STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Anderson County
Honorable R. Lawton McIntosh, Circuit Court Judge

Appellate Case No: 2012-210189

THE STATE,

Respondent,

v.

JAMARIO QUINTON JONES,

Appellant.

FINAL BRIEF OF RESPONDENT

ALAN WILSON
Attorney General

JENNIFER ELLIS ROBERTS
Assistant Attorney General
S.C. Bar No: 79818

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

ATTORNEYS FOR RESPONDENT

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STATEMENT OF ISSUE ON APPEAL

The trial court properly denied Appellant's motion for directed verdict because sufficient evidence was presented establishing Appellant was guilty of first-degree burglary, armed robbery, and possession of a weapon during the commission of a violent crime.

STATEMENT OF THE CASE

An Anderson County Grand Jury indicted Appellant for first-degree burglary, armed robbery, and possession of a weapon during the commission of a violent crime. (R. pp. 233-35.) On February 13-15, 2012, Appellant proceeded to trial before a jury. Donald L. Smith, Esquire, represented Appellant, and Assistant Solicitors Rame Campbell and Josh Allen represented the State. The jury found Appellant guilty of all charges, and the Honorable R. Lawton McIntosh sentenced him to a total of twenty-five years' imprisonment, including a two-year enhancement under S.C. Code Ann. § 16-1-110. (R. pp. 210-11.) On February 16, 2012, the trial court held a resentencing hearing, in which the trial court removed the two-year enhancement to his armed robbery and first-degree burglary sentences under S.C. Code Ann. § 16-1-110. (R. p.212.) On March 7, 2012, the trial court held a hearing to address Appellant's motion for reconsideration and new trial. (R. pp.213-223.) Judge McIntosh denied both motions. (R. p.219, 223; Order.) On March 19, 2012, Appellant filed a Notice of Appeal.

STATEMENT OF FACTS

On April 15, 2011, Ronnie Bentley and Darcel Taylor were in Bentley's apartment, along with Taylor's two young children, when there was a knock on the door. (R. p.54, lines 14-24; R. p.75, lines 10-23.) When Bentley answered the door, Appellant was there and asked for Bentley's cousin Byrd. (R. p.76, lines 11-15.) Bentley told him Byrd did not live there and closed the door. (R. p.55, lines 7-11; R. p.76, lines 19-21.) Bentley began talking to her sister on her cellphone and heard another knock on the door. (R. p.77, lines 4-5.) Appellant was at the door again, wearing black gloves and pointing a gun in Bentley's face, and forced his way into the apartment. (R. p.77, lines 6-8; R. p.78, lines 5-16.) Melody Ellis followed him into the apartment a few moments later. (R. p.57, lines 7-14; R. p.81, lines 21-25.) Appellant ordered Bentley onto her kitchen floor and started rummaging through the kitchen, demanding money and "weed." (R. p.79, line 14-R. p.80, line 18.) Appellant went through Bentley's kitchen drawers and back pockets looking for money and ended up with approximately $350.00. (R. p.83, line 15-R. p.85, line 1.) After Appellant and Ellis left the apartment, Bentley got up from the kitchen floor and went to a window that had been broken and yelled out for someone to call the police. (R. p.85, line 18-R. p.86, line 7.)

Detective Tommy Johnson with the Anderson County Sheriff's Office responded to a call about the incident and encountered Belton City officers who had stopped a red Honda in response to a BOLO just down the road from the apartment complex. (R. p.145, lines 20-25.) Candice Brown (Appellant's spouse) and Tiffany Petty were in the car, and they gave officers Appellant's name. (R. p.146, lines 4-10; R. p.147, lines 1-14.) When Detective Johnson arrived at the apartment, he obtained information about two suspects, one being a black male wearing a white shirt and blue jeans and armed with a

handgun. (R. p.149, lines 6-12.) Detective Johnson walked through the apartment and noted several injuries on Taylor's one-year-old child. (R. p.151, lines 7-14.) He also saw the house was in disarray, with kitchen drawers pulled out and cabinets open. (R. p.153, lines 22-24.) He determined that approximately $350.00 was taken. (R. p.156, lines 3-7.) Bentley knew who Appellant was and also knew Melody Ellis, so both were quickly identified as suspects. (R. p.152, line 21-R. p.153, line 13.) Ellis and Appellant were both taken into custody later than evening. (R. p.158, lines 18-22; R. p.159, lines 21-24.)

