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Sep 11 2026

SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Spartanburg County

Honorable J. Mark Hayes, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

JOSEPH MITCHELL KING,

APPELLANT

APPELLATE CASE NO. 2026-000119

ANDERS BRIEF OF APPELLANT

LARA M. CAUDY
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STATEMENT OF ISSUE ON APPEAL

Did the trial court err by denying Appellant's motion for a directed verdict for the offense of attempted murder when the state failed to present any evidence Appellant had a specific intent to kill, an essential element of the offense, pursuant to State v. King, 422 S.C. 47, 810 S.E.2d 18 (2017) and State v. Geter, 445 S.C. 139, 912 S.E.2d 255 (2025)?

STATEMENT OF THE CASE

A Spartanburg County grand jury indicted Appellant on February 9, 2024, for two counts of attempted murder and discharging a firearm at or into an occupied vehicle. R. 328-333. His case was called to trial on January 13, 2026, before the Honorable J. Mark Hayes, and a jury. R. 1. Assistant Solicitor Spencer Smith represented the state. Louei Nmair and Drayton Hammes represented Appellant. R. 1.

On January 14, 2026, the jury found Appellant guilty as indicted. R. 301, l. 24 – 302, l. 18. He was sentenced to ten years for each count of attempted murder to be served concurrently. He was also sentenced to ten years suspended upon 793 days timed served and five years' probation to be served consecutively to the sentences for attempted murder. R. 319, l. 13 – 320, l. 3. Appellant was ordered to pay \$4,157.84 in restitution. R. 311, ll. 8-14.

This appeal follows.

STANDARD OF REVIEW

“The defendant is entitled to a directed verdict when the State fails to produce evidence of the offense charged.” State v. Odems, 395 S.C. 582, 586, 720 S.E.2d 48, 50 (2011) (citing State v. McHoney, 344 S.C. 85, 97, 544 S.E.2d 30, 36 (2001)). “However, if there is any direct or *substantial* circumstantial evidence reasonably tending to prove the guilt of the accused, an appellate court must find the case was properly submitted to the jury.” Id. (citing State v. Pinckney, 339 S.C. 346, 349, 529 S.E.2d 526, 527 (2000)) (emphasis in original). “On appeal from the denial of a directed verdict, this Court must view the evidence in the light most favorable to the State.” Id. (citing State v. Lollis, 343 S.C. 580, 583, 541 S.E.2d 254, 256 (2001)).

“A [trial court] should grant a directed verdict motion when the evidence merely raises a suspicion the accused is guilty.” Id. (citing State v. Schrock, 283 S.C. 129, 132, 322 S.E.2d 450, 451-452 (1984)). “Suspicion implies a belief or opinion as to guilt based upon facts or circumstances which do not amount to proof.” State v. Buckmon, 347 S.C. 316, 322, 555 S.E.2d 402, 404-405 (2001) (citing Lollis, 343 S.C. at 584, 541 S.E.2d at 256). “When ruling on a motion for a directed verdict, the trial court is concerned with the existence or nonexistence of evidence, not its weight.” State v. Shands, 424 S.C. 106, 135, 817 S.E.2d 524, 539 (Ct. App. 2018) (citing State v. Hernandez, 382 S.C. 620, 624, 677 S.E.2d 603, 605 (2009)).

ARGUMENT

The trial court erred by denying Appellant's motion for a directed verdict for the offense of attempted murder when the state failed to present any evidence Appellant had a specific intent to kill, an essential element of the offense, pursuant to *State v. King*, 422 S.C. 47, 810 S.E.2d 18 (2017) and *State v. Geter*, 445 S.C. 139, 912 S.E.2d 255 (2025).

Relevant Facts

Ikevious Smith and Jaiden Jones were driving home from work shortly before midnight on November 14, 2023. Smith was driving a Chevrolet Silverado and Jones was driving a Honda Accord. The two worked together in Union and were driving home to Spartanburg. R. 44, l. 7 – 45, l. 21; R. 86, ll. 1-11. When they reached the intersection of Cedar Springs Drive and Huntington Drive, Jones called Smith, who was directly in front of him, and told Smith that he saw a “green beam” on Smith’s truck. Smith looked and also saw a green beam or laser shining through his truck. R. 45, l. 24 – 49, l. 21; R. 86, l. 12 – 87, l. 9. The two were concerned. Jones pulled over on the side of the road and Smith turned his truck around to face the area where the green beam was coming from. After parking his car, Jones walked to Smith’s truck and stood behind the open front passenger door. Smith remained in the driver’s seat. R. 49, l. 22 – 52, l. 17; R. 87, l. 10 – 88, l. 10.

