway. Officers spoke with the jail informant, but the informant was unable to supply enough information to get a probable cause arrest warrant for Dunaway. Nonetheless, officers picked up Dunaway and brought him in for questioning. Dunaway was taken into police custody – the Court noted that although he was never told he was under arrest, he would have been physically restrained if he had attempted to leave. The Court noted Dunaway was driven to police headquarters in a police car and placed in an interrogation room where he was questioned by officers after receiving Miranda warnings, resulting in incriminating statements and sketches that were later used against him at trial. Id. at 202-03.

The Court considered two separate questions in reaching its conclusion. The first was whether the police "violated the Fourth and Fourteenth Amendments when, without probable cause to arrest, they took petitioner into custody, transported him to the police station, and detained him there for interrogation." Id. at 206-07. The Court found that Dunaway was unquestionably seized under the Fourth Amendment when he was involuntarily taken to the police station for questioning. Id. at 207. While recognizing that in very limited circumstances, such as a Terry stop, law enforcement can detain, pat down, and even briefly question an individual, any other seizure of the person required a probable cause basis to survive scrutiny. Id. at 208-211. The Court rejected any application of the principles in Terry to the case because Terry and its progeny involved "narrow intrusions" that "fell short of the kind of intrusion associated with an arrest." Id. at 211-212. The Court found that the circumstances surrounding Dunaway being detained and taken in for custodial questioning were "indistinguishable from a traditional arrest" and that the "application of the Fourth Amendment's requirement of probable cause does not depend on whether an intrusion of this magnitude is termed an 'arrest' under state law." Id. at 212-213.

The Court concluded that its precedent "reflect[ed] the conclusion that detention for custodial interrogation—*regardless of its label*—intrudes so severely on interests protected by the Fourth Amendment as necessarily to trigger the traditional safeguards against illegal arrest." Thus, the police violated the Fourth and Fourteenth Amendments when, without probable cause, they seized petitioner and transported him to the police station for interrogation. Id. at 216 (emphasis added).

The Court then considered whether "the connection between this unconstitutional police conduct and the incriminating statements and sketches obtained during petitioner's illegal detention was nevertheless sufficiently attenuated to permit the use at trial of the statements and sketches." Id. The Court considered its opinion in Brown v. Illinois, wherein it recognized that "[t]he exclusionary rule, . . . when utilized to effectuate the Fourth Amendment, serves interests and policies that are distinct from those it serves under the Fifth," and held that "Miranda warnings, and the exclusion of a confession made without them, do not alone sufficiently deter a Fourth Amendment violation." Id. at 217 *citing* Brown 422 U.S. at 601. The Court further quoted its Brown opinion stating,

> If Miranda warnings, by themselves, were held to attenuate the taint of an unconstitutional arrest, regardless of how wanton and purposeful the Fourth Amendment violation, the effect of the exclusionary rule would be substantially diluted. . . . Arrests made without warrant or without probable cause, for questioning or 'investigation,' would be encouraged by the knowledge that evidence derived therefrom could well be made admissible at trial by the simple expedient of giving Miranda warnings.

Id. *citing* Brown 422 U.S. at 602. The Court in Brown "identified the relevant inquiry as 'whether Brown's statements were obtained by exploitation of the illegality of his arrest.'" Id. at 217. The Court recited the factors identified in Brown that are to be considered "in determining whether the confession is obtained by exploitation of an illegal arrest [t]he temporal proximity of the arrest and the [statement], the presence of intervening circumstances, . . . and, particularly, the purpose and flagrancy of the official misconduct . . .And the burden of showing admissibility rests, of course, on the prosecution." Id. at 218. Applying the factors in Brown to the circumstances before it, the Court found that there was no intervening event of significance between Dunaway's illegal detention and his confession. Thus, the fruits of the detention should have been suppressed, stating that "to admit petitioner's confession in such a case would allow 'law enforcement officers to violate the Fourth Amendment with impunity, safe in the knowledge that they could wash their hands in the 'procedural safeguards' of the Fifth.'" Id. at 219.

Appellant's case is squarely on all fours with Dunaway, except that the law enforcement action in Appellant's case was more egregious. Unquestionably, Appellant was seized under the Fourth Amendment when he was placed in handcuffs on the scene and those handcuffs were not removed for hours, including through an interrogation. Appellant was detained because he was emotional – there was no testimony in the record that he was an actual threat to officers at any time or that he was armed. There was no need to place him in handcuffs on the scene and stand guard over him. Appellant specifically requested to be allowed to leave with his sister and was told he could not go with her. His freedom of movement was impaired from the moment he was handcuffed and he was, despite the officer's testimony, in no way free to leave. He was placed in the back of a patrol car with his hands cuffed behind his back. He was walked through the police station with his hands cuffed behind his back. He was handcuffed for the entirety of the interview with police. Under the totality of the circumstances, Appellant was seized under the Fourth Amendment.

The trial court's ruling was not supported by the evidence in the record and was an abuse of discretion. *See* State v. Fraiser, 473 S.C. 625, 633-34, 879 S.E.2d 762, 766. Appellant did not voluntarily go to the police station, but he was transported in handcuffs in a law enforcement vehicle and interrogated, in handcuffs, for close to an hour. He was in law enforcement custody shortly after they arrived on scene, and was he not released from custody until he had been interrogated. The fact that he was never formally arrested does not bear on the matter. Appellant was taken into custody without probable cause and questioned – this was unconstitutional. *See* Florida v. Royer, 460 U.S. 491 (1983) (Holding police exceeded the limits of an investigative stop when they asked the defendant to accompany them to a small police room, and retained his ticket and driver's license and indicated in no way that he was free to depart.)

