STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Greenville County
Honorable Perry H. Gravely, Circuit Court Judge
Appellate Case No. 2017-001859

THE STATE,

Respondent,

vs.

CHRISTIAN ARENSON SCOWCROFT,

Appellant.

INITIAL BRIEF OF RESPONDENT

ALAN WILSON
Attorney General

MARK R. FARTHING
Assistant Attorney General

Post Office Box 11549
Columbia, SC 29211
(803) 734-3727

WILLIAM W. WILKINS, III
Solicitor, Thirteenth Judicial Circuit

305 East North Street, Suite 325
Greenville County Courthouse
Greenville, SC 29601
(864) 467-8282

ATTORNEYS FOR RESPONDENT

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The trial judge correctly denied Appellant's directed verdict motion because the substantial circumstantial evidence presented during trial, which included evidence demonstrating Appellant sold the victim's property mere hours after it was stolen from the victim's home, rationally and logically established Appellant's guilt for all the required elements of first-degree burglary and grand larceny.

STATEMENT OF THE CASE

In August of 2016, Appellant Christian Arenson Scowcroft was arrested following an investigation into a residential burglary and theft. In February of 2017, the Greenville County Grand Jury issued a two-count indictment charging Appellant with one count of first-degree burglary and one count of grand larceny. On August 23, 2017, a jury trial was commenced in the Greenville County Court of General Sessions with the Honorable Perry H. Gravely, circuit court judge, presiding. At the conclusion of the two-day trial, the jury convicted Appellant as indicted. Following the verdict, the trial judge sentenced Appellant to concurrent terms of imprisonment of fifteen years for first-degree burglary and one year for grand larceny. Appellant then timely filed a notice of appeal.

STATEMENT OF FACTS

Consistent with his typical daily routine, Harrison Golson ("Victim"), an engineering manager for AT&T, left his Greenville, South Carolina, home at approximately 6:45 a.m. on August 16, 2016, and headed to his office for work. (Tr. pp. 54-55; pp. 57-59). Later that day, Victim returned home around 11:15 a.m. to eat lunch, which was also consistent with his typical daily routine. (Tr. pp. 57-59). However, that day, Victim encountered something highly out of the ordinary upon returning home. (Tr. p. 59). Specifically, when he entered his home, Victim noticed the back door was ajar and its lock was on the floor. (Tr. p. 59). In response, Victim quickly went to his closet to retrieve one of his guns, but the guns—a Remington Model 700 .270-caliber rifle and a camouflage-colored Browning .12-gauge shotgun—were missing along with their accompanying accessories. (Tr. p. 59; p. 63; p. 65; p. 69; pp. 121-122). At that point, Victim released his dog, checked to see if anyone was in his home, and reported the burglary and theft to law enforcement. (Tr. p. 59). He then checked through the rest of his home and discovered a Playstation 3 system was also missing along with a controller and some games for it.[1] (Tr. p. 59; pp. 121-122).

Shortly after that, deputies from the Greenville County Sheriff's Office responded to the scene and met with Victim, and he alerted them of the various items that had been stolen from his home that morning. (Tr. p. 60). However, Victim had no idea who had committed the break-in at that time, so he was unable to identify a suspect for the deputies. (Tr. p. 63). The deputies then spoke with Michael Nascarello, who was one of Victim's neighbors and had been working from home that morning. (Tr. p. 70; p. 72). In speaking with the deputies, Nascarello revealed he saw a red sedan he did not recognize that morning parked outside his residence, which was

[1] In total, the items missing from Victim's home had an appraised value of $3,171. (Tr. p. 62).

located only two houses away from Victim's home.[2] (Tr. pp. 70-72; pp. 74-75). Furthermore, Nascarello reported he briefly caught a glimpse of a lanky white man of average height getting into the driver's seat of that unfamiliar vehicle.[3] (Tr. pp. 75-77).

A few hours later, Appellant, who had recently worked with Victim at AT&T up until he was terminated from his job near the end of the preceding month, went to a Gamestop store that was located in close proximity to Victim's home and sold a Playstation 3 system along with a game for approximately $54.20.[4] (Tr. p. 56; p. 58; p. 110; pp. 113-114; p. 116; p. 118; p. 120; p. 125; pp. 190-191). After that, Appellant went to Traders Gun Shop, which was also nearby, and sold Victim's Remington Model 700 .270-caliber rifle for $300 at around 1:48 p.m. (Tr. pp. 86-87; p. 90; pp. 122-123; p. 125). Following those transactions, Appellant left with his newly-acquired money, and the information related to the items he sold was submitted to a database that could be accessed and reviewed by law enforcement officers. (Tr. pp. 87-88; p. 113; p. 120; pp. 122-123).

