

STATE OF SOUTH CAROLINA

In the Court of Appeals

APPEAL FROM SPARTANBURG COUNTY

Court of General Sessions
The Honorable J. Mark Hayes, II

RECEIVED

Sep 23 2020

SC Court of Appeals

Case No.: 2019-000722

State of South Carolina,

Respondent,

vs.

Adriel Nicholas Garnett,

Appellant.

REPLY TO INITIAL BRIEF OF RESPONDENT
(Final version)

TOMMY A. THOMAS
Bar No.: 005536
Post Office Box 88
Irmo, SC 29063
(803) 732-5507

ATTORNEY FOR APPELLANT

STATEMENT OF ISSUES ON APPEAL

- III. The circuit court erred as a matter of law by denying Appellant's motion for immunity pursuant to the protection of persons and property act (stand your ground) because there was ample evidence to support the statutory elements and case law requirements of self-defense.
- IV. The circuit court erred in denying Appellant's motion for directed verdict at the close of the State's case in chief due to reliance on improper case law.

ARGUMENT

- III. The circuit court erred as a matter of law by denying defense counsel's motion for immunity pursuant to the protection of persons and property act (stand your ground) because there was ample evidence to support the statutory elements and case law requirements of self-defense.**

Appellant rests on his initial brief.

- IV. The circuit court erred in denying Appellant's motion for directed verdict at the close of the State's case in chief due to reliance on improper case law.⁴**

Respondent argues that Appellant was technically incorrect when arguing that the State failed to prove the *corpus delicti* of the case. Regardless, the State failed to prove through its case in chief that Appellant actually shot someone. Certainly, as the State points out in its brief on p.35, the *corpus delicti* of a crime may be proven by circumstantial evidence. However, the State called many witnesses who saw events and scenes happening around the area, but none of the testimony could even be considered as circumstantial evidence when it comes to whether Appellant shot the victim. (R. p. 616, line 1 - p. 618, line 3)

This is the essence of Appellant's argument regarding the application of State v. Oates, 421 S.C. 1, 803 S.E.2d 911 (Ct. App. 2017). When trial counsel made his first motion for directed verdict at the close of the State's case, enough proof had not been established to show that Appellant shot the victim or that the elements of the crime of murder had been established. None of their witnesses, including Mr. Higgins, whom the State relies on heavily, could definitively say they saw Appellant shoot the victim. Similarly, the forensic witnesses could not

⁴ Appellant places no weight on Respondent's reference to the waiver rule on page 30 of its brief, as this seems to be a misplaced reference as there was not a co-defendant in this matter.

definitively state how and where the shots were fired. There was simply not enough to send the case to the jury.

The court mistakenly relied on Oates because it involved both stand your ground/immunity and directed verdict questions. However, the motion for directed verdict that was granted in Oates was done at the end of all testimony. Defense's first motion for directed verdict was, properly, at the close of the State's case. (R. p. 615, line 20 – p.618, line 3) This motion invoked both immunity under the Protection of Persons and Property Act, as well as the traditional basis of failure to present enough evidence to send to the jury. Denying Appellant's motion for directed verdict on either basis at this stage was improper. Appellant avers that, because the trial court judge had also heard the pre-trial immunity motion, he was familiar with the facts of the case and assumed facts has been placed into evidence when they had not. This is certainly a human fault, but it is one that caused Appellant's case to reach an inappropriate and incorrect conclusion.

Appellant's arguments have nothing to do with the thrust of the analysis in Oates, wherein the court weighs credibility of witnesses presented by the two sides and holds that such a balance is crucial. This portion of the analysis is what the State latches onto, particularly the distinction between State v. Butler, 407 S.C. 376, 755 S.E.2d 457 (2014) and State v. Dickey, 394 S.C. 491, 716 S.E.2d 101 (2011). At the time of the initial motion, there was no issue of credibility of witnesses or differing stories because the defense had not presented any witnesses. There was simply the fact that, regardless of self-defense and immunity being at play, the State had failed to prove their case. Perhaps, as the State suggests, the outcome may have been different when trial counsel renewed his motion at the close of defense's case, but this does not negate the point that the case should never have reached that stage. For these reasons,

Appellant's motion for directed verdict should have been granted after the State's close of evidence and, therefore, his conviction must be vacated.

CONCLUSION

For the above stated reasons, Appellant respectfully requests that this Court reverse his convictions.

Respectfully submitted,

TOMMY A. THOMAS
Bar No.: 005536
Post Office Box 88
Irmo, SC 29063
(803) 732-5507

By: 
Attorney for Appellant

7588 Woodrow Street
Irmo, South Carolina 29063

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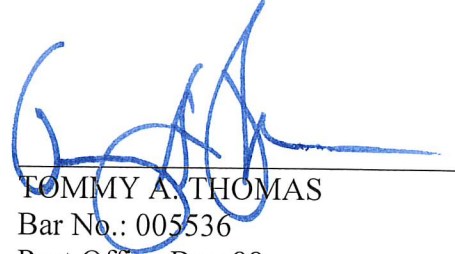
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CERTIFICATE OF COUNSEL

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

September 23, 2020


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