There was no intervening event of any significance that would attenuate the taint of the unconstitutional detention. Appellant was in law enforcement custody for hours without being informed why, and his detention was wholly without probable cause. Nothing occurred between the time he was detained up through his interrogation that would have lessened the impact of the unconstitutional detention sufficient to render Appellant's statement admissible. That Appellant received Miranda warnings does not impact the Fourth Amendment question. *See* Lanier v. South Carolina, 474 U.S. 25 (1985) (the fact that a confession may be "voluntary" for the purposes of the Fifth Amendment, in the sense that Miranda warnings were given and understood, is not by itself sufficient to purge the taint of illegal arrest; in this situation, a finding of "voluntariness" for the purposes of the Fifth Amendment is merely a threshold requirement for the Fourth Amendment analysis).

While Appellant's statement could be deemed voluntary under the Fifth Amendment, it was taken in violation of the Fourth Amendment. The lower court erred in admitting Appellant's statement where the competent evidence in the record shows that Appellant was seized in violation of the Fourth Amendment, and his statement was a direct exploitation of that illegal seizure. This Court should find the statement inadmissible under Brown, Dunaway, and Taylor, *supra*, and reverse and remand this matter for a new trial.

II.

The trial court erred in admitting evidence obtained from Appellant's home where no search warrant was acquired for Appellant's home, Appellant did not consent to a search, there were no exigent circumstances justifying the warrantless search and the plain view exception did not apply.

Standard of Review

"[A]ppellate review of a motion to suppress based on the Fourth Amendment involves a two-step analysis." State v. Frasier, 437 S.C. 625, 633, 879 S.E.2d 762, 766 (2022). The appellate court will "review the trial court's factual findings for any evidentiary support, but the ultimate legal conclusion . . . is a question of law subject to de novo review." Id. at 633-34, 879 S.E.2d at 766.

Relevant Facts

Prior to trial, defense counsel moved to suppress all evidence obtained from Appellant's home because it was collected without a search warrant. Tr. 51, ll. 16-18. Officers testified that Appellant requested their help specifically for the decedent, invited them into the home, and never told them to leave his home. Tr. 79, ll. 17-25; Tr. 94, ll. 2-13; Tr. 97, ll. 8-12; Tr. 120, ll. 11-15. Owens, the first officer on scene, quickly determined that no medical emergency existed because the decedent was "cold to the touch. She was stiff." Tr. 96, ll. 16-24. Officers admitted that they quickly had control of the scene and were treating the home as a crime scene. Tr. 63, l. 24 – 64, l. 11; Tr. 80, ll. 4-22; Tr. 85, ll. 15-25; Tr. 100, ll. 10-21; Tr. 120, ll. 21-24. The coroner testified that he waited for the crime scene unit to arrive before further investigating the death. Tr. 117, ll. 15-24. Appellant testified that he called 9-1-1 and allowed officers into his home to give medical assistance to the decedent. Tr. 123, l. 24 – 124, l. 8. He maintained that no one asked for consent to search his home and that he never gave anyone permission to search his home. Tr. 126, l. 25 – 127, l. 6.

Officer Justine Hardee, a member of the forensic crime scene unit, testified that no warrant was obtained for Appellant's home. He maintained, however, that law enforcement was able to collect anything that was in plain view on the scene during a death investigation. Tr. 107, ll. 11-15; Tr. 109, ll. 2-12; Tr. 110, ll. 8-17. Hardee conceded that what he was referring to as "plain view" was him "walking in someone else's residence and actually looking for what you believe to be evidence." Tr. 108, ll. 3-9. Hardee testified that as he moved through the home, he observed various stains on the walls and furniture that he believed to be blood. Tr. 104, l. 13 – 105, l. 9. The only object he purportedly moved was the door to the children's bedroom, which he pushed open to find more presumed blood stains on the walls. Tr. 111, ll. 2-9. Hardee collected swabs from the presumed blood stains and took extensive photographs of the scene and the decedent. Tr. 104, ll. 6-12; Tr. 105, ll. 17-24.

The home was "cluttered" and described as "not very clean." Tr. 281, ll. 13-15. State's Exhibits Nos. 29, 31-33, 65-68, 87, and 88 (photographs) provide an overview of the interior of the home upon the arrival of law enforcement. State's Exhibits Nos. 37-39, 50, 55 and 103 (photographs) are purported to show blood smears in plain view. State's Exhibits Nos. 99, 100, and 111-113 (photographs) show aspects of the body of the decedent after her pants were removed as the coroner manipulated the body on scene.

Defense counsel moved to suppress all evidence obtained from the home, and the results of any testing of that evidence, because it was collected without a warrant in violation of the Fourth Amendment. Counsel argued that the United States Supreme Court had made clear that there was no "crime scene exception" to the warrant requirement, that there were no exigencies at the time to excuse the lack of a warrant, and that "plain view" did not entail walking through the house actively looking for evidence of a crime. Tr. 160, l. 19 – 166, l. 10. He additionally argued that there was no consent or waiver of privacy by Appellant to justify law enforcement's search of the home. Tr. 175, l. 19 – 178, l. 2.