At trial, the State called Deputy Daniel Bannister of the Anderson County Sheriff's Office, who arrived first on the scene. (R. p.4, lines 1-6; R. p.7, lines 7-9.) He testified that both victims were upset and one was crying, a window was broken in the apartment, the kitchen was in disarray with drawers pulled out, and both adults and one child had knots on their foreheads. (R. p.8, line 10-R. p.10, line 21.) He testified the victims told him Appellant had displayed a gun that looked like what police carried. (R. 11, lines 2-10.) On cross-examination, Deputy Bannister said that nothing was said about the possibility that Ellis had simply come to fight. (R. p.20, lines 2-5.)

Next, the State called Hoyt Thackston, who worked for Belton EMS. (R. p.20, line15-R. p.21, line 3.) Thackston testified that while at work on April 15, 2011, he looked out the window and saw a black male wearing a white tee shirt and blue jeans drop a pistol as he ran by. (R. p.21, line 15-R. p.22, line 16; R. p.24, lines 16-20.) He described the gun as a semi-automatic pistol with a black frame and a silver slide. (R.p.22, lines 16-18.) He further testified that after the man dropped the gun, he picked it up and kept running. (R. p.24, lines 4-6.) He then saw him go into the Belton Mart with a black female and saw them both come back out and a few seconds later, he saw a green car drive out. (R. p.24, line 21-R. p.25, line 14.)

The State then called Jim Ritter, another Belton EMS employee. (R. p.27, line 16-R. p.28, line 4.) He testified that on April 15, 2011, he saw a woman wearing a red shirt run by EMS, went to the door to see what was going on, and encountered Appellant. (R. p.29, line 10-R. p.30, line 13.) He testified Appellant was wearing a white tee shirt and blue jeans. (R. p.31, lines 1-3.) He testified he saw Appellant and the woman in the red shirt go into the Belton Mart and then leave in a greenish-bluish car. (R. p.31, line 14-R. p.32, line 9.) He called 911 and went to Bentley's apartment complex to speak with law enforcement. (R. p.32, line 1-R. p.33, line 8.)

Next on the stand was DeAngelo Acker, who testified Appellant had come to his house with Melody Ellis on April 15, 2011, and given him a pistol and told him to put it on top of his refrigerator. (R. p.34, lines 3-9; R. p.35, line 2-R. p.36, line 25.) Acker identified State's Exhibit 20 as the pistol Appellant had given him. (R. p.37, line 23-R. p.38, line 7.) He testified that he then walked to the store with Appellant, and Appellant told him he had robbed somebody. (R. p.38, line 22-R. p.39, line 2.)

Shawn Stallo, an agent with the Bureau of Alcohol, Tobacco, Firearms, and Explosives, was called next. (R. p.41, lines 1-12.) He testified that he participated in the investigation by doing a firearms trace on the pistol, during which he determined it was legally purchased by Candice Brown, Appellant's spouse or girlfriend. (R. p.37, lines 6-13; R. p.44, line 3-R. p.45, line 3.) He also interviewed witnesses and potential suspects. (R. p.45, lines 24-25.) Based on his investigation, he testified that Ellis's purpose for going to Bentley's apartment was to conduct a drug robbery. (R. p.46, line 21-R. p.47, line 5.)

