

RECEIVED

Sep 16 2024

SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Clarendon County

Honorable R. Ferrell Cothran, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

ROBERT ASHLEY WHEELER, III,

APPELLANT

APPELLATE CASE NO. 2024-000645

RECORD ON APPEAL

WANDA H. CARTER
Deputy Chief Appellate Defender

ALAN WILSON
Attorney General

South Carolina Commission on Indigent
Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1330

MARK R. FARTHING
Senior Assistant Deputy Attorney General
Post Office Box 11549
Columbia, SC 29221
(803) 734-4117

ATTORNEY FOR APPELLANT

ATTORNEYS FOR RESPONDENT

INDEX

INDEX i

GUILTY PLEA TRANSCRIPT DATED JULY 24, 20231

MOTION TO RECONSIDER33

ORDER DENYING MOTION TO RECONSIDER34

INDICTMENT35

CERTIFICATE OF COUNSEL38

I N D E X

	Page
Call of the case	3
Ruling for competency	4
Qualifying of plea	5
Factual background	9
Remarks by Sheriff Baxley	12
Remarks by Katherine Coker	14
Remarks by Zach Coker	16
Remarks by Lucia Coker	16
Remarks by Melissa Lynch	18
Mitigation remarks by Mr. Robinson	19
Remarks by defendant Wheeler	28
Sentence of the Court	29

(There were no exhibits submitted.)

1 THE CLERK: Raise your right hand for me please,
2 sir.

3 WHEREUPON,

4 **ROBERT WHEELER,**
5 having been duly sworn by the Clerk, testified
6 as follows:

7 THE COURT: Yes, ma'am.

8 MS. PIERCE: Thank you. Your Honor, this is the
9 State of South Carolina v. Robert Ashley Wheeler, III, on
10 indictment number 2021-GS-14-0398. He is indicted for one
11 count of burglary in the first degree and one count of
12 possession of a firearm by a person convicted of a violent
13 felony, one count of possession of a weapon during a violent
14 crime, and seven counts of what was attempted murder;
15 however, he's pleading to seven assault and batteries in the
16 first degree. There's a recommendation of a cap of 35. The
17 State would like the opportunity to argue our 35. He is
18 represented by Scott Robinson and wishes to plead guilty.
19 Your Honor, I do have the victim and -- the victims and the
20 family members that would like to address the Court at the
21 appropriate time.

22 THE COURT: Okay.

23 MR. ROBINSON: And, Judge, before we do anything,
24 he was also evaluated for competency and criminal
25 responsibility that we need to address on the record so Your

1 Honor can make the appropriate finding before we go forward.

2 THE COURT: Okay. We need to do that first. Do
3 y'all have a copy of the report? Anybody?

4 MR. ROBINSON: Judge, I have, and I apologize, I
5 would not like to make this one a court exhibit because I've
6 got some notes on it. This is the criminal responsibility
7 report.

8 THE COURT: Okay.

9 MR. ROBINSON: Darla, do you have the Blair
10 report?

11 (Attorneys confer.)

12 MR. ROBINSON: And, Your Honor, I will also hand
13 up -- I will make copies of these, Your Honor, once you're
14 finished to supplement the record as court exhibit. That's
15 the competency evaluation.

16 THE COURT: Okay. Mr. Robinson, based on your
17 conversations with Mr. Wheeler, do you have any concerns
18 about his mental health?

19 MR. ROBINSON: I do not, Your Honor. Obviously
20 there are some diagnoses in there that I think perhaps go
21 toward mitigation but nothing that I think -- certainly
22 competence is not an issue; I will address that. I've had
23 no issues whatsoever with his competence to understand
24 anything or to assist me throughout these proceedings, Your
25 Honor. The -- I would agree, quite frankly, with the report

1 as far as his M'Naghten evaluation that there were some
2 underlying conditions and factors and things; but that
3 probably the primary trigger of the incident on that date
4 was not mental health but a drug, and I will get into that
5 in mitigation so. So to the point that it would rise to the
6 level of a clinical definition of either not guilty by
7 reason of insanity or guilty but mentally ill, I would agree
8 with their findings based on the evidence and the
9 information that I have.