Thereafter, as the investigation into the break-in continued, Investigator Robert Grubbs of the Greenville County Sheriff's Office searched the database for Victim's rifle and learned it was sold at Traders Gun Shop by Appellant just a few hours after it had been stolen. (Tr. pp. 121-123). He then searched the database using Appellant's name and also discovered Appellant had sold a Playstation 3 system around the same time. (Tr. p. 123). At that point, Investigator

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[2] Initially, Nascarello reported the vehicle he observed was a red Pontiac Sunfire, but he later indicated that identification was simply a guess and was mistaken. (Tr. p. 72; p. 74).

[3] Later on during trial, testimony was elicited suggesting the suspect was described as having shaggy hair, but the individual who allegedly provided that description was never specifically identified. (Tr. p. 140). Notably, Nascarello did *not* describe the suspect as having shaggy hair during trial and was never asked about the suspect's hair at any point during his testimony. (Tr. pp. 70-84).

[4] Specifically, Appellant conducted the transaction at Gamestop at 1:14 p.m. (Tr. p. 116).

Grubbs believed Appellant committed the charged crimes, so he attempted to make contact with him to discuss the matter while also obtaining a warrant for his arrest. (Tr. pp. 34-35; p. 38; p. 123; p. 126; p. 137).

Subsequently, on August 26, 2016, Appellant voluntarily met with Investigator Grubbs at the sheriff's office and agreed to speak with him. (Tr. pp. 35-36; pp. 126-127; pp. 135-136; State's Ex. # 20 (Interview Recording)). During the ensuing interview, Appellant, who acknowledged his hair had recently been cut, repeatedly denied committing the break-in.[5] (State's Ex. # 20). To the contrary, Appellant asserted he was at his family's lake house for several weeks before the break-in occurred, returned home at some point around 11:00 a.m. or 12:00 p.m. one day, and subsequently sold a rifle and shotgun he found in his home that purportedly belonging to his former roommate, Britain Donahue.[6] (State's Ex. # 20). Furthermore, Appellant—at multiple points—denied selling any other items he found in his apartment, but he eventually admitted he also sold a Playstation 3 system when confronted about that fact. (State's Ex. # 20). Nonetheless, Appellant continued to insist he did not commit the break-in while identifying Donahue as the person he believed was the actual perpetrator of the crimes. (State's Ex. # 20). However, Appellant conceded he had no idea how Donahue possibly

[5] In the images of Appellant recorded at Gamestop on the date of the incident, Appellant's hair was noticeably longer than it was at the time of his interview with Investigator Grubbs. (Tr. pp. 111-112; State's Ex. # 15 (Photograph); State's Ex. # 16 (Photograph); State's Ex. # 20). Furthermore, in the images of Appellant captured during the interview, Appellant appears to be a lanky white man of average height. (State's Ex. # 20).

[6] As to when he sold the weapons, Appellant initially claimed he sold them a few days after discovering them. (State's Ex. # 20). However, almost immediately after making that particular claim, Appellant asserted he sold the rifle the same day he returned home from the lake, unsuccessfully attempted to sell the shotgun at the same time, and later sold the shotgun at a gun show. (State's Ex. # 20).

would have known where Victim lived because he had not revealed that information to Donahue and never taken him to Victim's home at any time.[7] (State's Ex. # 20).

At the conclusion of the interview, Appellant was arrested for the burglary and theft, and officers subsequently seized his computer and cell phone for forensic analysis. (Tr. p. 38; p. 137; p. 144; State's Ex. # 20). Upon analysis, the following information was uncovered on Appellant's computer: (1) Appellant's computer, which was password-protected, was used to access Victim's Facebook page at approximately 1:13 a.m. on the date of the incident; (2) Appellant's computer was used at 9:23 a.m. later that same day to access Appellant's password-protected email account and read a message to him from his bank indicating a fund transfer he had attempted to initiate was cancelled due to insufficient funds; and (3) Appellant's computer was used to search for information related to stores where a gun could be sold and for information related to Remington Model 700 .270-caliber rifles on the afternoon of the crimes. (Tr. pp. 164-165; pp. 167-174). Similarly, upon analysis of Appellant's cell phone, it was determined Appellant's cell phone did not connect with any cell phone towers located near any of the lakes in the area at any point between August 11, 2016, and the date of the incident. (Tr. pp. 175-176; pp. 179-181).

