STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Colleton County

Honorable Carmen T. Mullen, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

CHRISTOPHER CARL SAUNDERS,

APPELLANT

APPELLATE CASE NO 2020-000408

ANDERS BRIEF OF APPELLANT

TAYLOR D GILLIAM
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ATTORNEY FOR APPELLANT

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STATEMENT OF ISSUE ON APPEAL

Whether the trial court erred in denying Appellant's motion for a directed verdict, where the state produced no evidence proving Appellant's intent to commit a burglary, where Appellant was described by the responding officer as a "mental patient" and where Appellant's wife testified Appellant was taking prescription medication, and where Appellant was delusional at the time?

STATEMENT OF THE CASE

On April 25, 2019, a Colleton County grand jury indicted Appellant with one count of burglary in the first degree. R. 179. On February 18, 2020, Appellant proceeded to a two-day trial before the Honorable Carmen T. Mullen. R. 1. Davis S. Mathews and Helen Dovell represented Appellant; A. Cecil Utsey IV and Katherine A. Orville appeared on behalf of the state. The jury found Appellant guilty as indicted. R. 172, ll. 5 – 9. Judge Mullen sentenced Appellant to fifteen years' incarceration. R. 177, ll. 9 – 18.

This appeal follows.

STANDARD OF REVIEW

On appeal of the denial of a directed verdict of acquittal, appellate courts must look at the evidence in the light most favorable to the state. State v. Hepburn, 406 S.C. 416, 429, 753 S.E.2d 402, 409 (2013). If the state failed to present any direct evidence or any substantial circumstantial evidence reasonably tending to prove guilt of the accused, the appellate court must reverse the lower court's denial of the directed verdict motion. Id., 406 S.C. at 429, 753 S.E.2d at 409.

ARGUMENT

The trial court erred in denying Appellant's motion for a directed verdict, where the state produced no evidence proving Appellant's intent to commit a burglary, where Appellant was described by the responding officer as a "mental patient" and where Appellant's wife testified Appellant was taking prescription medication, and where Appellant was delusional at the time.

Relevant facts

During opening statements at trial, counsel for Appellant indicated that the state was going to have "a very easy time proving three of the elements of [its] case." R. 68, ll. 9 – 14. Counsel for Appellant disputed, however, that the state would be able to prove the intent element. Id. The facts as elicited at trial support that contention.

On January 14, 2019, Stencil White, an officer with the Colleton County Sheriff's Office drove to the home of Carla Shiver and Anthony Cox in response to a possible burglary. R. 75, ll. 7 – 20. When White arrived, Appellant was pinned to the ground near a television by one of the homeowners. R. 75, l. 21 – 76, l. 23. White noticed broken glass around the front door. Id. At trial, White identified Appellant as the man he placed in handcuffs that evening. Id. The homeowners reported nothing was missing from their home. R. 91, ll. 14 – 23.

White also referred to Appellant as a "10-68" which suggested Appellant was not in the right state of mind. R. 84, l. 5 – 85, l. 20. In particular, code 10-68 is used when "dealing with a mental subject" or if an individual is "acting strangely," according to White. R. 85, ll. 10 – 14. White used this code because Appellant said he was working for the CIA and also that he was knocked through the door. R. 85, l. 15 – 86, l. 2.

The paramedic who arrived on scene, Blaine Harrison, testified that Appellant stated "somebody was hit in the head with a brick." R. 130, ll. 9 – 24. Harrison described Appellant's actions as erratic and agitated. Id. Appellant was "beating his head on the window and yelling" while in White's police car. R. 131, ll. 1 – 6. Harrison concurred with White's description of code 68, describing it as being used for "a psychotic patient." R. 132, ll. 1 – 10.

After the state rested, Appellant moved for a directed verdict on the basis of the state's failure to prove the element of criminal intent. R. 133, ll. 3 – 6. The trial judge denied the motion. R. 133, l. 22 – 134, l. 1.

During the defense's case-in-chief, Appellant's wife testified that she and Appellant had four televisions in their home. R. 138, ll. 9 – 25. Notably, she also advised the jury that Appellant was taking prescription medication at the time of the events giving rise to his arrest. R. 140, l. 24 – 141, l. 2.

Discussion

"A person is guilty of burglary in the first degree if the person enters a dwelling without consent and with intent to commit a crime in the dwelling, and … the entering or remaining occurs in the nighttime." S.C. Code Ann. § 16-11-311. "Burglary in the first degree is a felony punishable by life imprisonment. For purposes of this section, 'life' means until death. The court, in its discretion, may sentence the defendant to a term of not less than fifteen years." Id.