10 THE COURT: Okay. And in your conversations with
11 him, did he respond appropriate to your questions?

12 MR. ROBINSON: He did, Your Honor.

13 THE COURT: Okay. So today do you think he knows
14 what he's doing?

15 MR. ROBINSON: He does, yes, sir, no question.

16 THE COURT: Do you agree with that, Mr. Wheeler?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: And the Court finds that you're
19 competent to stand trial and at the time of this incident
20 you knew right from wrong under M'Naghten test. Okay.

21 Now, Mr. Wheeler, do you want to plead guilty?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: Have you had enough time to talk to
24 your lawyer?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: You satisfied with his representation?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: And has he done everything you think
4 he should have done or could have done?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: You understand on the assault and
7 battery charge you're looking at 10 years on each one of the
8 assault and battery firsts?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: And one, two, three, four, five, six.

11 MR. ROBINSON: Should be seven, Judge.

12 THE COURT: Seven. Seven of those. And 5 years
13 on the possession of weapon during commission of a violent
14 crime. You understand that?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: And you got two of those. And on the
17 burglary first you're looking at 15 years to life. You
18 understand that?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: And it is a most serious offense and a
21 violent and no parole offense. You have to serve at least
22 85 percent of whatever sentence you get. You understand
23 that?

24 THE DEFENDANT: Yes, sir.

25 MR. ROBINSON: And, Your Honor, before you

1 proceed, I hate to interrupt you. Just to protect the
2 record, one of those weapons charge is actually possession
3 of a weapon with someone with a violent crime conviction.
4 It's not two possession of a weapon during a violent crime.

5 THE COURT: Oh, I'm sorry.

6 MR. ROBINSON: I just wanted that to be clear for
7 the record so the soliloquy will be correct.

8 THE COURT: Well, I got two sentencing sheets.

9 MR. ROBINSON: They're both possession of a weapon
10 during a violent crime?

11 THE COURT: No. One is possession of a weapon
12 during a violent crime which is 16-2249 and the other is
13 possession of a firearm and ammunition by a person convicted
14 of a felony.

15 MR. ROBINSON: Right. I just wanted -- well, when
16 you asked him you said ---

17 THE COURT: Right.

18 MR. ROBINSON: --- two possessions during a
19 violent crime.

20 THE COURT: There's technically two different
21 charges. Both of them carry 5 years.

22 THE DEFENDANT: Yes, sir.

23 THE COURT: You understand?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: You under the influence today?

1 THE DEFENDANT: No, sir.

2 THE COURT: Do you have any mental diseases that
3 I'm going over this with you that keeps you from
4 understanding what you're doing?

5 THE DEFENDANT: No, sir.

6 THE COURT: By pleading you're giving up your
7 constitutional right to remain silent because you're telling
8 me you're guilty. You understand?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: You also have a right to a jury trial
11 on these charges and in a trial you'd be presumed innocent.
12 The State would have the burden of proving you guilty beyond
13 a reasonable doubt to all twelve jurors. You'd be able to
14 sit in the courtroom and confront each witness that would
15 testify against you in that trial. Your lawyer could
16 cross-examine the State's witnesses. He could subpoena
17 witnesses and put up any defenses you have, and he could put
18 up any evidence on your behalf if you went to trial. You
19 understand that?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: But when you plead guilty you give all
22 that up. You understand?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: You're giving up any appeals that
25 could come out of that trial by pleading guilty. You

1 understand that?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: If you want to appeal this guilty
4 plea, you got to do so in ten days by you or your lawyer
5 filing with the Clerk's Office, or you give that up as well.
6 You understand?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: Have you had an opportunity to go over
9 the discovery that the State has provided your attorney?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: You satisfied with that?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Has he shown you everything you think
14 he should have showed you?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: Any questions at all?

17 THE DEFENDANT: No, sir.

18 THE COURT: You got any questions you want to ask
19 me concerning your rights?

20 THE DEFENDANT: No, sir.

21 THE COURT: The solicitor is going to tell me what
22 happened.

23 MS. PIERCE: Thank you, Your Honor. On May 12th,
24 2021, around 5:20 in the afternoon, officers with the
25 Clarendon County Sheriff's Office responded to 1911 American

1 Avenue in the Turbeville area of Clarendon County. It was
2 in reference to an active burglary in progress. The
3 homeowner, Mrs. Katherine Coker, was able to access her
4 surveillance cameras. She saw the defendant inside the
5 house. She let them know he was armed with a gun. He had a
6 ball cap backwards. She was able to take a picture. Based
7 on that picture, while he was inside the home officers were
8 able to identify him as Robert Ashley Wheeler. Your Honor,
9 officers responded very quickly. It became a standoff that
10 lasted around 11 hours, from about 5:20 until right before,
11 I believe, 4:00 in the morning.