While the court suppressed any evidence found in the children's bedroom as not in plain view, it denied the motion to suppress, in large part ruling the officers were allowed to canvass the home and seize evidence in "plain view." The court ruled:

> All right. As it pertains to the motion to...suppress any evidence obtained without a search warrant, certainly, again given the totality of the circumstances of the situation that was at hand, the defendant called law enforcement, waved them in to his home, showed them exactly where the victim was, assisted or maybe inadvertently interfered with what was going on for a short period of time.
>
> As a result of law enforcement being lawfully in that home, tending to that victim, certain evidence was discovered in plain view in plain sight right there on the route between the door and the victim. Those things that were collected as a result of that lawful presence of law enforcement certainly was collected without the need of a warrant.
>
> Now, there was -- and I will note that it seems like this scene and this interaction in totality took very little time. It seems as if the victim was transported from the home after clearly being deceased there before the defendant was even asked to go or taken to the Sheriff's Office for a statement. I find that's a little bit unusual, but given the circumstances, I believe that law enforcement's presence there and the collection of the evidence within that time frame was done without the necessity of a warrant.
>
> However, the forensics team that did go into the -- well, the back bedroom that was not in the route between the entrance of law enforcement and the victim, that there was a suspected blood sample taken from the back wall in that bedroom. It certainly would have required a warrant, and I will suppress that -- that bit of evidence as a result.

> Certainly, even though they had a lawful right to be there, a lawful right to canvass that house, I think that that goes beyond that right and that that piece of evidence was obtained, and it should have had a warrant to be able to do that.
>
> ***
>
> And as it relates to the testing and the results, you know, as far as there -- as long as there is a foundation that's properly laid for that evidence, you know, then it -- then it will probably be admissible. All right?

Tr. 193, l. 2 – 195, l. 6. When the state moved the first set of photographs from the scene into evidence at trial, defense counsel objected and re-raised his pre-trial suppression motion. Tr. 304, l. 5 – 308, l. 5.

Discussion

The trial court improperly relied upon the plain view exception to admit the evidence obtained from Appellant's home. At the time law enforcement began to process the home for evidence, the scene was fully under law enforcement control, and there was no exigency that allowed law enforcement to continue to be in Appellant's home. Because law enforcement had secured the home, they were required to get a warrant to then search for evidence. However, the testimony revealed that a forensic officer walked through the house well after the scene had been secured looking for items of evidentiary value. This was not a plain view case. It was error for the court to admit the evidence obtained in violation of Appellant's Fourth Amendment right.

"Generally, a warrantless search is *per se* unreasonable and thus violative of the Fourth Amendment's prohibition against unreasonable searches and seizures." State v. Bultron, 318 S.C. 323, 331, 457 S.E.2d 616, 621 (Ct. App. 1995). "However, a warrantless search will withstand constitutional scrutiny where the search falls within one of a few specifically established and well delineated exceptions to the Fourth Amendment exclusionary rule." Id. at

331-32, 457 S.E.2d at 621. In such cases, the burden is upon the state to justify a warrantless search. State v. Bailey, 276 S.C. 32, 35, 274 S.E.2d 913, 915 (1981) (emphasis added).

When evaluating a search through the framework of the Fourth Amendment, "[t]he ultimate standard set forth...is reasonableness." Cady v. Dombrowski, 413 U.S. 433, 439 (1973). "Whether a search and seizure is unreasonable within the meaning of the Fourth Amendment depends upon the facts and circumstances of each case." S. Dakota v. Opperman, 428 U.S. 364, 375 (1976). Evidence seized in violation of the Fourth Amendment will be excluded in both state and federal court. *See* Mapp v. Ohio, 367 U.S. 643 (1961); State v. Forrester, 343 S.C. 637, 643, 541 S.E.2d 837, 840 (2001).

Through its exclusionary rule, the Fourth Amendment to the United States Constitution prohibits unreasonable searches and seizures. U.S. Const. amend. IV. "The manner in which the seizure and search were conducted is, of course, as vital a part of the inquiry as whether they were warranted at all. The Fourth Amendment proceeds as much by limitations upon the scope of governmental action as by imposing preconditions upon its initiation." Terry v. Ohio, 392 U.S. 1, 28–29 (1968). "The entire deterrent purpose of the rule excluding evidence seized in violation of the Fourth Amendment rests on the assumption that 'limitations upon the fruit to be gathered tend to limit the quest itself.'" Id. (*citing* United States v. Poller, 43 F.2d 911, 914, 74 A.L.R. 1382 (C.A.2d Cir. 1930)). "Thus, evidence may not be introduced if it was discovered by means of a seizure and search which were not reasonably related in scope to the justification for their initiation" Id. 392 U.S. at 29 (*citing* Warden v. Hayden, 387 U.S. 294, 310 (1967)).

The Fourth Amendment does not bar police officers from making warrantless entries and searches when they reasonably believe that a person within is in need of *immediate* aid. Likewise, when the police come upon the scene of a homicide, they may make a *prompt* *warrantless search* of the area to see if there are other victims or if a killer is still on the premises. Law enforcement may *seize* any evidence that is in plain view *during the course* of their *legitimate emergency activities.* Mincey v. Arizona, 437 U.S. 385, 392-93 (1978) (emphasis added). However, the United States Supreme Court has firmly rejected the notion of a "crime scene" exception to the warrant requirement. Mincey at 397.