Darcel Taylor, one of the victims, testified next. (R. p.51, lines 5-14.) She testified that while she was staying at Bentley's apartment on April 15, 2011, she heard a

knock on the door around 12:30 or 1:00 p.m. and that Bentley had answered the door and said, "Byrd doesn't live here." (R. p.54, lines 14-24.) Taylor testified she was able to get a good look at Appellant at the door and that he was wearing a white tee shirt and blue jeans, had a low haircut, and had a chipped tooth. (R. p.54, line 25-R. p.55, line 6.) Taylor then testified that Appellant knocked again, and when Bentley opened the door, he was holding a black gun and wearing a black glove and demanding money. (R. p.56, lines 10-25.) She explained that Bentley had been on the phone with her sister when she answered the door the second time and that she dropped her phone when Appellant entered the apartment. (R. p.57, lines 1-4.) Appellant then forced Bentley into the kitchen and made her lie on the floor facedown, at which time Melody Ellis came into the apartment and locked the door behind her. (R. p.57, lines 5-14.) Appellant asked Taylor where the money was and she told him there was none. (R. p.57, lines 14-21.) Taylor testified Ellis kicked her in the face while she was trying to shield her one-year-old daughter and then went into the kitchen and kicked Bentley on her left side. (R. p.58, lines 6-20.)

After Appellant and Ellis left, Taylor noticed her one-year-old was bleeding from her head where she got kicked. (R. p.60, lines 14-17.) Taylor further testified that a window got broken while Appellant and Ellis were throwing stuff around the apartment. (R. p.61, lines 14-20.) Taylor clarified on the stand that Bentley did not voluntarily let Appellant in when he knocked the second time; rather, Appellant forcefully pushed open the door. (R. p.62, lines 2-14.) Taylor described Ellis as having long dreads pulled back in a ponytail and wearing a burgundy Bojangles shirt and either navy blue or black shorts with black shoes. (R. p.63, lines 7-16.) Taylor specifically testified Appellant said, "Give me all your money and give up the weed." (R. p.65, lines 11-13.) She testified

there were no drugs in the apartment and that she would not have her kids around something like that. (R. p.65, lines 13-25.)

Next, the State called Ronnie Bentley. (R. p.71, lines 1-2.) She testified she met Appellant through her cousin, Quenton Byrd, on April 13, 2011. (R. p.72, line 19-R. p.73, line 19.) She testified Appellant came to her apartment looking for Byrd on the afternoon of April 14, 2011, and she told him Byrd was not there. (R. p.73, lines 20-25.) Bentley testified that on April 15, 2011, Appellant knocked twice on her door, the second time pointing a gun and forcing his way in. (R. p.75, line 1-R. p.78, line 16.) Bentley testified Appellant made her get on the kitchen floor and started going through everything in her kitchen asking for money and weed. (R. p.77, lines 8-10; R. p.79, lines 13-23; R. p.80, lines 9-11.) Appellant also went through Bentley's pockets and got approximately twenty dollars. (R. p.83, lines 15-21.) Ellis kicked the left side of Bentley's face and her arm. (R. p.83, lines 3-8.) Appellant ultimately got approximately $350.00 from the kitchen drawers and Bentley's pockets. (R. p.84, line 1-R. p.85, line 5.) After Appellant and Ellis left, Bentley noticed a window was broken. (R. p.86, line 2-R. p.87, line 15.)

Detective Mark Gregory of the Anderson County Sheriff's Office took a statement from Appellant after reading him his Miranda rights. (R. p.106, lines 7-10.) He read this statement to the jury. (R. p.122, line 10-R. p.124, line 11.) In addition to taking Appellant's statement, Gregory testified he participated in the investigation by viewing videotape from the apartment complex that showed two people getting out of a car, with one walking to the back of the building and one walking to the front of the breezeway. (R. p.126, line 3-R. p.129, line 25.) The two videos showed two people get out of a Burgundy Honda Accord between 1:30 and 1:50 p.m. on April 15, 2011, and walk toward Bentley's building. (R. p.129, line 8-R. p.140, line 7.) Gregory testified

that before making an arrest, he does not simply rely on the victims' statements but fits together other evidence that corroborates that information. (R. p.141, line 4-R. p.142, line 14.)