Suspecting the green beam may be coming from a gun, Smith called 911 to report the sighting. R. 49, l. 22 – 53, l. 24. When Smith turned his truck around to face the area where the green beam was coming from, he saw a white male wearing a black hoodie and khaki pants. The man was standing between an orange excavator and a tree. R. 61, l. 3 – 62, l. 22; R. 95, l. 20 – 97, l. 13. Jones saw the same man, but said he was wearing a black hoodie and gray jogger pants. Jones could not tell the man’s race. R. 88, l. 11 – 90, l. 8; R. 94, l. 10 – 95, l. 3.

Almost immediately after reporting the sighting to 911 and hanging up from the dispatcher, Smith and Jones were blinded by a flashlight and heard four gunshots, several of which struck Smith's truck. R. 54, l. 7 – 56, l. 6; R. 91, l. 1 – 92, l. 17. Smith drove to the Corner Club, a convenience store just down the street, and called 911 again to report the shooting. After looking at the damage to his truck, Smith drove to his house, which was close by, and spoke to investigators once there. R. 55, l. 20 – 57, l. 1. Jones, who ran to his own car after the shooting stopped, followed behind Smith in his car.

Deputy Jonathan Wages with the Spartanburg County Sheriff's Office responded to the intersection of Cedar Springs Drive and Huntington Drive in response to the shooting. R. 104, l. 1 – 105, l. 13. He saw an orange excavator sitting off the shoulder of the road. When he approached the area on foot, Wages observed a white man wearing a black jacket and khaki pants, later identified as Appellant, standing between the excavator and a tree. R. 105, l. 20 – 106, l. 15; See State's Exhibit No. 22 (CD – Body Camera Footage). Wages claimed Appellant "reeked of alcohol" and "his speech was slurry." R. 108, l. 22 – 109, l. 3.

Appellant told Wages that he was changing the coolant and the oil in the excavator and charging the battery in an effort to get the machine running. When Wages asked Appellant if he had any guns, Appellant admitted there was a gun laying in the excavator and he also had guns inside his parents' house, which was behind him. However, Appellant denied shooting at a truck. See State's Exhibit No. 22 (CD – Body Camera Footage). When Wages searched the excavator, he found a KelTec P50 pistol with a scope and a flashlight and laser attachment. R. 109, l. 25 – 110, l. 4; See State's Exhibit No. 22 (CD – Body Camera Footage).

Because Appellant's clothing matched the description of the clothing worn by the shooter and the firearm Wages found was consistent with the green laser and flashlight described by

Smith and Jones, Appellant was arrested. R. 109, l. 20 – 110, l. 16. After his arrest, Deputy Wages searched the area around the excavator. He found another small firearm on the ground behind the excavator, but did not find any spent shell casings. R. 114, ll. 3-19; R. 117, l. 19 – 118, l. 23; See State’s Exhibit No. 22 (CD – Body Camera Footage).

Three or four bullets struck Smith’s car. R. 162, ll. 13-18; See State’s Exhibit No. 4-12 (Photographs). At least one bullet hit the radiator causing all of the coolant to leak out. Another bullet grazed the hood of the truck and struck the side mirror. According to Smith, if this bullet had not hit the mirror, it would have entered the cab of the truck through the windshield. R. 57, l. 10 – 61, l. 2. There was no damage to Jones’s car. R. 93, ll. 11-12.

After the state rested, Appellant moved for a directed verdict. Defense counsel argued the state failed to present sufficient evidence to prove identity since neither Smith nor Jones identified Appellant as the shooter. Moreover, counsel argued there was no evidence of malice or a specific intent to kill because there were no words exchanged or any argument between the shooter and Smith and Jones. R. 227, ll. 3-19.

The trial court denied the motion for a directed verdict. The court found there was sufficient evidence of both identity and the elements of attempted murder pursuant to State v. King, 422 S.C. 47, 810 S.E.2d 18 (2017). R. 236, ll. 15-21.

