

STATE OF SOUTH CAROLINA
COUNTY OF CALHOUN

) IN THE COURT OF GENERAL SESSIONS
) FIRST JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA,

)
) INDICTMENT NOs.: 2013-GS-09-051
) 2013-GS-09-052
) 2013-GS-09-053

vs.

DAVID JAMAR BENJAMIN,

**ORDER DENYING MOTION
TO RECONSIDER SENTENCE**

Defendant.

This matter is before the Court pursuant to the Defendant's Motion to Reconsider Sentence.

Defendant was indicted in Calhoun County on one (1) count of Murder (2013-GS-09-051) and two (2) counts of Attempted Murder (2013-GS-09-52 and 2013-GS-09-053).

On March 7, 2013, a Calhoun County jury found Defendant guilty of one (1) count of Murder (2013-GS-09-051); and Defendant was sentenced by this Court to forty (40) years in the South Carolina Department of Corrections. Defendant was further found guilty by a Calhoun County jury on March 7, 2013, of two (2) counts of Attempted Murder (2013-GS-09-52 and 2013-GS-09-053); and Defendant was further sentenced to thirty (30) years in the South Carolina Department of Corrections on each Attempted Murder charge. The Court's rulings additionally held that all three sentences were to run concurrently.

The Defendant timely moved that the Court reconsider the sentences currently imposed. A hearing on the Defendant's Motion to Reconsider the Sentence was held on June 20, 2013, before the Honorable Diane S. Goodstein at the Orangeburg County

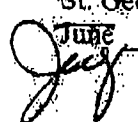
Courthouse in Orangeburg, South Carolina. The Defendant and his attorney, Nick Thomas, were present. Also present for the State was Assistant Solicitor Don Sorenson.

The Court has considered the well-drafted Motion submitted by Defendant's Counsel, as well as the excellent arguments of Counsel, which have caused the Court to consider whether the sentences imposed are appropriate. After thorough and thoughtful consideration, as well as a review of the record, the Court hereby finds that the original sentences imposed are appropriate.

Thus, Defendant's Motion to Reconsider the Sentence is hereby denied.

AND IT IS SO ORDERED.


The Honorable Diane Schafer Goodstein

St. George, South Carolina
June 1, 2013


STATE OF SOUTH CAROLINA
COUNTY OF CALHOUN

) IN THE COURT OF GENERAL SESSIONS
) FIRST JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA,

) INDICTMENT NOs.: 2013-GS-09-051
) 2013-GS-09-052
) 2013-GS-09-053

vs.

**ORDER DENYING MOTION
FOR NEW TRIAL**

DAVID JAMAR BENJAMIN,

Defendant.

RECEIVED
JUL 10 2013

SC Court of Appeals

This matter is before the Court pursuant to the Defendant's Motion for New Trial.

Defendant was indicted in Calhoun County on one (1) count of Murder (2013-GS-09-051) and two (2) counts of Attempted Murder (2013-GS-09-52 and 2013-GS-09-053).

On March 7, 2013, a Calhoun County jury found Defendant guilty of one (1) count of Murder (2013-GS-09-051); and Defendant was sentenced by this Court to forty (40) years in the South Carolina Department of Corrections. Defendant was further found guilty by a Calhoun County jury on March 7, 2013, of two (2) counts of Attempted Murder (2013-GS-09-52 and 2013-GS-09-053); and Defendant was further sentenced to thirty (30) years in the South Carolina Department of Corrections on each Attempted Murder charge. The Court's rulings additionally held that all three sentences were to run concurrently.

The Defendant timely moved the Court for a new trial. A hearing on the Defendant's Motion for a New Trial was held on June 20, 2013, before the Honorable Diane S. Goodstein at the Orangeburg County Courthouse in Orangeburg, South Carolina. The Defendant and his attorney, Nick Thomas, were present. Also present for the State was Assistant Solicitor Don Sorenson.

In his motion and at the hearing, Defendant argued that there was not sufficient evidence to support the verdict of guilty on all three of the above-referenced indictments. Defendant further argued that there was no reasonable direct evidence or substantial circumstantial evidence tending to establish guilt on these charges.

In considering a motion for new trial, the trial court is concerned with the existence of evidence rather than the weight of the evidence. The weight of the evidence is a question for the jury. State v. Smith, 363 S.C. 111, 609 S.E.2d 528 (Ct.App 2005); State v. Pauling, 264 S.C. 275, 214 S.E.2d 326 (1975).

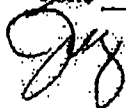
After hearing arguments of Counsel, the Court hereby finds that reasonable and sufficient evidence did exist to support the jury's verdict of guilty on all three of the above-referenced indictments.

Thus, Defendant's Motion for a New Trial is hereby denied.

AND IT IS SO ORDERED.


The Honorable Diane Schafer Goodstein

St. George, South Carolina
June 1, 2013





Calhoun County First Judicial Circuit Public Index



[Calhoun County Home Page](#) [South Carolina Judicial Department Home Page](#) [SC.GOV Home Page](#)

The State of South Carolina VS David Jamar Benjamin					
Case Number:	M355116	Court Agency:	General Sessions	Filed Date:	09/22/2011
Case Type:	Criminal-Clerk	Case Sub Type:			
Status:	Disposed	Assigned Judge:	Clerk Of Court C P, G S, And Family Court	Disposition Judge:	Goodstein, Diane Schafer
Disposition:	Trial Guilty				
Disposition Date:	03/07/2013	Date Received:	09/22/2011	Arrest Date:	09/20/2011
Law Enf. Case:		True Bill Date:	02/25/2013	No Bill Date:	
Prosecutor Case:		Indictment Number:	2013GS0900052	Waiver Date:	
Probation Case:					

Case Parties	Charges	Sentencing	Associated Cases	Actions	Financials	Bonds	
And/Or	Description	Amount	Units	Begin Date	End Date	Completion Date	Consecutive or Concurrent
	SCDC 30 YEARS CONCURRENT WITH 2013GS0900051 & 53. DEFENDANT TO BE GIVEN CREDIT FOR TIME SERVED.						



State of South Carolina
The Circuit Court of the First Judicial Circuit

DIANE SCHAFER GOODSTEIN
JUDGE

POST OFFICE BOX 234
ST. GEORGE, SOUTH CAROLINA 29477
TELEPHONE: (843) 832-0832
FAX: (843) 832-0389
E-MAIL: dgoodstein@sccourts.org

July 3, 2013

Nicholas Gray Thomas
Coastal Law, LLC
231 King Street, 2nd Floor
Charleston, SC 29401

RECEIVED

JUL 10 2013

Court of Appeals

Re: State of South Carolina v. David Jamar Benjamin
Indictment No: 2013-GS-09-051, 2013-GS-09-052 and 2013-GS-09-053

Dear Mr. Thomas:

I have enclosed signed original Orders in regards to the above referenced matter. Your office will be responsible for filing the originals with the Clerk of Court's office.

Thank you for your assistance in this matter. Please do not hesitate to give me a call should you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Kaye Parker".

Karen "Kaye" M. Parker
Administrative Assistant to
Judge Diane S. Goodstein

Enclosures