Subsequently, based on the information discovered during the investigation, Appellant was indicted for first-degree burglary and grand larceny, and he proceeded forward to trial. (Tr. p. 7; Multi-Count Indictment). During the course of trial, Victim testified about his discovery of the break-in and the theft of over $3,000 worth of goods from his home, and his neighbor

[7] Later on during trial, Appellant acknowledged he had personally been to Victim's home prior to the incident because he had previously helped Victim move a piece of furniture one day, and he claimed Donahue was the person who drove him to that location on that date. (Tr. pp. 192-193). However, during his interview with law enforcement, Appellant inconsistently claimed he rode with Victim in Victim's truck on the day he assisted him move the furniture at his house. (State's Ex. # 20).

identified Appellant's vehicle as the vehicle he saw parked near Victim's home on the morning of the incident.[8] (Tr. pp. 54-84). Likewise, employees from Gamestop and Traders Gun Shop recounted their transactions with Appellant shortly after the incident during which Appellant sold property that had recently been stolen from Victim's home, and one of the gun store employees revealed Appellant's unsuccessfully attempted to sell a camouflage-colored Browning shotgun a few days after the rifle was sold while inconsistently claiming to have just bought the shotgun and to have had both the shotgun and rifle in his safe for years.[9] (Tr. pp. 84-106; pp. 110-120). Additionally, Donahue testified for the State, denied ever going to Victim's house, disclaimed ever giving a gun or anything else to Appellant, and indicated he did not learn about the incident until roughly a month after it occurred. (Tr. pp. 145-148; p. 154). Furthermore, Detective Grubbs testified about his investigation into the incident that culminated in Appellant's arrest, and a recording of Appellant's interview was admitted into evidence and played for the jury. (Tr. pp. 121-144). Finally, testimony was presented about the incriminating information discovered during the searches of Appellant's computer and cell phone after his arrest. (Tr. pp. 164-181).

Following the presentation of that testimony and evidence, the State rested its case, and defense counsel moved for a directed verdict on both indicted offenses. (Tr. pp. 181-182). In support of that motion, defense counsel contended insufficient evidence had been presented to warrant the submission of the case to the jury while maintaining, at best, the evidence introduced supported a conclusion Appellant was guilty of receiving stolen property. (Tr. pp. 182-183). In

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[8] At the time of the crime, Appellant—by his own admission—owned and drove a red sedan. (Tr. p. 64; p. 69; p. 196).

[9] Appellant's attempt to sell the shotgun was unsuccessful because the gun store employee recognized his name as the name of the person who had sold the stolen rifle a few days earlier. (Tr. pp. 91-92; pp. 95-96; p. 98; p. 106).

rebuttal, the solicitor noted the evidence presented established: (1) Appellant's vehicle was observed at the scene of the break-in; (2) Appellant sold Victim's property almost immediately after it was stolen; and (3) Appellant provided inconsistent statements at various points about how he came to be in possession of the stolen property. (Tr. p. 183). Based on that evidence, the solicitor asserted the directed verdict motion should be denied. (Tr. p. 183). After considering the arguments of counsel, the trial judge concluded substantial circumstantial evidence had been presented and, therefore, declined to grant the motion for a directed verdict. (Tr. pp. 183-184).

Thereafter, Appellant testified in his own defense and denied committing the burglary and theft, denied going to Victim's house on the date of the incident, and denied knowing the items he sold were stolen. (Tr. p. 189; pp. 217-218). Instead of committing the charged crimes, Appellant claimed he was at his apartment until approximately 10:00 p.m. or 11:00 p.m. on the night before the incident, left for the night without locking the apartment's door or taking his keys and cell phone, went to his father's lake house at some point after midnight along with his girlfriend—"Erica"—and one of her friends, and remained there until the next day.[10] [11] (Tr. pp. 195-200; pp. 233-235; p. 250; p. 253). On the next day, Appellant alleged he woke up around sunrise, mowed the lake house's lawn until approximately 9:00 a.m. or 10:00 a.m., ate breakfast with "Erica" and her friend, left for home with them after breakfast, stopped for lunch on the way, and then arrived home at some point between noon and 1:00 p.m. (Tr. pp. 196-197; p. 234; p. 238). Subsequently, at approximately 12:30 p.m., Appellant asserted he and "Erica" went through Donahue's belongings, which included a baseball card collection, clothing, various

[10] During his interview with Investigator Grubbs, Appellant stated he could not identify anyone or anything capable of supporting his claim of going to the lake prior to the incident. (State's Ex. # 20).

[11] Regarding "Erica," Appellant indicated he met her at some point a few weeks before the date of the incident and had been introduced to her by Donahue. (Tr. p. 269).

electronics, two empty rifle cases, and two rifle cases with guns inside, and sent pictures of those items to him.[12] (Tr. p. 201; p. 203; p. 243). In response, Appellant claimed Donahue authorized him to get rid of or sell all his belongings. (Tr. p. 201; p. 204). At that point, Appellant alleged "Erica" took Donahue's clothing items to various stores to sell them while he went to both Gamestop, where he sold the Playstation system for approximately $50, and Traders Gun Shop, where he sold the rifle for $300.[13] [14] (Tr. pp. 203-207; pp. 247-249; p. 252). Appellant further indicated he did *not* bring the shotgun with him to the gun store because he did not believe it was worth selling.[15] (Tr. p. 207). However, Appellant claimed he mentioned the shotgun to an employee there, the employee advised him to sell the shotgun at an upcoming gun show, and he followed the employee's advice by selling the shotgun to a random stranger for $150 at a gun show he attended two days later. (Tr. pp. 207-209). After that, Appellant claimed he was contacted by law enforcement a short time later, he voluntarily went to speak with them without any knowledge of what they wanted to speak with him about, and he provided them with both truthful and false answers to their questions about the break-in, which he allegedly learned about for the first time at that time. (Tr. pp. 193-195; p. 213; p. 215; p. 269; pp. 272-273). Appellant indicated he was then arrested for the charged offenses and was subsequently robbed by "Erica,"

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[12] Earlier during his testimony, Appellant claimed Donahue had already removed his baseball card collection from the apartment as some point prior to the date of the incident. (Tr. p. 200).