Under the plain view doctrine, any object falling within the plain view of a law enforcement officer who *is lawfully in a position to view the object* is subject to lawful *seizure.* State v. Abdullah, 357 S.C. 344, 352–53, 592 S.E.2d 344, 349 (Ct. App. 2004) (emphasis added). Traditionally, the plain view exception to the warrant requirement required that (1) the initial intrusion which afforded authorities the plain view was lawful; (2) the discovery of the evidence was inadvertent; and (3) the incriminating [nature of the] evidence was immediately apparent to the seizing authorities. Id. The United States Supreme Court held in Horton v. California, 496 U.S. 128 (1990), that the "inadvertence" requirement was not necessary to the plain view doctrine, as long as both of the other requirements of the plain view exception were met.

It cannot be forgotten, however, that a warrantless *search* must be "strictly circumscribed by the *exigencies* which justify its initiation." Mincey at 393 (emphasis added). This is because "the Fourth Amendment reflects the view of those who wrote the Bill of Rights that the privacy of a person's home and property may not be totally sacrificed in the name of maximum simplicity in enforcement of the criminal law." Id. "For this reason, warrants are generally required to search a person's home or his person unless 'the exigencies of the situation' make the needs of law enforcement so compelling that the warrantless search is objectively reasonable under the Fourth Amendment." Id. at 393-94. Importantly, "[t]he limits on the doctrine are implicit in the statement of its rationale. The first of these is that plain view alone is never enough to justify the warrantless seizure of evidence." Coolidge v. New Hampshire, 403 U.S. 443, 467 (1971). Probable cause is required to invoke the plain view doctrine. Arizona v. Hicks, 480 U.S. 321, 326-27 (1987). "To say otherwise would be to cut the "plain view" doctrine loose from its theoretical and practical moorings. The theory of that doctrine consists of extending to nonpublic places such as the home, where searches and seizures without a warrant are presumptively unreasonable, the police's longstanding authority to make warrantless seizures in public places of such objects as weapons and contraband." Id. "A dwelling-place search, no less than a dwelling-place seizure, requires probable cause, and there is no reason in theory or practicality why application of the 'plain view' doctrine would supplant that requirement." Id. at 328.

The only justification given for the *search* of Appellant's home was that the evidence was in plain view. However, the plain view exception by itself does not render the warrantless search reasonable, particularly under the facts of Appellant's case. First, the search was of a private home, and thus, required probable cause. Law enforcement admitted they did not have probable cause to arrest Appellant. If they did not have probable cause to arrest, they did not have probable cause to seize and search his home for evidence of a crime.

Second, officer Hardee was the only law enforcement officer to testify that items were in "plain view." However, by the time that Hardee arrived on scene, specifically to process the home for evidence, there was no exigent circumstance justifying the presence of law enforcement and the plain view exception would not apply to Hardee. Much like in Mincey, "except for the fact that the offense under investigation was a homicide, there were no exigent circumstances in this case." 437 U.S. at 394. The scene was secured, and there was no testimony or indication that evidence would be lost, destroyed, or removed during the time it would take to obtain a search warrant. There was also no suggestion that a search warrant could not have been easily and conveniently obtained. Id. at 394. The whole of the testimony from law enforcement indicated a belief that they simply did not need a warrant to conduct a death investigation, however, the Fourth Amendment demands more. "It may well be that the circumstances [of Appellant's case] would usually be constitutionally sufficient to warrant a search of substantial scope. But the Fourth Amendment *requires that this judgment in each case be made in the first instance by a neutral magistrate*." Id. at 395 (emphasis added).

Critically, the plain view exception to the warrant requirement allows collection of evidence when officers either reasonably believe that a person within is in need of *immediate* aid *or* police come upon the scene of a homicide and make a *prompt warrantless search* of the area to see if there are other victims or if a killer is still on the premises. *See* Mincey. Neither situation was present when Hardee arrived on scene. Further, any argument that Appellant consented to the search by requesting medical help has been firmly rejected by the United States Supreme Court. *See* Thompson v. Louisiana, 469 U.S. 17, 22 (1984) (Petitioner's attempt to get medical assistance does not evidence a diminished expectation of privacy on her part. To be sure, this action would have justified the authorities in seizing evidence under the plain-view doctrine while they were in petitioner's house to offer her assistance. In addition, the same doctrine may justify seizure of evidence obtained in the limited "victim-or-suspect" search discussed in *Mincey*. However, the evidence at issue here was not discovered in plain view while the police were assisting petitioner to the hospital, nor was it discovered during the "victim-or-suspect" search that had been completed by the time the homicide investigators arrived.)

The court also erred in relying on the plain view exception because the evidence was not discovered inadvertently nor was the incriminating nature of the evidence immediately apparent.

Hardee, who was on scene well after it was under control of law enforcement and when no exigency existed, testified that he walked around actively looking for items of potential evidentiary value. That is antithetical to the plain view doctrine which rests on inadvertent discovery and apparent criminality of the evidence. When looking at the scene, it is not apparent that there are stains on items or that the stains are blood. Only upon close inspection of the bed and sofa do officers discover what they think are blood stains. The tiny smears on the walls were not immediately identified as blood, and their relative size makes it unlikely that Hardee saw the stains without actively looking for them. In such a messy and cluttered home, the evidence had to be searched for; it was not immediately apparent that any evidence was criminal in nature.

