

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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Appeal from Greenville County  
C. Victor Pyle, Jr., Circuit Court Judge

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THE STATE,

RESPONDENT,

v.

JOSEPH WALKER,

APPELLANT.

APPELLATE CASE NO. 2013-000766

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PRO-SE. BRIEF OF APPELLANT

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JOSEPH WALKER, # 285497  
Appellant

Perry Correctional Institution  
430 Oaklawn Road  
Pelzer, South Carolina 29669

PRO-SE. FOR APPELLANT

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**SC Court of Appeals**

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STATEMENT OF ISSUE ON APPEAL

Whether the lower court erred by failing to direct a verdict on the attempted murder charge?

### STATEMENT OF THE CASE

Appellant was indicted by the Greenville County Grand Jury for the offense of attempted murder. R. 249. This case was called to trial on April 1, 2013 before the Honorable C. Victor Pyle, Jr. and a jury. Christopher Lance Sheek represented appellant. L. Mark Moyer was the assistant solicitor. R. 1.

On April 2<sup>nd</sup>, 2013, the jury found appellant guilty. R. 244, II. 16-18. Based upon appellant's past record and the service of life without parole notice Judge Pyle sentenced appellant to life imprisonment without parole. R. 247, II. 9-11.

This appeal follows.

## ARGUMENT

The lower court erred by failing to direct a verdict on the attempted murder charge.

### Relevant Facts

Tyler Mattress was the alleged victim in this case. R. 21, ll. 2-17. The indictment of the body charges:

"That JOSEPH CHRISTOPHER WALKER did in Greenville County, on or about the 20th day of July 2011, unlawfully, with malice aforethought, and with the intent to kill, attempt to kill Tyler Mattress by means of pointing a gun and firing at the victim. This is in violation of § 16-3-29 of the South Carolina Code of Laws (1976) as amended."

#2011-65-23-008458.

The testimony presented at trial of Tyler Mattress revealed conflicting versions and contradictions of the event. He acknowledged on direct examination he went to Bobby Golden's apartment and got a knife from him. R. 40, ll. 6-23. Mattress testified that when appellant arrived: "I walked up to him - towards him. As he came around the trunk area of the car, I seen he had a gun in his hand. By the time he was getting ready to raise the gun (attempt to raise), I took off (did not see, back to appellant, and head not turn backwards) running up the apartment complex and around the building." R. 41, ll. 13-22. Mattress claimed he did not pull out the knife as he walked towards appellant. R. 41, l. 12-42, l. 11; R. 42, ll. 14-22.

And, Mattress testified he and appellant was ten to fifteen feet apart, that appellant had the gun down by his side, when he approached appellant in an attempt to fight appellant; and,

again, appellant attempt to raise up the gun that he took off running and heard multiple gunshots. R. 43, 1. 4-44, 1. 15. At a municipal court proceeding against appellant for discharging a firearm in the city limits, Tyler Mattress testified there that he do not remember what happened and apparently was jailed for six days for perjury, the charge dismissed against appellant. R. 45, 1. 18 - 49, 1. 16.

On cross-examination, Tyler Mattress acknowledged to have taken a couple of steps when he turned and started running away when he heard the first shot. R. 57, 11. 6-12. Then asked, "Was he pointing the gun in your direction?" Mattress stated, "Yes, Sir. I seen him when he - as he raised up - I don't know which way he was pointing the gun, I just seen - as he raised it - I'm not try- to see if he's going to shoot me in the face, I just turned and ran." R. 58, 11. 10-14.

State's witness, Turonnie Lewis, testified that the next day at work he notice a little small hole in his car, that he had to get [down] on his knee to look at it. R. 154, 1. 23 - R. 155, 1. 6. And, officer Jared Mann testify to the same as Lewis. R. 160, 1. 21 - 161, 1. 23.

Also, State's witness, Beverly Henderson, testify that she and some kids were sitting on the sidewalk close by when the shooting started. That appellant could have shot Mr. Tyler, but I don't know what happened. I think some of them Ricocheted. R. 165, 1. 22 - 167, 1. 15.

The State rested it's case against appellant. R. 179, 11. 1-2. The court asked appellant's counsel, "Do you have any motions, MR. Sheek? Any motion?" Appellant's counsel stated, "Your Honor, for the record I'll make a motion for directed verdict, but understanding in the light most favorable to the State, the burden you have there. But I would argue that no reasonable jury could find

beyond a reasonable doubt that he committed an intent to kill based on the testimony that they've heard." The court deny the motion. R. 179, 11.5-11.

## Discussion

On a motion for a directed verdict in a criminal case, the trial is concerned with the existence or non-existence of evidence, not its weight. State v. Morgan, 282 S.C. 409, 319 S.E.2d 335 (1984). If the State presents any evidence which reasonably tends to prove defendant's guilt, or from which defendant's guilt could be fairly and logically deduced, the case must go to the jury. State v. Poindexter, 314 S.C. 490, 431 S.E.2d 254 (1993). On appeal, from the denial of a motion for directed verdict, this Court must view the evidence in a light most favorable to the State. State v. Schrock, 283 S.C. 129, 322 S.E.2d 450 (1984). Viewing the testimony concerning Defendant's/Appellant's pointing a gun and firing at the victim was not establish beyond a reasonable doubt in attempted murder in a light most favorable to the State, the trial court erred in denying the directed verdict on this charge.

CONCLUSION

By Reason of the foregoing argument, appellant's conviction should be reversed and this case remanded to the Greenville County Court of General sessions for entry of a directed verdict of acquittal.

Respectfully Submitted,

Joseph Walker  
Joseph Walker, #285497  
Appellant, Pro-Se.

PRO-SE. FOR APPELLANT

This 2<sup>nd</sup> day of July, 2014.

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JOSEPH WALKER

APPELLANT.

APPELLATE CASE NO. 2013-000766

CERTIFICATE OF SERVICE

The undersigned pro-se, hereby certifies that a true copy of the Pro-Se Brief of Appellant in the above referenced case has been served upon Salley W. Elliott, Esquire, at the Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, South Carolina this 2<sup>nd</sup> day of July, 2014.

Joseph Walker  
Joseph Walker, #285497  
Pro-Se for Appellant

SUBSCRIBED AND SWORN TO Before me  
this 3 day of July, 2014.

Jamarcus Conwell (s)  
Notary Public for South Carolina

My Commission Expires: My Commission Expires  
September 25, 2023

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**SC Court of Appeals**

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