Discussion

The trial court erred by denying Appellant’s motion for a directed verdict for the offense of attempted murder when the state failed to present any evidence Appellant had a specific intent to kill, an essential element of the offense, pursuant to State v. King, 422 S.C. 47, 810 S.E.2d 18 (2017) and State v. Geter, 445 S.C. 139, 912 S.E.2d 255 (2025).

A defendant is entitled to a directed verdict when the prosecution fails to provide evidence of the offense charged. State v. Brown, 103 S.C. 437, 88 S.E. 21 (1916); State v. Weston, 367 S.C. 279, 292, 625 S.E.2d 641, 648 (2006); State v. McHoney, 344 S.C. 85, 97, 544 S.E.2d 30, 36 (2001). When the prosecution relies exclusively on circumstantial evidence, the trial court must direct a verdict in the defendant's favor unless there is substantial circumstantial evidence which reasonably tends to prove the guilt of the defendant or from which his guilt may be fairly and logically deduced. State v. Bostick, 392 S.C. 134, 139, 708 S.E.2d 774, 776 (2011); State v. Mitchell, 341 S.C. 406, 535 S.E.2d 126 (2000). Likewise, a directed verdict is proper when the evidence produced "merely raises a suspicion the accused is guilty." State v. Lollis, 343 S.C. 580, 584, 541 S.E.2d 254, 256 (2001); State v. Arnold, 361 S.C. 386, 389-390, 605 S.E.2d 529, 531 (2004); State v. Schrock, 283 S.C. 129, 132, 322 S.E.2d 450, 451-452 (1984); State v. Muhammed, 338 S.C. 22, 524 S.E.2d 637 (Ct. App. 1999). Our courts define suspicion as "a belief or opinion as to guilt based upon facts or circumstances which do not amount to proof." Lollis, 343 S.C. at 584, 541 S.E.2d at 256; State v. Hyder, 242 S.C. 372, 131 S.E.2d 96 (1963).

In State v. Mitchell, 341 S.C. at 409, 535 S.E.2d at 127, our Supreme Court held the trial court erred by failing to direct a verdict where the evidence presented against Mitchell was his fingerprint at the scene of the burglary. Likewise, the Court in Lollis directed a verdict of acquittal where the state presented no direct evidence that Lollis was involved in setting fire to his home. The circumstantial evidence against Lollis was that his wife admitted to the arson, he had placed valuables in storage prior to the fire, he possessed a key to the storage unit, and he allegedly had financial troubles. The Court found this evidence insufficient. 343 S.C. at 584-85, 541 S.E.2d at 256-57.

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

In State v. Bostick, 392 S.C. 134, 141, 708 S.E.2d 774, 778 (2011), the Supreme Court held the prosecution failed to present substantial circumstantial evidence of Bostick's guilt. Rather, the Court found the evidence was capable of producing only a suspicion of Bostick's guilt. Id. Although the police found items belonging to the decedent in a burn pile behind Bostick's mother's house, the Court held no evidence linked Bostick to the evidence in the burn pile and the prosecution presented no testimony that Bostick had control over the burn pile. Id. at 137-41, 708 S.E.2d at 775-78. The other evidence presented against Bostick was that he had a chemical pattern that matched gasoline on his shoes and gasoline was used to start the fire at the decedent's home, and DNA from blood on Bostick's jeans excluded ninety-nine percent of the population, but the expert could not testify the DNA matched the decedent. Id. at 142, 708 S.E.2d at 778.

In State v. Arnold, the Supreme Court held a directed verdict of acquittal for murder should have been granted. Arnold was convicted of murdering Dr. Jennings Cox of Savannah, Georgia. Cox was last seen alive on June 18, 1997, when he borrowed a colleague's car, a BMW, to go to a dentist appointment. Three days later, his body was found off Interstate 95 in Colleton County. He

was shot twice. Information on a floppy disk found on Cox's computer led the police to Bobby Ray Ware. Ware admitted to having a sexual relationship with Cox. Ware introduced Cox to Arnold, who was staying with Ware, on the weekend of June 14, 1997. Cox and Arnold had sex that weekend. Ware left for Chicago on June 17, 1997. When Ware left, Arnold was still staying at Ware's residence. On June 19, 1997, Ware received a message from Arnold to call him at a phone number in Tennessee. Ware later contacted Arnold at a phone number identified as belonging to Arnold's father who lived in Tennessee. On June 20, 1997, the borrowed BMW was found in a parking lot in Tennessee. Arnold's fingerprint was found on the tab from a coffee cup lid found in the center compartment. 361 S.C. at 388-89, 605 S.E.2d at 530. The Court held this evidence, in the light most favorable to the state, merely raised a suspicion of guilt. It was not sufficient evidence that Arnold killed Cox. Id. at 390, 605 S.E.2d at 531.