Third, the specific photographs of the decedent after the coroner removed her pants and manipulated the body were patently not evidence found in plain view. The coroner had to remove the towels, pants, and underwear from the decedent and turn her body in different directions to obtain the photographs. There is no tortured definition of "plain view" that would extend to the body of the deceased which law enforcement found partially clothed but photographed in various states of undress and in various position.

The application of the plain view doctrine was error in this case. Hardee, the lone officer who testified regarding plain view, arrived on the scene after it was secured, and there was no exigencies allowing him into the home; thus, a warrant was required for him to enter the home and search for evidence. He testified that he actively walked around the house searching for items of potential evidentiary value. He did not see things that were apparently criminal, and he manipulated and moved things such as doors, pillows, and the decedent's clothing to obtain evidence against Appellant. This was an impermissible search and seizure under the Fourth

Amendment, and the fruits of the unconstitutional search should have been suppressed. *See* Mincey, 437 U.S. 385; Thompson, 469 U.S. 17.

III.

The trial court erred in admitting the testimony of state's witnesses Nyoka Carter, Riley Carter, Colette Wilke, and Rhakise Smalls who testified that they saw significant and various injuries to the decedent in the months and weeks leading up to her death, where the state argued that those injuries were caused by Appellant when there was no evidence to support that contention.

Standard of Review

"In criminal cases, the appellate court sits to review errors of law only." State v. Bell, 430 S.C. 449, 464, 845 S.E.2d 514, 522 (Ct. App. 2020) (internal citations removed). As such, "[appellate courts are] bound by the [circuit] court's factual findings unless they are clearly erroneous." Id. "A [circuit court] has considerable latitude in ruling on the admissibility of evidence ...." Id. Accordingly, "[t]he admission of evidence is within the discretion of the [circuit] court and will not be reversed absent an abuse of discretion. An abuse of discretion occurs when the conclusions of the [circuit] court either lack evidentiary support or are controlled by an error of law." Id.

Relevant Facts

The state's theory of the case was that Appellant repeatedly beat the decedent up to and including on the day that she died. Tr. 205, ll. 3-24. In support of that theory, the state called four witnesses who would testify, over objection, to various injuries they observed on the decedent leading up to her death. The state first called Nyoka and Riley Carter. Prior to the witnesses being called, defense counsel objected to their testimonies on the grounds that the state was seeking to introduce propensity evidence that they could not connect back to Appellant. Tr.

411, l. 25 – 415, l. 2; Tr. 416, l. 24 – 417, l. 2. The court ultimately ruled that the testimonies were admissible as "observation evidence," stating:

> All right. I mean, the issue is whether or not this sort of testimony shows that at all. I mean, certainly, we know there's going to be testimony and that -- and correct me if I'm wrong. I believe the coroner has already testified that -- that there were more recent injuries and there were older injuries as to his observation. That's in the record.
>
> We've also had the benefit of knowing what the pathologist is going to testify to, I would assume. I mean, we've already heard this matter one time, and I don't think it's any surprise. I mean, I think the evidence would be more relevant if the pathologist would testify first but given that we know what the pathologist is going to say and we know, you know, what the allegations are, you know, I think it's relevant as to that testimony.
>
> And now, certainly, the jury can give it the weight that they see fit. Certainly, I don't -- I don't see it as bad act evidence. I see it is observation evidence of the way the victim appeared in times leading up to her death.
>
> I will prohibit any -- I think in the first trial there was some testimony about an incident with a lawnmower and the defendant. I don't think -- I don't think we need to go there at all. But certainly, you know, this type of evidence becomes relevant when we know that the pathologist is going to testify that the victim died as a result of a series of injuries that led to her death.
>
> As far as that going into any prior bad acts of this defendant, certainly there's not going to be any testimony to that. That's what I've stricken from this trial because I'm not sure if there is any of that evidence, and that's for the jury to determine. So do we understand that?
>
> I certainly think that it's more probative than prejudicial that if there's evidence that's already been testified to and will be testified to by an expert witness in this case that this -- this person died from a series of injuries and not just a single incident that took place on the date of her death, then certainly if there's observations that she had certain injuries or what appeared to be injuries or the appearance of injuries prior to that, then it's relevant. All right?

Tr. 417, l. 3 – 418, l. 17.

Nyoka Carter testified that she and her husband, Riley Carter, lived next door to a home that Appellant and the decedent began fixing up in February 2021. Nyoka never met the decedent, but she observed her with bruises along her shoulder and back, and she once noticed a blue cast on her arm. Tr. 422, l. 3 – 423, l. 21. Riley Carter similarly testified that he had seen the decedent with bruises on her back and shoulders, a black eye, and a blue cast on her arm at various times. Tr. 428, l. 19 – 429, l. 17. Neither party testified that Appellant caused the injuries or that they observed Appellant being violent toward the decedent.