[13] As to when he left his apartment to sell Donahue's belongings, Appellant asserted he headed to the stores at approximately 12:00 p.m., 12:30 p.m., or 12:45 p.m. (Tr. p. 247).

[14] Regarding the sale of the rifle, Appellant maintained he did not engage in any haggling with the gun store employee because he was not selling it for the money. (Tr. pp. 206-207; p. 252).

[15] During his interview with Investigator Grubbs, Appellant stated the shotgun was "very nice" and "valuable." (State's Ex. # 20). Moreover, at a later point during his trial testimony, Appellant appeared to identify the shotgun as one of Donahue's "valuable things" before stating: "You can't just throw away a shotgun." (Tr. p. 247).

whom he was no longer dating by the time of trial, while he was in jail. (Tr. p. 212; p. 248; pp. 268-269; p. 274). Thus, through the admittedly "coincidental" version of events that he presented during trial, Appellant disclaimed any responsibility for the burglary or theft while identifying Donahue as the likely perpetrator of those crimes.[16] [17] (Tr. pp. 216-217).

At the conclusion Appellant's testimony, the defense rested, and defense counsel renewed the earlier motion for a directed verdict. (Tr. pp. 292-293). However, the trial judge again denied the motion after once again finding substantial circumstantial evidence had been presented from which the jury could find Appellant's guilt for the charged crimes. (Tr. p. 293).

Subsequently, Appellant's case was submitted to the jury, and the jury ultimately convicted him as indicted. (Tr. p. 347; p. 352). Following the jury's verdict, the trial judge sentenced Appellant to an aggregate term of imprisonment of fifteen years. (Tr. pp. 357-358).

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[16] In presenting his shifting account of what occurred, Appellant candidly acknowledged he was "very, very dishonest in a way." (Tr. p. 273).

[17] Similar to Appellant's acknowledgment of the coincidental nature of his defense, defense counsel subsequently characterized Appellant's case as "an incredible coincidence of things coming together" during his closing argument to the jury. (Tr. p. 304).

ARGUMENT

The trial judge correctly denied Appellant's directed verdict motion because the substantial circumstantial evidence presented during trial, which included evidence demonstrating Appellant sold the victim's property mere hours after it was stolen from the victim's home, rationally and logically established Appellant's guilt for all the required elements of first-degree burglary and grand larceny.

Appellant contends the trial judge reversibly erred by refusing to grant a directed verdict motion during trial. In support of that contention, Appellant maintains the circumstantial evidence presented during trial raised a mere suspicion he was guilty of the charged offenses. To the contrary, substantial circumstantial evidence was presented during trial establishing: (1) the victim's home was burglarized and property with an appraised value of over $2,000 was stolen; (2) Appellant was in possession of the property only hours after it was taken in the break-in; and (3) Appellant quickly sold the property for far less than it was worth. Although that was not the only evidence of Appellant's guilt presented during trial, the jury could rationally and logically find Appellant guilty of the indicted offenses from those facts alone. Under those circumstances, the trial judge was required to deny the directed verdict motion in Appellant's case, and he committed no conceivable error by carrying out that duty. Appellant's convictions should be affirmed.

STANDARD OF REVIEW

In criminal cases, appellate courts sit to review errors of law only. State v. Wilson, 345 S.C. 1, 5, 545 S.E.2d 827, 829 (2001). On appeal from the denial of a directed verdict, the appellate court must view the evidence and all reasonable inferences in the light most favorable to the State. State v. Weston, 367 S.C. 279, 292, 625 S.E.2d 641, 648 (2006). If there is any direct evidence or substantial circumstantial evidence reasonably tending to prove the guilt of the accused, the appellate court must affirm the trial judge's ruling. State v. Cherry, 361 S.C. 588,

593-594, 606 S.E.2d 475, 478 (2004). In other words, "unless there is a total failure of evidence tending to establish the charge laid in the indictment, the trial judge's ruling upon a motion for a directed verdict must stand absent an error of law." State v. Nix, 288 S.C. 492, 496, 343 S.E.2d 627, 629 (Ct. App. 1986); see also Crawford v. United States, 375 F.2d 332, 334 (D.C. Cir. 1967) ("It is not the function of appellate judges to weigh the evidence and decide that if they had doubts other reasonable persons were compelled to have the same doubts. If that were the test the jury of twelve would be relegated to the very low grade function of secondary fact finders.").