12 SLED ended coming out with their SWAT team. They
13 had to deploy the robot. They had to deploy gas. The gas,
14 a lot of gas was used that it actually really destroyed
15 their home. As well as a canine. When they found
16 Mr. Wheeler he was under the bed, canine had him; and like I
17 said, teargas had been deployed. In his possession he armed
18 himself with a Taurus 9-millimeter handgun. He fired one
19 shot toward law enforcement, and there was one shot that
20 went up in the ceiling. The officers who were outside
21 trying to surround the house that when he fired the shot
22 were Sergeant Thomas Huckaby, Contrell Watson, Joseph
23 Brocato, Matthew Stone, William Secrest, Genesis Aranda, and
24 Randy Jones.

25 Your Honor, like I said, with the Taurus handgun

1 he also has a criminal history that he would be a person
2 that has violent felony convictions. He was served notice
3 of LWOP last term of court. Based on the statute for LWOP,
4 he had two burglary first convictions in 1993, one armed
5 robbery conviction in 2008, three burglary second violent
6 convictions in 2007. It's our understanding that when this
7 incident occurred he had just gotten out of SCDC for a
8 crime. I believe Your Honor may have even prosecuted him in
9 your time here in the Solicitor's Office in Clarendon
10 County. He does have an extensive criminal history with
11 grand larcenies, B&E autos, resisting arrest, failure to
12 stop; but the main violent crimes would be the burglaries
13 and the armed robbery.

14 With me I have Sheriff Timothy Baxley from the
15 Sheriff's Office. He would like to speak on behalf of his
16 agency and his men and women and also the victim and -- the
17 victims and their family members would like to address the
18 Court. We are asking for a cap of 35. We are asking for
19 the full 35, Your Honor. This is a very dangerous crime.
20 Lives could have been lost that night. Again, almost a
21 12-hour standoff. So, Your Honor, we would just ask for 35
22 years, nothing less.

23 And Sheriff Baxley, if he could address the Court.

24 THE COURT: Okay, hold on just a minute.

25 Those facts correct, Mr. Wheeler?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: You pleading guilty because you are
3 guilty?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: I find there's a factual basis for
6 your plea. It's freely and voluntarily entered into and
7 you've had advice of competent counsel where you tell me
8 you're satisfied and I'll accept the plea.

9 Yes, sir, Sheriff.

10 SHERIFF BAXLEY: Your Honor, if it please the
11 Court. Your Honor, on that day we received a call that a
12 burglary was in progress. We had officers that responded
13 within two to three minutes to that residence. There
14 were -- happened to be in the area. They got there. I was
15 able to get the call by a telephone and listening on the
16 radio. We did a all-call, all of our units to head that
17 way. We then had shots fired. When that happened I
18 notified SLED, as I do with all, to send in SWAT team. We
19 actually had a full call-out of SLED SWAT team that came.
20 We had somewhere in the neighborhood of 75 to 100 SWAT
21 officers there from SLED with the majority of my department,
22 even the ones that were off we called out, so we had a --
23 just a large number of officers there. This happened --
24 when it happened it was daylight. Your Honor, we had two
25 armored vehicles there. We had robots there. We had dogs

1 there. We had sharp shooters there. We had everything we
2 could there. We negotiated with Mr. Wheeler for a long time
3 trying to get him to come out of the house. To no avail, he
4 would not respond to anything -- he would respond, but he
5 would not cooperate. I kept contact with the homeowner
6 Mrs. Coker. I would -- I would back and forth tell them a
7 little bit what was going on before we were busy. But the
8 thing that made this really bad, Your Honor, is all our
9 officers were there and this went into the cover of
10 darkness. And when we got the cover of darkness, it just
11 made it more extremely dangerous. You heard the solicitor
12 say that they were able to identify Mr. Wheeler. They were
13 able to identify Mr. Wheeler because this is not his first
14 time. And I think you will hear from the family this is not
15 the first time at the same house. He has been a menace to
16 them. He has been a menace to everybody around there with
17 his history.