Appellant was convicted of attempted murder. "Attempted murder requires the State to prove three essential elements: (1) malice, (2) the specific intent to kill a person, and (3) an attempt to kill that person." State v. Geter, 445 S.C. 139, 146, 912 S.E.2d 255, 258 (2025) (citing § 16-3-29 and King, 422 S.C. at 64, 810 S.E.2d at 27). "The second and third elements require the State to prove (2) the specific intent to kill a human being and (3) action taken for the purpose of carrying out that intent." Geter, 445 S.C. at 148, 912 S.E.2d at 259.

There was no evidence Appellant specifically intended to kill a human being. There was no evidence Appellant knew the truck was occupied. Moreover, the evidence established that the bullets only struck the grill and hood area of the truck. No bullets struck the cab of the truck where any occupants would have been located. Accordingly, it is likely the shooter was merely trying to scare Smith and Jones or play a joke on them, not kill them.

Respectfully, because the state failed to present any evidence of a specific intent to kill, this Court should direct a verdict of acquittal for attempted murder.

CONCLUSION

Based on the foregoing argument, Appellant respectfully requests this Court direct a verdict of acquittal for attempted murder.

Respectfully submitted,



Lara M. Caudy
Senior Appellate Defender

ATTORNEY FOR APPELLANT

This 11th day of September, 2026.

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APPELLATE CASE NO. 2026-000119

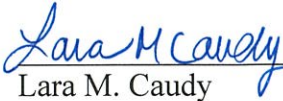
PETITION TO BE RELIEVED AS COUNSEL

Counsel for Joseph King states:

1. She is an appellate defender for the South Carolina Office of Appellate Defense and was appointed to represent Appellant.
2. She has reviewed the record of Appellant's trial, which was held on January 13-14, 2026 before the Honorable J. Mark Hayes and, in her opinion, the appeal is without legal merit sufficient to warrant a new trial.
3. She has, pursuant to Anders v. California, 386 U.S. 738 (1967), briefed an arguable legal issue which arose during the course of the trial.

WHEREFORE, she asks the Court to relieve her as counsel for Joseph King.

Respectfully Submitted,


Lara M. Caudy
Senior Appellate Defender

ATTORNEY FOR APPELLANT

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**DESIGNATION OF MATTER TO BE
INCLUDED IN RECORD ON APPEAL**

Appellant proposes the following be included in the Record on Appeal:

- (1) Complete Trial Transcript Dated January 13-14, 2026;
- (2) State's Exhibit No. 1 (DVD/CD – 911 Calls);
- (3) State's Exhibit Nos. 4-12 (Photographs);
- (4) State's Exhibit No. 22 (CD – Body Camera Footage);
- (5) Court's Exhibit Nos. 1-3 (Incident Reports);
- (6) Indictments;
- (7) Sentence Sheets.

I certify that this designation contains no matter which is irrelevant to this appeal.



Lara M. Caudy
Senior Appellate Defender

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ATTORNEY FOR APPELLANT

This 11th day of September, 2026.

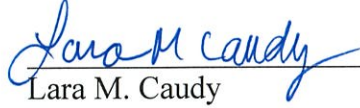
CERTIFICATE OF COUNSEL

The undersigned certifies that to the best of my ability this Anders Brief of Appellant complies with Rule 211(b), SCACR, and the April 15, 2014, order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

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CERTIFICATE OF SERVICE

Pursuant to Rule 262(a)(3) and Rule 262(c)(3), SCACR, the undersigned hereby certifies a true copy of the Anders Brief of Appellant and Designation of Matter in the above referenced case has been served upon Mark R. Farthing, Esquire, at his primary email address listed in the Attorney Information System (AIS); and on Joseph King, #399844, at Wateree River Correctional Institution, PO Box 189, Rembert, SC 29128, this 11th day of September, 2026.



Lara M. Caudy
Senior Appellate Defender

ATTORNEY FOR APPELLANT