ANALYSIS

When presented with a motion for a directed verdict challenging the sufficiency of the evidence presented, the question before the trial judge is simply whether any rational juror could find the essential elements of the crime beyond a reasonable doubt from the evidence viewed in a light most favorable to the State. State v. Bennett, 415 S.C. 232, 237, 781 S.E.2d 352, 354 (2016); see Jackson v. Virginia, 443 U.S. 307, 319 (1979) ("[T]he relevant question is whether, after viewing the evidence in the light most favorable to the prosecution, *any* rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt."). In resolving that question, the trial judge must be concerned solely with the existence or non-existence of evidence and is *not* permitted to personally weigh the evidence, decide credibility issues, or resolve conflicts in the testimony or evidence presented. Harvey v. Strickland, 350 S.C. 303, 308, 566 S.E.2d 529, 532 (2002); see State v. Long, 325 S.C. 59, 62, 480 S.E.2d 62, 63 (1997) ("When ruling on a motion for a directed verdict, the trial judge is concerned with the existence of evidence, not its weight."); see also State v. Ham, 268 S.C. 340, 342, 233 S.E.2d 698, 698 (1977) ("Where the determination of guilt is dependent upon the credibility of the witnesses, a

motion for a directed verdict is properly refused."); State v. Franklin, 80 S.C. 332, __, 60 S.E. 953, 955 (1908) ("The orderly administration of justice requires that all proper evidence should be admitted, and the jury must determine the facts, and testimony should be exceedingly clear and without contradiction where a circuit judge assumes to direct a verdict.").

Significantly, if there is *any* direct or substantial circumstantial evidence reasonably tending to prove the guilt of the accused or from which guilt may be fairly or logically deduced, the trial judge should deny a directed verdict motion and submit the case to the jury. State v. Robinson, 310 S.C. 535, 538, 426 S.E.2d 317, 319 (1992); see State v. Littlejohn, 228 S.C. 324, 329, 89 S.E.2d 924, 926 (1955) ("[O]n a motion for direction of verdict, the trial judge is concerned with the existence or non-existence of evidence, not with its weight; and, although he should not refuse to grant the motion where the evidence merely raises a suspicion that the accused is guilty, it is his duty to submit the case to the jury if there be any substantial evidence which reasonably tends to prove the guilt of the accused, or from which his guilt may be fairly and logically deduced."); see also Crawford, 375 F.2d at 334 ("The jury question of whether there was proof of guilt beyond a reasonable doubt presents a stricter or higher standard than the trial court's consideration of whether there is sufficient evidence to allow the jury to find guilt beyond a reasonable doubt, and it rests in the unreviewable ratiocinations of twelve reasonable persons whose deliberations are protected by the highest security."). By doing so under such circumstances, the trial judge correctly avoids improperly encroaching upon the jury's exclusive role to find the facts, weigh the evidence, evaluate witness credibility, and resolve any evidentiary conflicts that may have arisen during trial. See Jackson, 443 U.S. at 319 ("[The directed verdict] standard gives full play to the responsibility of the trier of fact fairly to resolve conflicts in the testimony, to weigh the evidence, and to draw reasonable inferences from basic

facts to ultimate facts."); see also Watson v. Ford Motor Co., 389 S.C. 434, 445, 699 S.E.2d 169, 174-175 (2010) ("The jury serves as the fact finder and is charged with the duty of weighing the evidence admitted at trial and reaching a verdict. . . . [I]t is exclusively within the jury's province to decide how much weight the evidence deserves.").

In the case sub judice, Appellant was charged and tried for first-degree burglary and grand larceny. In order to establish the offense of first-degree burglary, the State must prove the defendant: (1) entered the dwelling of another; (2) without consent; (3) with the intent to commit a crime therein; (4) with at least one aggravating circumstance present. State v. Cross, 323 S.C. 41, 43, 448 S.E.2d 569, 570 (Ct. App. 1994); see S.C. Code Ann. § 16-11-311(A) (defining the elements of first-degree burglary, which requires proof of a non-consensual entry of dwelling with the intent to commit a crime therein along with proof of the existence of an aggravating circumstances, including the perpetrator was armed with a deadly weapon or explosive while effecting entry, while inside the dwelling, or while immediately fleeing from the dwelling). Likewise, in order to establish the offense of grand larceny, the State must prove the defendant: (1) feloniously took and carried away the goods of another; (2) that had a value in excess of $2,000; (3) against the owner's will or without the owner's consent. S.C. Code Ann. § 16-13-30(B); see State v. Condrey, 349 S.C. 184, 191, 562 S.E.2d 320, 323 (Ct. App. 2002) ("Larceny is the felonious taking and carrying away of the goods of another against the owner's will or without his consent."); see also State v. Roof, 196 S.C. 204, 209, 12 S.E.2d 705, 707 (1941) ("In common parlance[,] larceny is just plain stealing[.]"). Critically, in such cases, the existence of proof the defendant was in possession of recently-stolen property supports an inference the defendant was the person who committed the charged burglary or larceny and creates a question of fact *for the jury to resolve*. State v. Lyles, 211 S.C. 334, 339, 45 S.E.2d 181, 183 (1947); see