The following day, the state called two former co-workers of the decedent to testify to injuries they observed. Defense counsel again objected to their testimonies as propensity evidence that was only being introduced to imply that Appellant had caused the prior injuries to the decedent. Tr. 529, l. 8 – 531, l. 6; Tr. 534, l. 15 – 535, l. 15. In ruling their testimonies admissible, the trial court again found it was "observation evidence," stating:

> All right. I'll certainly allow the witnesses' observations, as has already been allowed by the prior witnesses in this trial, due simply to the fact that they're relevant to the allegations that the State must prove in this case.
>
> I understand your position that there -- that they might infer propensity evidence or imply propensity evidence, but, you know, I can't imagine -- it certainly stops way short of indicating anything that your client specifically did. You know, I mean, I think you could -- you could say almost that any evidence that's introduced at a trial in a case that's trying to prove a crime is inferential to the defendant having done so, but that certainly doesn't get us to propensity evidence as -- as is clearly -- as we see it when we see it, if that makes any sense at all.
>
> So, certainly, their observations is -- they're relevant to the testimony that we know we're going to hear and that we've already heard from the coroner. Again, we've tried this case before. We know -- we know what the autopsy results are, what -- what the report says, and what the doctor is, you know, most likely going to

> testify to. So, certainly, I think the observations of the victim in this matter are relevant and admissible.

Tr. 536, l. 26 – 537, l. 12.

Collette Wilke testified that there were many times where the decedent would come to work with a black eye, marks on her neck, a broken arm, broken fingers, and her mouth wired shut. She testified that approximately two weeks prior to her death, the decedent came to work and could barely move because "she was hurting so bad around her abdomen area," so she was sent home. Wilke testified that the decedent could neither sit nor stand, and she had to be sent home because she could not function within her job duties that day. Tr. 545, ll. 8-19.

Rhakise Smalls also testified that in the four-month period that she worked with the decedent, she "always had bruises, black eyes, always kind of walking with a limp, or if she was there like a busted lip, she could barely stand and talk to customers." She further testified that she noted what appeared to be handprints around the decedent's neck at times. Tr. 562, l. 15 – 563, l. 1. Neither co-worker testified that Appellant caused the injuries or that they had ever seen Appellant be violent with the decedent.

The state began its closing argument by telling the jury that Appellant beat the decedent to death "in the shadows, behind closed doors, and in secrecy." Tr. 634, ll. 19-23. Throughout the closing argument, the state repeatedly referenced the "observation evidence" testified to by the Carters and the decedent's co-workers as proof that Appellant had beaten the decedent to death. Throughout the closing argument, the state argued at various times:

> Her coworkers told you almost daily she showed up with some kind of new injury. It wasn't the result of a car accident, and it wasn't the result of someone who broke into that house and beat her right under the defendant's nose without him ever seeing one single injury. This man beat Katlyn Shippnick to death, and not in just one event, but in event after event after event after event.

Tr. 635, l. 25 – 636, l. 6.

> Riley and Nyoka Carter, husband and wife who lived off Pocket Road in Darlington for years. The defendant and victim began fixing up the residence next to their home in February of 2021. They often saw Katlyn wearing a tank top with visible bruises on her arms and a shoulder, saw Katlyn with a blue cast on one of her arms. They saw it. Coworkers saw it. Crime scene investigator sees it. Both deputy coroner and coroner see it, and Dr. Richards definitely saw it.

Tr. 644, ll. 7-15.

> By this point, he has talked to the Carters, By this point, he has talked to the pathologist. By this point, he has talked to coworkers. And by this time, he's talked to the neighbors. He has a firm idea and a firm theory of what happened, and all of the evidence points in one direction, a 1 straight line back to Derrick Brunson. He spoke to Katlyn's coworkers, and they provided the necessary background into her abuse.

Tr. 644, l. 22 – 645, l. 4.

> The injuries sustained by Katlyn Shippnick were not the result of a car injury or a car wreck that caused it. They were a result of a man who beat her repeatedly, who beat her often until he beat her to death.
>
> Colette Wilke. Everyone deserves a supervisor like her. Hired Katlyn at Eyemart as a sales associate. Found Katlyn to be a friendly, pleasant person who got along well with her coworkers. Began to see injuries on Katlyn, such as constant bruises, black eye, broken jaw, broken arms. Sent Katlyn home two weeks before her murder because she couldn't sit down due to injuries. Told by Katlyn that if she didn't show -- or she was told by Katlyn that if she didn't show up for work one day, it would be because she was dead, and again noted only minor injuries to Katlyn's car.
>
> Remember what she said. Two weeks before she died, she came to work, beaten so bad She couldn't sit down. She could not even do even simple tasks that day. She had to send her home.
>
> And remember when I had Dr. Richards on the stand, I asked her when I showed her the picture of the buttocks area, the injuries sustained there, would that have caused her to have difficulty sitting? Oh, you betcha. Absolutely.

Tr. 645, l. 23 – 646, l. 19.

> Rhakise Smalls she worked with Katlyn at Express Eyemart. Developed a friendship with Katlyn, noticed constant injuries on Katlyn, including bruising around her throat, bruising on 1 arms and shoulders. And when you saw and heard Rhakise Smalls testify, she said she had bruises on her throat like this, like someone had grabbed her by the throat. That's not something one routinely gets in a car accident. That's something that someone routinely gets when somebody grabs them by the throat and slams them up against a wall. Saw Katlyn with her arm in a brace.

Tr. 646, l. 24 – 645, l. 8.