18 Your Honor, we're asking for the Sheriff's
19 Department, on behalf of the Sheriff's Department, the
20 officers, this is just a few of them behind me that were in
21 arms way that day. There are several others that couldn't
22 be here today, but -- and several SWAT team members because
23 they were very active in this. We're asking that you do
24 give the full 35 years, Your Honor. This -- this family
25 endured a lot. Mrs. Coker, her family, her -- I think they

1 will tell in just a minute, Mr. Lanier Coker was there at
2 the time. He was there when the officers arrived. He has
3 since passed away, and I know he went to his grave worrying
4 about this and worrying that his family won't have to endure
5 this anymore. So, Your Honor, we're asking on behalf of the
6 Sheriff's Department and the family, for all the anguish he
7 has caused them, to please give him the full 35 years.
8 Thank you.

9 THE COURT: Thank you, sir.

10 MS. PIERCE: Thank you, Your Honor. Is the
11 victim's family come forward to address the Court.
12 Mr. Robinson knows that we are asking that Your Honor order
13 restitution while he's in SCDC. They've been, I believe,
14 garnishing wages. The victim tells me that the estimate is
15 around 250,000. Again, the tear gas did destroy their home.
16 Also, the mother-in-law is going to address the Court
17 because this is not defendant's first time in breaking in
18 this home.

19 THE COURT: Okay.

20 THE VICTIM: My name is Katherine,
21 K-A-T-H-E-R-I-N-E, Coker, C-O-K-E-R. Good morning, Your
22 Honor.

23 THE COURT: Good morning.

24 MS. COKER: Thank you for allowing me to share
25 with you the lasting impact that May 12th, 2021, has had on

1 our lives. I first and foremost want to share my deepest
2 gratitude for the Clarendon County Sheriff's Department,
3 Sheriff Tim Baxley, and SLED. Clarendon County should be
4 recognized on their impeccable response time. That
5 afternoon I walked in on an intruder in my home. There was
6 an officer on scene within minutes of my call to 9-1-1. All
7 of us present here today are very aware of the varying
8 events that occurred during the 11-hour standoff that
9 evening and into the early morning of May 13th. I can
10 provide you with a book of material things we lost after
11 being abruptly displaced from our home after six months of
12 marriage. I could harp on the feeling of walking away from
13 our destroyed house with the very clothes on our back and
14 our tear gas covered schnauzer in our arms, but I would
15 instead like to share with you the one thing that we will
16 never get back, and that is time. My husband's amazing
17 father who put himself in danger protecting me that day,
18 might I add, and our neighbor Mr. Lanier Coker, went to be
19 with the Lord that following August 26, 2021. Mr. Lanier
20 was a part of our everyday lives. Almost every evening I
21 watched him from my kitchen window talking to his chickens
22 or fiddling with yard equipment. Because we were displaced
23 from our home, we lost those last four months with him. We
24 might have returned home that October to fresh paint and new
25 windows, but material things mean nothing to us. Looking

1 out the kitchen window each day stinks and knowing we missed
2 our final four months with Mr. Lanier will never sit well
3 with me. Thank you.

4 THE COURT: Thank you, ma'am.

5 ZACH COKER: Good morning, Your Honor. Keep this
6 short. This house I was raised in. My parents built it.
7 And he was in there when they first built it and broke into
8 it, and now it's happened to me. And I just ask for a
9 higher sentence so my children don't have the same thing
10 happen to them if they choose to live in this house. Thank
11 you for your time. That's all I have to say.

12 MS. LUCIA COKER: Your Honor, my name is Lucia
13 Coker, L-U-C-I-A Coker. I'm the mother of the one that just
14 spoke. We built that house in -- we moved in the house, we
15 built the house, moved into it in July of 1992. Our house
16 was broken into some time in December. We did not report
17 the break-in because it was things that like pocket knives
18 and change that maybe a couple of hundred dollars worth of
19 change. We didn't realize the house had been broken into
20 till the next day, but we didn't report it because my
21 husband thought that it was probably family member and he
22 was gonna address it on his own. That happened beginning of
23 December. Christmas night of that year -- Clarendon County
24 Sheriff's Department called and talked to my husband, wanted
25 to know had our house been broken into; and he told them,