State v. Goodson, 225 S.C. 418, 425, 82 S.E.2d 804, 807 (1954) (instructing recent possession of stolen property can constitute evidence of participation in a burglary); see also State v. Cooper, 279 S.C. 301, 302, 306 S.E.2d 598, 599 (1983) (instructing the inference to be drawn from recent possession of stolen property is an evidentiary fact as opposed to a rebuttable presumption and constitutes circumstantial evidence of guilt).

Notably, in State v. DeWitt, 254 S.C. 527, 529, 176 S.E.2d 143, 144 (1970), our Supreme Court recognized and addressed the significance evidence of recent possession of stolen property holds for purposes of resolving a directed verdict issue. In that case, DeWitt was arrested after officers discovered a grain drill that had been stolen from a farm *two months earlier* in his possession. Id. Following his arrest, DeWitt claimed he had purchased the grain drill from another man after it was stolen, and testimony was subsequently presented during trial corroborating DeWitt's claim. Id. at 532, 176 S.E.2d at 145-146. Nonetheless, DeWitt was convicted and appealed, arguing the evidence presented was insufficient to sustain his conviction. Id. at 529, 176 S.E.2d at 144-145. On appeal, the Supreme Court affirmed DeWitt's conviction. Id. at 534, 176 S.E.2d at 147. In reaching that decision, the Supreme Court determined the evidence of DeWitt's possession of the stolen property was sufficient to submit the case to the jury because DeWitt's theft of the grain drill was reasonably inferable under the circumstances despite the fact the grain drill had been stolen two months earlier. Id. at 533, 176 S.E.2d at 146-147.

Similarly, in State v. Irvin, 270 S.C. 539, 542, 243 S.E.2d 195, 196 (1978), Irvin and an accomplice were arrested and charged with housebreaking and grand larceny after a person found to be in possession of property taken in a home invasion approximately one month earlier informed the police he had purchased the stolen property from Irvin and the accomplice. During

trial, no direct evidence of Irvin and his accomplice's guilt was presented, but the evidence and testimony introduced by the State established the following facts: (1) the victim's home was broken into and his property was taken; (2) Irvin and his accomplice sold the victim's property to another person for less than the property's actual value; and (3) the victim's property was seen in Irvin and his accomplice's car on one earlier occasion. Id. Despite the lack of any direct evidence, the trial judge denied Irvin and his accomplice's directed verdict motion, and they were convicted. Id. They then appealed their convictions, arguing the trial judge erred in denying their directed verdict motion because the evidence allegedly only raised a mere suspicion of their guilt. Id. at 543, 243 S.E.2d at 196-197. Thereafter, the Supreme Court affirmed their convictions, instructing the testimony establishing the housebreaking and larceny occurred coupled with the testimony establishing Irvin and his accomplice were in possession of the victim's property "formed a sufficient basis from which [Irvin and his accomplice's] guilt could be fairly and logically deduced, thus requiring the submission of the case to the jury." Id. at 543, 243 S.E.2d at 197.

In the case at bar, evidence and testimony was presented during trial establishing: (1) a rifle, a shotgun, a Playstation 3 system, and various other items were stolen from the victim's residence after someone forced entry into that home; (2) Appellant, who knew the victim and had previously been to his house, was in possession of the victim's rifle and a Playstation 3 system just a few hours after the break-in occurred; and (3) Appellant personally sold the rifle and Playstation 3 system on the same day those items were stolen for roughly $354 even though the appraised value of those items was much, much higher. Cf. State v. Baker, 208 S.C. 195, 200, 37 S.E.2d 525, 527 (1946) (finding a directed verdict motion was properly denied based on the defendant's possession of recently-stolen goods), abrogated on other grounds by State v.