The state concluded its argument to jury by stating:

> Folks, remember the testimony, remember the evidence that I put before you during the course of this trial. Take those photos back there and remember the words of every witness who testified. This man beat this woman to death, and he did it over a period of time. This was not the result of a man who lost his temper and beat her and just lost his cool and hit her one too many times during or after an argument.
>
> *This man beat her to death. The neighbors told you that there was never a time where she was seen without an injury. The coworkers told you she would show up with one injury after another, black eyes, bruises on the throat, broken arm, broken jaw.*
>
> Go back into that deliberation room and think about what the State has proven and what we've said to you, and I know that you're going to find him guilty. I know that you are like me. It's time to hold this man accountable for what he's done. It's time to find him guilty for the murder of Katlyn Shippnick.

Tr. 652, l. 22 – 653, l. 14 (emphasis added).

Discussion

The evidence of prior injuries in this case was introduced for one reason only: to imply that Appellant consistently and frequently physically abused the decedent. The state, while arguing for admission of the testimony as "observation" evidence, clearly used the testimony as propensity evidence to argue to the jury that Appellant constantly injured the decedent and did so on the morning of her death. The admission of this evidence was both improper and highly prejudicial.

"Evidence of other crimes, wrongs, or acts is not admissible to prove the character of a person in order to show action in conformity therewith." Rule 404(b), SCRE; see also State v. Lyle, 125 S.C. 406, 417, 118 S.E. 803, 807 (1923) (indicating that the admission of prior bad acts creates propensity evidence that has "the inevitable tendency ... to raise a legally spurious presumption of guilt in the minds of the jurors"). "It may, however, be admissible to show motive, identity, the existence of a common scheme or plan, the absence of mistake or accident, or intent." Rule 404(b), SCRE. "To be admissible, the bad act must logically relate to the crime with which the defendant has been charged. If the defendant was not convicted of the prior crime, evidence of the prior bad act must be clear and convincing." State v. Fletcher, 379 S.C. 17, 23, 664 S.E.2d 480, 483 (2008). "Clear and convincing evidence is that degree of proof which will produce in the mind of the trier of facts a firm belief as to the allegations sought to be established." Id. at 24, 664 S.E.2d at 483. "Further, even though the evidence falls within a Lyle exception, it must be excluded if its probative value is substantially outweighed by the danger of unfair prejudice to the defendant." State v. Brooks, 341 S.C. 57, 62, 533 S.E.2d 325, 328 (2000).

There are three hurdles that the state must overcome before prior bad act evidence can be admitted, regardless of which exception the state seeks to admit the evidence under. First, the state must prove the prior bad act was the subject of a prior conviction or that the prior bad act was committed by the defendant through clear and convincing evidence. Second, the state must articulate a logical connection between the prior act and at least one of the five exceptions listed in Rule 404(b), SCRE. Finally, if both of those hurdles are crossed, the trial court must conduct an analysis under Rule 403, SCRE, to determine if the probative value of the evidence is substantially outweighed by the danger of unfair prejudice to the defendant.

In the present case, the state failed to clear the first hurdle of connecting the prior injury to Appellant through clear and convincing evidence. The state admitted that none of the witnesses saw or would testify that Appellant struck or was violent with the deceased. Further, none of the witnesses could testify to the nature or cause of the injuries. Instead, all the witnesses testified to was that they saw what they believed to be injuries. This left the jury to speculate as to the both the degree of and source of the injuries. The state compounded the problem by directly arguing that the injuries previously observed by neighbors and co-workers were evidence of Appellant's guilt. This was impermissible propensity evidence which should have been excluded from the trial. See State v. Pierce, 326 S.C. 176, 178, 485 S.E.2d 913, 914 (The testimony regarding victim's previous injuries was inadmissible absent a conviction or clear and convincing proof that appellant inflicted the injuries; the state failed to offer any proof that appellant inflicted these injuries; thus, this testimony is inadmissible under Lyle, and the trial court erred in admitting it.)

The state did not attempt to clear the second hurdle of connecting the propensity evidence to an exception under 404(b). It instead argued that the testimonies were merely the observations of the witnesses and did not qualify as propensity evidence because the witnesses would not tie it to the defendant. However, as evidenced by the state's closing argument, the testimonies were clearly used as propensity evidence to convince the jury that Appellant was the source of the injuries to the victim and ultimately her death. The state more than implied causation of the injuries to decedent by Appellant; it said it plainly, even though there was not a sufficient evidentiary foundation connecting Appellant to the prior injuries of the deceased. This was error.

The court briefly addressed the Rule 403 balancing test and found that the testimony was more probative than prejudicial because a witness would testify that the deceased died from repeated injuries. That fact certainly makes the testimony relevant, but it also makes its probative value substantially outweighed by the danger of unfair prejudice in a case where the state produced no evidence that Appellant was ever physically abused the decedent. The prior injury evidence was propensity evidence that was highly prejudicial to Appellant and should not have been admitted at trial.

IV.

The trial court erred in denying the motion for directed verdict where the evidence only raised a mere suspicion of guilt.

Standard of Review

An appellate court "review[s] the denial of a directed verdict motion in a criminal case under the any evidence standard of review." State v. Redding, 933 S.E.2d 465, 468 (S.C. Ct. App. 2026) *citing* State v. Cain, 419 S.C. 24, 33, 795 S.E.2d 846, 851 (2017). "When reviewing a denial of a directed verdict, this [c]ourt views the evidence and all reasonable inferences in the light most favorable to the state. If there is any direct evidence or any substantial circumstantial evidence reasonably tending to prove the guilt of the accused, the [c]ourt must find the case was properly submitted to the jury." State v. Weston, 367 S.C. 279, 292–93, 625 S.E.2d 641, 648 (2006).

