The State Of South Carolina
For State Supreme Court

Charleston County Courthouse
General Sessions Court

Jeremiah Belton Appellant ~against~ State Of South Carolina Respondent	# 2015-002423

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SC Court of Appeals

Appellant's Amended Pro Se Brief

Jeremiah Belton #
Lieber Correction Institution
136 Wilborn Drive / WB-135
Ridgeville, South Carolina 29472

Questions Presented

Whether Trial Court Erred In Denying Directed Verdict Motion?

Whether This Court Should Revisit It's Decision Under "Hands Of One Hands Of All" Accomplice Liability Theory?

Statement Of Facts

During the early morning hours of July 10th, 2010, a group of men tried to rob Melvin "kip" Simmons, a drug dealer, in his home. Simmons daughter, Moett, heard gunshots and someone approaching her room. Moett described a tall skinny man in black clothing entering her bedroom. The man had a black ski mask covering his face and "mittens" on his hands. He placed a silver gun to her head.

After the man left her room, she heard more tussling and gunshots. Shemeika Stokes, Simmons girlfriend awoke to the sounds of yelling and crashing. Then, the shooting began. Stokes saw two men wearing ski masks. In the bedroom, Simmons had a gun. After Simmons was shot, Stokes got his gun and chased the men out of the house with it. She was unsure how many people entered the house, but she knew there were at least two

The Police arrested Mason on August 11, 2010 for the Simmons home invasion and murder. He provided no information to Police at that time. In 2012, shortly before his trial, Mason told Police that he was involved with the home invasion. However, he denied shooting a gun or even having a gun.

The group approached the home with "someone" kicking in the door. In preparation for the home invasion, Caldwell put socks on his hands to eliminate evidence. According to Caldwell, Delaney was the person who kicked in the door. However, Mason claimed that Caldwell entered the home followed by Mason. Mason and Caldwell agreed the shooting started shortly after the men entered.

Mason placed Caldwell in Moetts bedroom. Mason claimed he went toward Simmons bedroom the source of the shooting. When Mason approached the bedroom, he went towards Simmons bedroom the source of the shooting.

Argument

Whether Trial Court Erred In Denying Directed Verdict Motion

When a motion for a directed verdict motion is made in a criminal case, the trial Judge is concerned with the existence or non-existence of evidence, not its weight. The trial Judge should Grant a directed verdict motion when the evidence merely raises a suspicion that the accused is Guilty, it is his duty to submit the case to the Jury if there is any evidence, either direct or circumstantial, which reasonably tends to Prove Guilt of the accused, or from which Guilt may be fairly and logically deduced. See State v. Irvin, 270 S.C. 539 (1978)

Here, the evidence is exclusively circumstantial. Nothing in evidence Places defendant at scene of the crime. Where it is undertaken by the Prosecution in a criminal case to Prove the Guilt of the accused by circumstantial evidence, not only must the circumstances be Proven, but they must Point conclusively, that is, to a moral certainty to the Guilt of the accused. they must be wholly and in every Particular Perfectly consistent with each other, and they must further be absolutely inconsistent with any other reasonable hypothesis than the Guilt of accused.

Two cases from this courts Jurisprudence are instructive in explaining the Proof required in cases built wholly on circumstantial evidence. In State v. Bostick, 392 S.C. 134 (2011) the state accused Bostick of killing his neighbor, Polite, and burning down here home. The state Presented the following evidence against Bostick. (1) Investigators found items belonging to Polite, including watch and two set of car keys, in a burn Pile located on Bostick family Property; (2) Bostick shoes contained a Pattern that matched Gasoline, and Gasoline was the accelerant used to start the house fire; (3) and investigators found blood on the clothes Bostick was wearing the day of the murder, but that evidence could not be matched to Polites DNA. Bostick, id at 141-42

In State v. Lollis, this court reviewed a Court of Appeals decision affirming a circuit courts refusal to grant direct verdict motion on charge of 2nd degree arson State v. Lollis, 343 S.C. 580(2001) Lollis lived in a mobile home with his common law wife, Tammy Burgess. Lollis, id at 582. Burgess confessed to setting fire to the home and claimed Lollis had no knowledge of her plans, id. According to Burgess, she burned the home in order to erase the couples mortgage debt, id.

The circumstantial evidence presented in case at bar is and goes to that found in Bostick and Lollis even when view in light most favorable to the state, the circumstantial evidence presented does not reasonably tend to prove Petitioners guilt.