Grippon, 327 S.C. 79, 489 S.E.2d 462 (1997). Based on Appellant's recent possession of items stolen in a residential break-in and sale of the property for far less than its actual value, the jury could fairly and logically find—and did ultimately find—Appellant guilty of breaking into the victim's home with unlawful intent and stealing the victim's property, which had an appraised value over $2,000, without his consent. See McNamara v. Henkel, 226 U.S. 520, 525 (1913) ("Possession of [recently-stolen property] in these circumstances tended to show guilty participation in the burglary. This is but to accord the evidence, if unexplained, its natural probative force."); State v. Miller, 287 S.C. 280, 284, 337 S.E.2d 883, 886 (1985) (finding Miller's recent possession of stolen property was "competent circumstantial evidence of larceny" and further finding the fact that Miller sold the stolen property for a fraction of its actual value supported the jury's guilty verdict); State v. Hamilton, 77 S.C. 383, 385, 57 S.E. 1098, 1099 (1907) ("The possession of stolen property, coupled with a sale of it at much less than its value, is certainly some evidence from which guilt may be inferred."); see also Barnes v. United States, 412 U.S. 837, 845-846 (1973) (approving of a jury instruction allowing for the jury to infer the defendant's guilt from his unexplained possession of recently-stolen property and recognizing common sense and experience support such an inference).

Critically, based on the evidence of Appellant's possession of recently-stolen property taken in a burglary, substantial circumstantial was presented during trial requiring the submission of the case to the jury. Cf. Irvin, 270 S.C. at 543, 243 S.E.2d at 197 ("The testimony of [the victim] as to the occurrences of the housebreaking and larceny together with the testimony of [other witnesses] as to appellants' possession of the stolen tape player formed a sufficient basis from which appellants' guilt could be fairly and logically deduced, thus requiring the submission of the case to the jury."). However, that was *not* the only evidence of Appellant's guilt presented

during trial. To the contrary, additional testimony was presented linking Appellant's vehicle to the scene of the break-in around the time it occurred, and the description of the suspect as a lanky white man of average height was generally consistent with Appellant's appearance. See State v. Lane, 410 S.C. 505, 506-507, 765 S.E.2d 557, 557-558 (2014) (concluding Lane's directed verdict motion was properly denied during trial where, amongst other things, evidence was presented linking Lane to a vehicle observed at the scene of a burglary); see also State v. Martin, 403 S.C. 19, 31, 742 S.E.2d 42, 48 (Ct. App. 2013) (recognizing the fact Martin's appearance at the time of the crime was consistent with eyewitness descriptions of the bank robber constituted competent evidence of his guilt). Additionally, Donahue—the individual identified by Appellant as likely being responsible for the crimes—testified he had never been to the victim's home at any point, which constituted direct evidence from which the jury could conclude he was not the one who committed the break-in. Cf. State v. Strickland, 389 S.C. 210, 215, 697 S.E.2d 681, 684 (Ct. App. 2010) ("Father's contrary testimony created an issue of credibility and, at least, created a situation where the State produced enough evidence to survive a directed verdict motion."). Furthermore, testimony and evidence was presented demonstrating Appellant altered his appearance by getting a haircut subsequent to the break-in, evidence regarding the suspicious activity conducted on Appellant's computer was introduced, and Appellant's divergent accounts of how he came to be in possession of the victim's property along with the numerous other inconsistent statements he made both prior to and during trial were presented to the jury, which all constituted evidence supporting an inference of his guilt. See State v. McDowell, 266 S.C. 508, 515, 224 S.E.2d 889, 892 (1976) ("As a general rule, any guilty act, conduct, or statements on the part of the accused are admissible as some evidence of consciousness of guilt."); see also United States v. Carr, 373 F.3d 1350, 1353 (D.C. Cir. 2004)

(recognizing evidence establishing a defendant changed his appearance after a crime can support an inference the defendant did so to avoid identification and can constitute evidence of consciousness of guilt); cf. State v. Butler, 407 S.C. 376, 382, 755 S.E.2d 457, 460 (2014) ("[A]s the trial court recognized when ruling on the directed verdict motion, [Butler]'s various, inconsistent accounts of how the stabbing occurred created credibility issues and questions of fact to be resolved by the jury.").

In light of all that substantial circumstantial evidence of Appellant's guilt, the jury could logically and rationally find Appellant guilty of both first-degree burglary and grand larceny based on the evidence presented, and, therefore, the trial judge had a duty to deny the directed motion and submit the case to the jury. See State v. Brown, 205 S.C. 514, 520, 32 S.E.2d 825, 827 (1945) ("Where there is any evidence, however slight, on which the jury may justifiably find the existence or the non-existence of material facts in issue, or if the evidence is of such character that different conclusions as to such facts reasonably may be drawn therefrom, the issues should be submitted to the jury."); see also State v. Al-Amin, 353 S.C. 405, 411, 578 S.E.2d 32, 35 (Ct. App. 2003) (recognizing the trial judge is "required" to submit a case to the jury when substantial evidence is presented reasonably tending to prove the guilt of the accused or from which the accused's guilt may be fairly and logically deduced), overruled on other grounds by State v. Broadnax, 414 S.C. 468, 779 S.E.2d 789 (2015). By doing so, the trial judge correctly permitted the jurors in their collective role as the trial's exclusive fact-finders to weigh the evidence, determine what inferences should be drawn from it, and resolve any credibility issues raised by it. See Ham, 268 S.C. at 342, 233 S.E.2d at 698 ("Where the determination of guilt is dependent upon the credibility of the witnesses, a motion for a directed verdict is properly refused."); see also State v. Richburg, 250 S.C. 451, 459, 158 S.E.2d 769, 772 (1968)

