

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

ORIGINAL

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Appeal from Dillon County

Honorable Paul M. Burch, Circuit Court Judge  
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THE STATE,

RESPONDENT,

V.

DAMIAN INMAN,

APPELLANT

APPELLATE CASE NO 2015-002353

RECEIVED

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INITIAL BRIEF OF APPELLANT  
\_\_\_\_\_

OCT 26 2017

SC Court of Appeals

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ATTORNEY FOR APPELLANT

**TABLE OF CONTENTS**

TABLE OF CONTENTS..... i

TABLE OF AUTHORITIES ..... ii

STATEMENT OF ISSUE ON APPEAL.....1

STATEMENT OF THE CASE.....2

FACTS OF THE CASE .....3

ARGUMENT.....5

CONCLUSION.....<sup>7</sup>6

**TABLE OF AUTHORITIES**

**Cases**

<u>State v. Harry</u> , 420 S.C. 290, 803 S.E. 2d 272 (2017).....	5
<u>State v. Logan</u> , 405 S.C. 83, 747 S.E. 2d 444 (2013).....	5
<u>State v. Mattison</u> , 388 S.C. 469, 697 S.E. 2d 578 (2010).....	5

**STATEMENT OF ISSUE ON APPEAL**

Whether the trial court erred in giving a jury charge on circumstantial evidence that did not meet the standards set forth in State v. Logan, 405 S.C. 83, 747 S.E. 2d 444 (2013)?

## STATEMENT OF THE CASE

Appellant was convicted of murder, first degree burglary, armed robbery, kidnapping, possession of a weapon, and criminal conspiracy after a jury trial held before the honorable Paul M. Burch in Dillon County on June 8-11, 2015. Appellant was sentenced to thirty (30) years for armed robbery, to five (5) years consecutive for conspiracy, and to five (5) years consecutive for possession of a weapon.

Because appellant was seventeen years old at the time of the crimes, a separate sentencing hearing was held on October 29, 2015, for the murder and first degree burglary charges. He was sentenced to life imprisonment on both of those charges. Thurmond Brooker, Esq. was defense counsel. Shipp Daniel, Esq. and Kenard E. Redmond were the solicitors.

This appeal follows.

## FACTS

This case proceeded on a theory because the State did not know which defendant did what to the victim or the extent of their involvement. Appellant was tried with his older brother, Lorenzo Inman, and John Henry Bridges. During opening argument, the assistant solicitor stated that the 75 year old victim, Mary Alice Stutts was abducted at her home and put in the trunk of her white Toyota Camry. They drove out to the county to a dirt road. The victim was taken out of the trunk and was shot twice in the head. She was dragged to a ditch where she was dropped. Appellant was dropped off at his home later and the two co-defendants stayed in the Toyota and rode around the rest of the night. (June 9, 2015, Tr. p. 22, line 9- p. 23, line 19). Because the State was not at the scene they relied on the theory of accomplice liability – the hand of one is the hand of all. (June 9, 2015, Tr. p. 24, line 21- p. 25, line 8).

Neither co-defendant testified at trial. Appellant also did not testify but he did give a statement which was introduced into evidence at his trial. That statement is as follows:

Q. Okay. You can see it, and I'm going to read the statement the best I can decipher and you correct me if I say something wrong. Page One. "It was me and my brother. Three o'clock. Walked down road in Jacksonville. Then I saw -- the heard. Then they told me and brother to walk to get in the car. He said to walk down the block and get in the car and then told us to go to the house and get or he will kill me and my brother if we don't do it.

Henry went to door and asked the old woman for water out the water hose. He said that he didn't know how to turn the water on. That's when she came outside. That's when he pointed the gun to her head to her to give the money. Then she said that she does have the money.

Then she run. Then he knocked her down. Took her to give him the key or he will kill her. That's when told me to drive the car in the back. So he told my brother to help him put in trunk of the car."

Now we go to Page Two. "Then told us to come with him or he will kill us in car. Then he went riding through Little Rock in that cut off through Bland Road in to drop her body off. Then

opened the trunk. Henry dragged her out of the trunk and shot her twice in the head. That dragged body in the woods. He told us to get the car. Told us that if you told on me he would kill my brother and my mother.

