

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

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Appeal From Dorchester County  
Honorable James C. Williams, Jr., Circuit Court Judge

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THE STATE,

Respondent,

vs.

JOHN L. McCOMBS,

Appellant.

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**FINAL BRIEF OF RESPONDENT**

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**STATEMENT OF ISSUE ON APPEAL**

**The trial court denied Appellant's motion for a directed verdict of acquittal,  
and Appellant cannot show any error.**

## ARGUMENT

### **The trial court denied Appellant's motion for a directed verdict of acquittal, and Appellant cannot show any error.**

Appellant asks whether the trial judge erred in failing to grant a directed verdict of acquittal. (Appellant's Statement of Issue on Appeal). When the state rested, Appellant moved for a directed verdict of acquittal on the ground there had been no threat. Rather, Judge Goodstein only felt threatened, and Appellant said that he might come to see her when he was only talking about getting his file and making one off the cuff comment. Also, Judge Goodstein recused herself all the time. A mere history of violent crime was insufficient, and different people have different thresholds of threats. In sum, Appellant thought there was only a scintilla of evidence. The State maintained there was evidence of a threat which impeded the judge in her duties, and that evidence made a question of fact for the jury. The court found there was sufficient evidence for the jury to decide the case and denied the motion. (R. p. 285, lines 9-10; p. 285, line 24 - p. 289, line 16).

After the defense rested and the close of all the evidence, the court gave Appellant the opportunity to make any motions. Appellant specifically declined to make any motion at that time. (R. p. 306, lines 15-16; p. 338, lines 8-23). Making a motion for a directed verdict at the close of the state's case does not preserve error unless it is renewed at the close of all the evidence. There is no issue for the appellate court to consider. *State v. Rosemond*, 348 S.C. 621, 560 S.E.2d 636 (Ct. App. 2002).

Assuming for argument that the appellate court reviews the sufficiency of the evidence, the evidence was sufficient

for the trial court to submit the case to the jury, and there was no error. Indictment 2003-GS-18-0286 charged Appellant with intimidation of court officials, jurors, or witnesses in violation of S. C. Code §16-9-340 (1976). Section 16-9-340, in part, provides it is unlawful for a person, by threat or force, to intimidate or to impede a judge in the discharge of her duty or to impede, or attempt to obstruct or impede, the administration of justice in any court.

Appellant sent attorney Donna Sands biting letters expressing dissatisfaction with her counsel, accusing her of selling him out, and threatening retribution. In one letter, State's Exhibit No. 1, purportedly terminating attorney Sands from his case, the defendant challenged her with "perfect hatred" and says that he will not stop until he puts attorney Sands and Judge Goodstein "out of practice." The threat is based upon his feeling [1] the judge was personally biased against him and intended to keep him confined and [2] counsel lacked interest and did not act on his behalf. (R. pp. 165-171; pp. 179-180; pp. 191-193; p. 261, line 22 - p. 263, line 3; p. 269, line 4 - p. 271, line 11; State's Exhibit No. 1, R. p. 359). SLED agent John Garrison talked to Appellant when Appellant was incarcerated, but his release date was less than two years away. When asked if he intended to see Judge Goodstein when he got out, the defendant affirmed. (R. pp. 207-210; pp.

214-215). Agent Garrison told Judge Goodstein that Appellant said he would see her upon his release. (R. p. 216; p. 218, lines 2-12; p. 282; p. 284). Judge Goodstein testified that after she made a ruling - unfavorable to Appellant - he threatened her, threatened the court, intimidated her, and intended to interfere with process. This was based upon reviewing his letters to attorney Sands, talking to agent Garrison, and knowing that Appellant had been convicted of violent crimes. (R. p. 252 - p. 253, line 7; p. 254 - p. 257, line 14; p. 261, lines 19-21). When Appellant subsequently filed a motion for Judge Goodstein to set aside her ruling in his case, she could not fulfill her duty to fairly and impartially consider the motion - since Appellant "by his actions, had interjected [her] personally" - and she had to recuse herself from hearing that motion. (R. p. 257, line 14 - p. 259, line 6; p. 261, lines 16-18; p. 274, lines 1-11).

On appeal from the denial of a motion for a directed verdict, the appellate court is concerned with the existence of evidence, not the weight of the evidence, and can only reverse the trial judge if the record contains no evidence to support the trial judge's ruling. *State v. Douglas*, 359 S.C. 187, 597 S.E.2d 1 (Ct. App. 2004). The record contains evidence that Appellant threatened and intimidated the judge, impeded the judge in the discharge of her duty, and impeded the administration of justice in the court. The

record supports the trial judge's ruling, and the trial judge's denial of the motion for a directed verdict at the close of the state's case should be affirmed.

**CONCLUSION**

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

Respectfully submitted,

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ATTORNEYS FOR RESPONDENT

August 29, 2005

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

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Appeal From Dorchester County  
Honorable James C. Williams, Jr., Circuit Court Judge

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THE STATE,

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vs.

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**PROOF OF SERVICE**

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I, Harold M. Coombs, Jr., certify that I have served the within Final Brief of Respondent on Appellant by depositing three copies of the same in the United States mail, postage prepaid, addressed to his attorney of record, Tara S. Taggart, Esquire, South Carolina Office of Appellate Defense, Edgar Brown Building, 1205 Pendleton Street, Room 306, Columbia, South Carolina 29201.

I further certify that all parties required by Rule to be served have been served.

This 29th day of August, 2005.

---

HAROLD M. COOMBS, JR.

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ATTORNEY FOR RESPONDENT

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

Appeal From Dorchester County  
Honorable James C. Williams, Jr., Circuit Court Judge

THE STATE,

Respondent,

vs.

JOHN L. McCOMBS,

Appellant.

**CERTIFICATE OF COUNSEL**

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

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ATTORNEYS FOR RESPONDENT

August 29, 2005

August 29, 2005

Tara S. Taggart, Esquire  
South Carolina Office of Appellate Defense  
Edgar Brown Building  
1205 Pendleton Street, Room 306  
Columbia, South Carolina 29201

Re: The State v. John L. McCombs

Dear Ms. Taggart:

Enclosed please find three (3) copies of the Final Brief of Respondent along with proof of service in the above-referenced case.

Sincerely,

Harold M. Coombs, Jr.  
Senior Assistant Attorney General

HMCjr/kws

Enclosures

cc: The Honorable Kenneth A. Richstad  
(original and 9 copies enclosed)  
Ms. Trisha Allen



August 29, 2005

The Honorable David M. Pascoe, Jr.  
Solicitor, First Judicial Circuit  
140 N. Main Street, Suite 102  
Summerville, South Carolina 29483

RE: State v. John L. McCombs

Dear Solicitor Pascoe:

Enclosed please find copies of the Final Briefs of Appellant and Respondent in the above case.

Sincerely,

Harold M. Coombs, Jr.  
Senior Assistant Attorney General

HMCjr/kws  
Enclosures  
cc: Ms. Trisha Allen