("When the evidence is susceptible of more than one reasonable inference, questions of fact must be submitted to the jury. . . . Among other considerations is the credibility of the witnesses[.]"). Accordingly, the trial judge committed no error by denying the directed verdict motion, and there is no proper basis upon which to disturb his ruling on appeal.[18] See Weston, 367 S.C. at 292-193, 625 S.E.2d at 648 ("If there is *any direct evidence* or any substantial circumstantial evidence reasonably tending to prove the guilt of the accused, the [appellate court] *must* find the case was properly submitted to the jury." (emphasis added)); cf. State v. Kimbrough, 212 S.C. 348, 351-352, 46 S.E.2d 273, 275 (1948) ("After careful consideration of the evidence, together with the inferences which may be legitimately be drawn therefrom, we think the Court below committed no error in refusing [Kimbrough]'s motion for a directed verdict of acquittal and submitting the case to the jury. . . . If the jury found that [Kimbrough] had possession of this recently stolen property, this fact, with the other circumstances in the case, was sufficient to warrant an inference of guilt."). Appellant's convictions should be affirmed.

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[18] In arguing the trial judge erred by refusing to grant the directed verdict motion, Appellant points to the absence of fingerprints or other physical evidence linking him to the crimes. Importantly though, physical evidence is not required in order for the evidence presented to be sufficient to survive a directed verdict motion. See State v. Smith, 307 S.C. 376, 387, 415 S.E.2d 409, 414 (Ct App. 1992) (recognizing the lack of incriminating physical evidence such as fingerprints, blood stains, and fiber samples does not preclude the finding of sufficient evidence of guilt). Furthermore, Appellant alleges less circumstantial evidence was presented in his case than in other cases in which our appellate courts have found directed verdict motions should have been granted. Notably though, even assuming that was true, directed verdict issues are—as our Supreme Court recently emphasized—necessarily fact-intensive and, thus, the holdings in other cases must be limited to their own specific facts. Bennett, 415 S.C. at 237, n. 1, 781 S.E.2d at 354, n. 1; cf. State v. Pearson, 415 S.C. 463, 474, n. 5, 783 S.E.2d 802, 808, n. 5 (2016) ("Pearson cites [several appellate decisions] as examples of cases where this Court found that circumstantial evidence, particularly fingerprint evidence, was insufficient for submission to the jury when the State failed to place the defendant at the scene of the crime. While we have certainly considered these cases, we need not engage in the futile exercise of attempting to distinguish their holdings from the instant case as we have recognized that 'in this area of ever-evolving jurisprudence our inquiry is necessarily fact-intensive' and holdings in these cases are 'limited to their peculiar facts.' " (citation omitted)).

CONCLUSION

For all the foregoing reasons, it is respectfully submitted the judgment and conviction of the lower court be affirmed.

Respectfully submitted,

ALAN WILSON
Attorney General

MARK R. FARTHING
Assistant Attorney General

WILLIAM W. WILKINS, III
Solicitor, Thirteenth Judicial Circuit

BY: _____
Mark R. Farthing

Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211
(803) 734-3727

ATTORNEYS FOR RESPONDENT

September 28, 2018

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

RECEIVED
SEP 28 2018
SC Court of Appeals

Appeal from Greenville County
Honorable Perry H. Gravely, Circuit Court Judge
Appellate Case No. 2017-001859

THE STATE,

Respondent,

vs.

CHRISTIAN ARENSON SCOWCROFT,

Appellant.

PROOF OF SERVICE

I, Mark R. Farthing, certify I have served the within Initial Brief of Respondent and Designation of Matter on Appellant by sending two copies of the same to:

Kathrine H. Hudgins, Esquire
S.C. Commission on Indigent Defense
Division of Appellate Defense
Post Office Box 11589
Columbia, SC 29211

I further certify that all parties required by Rule to be served have been served.
This 28th day of September, 2018.

MARK R. FARTHING
Assistant Attorney General
Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211
(803) 734-3727

ALAN WILSON
ATTORNEY GENERAL

September 28, 2018

Kathrine H. Hudgins, Esquire
S.C. Commission on Indigent Defense
Division of Appellate Defense
Post Office Box 11589
Columbia, SC 29211

RE: State v. Christian Arenson Scowcroft – Appellate Case No. 2017-001859

Dear Ms. Hudgins:

I am enclosing two copies of the Initial Brief of Respondent and Designation of Matter in the above-referenced case.

Sincerely,

Mark R. Farthing
Assistant Attorney General
Bar Number 76901

MRF/
Enclosures

cc: ~~Honorable Jenny A. Kitchings (original enclosed)~~
Victim Services