Detective Tommy Johnson testified next. (R. p.143, lines 12-13.) He testified that he took a second statement from Appellant, in which Appellant stated he was wrong when he said in the first statement that he was in the car with Candice when he saw Byrd and Ellis running. (R. p.169, lines 13-15.) This time he stated, "It was Byrd, Melody and me running away from the apartment complex." (R. p.169, lines 15-16.) He also added that he got Candice's pistol and took it to Dee's (DeAngelo Acker) house and told him to put it on the refrigerator. (R. p.170, lines 1-7.) Detective Johnson testified that when Appellant was arrested, he had $202.00 and was wearing a white tee shirt and blue jeans. (R. p.172, lines 12-20; R. p.175, lines 2-12.) During cross-examination, defense counsel produced a booking report showing Appellant was in the Anderson County Detention Center on April 13, 2011. (R. p.193, line 19-R. p.194, line 19.) When asked whether that information changed his thoughts on the case, Detective Johnson said it did not because people get dates wrong. (R. p.194, line 20-R. p.195, line 23.) He testified he saw evidence inside the apartment that matched what the victims said happened, including a kitchen in disarray with pulled-out drawers and open cabinets, and a bed that appeared to have been moved and jostled. (R. p.153, line 16-R. p.154, line 1; R. p.180, lines 1-5.)

After the State rested, Appellant moved for a directed verdict, arguing Bentley and Tayler lied on the stand because Appellant could not have come to Bentley's apartment on April 13 and 14, 2011, when he was in jail. (R. p.202, lines 3-19.) The trial court denied his motion, noting the issue goes to the credibility of the victims and that is a question of fact for the jury to determine. (R. p.202, line 20-R. p.203, line 1.) The jury

found Appellant guilty on all charges and the trial court sentenced him to a total of twenty-five years' imprisonment. (R. pp.210-11.)

ARGUMENT

The trial court properly denied Appellant's motion for directed verdict because sufficient evidence was presented establishing Appellant was guilty of first-degree burglary, armed robbery, and possession of a weapon during the commission of a violent crime.

Appellant argues the trial court erred in denying his directed verdict motion because the State raised only a mere suspicion that Appellant was guilty of first-degree burglary, armed robbery, and possession of a weapon during the commission of a violent crime. Specifically, he argues the only evidence of a burglary and armed robbery came from the victims' statements and their testimony is suspect because they were caught offering false testimony. On the contrary, the State did present sufficient evidence showing Appellant was guilty of all three crimes. Moreover, the victims' credibility is an issue of weight and must not be considered in granting or denying a directed verdict motion. Thus, the trial court correctly denied the directed verdict motion and allowed the case to be submitted to the jury for resolution.

In criminal cases, the appellate court sits to review errors of law only. State v. Wilson, 345 S.C. 1, 5, 545 S.E.2d 827, 829 (2001). "When ruling on a motion for a directed verdict, the trial court is concerned with the existence or nonexistence of evidence, not its weight." State v. Weston, 367 S.C. 279, 292, 625 S.E.2d 641, 648 (2006). When reviewing a trial court's denial of a defendant's motion for a directed verdict, an appellate court must view the evidence in a light most favorable to the State. State v. Venters, 300 S.C. 260, 264, 387 S.E.2d 270, 272 (1990). An appellate court must find a case is properly submitted to the jury if any direct evidence or any substantial circumstantial evidence reasonably tends to prove the guilt of the accused. Weston, 367 S.C. at 292-93, 625 S.E.2d at 648. An appellate court may reverse a trial court's denial

of a motion for a directed verdict if there is no evidence to support the trial court's ruling or if the ruling is based on an error of law. State v. Dantonio, 376 S.C. 594, 603, 658 S.E.2d 337, 342 (Ct. App. 2008). **"[U]nless 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) (emphasis added).

