

STATE OF SOUTH CAROLINA
COUNTY OF GREENWOOD

STATE of SOUTH
CAROLINA,

-v-

SCOTTY
FOWLER,
Defendant.

IN THE COURT OF GENERAL SESSIONS
Case Numbers: 2021A2410200552, 553

ORDER DENYING MOTION FOR
NEW TRIAL

RECEIVED

Mar 29 2023

SC Court of Appeals

Addy, J.

THIS MATTER CAME BEFORE THE COURT on the Defense written motion for a new trial or alternatively, to reconsider the sentence imposed. The Court finds that a formal hearing on this motion is unnecessary and finds as follows:

As to Mr. Fowler's argument that a second hearing should be held wherein counsel could question additional witnesses concerning the purported comment made by the bailiff, the Court denies this request. First, the Court previously conducted a hearing to inquire into whether (a) the comment was made and (b) whether any juror heard the comment. The bailiff in question denied making the comment, but the Court was still willing to individually question the jurors concerning whether they may have heard any comment concerning defense counsel prior to jury selection. Counsel elected not to have the Court individually question the jurors. Second, Mr. Fowler's motion was not accompanied by any affidavit or sworn statement from any new witness who would attest that the statement was made by the bailiff and that the statement may have been overheard by the jury pool. Third, no affidavit has been presented indicating that any individual juror heard the statement and that their verdict may have been affected by the statement. Fourth, assuming for the moment that the statement was made and was heard by a juror, the Court's instructions to the jury emphasized several times that the jury was tasked with deciding the case based only upon the law and the facts, and the Court has no



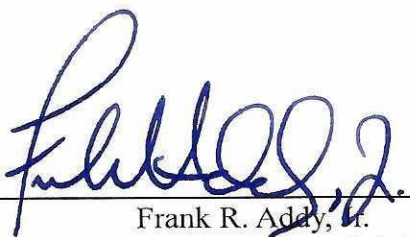
reason to doubt that the jury followed these instructions. Finally, the Court has reviewed that line of cases concerning improper communication with jurors, and the alleged statement made in this case does not give rise to the level of prejudice which was present in other cases which thereby necessitated a further hearing or inquiry by the Court.

Concerning Mr. Fowler's assertion that the evidence was insufficient to sustain his conviction, the Court reaffirms its prior findings that sufficient direct and circumstantial evidence exists to support Mr. Fowler's conviction.

Regarding Mr. Fowler's request for a reduction of sentence, the Court acknowledges Mr. Fowler's concern for the victim as depicted in the body camera footage. The Court considered all evidence in mitigation and aggravation and sentenced Mr. Fowler to half the maximum on the attempted murder charge. The sentence imposed was, therefore, proper and wholly in the Court's discretion.

WHEREFORE, Mr. Fowler's motion is denied.

IT IS SO ORDERED.



Frank R. Addy, Jr.
Resident Judge, Eighth Judicial Circuit

March 21, 2023
Greenwood, South Carolina