First-degree burglary requires that, at the time the offender entered the dwelling, he intended to commit a crime once inside. State v. Gilliland, 402 S.C. 389, 741 S.E.2d 521 (Ct. App. 2012). Although the intent to commit a crime required for a conviction of first-degree burglary must exist at the time the accused enters the dwelling, the jury may base its determination of that intent upon evidence of the accused's actions once inside the dwelling. Id.

In a burglary trial, the defendant's actions after he entered the house can be evidence used to determine if he had the intent to commit a crime at the time of entry. State v. Pinckney, 339 S.C. 346, 349, 529 S.E.2d 526, 527 (2000). In this regard, Anthony Cox testified that he saw Appellant standing "over [his] TV like he was going to mark it." R. 113, ll. 7 – 12. When Cox told Appellant to get out of his house, Appellant threw a computer chair at Cox. R. 113, ll. 15 – 18. When Cox's wife discovered the two men tussling, Appellant began yelling at her that he was in the CIA and had caught the person breaking into their house. R. 114, ll. 15 – 20.

"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). "A defendant is entitled to a directed verdict when the state fails to produce evidence of the offense charged." Id. "On appeal from the denial of a directed verdict in a criminal case, an appellate court must view the evidence in the light most favorable to the State." State v. Stanley, 365 S.C. 24, 41, 615 S.E.2d 455, 464 (Ct. App. 2005). "If there is any direct or any substantial circumstantial evidence reasonably tending to prove the guilt of the accused, we must find that the issues were properly submitted to the jury." State v. Mollison, 319 S.C. 41, 46, 459 S.E.2d 88, 91 (Ct. App. 1995). "Nevertheless, a[n appellate] court is not required to find that the evidence infers guilt to the exclusion of any other reasonable hypothesis." State v. Bennett, 415 S.C. 232, 236, 781 S.E.2d 352, 354 (2016). "[T]he lens through which a[n appellate] court considers circumstantial evidence when ruling on a directed verdict motion is distinct from the analysis performed by the jury." Id. "Accordingly, in ruling on a directed verdict motion where the State relies on circumstantial evidence, th[is] court must determine whether the evidence presented is sufficient to allow a reasonable juror to find the defendant guilty beyond a reasonable doubt." Id. at 237, 781 S.E.2d at 354.

As described by every witness on scene in January 2019, Appellant was agitated and delusional. He believed he was in the CIA. The state offered no evidence that Appellant intended to commit a crime while inside the home. As a result, the trial court erred in denying Appellant's motion for a directed verdict.

CONCLUSION

Based on the foregoing, Appellant respectfully requests that this Court reverse his conviction.

s/Taylor D. Gilliam
Taylor D Gilliam
Appellate Defender

ATTORNEY FOR APPELLANT

This 1st day of December, 2020.

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PETITION TO BE RELIEVED AS COUNSEL

Counsel for Christopher Carl Saunders states:

1. He is Appellate Defender for the South Carolina Office of Appellate Defense, and was appointed to represent appellant.

2. He has reviewed the record of appellant's trial before Judge Carmen T. Mullen, which was held on February 18-19, 2020, and, in his opinion, the appeal is without legal merit sufficient to warrant a new trial.

3. He has, pursuant to Anders v. California, 386 U.S. 738, 87 S.Ct. 1396 (1967), briefed an arguable legal issue which arose during the course of the trial.

WHEREFORE, He asks the Court to relieve him as counsel for Christopher Carl Saunders.

Respectfully Submitted,

s/Taylor D. Gilliam
Taylor D Gilliam
Appellate Defender
ATTORNEY FOR APPELLANT

This 1st day of December, 2020.

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DESIGNATION OF MATTER TO BE INCLUDED IN RECORD ON APPEAL

Appellant proposes the following be included in the Record on Appeal:

(1) True-billed indictment;
(2) Transcript of Trial dated February 18-19, 2020

I certify that this designation contains no matter which is irrelevant to this appeal.

December 1, 2020

s/Taylor D. Gilliam
Taylor D Gilliam
Appellate Defender

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ATTORNEY FOR APPELLANT

CERTIFICATE OF COUNSEL

The undersigned certifies that to the best of my ability this Anders Brief of Appellant complies with Rule 211(b), SCACR, and the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

December 1, 2020.

s/Taylor D. Gilliam
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