"In reviewing a denial of directed verdict, issues not raised to the trial court in support of the directed verdict motion are not preserved for appellate review. A defendant cannot argue on appeal an issue in support of his directed verdict motion when the issue was not presented to the trial court below." State v. Kennerly, 331 S.C. 442, 455, 503 S.E.2d 214, 221 (Ct. App. 1998). See State v. Bailey, 298 S.C. 1, 5, 377 S.E.2d 581, 584 (1989) ("A party cannot argue one ground for a directed verdict in trial and then an alternative ground on appeal.").

The only ground Appellant argued in his motion for directed verdict at trial was that Bentley and Taylor lied about Appellant's knocking on the apartment door on April 13 and 14, 2011. His motion follows:

> The defense moves for a Directed Verdict based on their lies, to use that term, because there was no question he was in jail on April 13th and 14th and they are the only eyewitnesses to these alleged crimes, the only eyewitnesses, I don't care what happened outside that apartment, everything derives from inside the apartment. These ladies, obviously, mis-remember. There's no way that Ms. Bentley met the defendant on Wednesday. He was in jail on the 14th when he allegedly came by and knocked on the door asking for Byrd. Beyond a reasonable doubt, there's no way he could have been there. So, they are the only eyewitnesses and clearly, I don't know what perjury is, but I don't know what else to say, but she obviously did not see him on the 14th. She testified she saw him in the

> afternoon, 2:00 in the afternoon and that's impossible. So, based on those things, we'd ask for a directed verdict.

(R. p.202, lines 4-19.) He did not argue the State raised only a mere suspicion of his guilt, nor did he argue any other "falsehoods" told by Bentley as he does in his brief. Specifically, he did not argue at trial that Bentley lied when she testified that (1) Ellis had never taken marijuana from her, (2) she did not have a feud with Ellis, and (3) this was not the third time Ellis had beat her up. Thus, these specific issues are not preserved for review. The fact that Appellant raised these arguments in a motion to reconsider does not save them from being unpreserved. State v. Taylor, 399 S.C. 51, 63-64, 731 S.E.2d 596, 603 (Ct. App. 2012) (holding that an issue first raised in a post-trial motion is insufficient to preserve it for review on appeal where it was not first raised at trial).

Addressing the merits, the trial court properly denied the directed verdict motion because sufficient evidence existed to establish Appellant's guilt as to all three charges. While Bentley and Taylor were the only people inside the apartment during the incident and, thus, their testimony was vitally important, substantial circumstantial evidence supported their testimony. First, two videos from the apartment's surveillance camera showed two people get out of a Burgundy Honda Accord between 1:30 and 1:50 p.m. on April 15, 2011, and walk toward Bentley's building. (R. p.129, line 8-R. p.140, line 7.) In addition, Appellant gave a statement in which he admitted to running from the scene and giving his friend "Dee" (DeAngelo Acker) the gun and telling him to put it on his refrigerator, where it was later found by law enforcement. Acker testified Appellant told him he robbed someone after giving him the gun. Appellant was wearing clothing that matched the victims' descriptions. Two Belton EMS employees, Jim Ritter and Hoyt Thackston, saw Appellant run past the EMS building and Thackston actually saw him

drop a gun. He was running from the apartment where the incident took place and he and the gun matched the descriptions the victims gave. Even though Appellant had just been released from jail the day before the incident with no cash, he had $202.00 on his person when he was arrested. When Detective Johnson arrived on the scene, he saw evidence inside the apartment that matched what the victims said happened, including a kitchen in disarray with pulled-out drawers and open cabinets, and a bed that appeared to have been moved and jostled. (R. p.153, line 16-R. p.154, line 1; R. p.180, lines 1-5.)