That when Henry drive the car through New Town and Jacksonville. Then he told to get out the car at the house. Told me again not to talk. Told my brother to come with him or he will kill him, too. Around 10:30 they left. Henry told my brother to help drag or he will shoot him. Henry told me to put the bag of shells in my house or him kill my mother.

Then they planned the whole thing. I tried to warn her, but put the gun to my head and told me to stop or he will shoot. I was scared. That's why I did said anything to police because Henry said I was going to kill her.

Then I thought about then came in and told the truth that" -- is that essentially what the statement says?

A: Yes, Sir.

(June 9, 2015, Tr. p. 79, line 21- p. 81, line 9).

The only other evidence we have from the crime scene came from a jail house snitch who claimed appellant told him that he was the one who shot the victim. (June 10, 2015, Tr. p. 304, line 5- p. 305, line 9).

## ARGUMENT

The trial court erred in giving a jury charge on circumstantial evidence that did not meet the standards set forth in *State v. Logan*, 405 S.C. 83, 747 S.E. 2d 444 (2013).

The trial court gave the following jury instruction on circumstantial evidence:

Circumstantial evidence is proof of a chain of facts and circumstances indicating the existence of a fact. It is evidence which immediately establishes collateral facts from which the main fact may be inferred. Circumstantial evidence is based on inference and not on personal knowledge or observation.

The law makes absolutely no distinction between the weight or value to be given to either direct or circumstantial evidence. Nor is a greater degree of certainty required of circumstantial evidence than that of direct evidence. You should weigh all of the evidence in the case. After weighing all the evidence if you are not convinced of the guilt of the defendant beyond a reasonable doubt you must find the defendant not guilty.

(June 10, 2015, Tr. p. 436, line 15- p. 437, line 3).

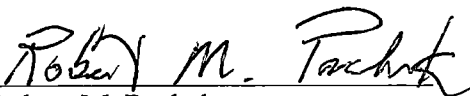
The above jury instruction on circumstantial evidence was an incomplete statement of the law.<sup>1</sup> In *State v. Logan*, 405 S.C. 83, 747 S.E. 2d 444 (2013) the Court held that when the State relies on circumstantial evidence all of the circumstances have to be consistent with each other and, when taken together, point conclusively to the defendant's guilt beyond a reasonable doubt. 405 S.C. at 99, 747 S.E. 2d at 452. The failure to give a proper jury instruction should not be considered harmless error on the facts of this case.

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<sup>1</sup> The trial court also only gave a one sentence jury instruction on "mere presence." (June 10, 2015, Tr. p. 448, lines 12-15). See *State v. Mattison*, 388 S.C. 469, 697 S.E. 2d 578 (2010) and *State v. Harry*, 420 S.C. 290, 803 S.E. 2d 272 (2017).

**CONCLUSION**

Appellant's convictions should be reversed.

  
Robert M. Pachak  
Appellate Defender

ATTORNEY FOR APPELLANT

This 26th day of October, 2017.

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

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Appeal from Dillon County

Honorable Paul M. Burch, Circuit Court Judge

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THE STATE,

RESPONDENT,

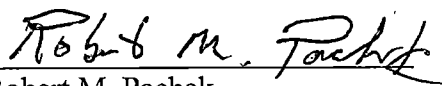
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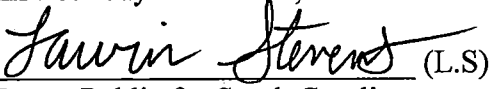
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the Initial Brief of Appellant and Designation of Matter in the above referenced case has been served upon Donald J. Zelenka, Esquire, at the Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201; and a copy of the Initial Brief of Appellant and Designation of Matter have been served on Damian Inman (2), #344143, at Broad River Correctional Institution, 4460 Broad River Road, Columbia, SC 29210, this 26th day of October, 2017.

  
\_\_\_\_\_  
Robert M. Pachak  
Appellate Defender  
ATTORNEY FOR APPELLANT

SUBSCRIBED AND SWORN TO before me  
this 26th day of October, 2017.

 (L.S)  
\_\_\_\_\_  
Notary Public for South Carolina  
My Commission Expires: July 5, 2027.