

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

IN THE COURT OF GENERAL SESSIONS
CA No. 2013-GS-23-678, 679, 680, 681

STATE OF SOUTH CAROLINA,)
)
Plaintiff,)

v.)

PAULA REED ROSE,)
)
Defendant.)

2012A2330202127
2012R2330202126
2012A2330202128
2012A2330202125

ORDER

FILED CLERK OF COURT
PAUL B. WICKENSMEYER
GREENVILLE CO. SC

2015 NOV 13 PM 2:12

This matter was before the Court for a hearing on Defendant's Post-Trial Motions for: Directed Verdict of Acquittal; Suppression of Evidence (as raised Pre-Trial) and New Trial on September 2, 2015.

DIRECTED VERDICT OF ACQUITTAL

"A defendant is entitled to a directed verdict when the State fails to produce evidence of the offense charged." State v. Moore, 374 S.C. 468, 474-75, 649 S.E.2d 84, 87 (Ct. App. 2007) (citing State v. McKnight, 352 S.C. 635, 642, 576 S.E.2d 168, 171 (2003); State v. Rothschild, 351 S.C. 238, 243, 569 S.E.2d 346, 348 (2002)). However, "[a] case should be submitted to the jury if there is any direct evidence or any substantial circumstantial evidence that reasonably tends to prove the guilt of the accused or from which guilt may be fairly and logically deduced." Moore, 364 S.C. at 474-75, 649 S.E. 2d at 87 (citing State v. Walker, 349 S.C. 49, 562 S.E.2d 313 (2002); State v. Buckmon, 347 S.C. 316, 555 S.E.2d 402 (2001)). In this case, the Court finds that the State produced evidence reasonably tending to prove the guilt of the accused; therefore, the Court denies Defendant's motion for directed verdict.

SUPPRESSION OF EVIDENCE

As to Defendant's motion for Suppression of Evidence, the Court finds that the denial of Defendant's pre-trial motion *in limine* was proper. In State v. Flowers, the South Carolina Supreme Court held that "[t]hird party consent may be given by one who has common authority over or some other sufficient relationship to the premises or effects being searched." 360 S.C. 1, 5, 598 S.E.2d 725, 728 (2004) (citing State v. Moultrie, 271 S.C. 526, 528, 248 S.E.2d 486, 487 (1978)). Furthermore, "a homeowner may grant consent to search the premises on which a criminal defendant resides if the homeowner possesses common authority over a sufficient relationship to the premises or effects to be inspected." Flowers, 360 S.C. at 5-6, 598 S.E.2d at 728 (citing State v. Pressley, 288 S.C. 128, 130 341 S.E.2d 626, 627 (1986)). Although the Defendant may not have given consent to the search of the premises, Ellie Hansen, as the homeowner and host, possessed common authority over the premises and provided sufficient consent to the search which resulted in the seizure of the evidence. Therefore, Defendant's motion for Suppression of Evidence is denied.

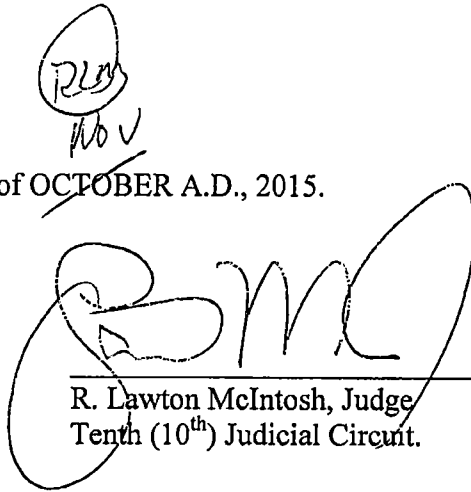
NEW TRIAL

"Where there is no evidence to support a conviction, an order granting a new trial should be upheld." State v. Taylor, 348 S.C. 152, 159, 558 S.E.2d 917, 920 (Ct. App. 2001) *aff'd*, 355 S.C. 392, 585 S.E.2d 303 (2003) (citing State v. Smith, 316 S.C. 53, 55, 447 S.E.2d 175, 176 (1993)). "However, where there is competent evidence to sustain the jury's verdict, the judge may not substitute his judgment for that of the jury." Taylor, 348 S.C. at 159, 558 S.E.2d at 920 (citing State v. Prince, 316 S.C. 57, 63, 447 S.E.2d 177, 181 (1993)). The Court finds that there is competent evidence to sustain the jury's verdict against the Defendant; therefore, the court denies Defendant's motion for a New Trial.

CONCLUSION

The Court denies all of Defendant's Post-Trial Motions including: Directed Verdict of Acquittal; Suppression of Evidence; and New Trial.

IT IS SO ORDERED This 8th Day of OCTOBER A.D., 2015.



R. Lawton McIntosh, Judge
Tenth (10th) Judicial Circuit.

Greenville, South Carolina.



State of South Carolina
The Circuit Court of the Tenth Judicial Circuit

R. Lawton McIntosh
Judge

November 9, 2015

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Clerk of Court for Greenville County
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Greenville, South Carolina 29601-2120

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FILED-CLERK OF COURT
PAUL B. WICKENSIMER
GREENVILLE CO. SC

Dear Mr. Wickensimer:

Please find enclosed an original Order signed by Judge McIntosh in the following case:

State of SC v. Paula Reed Rose
CA No. 2013-GS-23-678, 679, 680, 681

Please file this in your office and provide certified copies to the attorneys of record pursuant to your customary procedure.

Thank you for your assistance in this matter.

Sincerely,

Susan Stanfield
Administrative Assistant to
R. Lawton McIntosh, Judge
Tenth (10th) Judicial Circuit

sfs

Enclosure