All of Appellant's arguments center on the credibility of the victims. He points out that Bentley testified she had met Appellant on April 13, 2011, and that he knocked on her door on April 14, 2011. However, Appellant was able to produce a booking document showing that Appellant was in the Anderson County Detention Center on April 13, 2011, and did not get released until April 14, 2011, at approximately 4:00 p.m. While this certainly contradicts Bentley's testimony about meeting him on April 13, this information does not preclude his being able to knock on her door on the afternoon of the April 14. During cross-examination, defense counsel asked her about his knocking on April 14 in the following exchange:

> [Appellant]: And then April 14th, which of course would have been a Thursday, [Appellant] came to your place for the first time just to scout it out. Is that right?
>
> [Bentley]: Yes.
>
> [Appellant]: What time did he come by? Was it in the afternoon?
>
> [Bentley]: Yes.
>
> [Appellant]: About 2:00?
>
> [Bentley]: I'm not sure.

[Appellant]: But definitely in the afternoon on April 14th.

[Bentley]: He did.

(R. p.100, lines 7-16.) (emphasis added.) At no time did Bentley indicate Appellant's knock occurred prior to 4:00 p.m. on April 14, 2011. Therefore, he could conceivably have been released from jail at 4:00 p.m. and still knocked on Bentley's door some time in the afternoon. And while Bentley's testimony did indicate she met Appellant on April 13, 2011, people can get dates wrong, as Detective Johnson pointed out. (R. p.194, line 20-R. p.195, line 23.)

Regardless, a witness's credibility goes to the weight of the evidence and is a determination to be made by the jury. See Gibbs v. State, Op. No. 27253 (S.C. Sup. Ct. filed May 15, 2013) (Shearouse Adv. Sh. No. 22 at 28, 35) ("Assessment of the credibility of witnesses is a question for the jury, not the court, and it is the jury that decides the weight to be afforded the testimony." (quoting Melton v. Williams, 281 S.C. 182, 186, 314 S.E.2d 612, 614–15 (Ct. App. 1984))). See also State v. Stuckey, 347 S.C. 484, 499, 556 S.E.2d 403, 411 (Ct. App. 2001) (citing State v. Scott, 330 S.C. 125, 131 n. 4, 497 S.E.2d 735, 738 n. 4 (Ct. App. 1998) (on appeal from the denial of a directed verdict, issues of witness credibility are solely for the jury, not the appellate court)); 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.").

Appellant argues in his brief that, with respect to his armed robbery charge, the State failed to prove the element of a taking. On the contrary, direct evidence was presented by Bentley's testimony that approximately $350.00 was taken from the

apartment during the incident. Further, the jury could have believed Appellant took the money based on Detective Johnson's testimony that Appellant had $202.00 when he was arrested. Appellant argues that because the victims' testimony was fabricated, it is impossible to know whether the money ever existed or was in the apartment in the first place, thus only raising a mere suspicion that Appellant committed an armed robbery. However, this argument goes back to a credibility issue. As previously noted, credibility issues are for the jury to resolve and go to the weight of the evidence. Thus, denial of the directed verdict motion on this basis was proper.

Appellant also argues the State was unable to prove Appellant was guilty of first-degree burglary because no competent evidence established that Appellant entered Bentley's apartment with the intent to commit a crime. However, intent is a question for the jury. The trial court charged the jury correctly on the required criminal intent stating:

> Criminal intent is always a matter that must be determined by you, the jury, from the circumstances surrounding the situation shown to have existed. . . . Now, that is how you make a determination of whether or not the element of intent was present. It is not necessary to establish intent by direct or positive evidence, but intent may be established by inference in the same way as any other fact by taking into consideration the acts of the parties and all the facts and circumstances of the case.

(R. p.205, lines 6-24.) (emphasis added.) In State v. Meggett, 398 S.C. 516, 728 S.E.2d 492 (Ct. App. 2012), this Court affirmed the trial court's denial of a directed verdict on his burglary charge. This Court noted the question of intent is for the determination of the jury and can be based on a defendant's actions after he had entered the dwelling. Id. at 527, 728 S.E.2d at 498.

Here, evidence was presented that a robbery had occurred after Appellant entered the apartment. Law enforcement officers and the victims testified about the apartment

being in disarray and having a broken window, and the victims testified Appellant took items from them. This evidence was sufficient to show intent to commit a crime within and supported the burglary charge.