Petitioners overall action may appear suspicious, but mere suspicion is insufficient to support a guilty verdict State v. Arnold, 361 S.C. 386(2004) {Holding that trial court must grant directed verdict when the evidence merely raises a suspicion that the accused is guilty} The traditional circumstantial evidence definition illustrates the deficiency in the states evidence against Petitioner. This definition provides that if the state relies on circumstantial evidence to prove its case, the jury may not convict the defendant unless:

> "Every circumstance relied upon by the State be proven beyond a reasonable doubt; and ... all of the circumstances proven be consistent with each other and taken together, point conclusively to the guilt of the accused to the exclusion of every other reasonable hypothesis"
>
> Arnold, id at 389-90; State v. Cherry, 361 S.C. 588 (2004)

Despite the courts abandonment of the use of this particular definition as a jury charge in Cherry, the definition illustrates the lack of evidence against Petitioner When Mason approached the bedroom he was shot (Tr.Tr. PG 346; lines 1-12; PG 399; lines 2-18) He immediately returned fire, and then fled the home. Simply put the state offered no evidence that Petitioner committed first degree burglary; Murder.

Argument 2

Whether This Court Should Revisit Its Decision Under "Hands Of One Hands Of All" Accomplice Liability Theory?

The doctrine of accomplice liability arises from the theory that the "Hand Of One Is The Hand Of All" State v. Reid, 408 S.C. 461 (2014) Under this theory, one who Joins with another to accomplish an illegal Purpose is liable criminally for everything done by his confederate incendental to the execution of the common design and Purpose. Reid, id at 472.. Where two Persons combine to commit an unlawful act and in its execution a homicide is committed as a Probable or natural consequence thereof, all Present and Participating in the unlawful act are as Guilty as the one who committed the fatal act. See, State v. Fields, 314 S.C. 144 N.1 (1994)

This theory is based on the mens rea of Person committing unlawful act, and while two Parties have agreed on a Robbery. According to Fields, Reid decisions, the confederate is liable for what he had no idea would take Place. Therefore, the defense would have to show the confederate did not know a murder would be committed, and the Prosecution is only required to show a crime was committed and despite confederates knowledge "As a Probable And Natural Consequence" he is nonetheless Guilty

As the State appellate courts have held that "those who Provide knowing aid to Persons committing crimes; with intent to facilitate the crime, are themselves committing the crime."

While both Parties here embrace this formulation, and agree that it has two components. As at common law a Person is liable under aiding and abetting a crime if (and only if) he (1) Takes an affirmative act in furtherance of that offense; (2) With the intent of facilitating the offenses commission;. See, 2 W. LaFave Substantive Criminal Law Sec.

13.2. PG337(2003); Hicks v. United States, 150 U.S. 442(1893)

The question that Petitioner disputes, and ask this court to address. Concerns two requirements of affirmative act and intent and how they apply in Prosecution for aiding and abetting Murder. First degree burglary offenses

Under accomplice liability theory, a Person must Personally commit or be Present at the scene of the crime and intentionally, or through a common design, aid, abet, or assist in the commission of that crime through some overt act. See, State v. Langley. 334 S.C. 643(1999)

In order to be Guilty as an aider or abettor, the Participant must be chargeable with knowledge of the Principals criminal conduct. See, State v. Leonard, 292 S.C. 133(1987). These questions arise from the compound nature of Langley, id at 648-49; Leonard, id at 137,. For Purposes of ascertaining aiding and abetting liability, we must therefore consider; "When Does A Person Act To Further This Double Barreled Crime?"

The conflicting testimony, does not established beyond a reasonable doubt Proof of accomplice liability. Thus, under accomplice liability as set forth in Leonard, Hicks Petitioner can not be held liable for anything more than knowing Mason, Caldwell.

The common law imposed aiding and abetting liability on a Person (Possessing requisite intent) who facilitated any Part even though not every Part of the criminal venture. As a leading treatise, Published around the time Put the Point. Accomplice Liability attached upon Proof of "Any Participation in a General Felonious Plan" carried out by confederates. See, 1 Wharton, Criminal law Sec. 251; PG 322 (11th Ed. 1912)

Indeed, as Yet a third treatise underscored, a Persons involvement in the crime could not be merely a minimal Part too "So long as the accomplice did something to aid the crime. See, B. Desty. A Compendium Of American Criminal law Sec. 37a; PG 106(1882)

Because if but for Police false statements in obtaining search warrant, the trial record fails to establish a Prima facie basis of Guilt under accomplice liability. When as

herein conviction lacks Proof of "Aiding. Abetting" the Hicks court has required reversal as trial record shows herein.

Wherefore. it is Prayed court Grant Writ.

Date: 10 day of October , 2017.

Respectfully Submitted:
s/ Jeremiah Belton
Jeremiah Belton / Pro Se

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October 3rd, 2017

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Hon. Chief Clerk Of Court
South Carolina Court Of Appeals
Columbia, South Carolina 29201

RE: Jeremiah Belton v. State, 2015-002423
Subject: Filing Amended Pro Se Brief

Hon. Chief Clerk

Please find enclosed, my amended Pro Se brief to be filed in this court. After speaking with counsel Ms. Hackett, she told me to file this brief addressing the questions herein. So Please return stamped filed copy to me for my records.

cc:
File.

With kind Regards,
s/ Jeremiah Belton
Jeremiah Belton / Pro Se

Jeremiah F Belton 261628

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