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STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
)
 COUNTY OF PICKENS) FOR THE THIRTEENTH JUDICIAL CIRCUIT
)
 The State of South Carolina,)
)
 v.) Indictment No. 2015-GS-39-02282
 2016 JUL -5 P 3:02)
 Nathaniel Cleveland Blackwell,)
)
 Defendant.)

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SC Court of Appeals

A trial was held on this matter in Pickens County Court of General Sessions on Monday, May 23, 2016 through Wednesday, May 25, 2016. Defendant was represented by Mr. John P. Abdalla. The Thirteenth Circuit Solicitor's Office was represented by Ms. Elizabeth Gailey and Mr. Stanford Overby. On May 25, 2016, the jury returned a unanimous verdict and found the defendant guilty of reckless homicide. Thereafter, this Court sentenced the defendant, accordingly. This matter is now before the Court pursuant to a Motion for New Trial filed by the defendant, Nathaniel Cleveland Blackwell. Specifically, the defendant bases this Motion on three substantive grounds. First, the defendant challenges the sufficiency of the evidence and the court's failure to grant a directed verdict in its favor. Second, the defendant challenges the courts failure to excuse two jurors for cause. Finally, the defense argues that the court erred by administering an Allen charge to the jury.

STANDARD OF REVIEW

The court's granting or refusal of a motion for a new trial lies "within the discretion of the trial judge and will not be disturbed absent a clear abuse of discretion." *State v. Simmons*, 279 S.C. 165, 166, 303 S.E.2d 857, 858 (1983) (citing *State v. Quillien*, 263 S.C. 87, 207 S.E.2d 814



(1974)). Thus, when “a discretionary order is based on factual conclusions, it will not be disturbed unless without evidentiary support.” *Id.* at 166–67, S.E.2d at 858.

LAW/ANALYSIS

I. Sufficiency of Evidence and Directed Verdict

When the evidence submitted raises a mere suspicion that the accused is guilty, a directed verdict should be granted because suspicion implies that 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 (2016) (citing *State v. Hepburn*, 406 S.C. 416, 429, 753 S.E.2d 402, 409 (2013)). “Nevertheless, a court is not required to find that the evidence infers guilt to the exclusion of any other reasonable hypothesis.” *Id.* at 429, S.E.2d at 354 (citing *State v. Ballenger*, 322 S.C. 196, 199, 470 S.E.2d 851, 853 (1996)).

Indeed, the Supreme Court of South Carolina recently clarified the proper standard when a trial court rules on a defendant’s motion for a directed verdict:

[W]hen ruling on a directed verdict motion, the trial court views the evidence in the light most favorable to the State and must submit the case to the jury if there is “any substantial evidence which reasonably tends to prove the guilt of the accused, or from which his guilt may be fairly and logically deduced. 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. This objective test is founded upon reasonableness. Accordingly, in 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.

State v. Bennett, 415 S.C. 232, 236–37; 781 S.E.2d 352, 354 (2016).



Here, the evidence was sufficient to support a finding that the defendant made a conscious disregard for the safety of others. Therefore, this Court reaffirms its ruling in denying the defendant's motion for a directed verdict.

II. Excusing Jurors for Cause

The defendant also bases its motion on this Court's failure to excuse certain jurors for cause. It is paramount that a defendant is entitled to a trial by an impartial jury. *State v. Gulledge*, 277 S.C. 368, 370, 287 S.E.2d 488, 489 (1982); South Carolina Constitution Art. 1, Sec.14; U.S. Constitution, Amendment VI. As such, it is clear that a trial judge has a duty to assure himself that every juror is unbiased, fair and impartial. *Gulledge*, at 370, S.E.2d at 489.

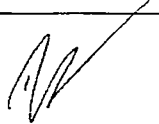
Simply put, a "juror must be excluded only if his views 'would prevent or substantially impair the performance of his duties as a juror in accordance with his instructions and his oath.'" *State v. Matthews*, 291 S.C. 339, 340, 353 S.E.2d 444, 446 (1986) (quoting *Wainwright v. Witt*, 469 U.S. 412, 433 (1985)).

During voir dire—and throughout the duration of the trial—there was more than ample evidence to firmly conclude that every juror was unbiased, fair and impartial. Therefore, this Court reaffirms its ruling in denying the defendant's motion for a directed verdict.

III. Allen Charge

Finally, the defendant moves for a New Trial based on this Court's administering an Allen Charge to the jury.¹ The Allen Charge does not violate a defendant's due process, provided that the charge is not given in a coercive manner. See *State v. Williams*, 386 S.C. 503, 509–10, 690 S.E.2d 62, 65 (2010) (internal citations omitted). Indeed, "[t]he typical judicial mechanism

¹ *Allen v. Unites States*, 17 S.Ct. 154 (1896)



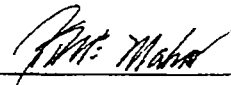
for encouraging an indecisive jury is the Allen charge, in which jurors are instructed on, among other things, their duties to approach the evidence with an open mind and consider the opinions of their fellow jurors." *Id.* at 510, S.E.2d at 65 (quoting *State v. Robinson*, 360 S.C. 187, 193, 600 S.E.2d 100, 103 (Ct. App. 2004)). Moreover, "a jury charge which is substantially correct and covers the law does not require reversal." *State v. Patterson*, 367 S.C. 219, 232, 625 S.E.2d 239, 246 (Ct. App. 2006) (citing *State v. Foust*, 325 S.C. 12, 479 S.E.2d 50 (1996); *State v. Hoffman*, 312 S.C. 386, 440 S.E.2d 869 (1994)).

In this matter, the Court did not administer the Allen Charge in a coercive manner. Therefore, this Court reaffirms its ruling in denying the defendant's motion for a new trial.

CONCLUSION

The Court has reviewed the Defendant's motion for New Trial and finds that oral arguments would not assist in this matter and finds that any additional hearing would be redundant and unnecessary.

Therefore, it is **ORDERED** that Defendant's Motion for New Trial is **DENIED**, and the prior rulings are reaffirmed in toto.



The Honorable R. Knox McMahon
Presiding Judge
Thirteenth Judicial Circuit

Lexington, South Carolina
June 23, 2016

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February 10, 2017

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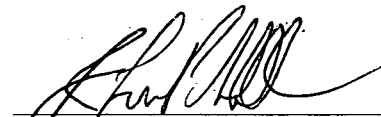
Re: State vs. Nathaniel C. Blackwell

Dear Ms. Kitchings:

Pursuant to your letter dated February 2, 2017 which was received on February 9, 2017, I have enclosed a copy of the Order Denying Defendant's Motion for New Trial in the above-referenced matter. I had previously sent a "Certified" copy on December 21, 2016. Should you need anything further, please contact my office.

Thank you for your attention to this matter.

Yours very truly,



John P. Abdalla, Esq.
Attorney for Appellant

Enclosure