Relevant Facts

After the state rested its case, defense counsel moved for a direct verdict on multiple grounds. He first requested the court reconsider its decision to admit the statement of Appellant, given that additional evidence had been presented that Appellant was in handcuffs for the duration of the time he was in law enforcement custody. He argued that suppression of the statement would require a directed verdict. Tr. 611, l. 10 – 612, l. 1. He also argued that the state had failed to present substantial circumstantial evidence that Appellant had committed a crime. He highlighted that the state presented no testimony that Appellant was violent toward the decedent or ever struck her. The state's case was entirely speculative, and no witness testified to any overt, violent act by Appellant. Tr. 612, l. 2 – 614, l. 3. Counsel argued "it's evidence that suggests, and that's not the standard and that makes it speculative, and that doesn't -- that means, in my opinion, that the Court should grant the directed verdict." Tr. 617, ll. 15-17.

The court denied the motion for a directed verdict on both grounds, refusing to disturb its ruling on the suppression of Appellant's statement. The court recognized the evidence was circumstantial but felt there was evidence from which a jury could reasonably find Appellant guilty or not guilty. Tr. 617, l. 19 – 619, l. 13.

Discussion

The state failed to present any direct evidence that Appellant beat the decedent to death. The state could only produce speculative circumstantial evidence that raised a suspicion of Appellant's guilt. The trial court erred when it failed to direct a verdict in this matter as the evidence was insufficient to carry the case to a jury and where the court should have suppressed Appellant's statement when the matter was raised again after the state rested its case-in-chief.

"In considering a motion for a directed verdict, the trial court is concerned with the existence or non-existence of evidence, not with its weight." State v. Fennell, 340 S.C. 266, 270, 531 S.E.2d 512, 514 (2000). "When the evidence submitted raises a mere suspicion that the accused is guilty, a directed verdict should be granted because suspicion implies a belief of guilt based on facts or circumstances which do not amount to proof." State v. Bennett, 415 S.C. 232, 236, 781 S.E.2d 352, 353–54 (2016). However, "a court is not required to find that the evidence infers guilt to the exclusion of any other reasonable hypothesis." Id. at 236, 781 S.E.2d at 354. Therefore, "although the *jury* must consider alternative hypotheses, the *court* must concern itself solely with the existence or non-existence of evidence from which a jury could reasonably infer guilt." Id. at 237, 781 S.E.2d at 354. "[I]n ruling on a directed verdict motion where the State relies on circumstantial evidence, the court must determine whether the evidence presented is sufficient to allow a reasonable juror to find the defendant *guilty beyond a reasonable doubt*." Id. (emphasis added). "Circumstantial evidence ... gains its strength from its combination with other evidence, and all the circumstantial evidence presented in a case must be considered together to determine whether it is sufficient to submit to the jury." State v. Tillman, 433 S.C. 58, 63, 856 S.E.2d 168, 171 (Ct. App. 2021) (omissions in original) (*quoting* State v. Rogers, 405 S.C. 554, 567, 748 S.E.2d 265, 272 (Ct. App. 2013)).

Recently, in State v. Redding, 933 S.E.2d 465, 470 (S.C. Ct. App. 2026), this Court determined that the state had not submitted substantial circumstantial evidence to survive a directed verdict. Redding had been charged with the murder of his live-in girlfriend. The state presented the circumstantial evidence that Redding exhibited controlling behavior and had a difficult relationship with decedent, had access to a gun matching the caliber gun that killed the decedent, was the last person to see the decedent alive, changed his shirt the morning of the murder, and had gunshot residue on his shorts. The state also presented evidence showing the presence of Redding's DNA in the blood stains on the motel room door, although Redding testified he touched the decedent before leaving the room. Id. The court also noted that Redding had presented significant evidence of an alibi defense and plausible evidence regarding his shirt, his DNA on the door, and the gunshot residue. Id. Thus, because the state's evidence rose only to a mere suspicion of guilt, this Court reversed.

Appellant, much like the defendant in Redding, was tried solely on circumstantial evidence. The state presented evidence that Appellant was the only other adult living in the home, that the decedent was frequently seen with injuries about her person, that Appellant was the last person to see the decedent alive, that the YSTR test targeting for male DNA which followed the lineage of the paternal side could have included Appellant or his minor son, and that it appeared Appellant was home for the majority of the day that the decedent passed. Critically, the state presented no evidence that Appellant and the decedent had a violent relationship or that he exhibited violent or controlling behavior toward the decedent. This evidence raised nothing more than a speculative suspicion that Appellant was guilty of murder.

Further, the court erred in failing to suppress Appellant's statement as violative of the Fourth Amendment and in failing to direct a verdict on that ground when counsel re-raised the matter in the directed verdict motion. Removing Appellant's statement further weakens the state's already weak circumstantial evidence case, as would suppression of the other evidence improperly admitted. When the record is considered as a whole, without the improper statement of Appellant, it supports the granting of a directed verdict motion.

CONCLUSION

Based on the foregoing arguments, as to Issues I, II, and III, Appellant respectfully requests that this Court find the admission of the evidence improper and reverse and remand for a new trial; as to Issue 4, Appellant requests that this Court grant the directed verdict motion and vacate Appellant's conviction and sentence.

Jessica M. Saxon
Appellate Defender

ATTORNEY FOR APPELLANT

This 11th day of September, 2026.