Appellant argues false testimony by the two sole eyewitnesses should have created reasonable doubt. The State submits that Appellant had ample opportunity to create that reasonable doubt through its cross-examination of the victims. Indeed, Appellant emphasized the victims might have broken the window and pulled out kitchen drawers themselves to make it look like they had been victims of a crime. Appellant focused on a feud between Bentley and Ellis as a possible motive. Appellant produced a document contradicting Bentley's testimony that she met Appellant on April 13, 2011, by showing he was in the Anderson County Detention Center at the time. All of this was presented to the jury, and the jury was entitled to make its own determination about the credibility of the victims. The trial court charged the jury on credibility as follows:

> Now, in performing your function as finders of fact, it is essential that you must determine credibility of the witnesses. You must consider which evidence you are going to believe and which evidence you are going not [sic] to believe. You have a right to disbelieve all or a part of any witness' testimony. You may believe all of any witness' testimony.

(R. p.204, lines 7-13.)

In sum, all of Appellant's arguments rest on one basic argument—the credibility of the victims. Because the trial court is only concerned with the existence or nonexistence of evidence, not its weight, when deciding whether to grant or deny a directed verdict motion, credibility must not be considered. See State v. Weston, 367 S.C. 279, 292, 625 S.E.2d 641, 648 (2006). Rather, issues of credibility must be sent to the jury for resolution. See Gibbs v. State, Op. No. 27253 (S.C. Sup. Ct. filed May 15,

2013) (Shearouse Adv. Sh. No. 22 at 28, 35) ("Assessment of the credibility of witnesses is a question for the jury, not the court, and it is the jury that decides the weight to be afforded the testimony.") Here, the trial court properly denied the directed verdict motion and allowed the case to go to the jury, and its decision should be affirmed by this Court.

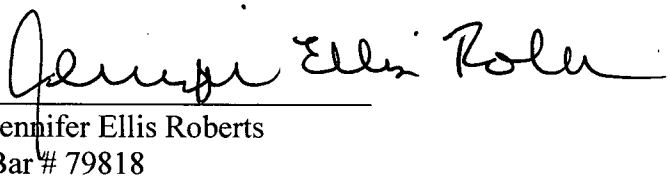
CONCLUSION

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

Respectfully submitted,

ALAN WILSON
Attorney General

JENNIFER ELLIS ROBERTS
Assistant Attorney General

BY: 
Jennifer Ellis Roberts
Bar # 79818

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

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Appellant.

CERTIFICATE OF COUNSEL

The undersigned certifies that this Final Brief of Respondent complies with Rule 211(b), SCACR.

ALAN WILSON

Attorney General

JENNIFER ELLIS ROBERTS
Assistant Attorney General

BY: Jennifer Ellis Roberts
Jennifer Ellis Roberts
Bar # 79818

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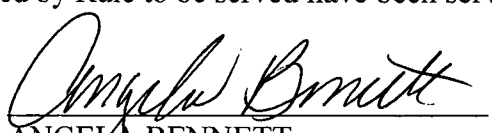
PROOF OF SERVICE

I, Angela Bennett, certify that I have served the within Final Brief of Respondent on Appellant by depositing two copies of the same in the United States mail, postage prepaid, addressed to:

Carmen V. Ganjehsani, 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 5th day of August, 2013.



ANGELA BENNETT
Legal Assistant

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

ALAN WILSON
ATTORNEY GENERAL

August 5, 2013

Carmen V. Ganjehsani, Esquire
S.C. Commission on Indigent Defense
Division of Appellate Defense
Post Office Box 11589
Columbia, SC 29211

RE: State v. Jamario Quinton Jones
Appellate Case No: 2012-210189

Dear Ms. Ganjehsani:

I am enclosing two (2) copies of the Final Brief of Respondent in the above-referenced case.

Sincerely,

Jennifer Ellis Roberts
Assistant Attorney General
Bar # 79818

JER/ab
Enclosures

cc: Honorable Jenny A. Kitchings
(original & 14 copies enclosed)
Victim Services