1984 WL 249882 (S.C.A.G.)

Office of the Attorney General

State of South Carolina
May 7, 1984

***1** The Honorable David H. Maring
Chief Family Court Judge
Fifteenth Judicial Circuit
P. O. Box 806
Georgetown, SC 29440

Dear Judge Maring:
In your letter of April 4, 1984, you have asked what is the standard for granting a directed verdict for a defendant/minor respondent at the end of the State's case in a juvenile criminal matter in Family Court.

The South Carolina Supreme Court, in reviewing the denial of a motion for directed verdict or to set the verdict aside, has stated that the judge must view the evidence in a light most favorable to the State and that the existence of any evidence, direct or circumstantial, reasonably tending to prove the guilt of the accused justifies the denial of such a motion. State v. Dobson, Opinion No. 22057, filed March 14, 1984 (emphasis added). In the case of Jackson v. Virginia, 443 U.S. 307, 61 L.Ed.2d 560, 99 S.Ct. 2781 (1979), the U. S. Supreme Court, in reviewing the denial of habeas corpus relief, dealt with the issue of sufficiency of evidence. The Court found the standard for determining whether a verdict should be set aside to be whether there is sufficient evidence to justify a rational trier of the facts to find guilt beyond a reasonable doubt (emphasis added). In explaining this standard, the Court went on to say that the question is not whether the Court believes that the evidence at the trial established guilt beyond a reasonable doubt, but 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.

Since the Jackson case, it has been argued to our Supreme Court by appellants that the holding in Jackson creates a higher standard than the 'any evidence rule standard' embraced by our Supreme Court. When confronted with this argument, the South Carolina Supreme Court has not seen fit to comment on or distinguish the cases in any way and, therefore, it must be assumed that, in the opinion of our Supreme Court, no real ambiguity exists and the 'any evidence rule' continues to be the standard in South Carolina.

The following excerpt from State v. Wheeler, 259 S.C. 571, 193 S.E.2d 515 (1972), provides the trial judge instructions in dealing with a motion for a directed verdict:
When motion for a directed verdict is made, the trial judge is concerned with the existence or nonexistence 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 is evidence, either direct or circumstantial, which reasonably tends to prove the guilt of the accused or from which guilt may be fairly and logically deduced (citation omitted).

Where circumstantial evidence is relied upon by the state in a criminal case, there must be positive proof of facts and circumstances which, taken together, warrant inference of guilt to a moral certainty, to the exclusion of any other reasonable hypothesis (citation omitted). If there is any evidence tending to support an inference of guilt, the Court must submit the issue to the jury. Ibid. at 518-519.

***2** While I am unable to find any cases dealing with the issue of a directed verdict in a juvenile case, I know of no reason for there to be a difference in the standard for a directed verdict in a juvenile case. On the contrary, fundamental fairness would

seem to dictate that no distinction be made between adults and juveniles in evidentiary matters. Therefore, in the absence of any authority to the contrary, it may be assumed that the 'any evidence standard' and the instructions of the Court in Wheeler would be applicable to the situation about which you inquire.

Additionally, you have inquired as to whether the standard for directing a verdict is different where, as in a juvenile case, the judge is the trier of fact and law. I know of no reason for a difference in the standard for a directed verdict in a bench trial and can find no authority to support a different standard. To the contrary, our State Supreme Court in State v. Wharton, 263 S.C. 437, 211 S.E.2d 237 (1975), has held the standard to be the same in a criminal case where the trial judge sits as trier of law and fact.

Because in juvenile matters the Family Court Judge is the trier of law and fact, in close cases it would be advisable not to grant a motion for directed verdict, but merely find the accused innocent at the conclusion of the trial. This approach would, of course, eliminate a ground for appeal by the State and would achieve the same result, the release of the juvenile.

I hope this information will be beneficial to you. Please let me know if I can be of further assistance.
Sincerely,

B. J. Willoughby
Assistant Attorney General

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