1 yeah, but we didn't report it, so how did they know about
2 it. And he told us that Shay Wheeler had reported to
3 breaking into several hours and ours was one of them. I
4 didn't know Shay Wheeler. I don't know how he knew where
5 the house was. The house sits off the road about 800 feet
6 or so. There's woods all the way around it. But he broke
7 in then. He broke in in '21 after serving a prison sentence
8 and who's to say that he won't do it again. When he broke
9 into our house, I didn't have children at the time; but I
10 have two grown children and a grandchild on the way and I'll
11 do whatever I can do to protect that. But we don't know if
12 he'll come back when he wants something. I'm asking could
13 you give him the highest that you possibly can.

14 Also, I would like the Court to be aware of the
15 fact that after the day the investigators came in after the
16 incident, it was several months later there was two items --
17 or several items that couldn't be found after my son and his
18 wife went in. That was her laptop and some pieces to a gun.
19 I don't know exactly what they were. But they were found
20 months later in a bag thrown up in a closet that the
21 investigators never found. Was that to say he was maybe
22 gonna get out and come back again to get that, we don't
23 know, but the intention might have been there. And that's
24 all I have to say.

25 THE COURT: Thank you, ma'am.

1 MS. LYNCH: Good morning, Your Honor. My name is
2 Melissa Lynch. Katherine Coker is my baby. I'm trying very
3 hard to be as sweet and forgiving as she is. Kat and Zach
4 came home with us that night with their clothes on their
5 back. We sat with them during the stand-off, and I want to
6 read a post that she made. "And it was four in the morning
7 when we were finally reunited with our fur baby and given
8 peace of mind that this 11-hour nightmare was over, that it
9 really feels just like the beginning. Thank you everyone
10 for all the prayers and encouraging words sent our way. It
11 has meant the world to us."

12 "There's a lot to process, images I will never
13 un-see, material things destroyed, but none of that matters.
14 We are safe and we are together.. I can't begin to thank all
15 of those that put their lives in danger to protect our
16 little family. The response time was so fast and I felt
17 safe in minutes. I will never be able to truly express in
18 words what the hard work and dedication means to us. Please
19 continue to pray for us. We have a lot to process in the
20 days ahead; but more importantly, please pray for the man
21 that invaded our home. I pray he finds the Lord. I found
22 this prayer this morning when reflecting, and it's titled
23 Prayer for a Friend to Seek God. He may not feel like a
24 friend, really the total opposite; but I pray one day he
25 will be our brother in Christ." That's how my child felt

1 about this. In a few hours Mr. Wheeler destroyed the fairy
2 tale that was their first six months of marriage. These two
3 can survive anything. They spent hours digging through
4 broken glass for class rings, diplomas, wedding gifts, a
5 mess they didn't make. Their insurance company paid a huge
6 claim, hundreds of thousands of dollars, for something they
7 didn't do. Mr. Wheeler had been in that house 32 years ago
8 and he had packed bags to hid [sic] to come back. Mr.
9 Wheeler was on parole and bond. Please, Your Honor, he
10 deserves the maximum sentence so that he never does this to
11 anyone else again. And I have a picture that I want to show
12 you if you don't mind.

13 THE COURT: Yes, ma'am.

14 MS. LYNCH: This is just a small piece, Your
15 Honor, of what our life looked like for six months, all we
16 put their lives back together. Thank you, Your Honor.

17 THE COURT: Yes, ma'am. Thank you.

18 Anything else?

19 MS. PIERCE: Nothing from the State, Your Honor.

20 THE COURT: Okay. Mr. Robinson.

21 MR. ROBINSON: Thank you, Your Honor. And let me
22 start by saying that Mr. Wheeler has expressed to me not
23 only remorse for the situation but for what has happened to
24 these people because these were not intended consequences
25 when this event occurred on May the 12th, 2021. I realize

1 that there's absolutely nothing he can say that will undo
2 the harm that has been done to them, that they've expressed
3 here today, but I would echo their sentiments. Thank
4 goodness that law enforcement was there and maintained the
5 situation the way that they did so that we're not up here --
6 that Mr. Wheeler wasn't killed during the incident and that
7 he didn't kill anybody during that incident, Your Honor.

8 I have -- Mr. Wheeler has made no excuses to me
9 and so I know some of the information I'm about to tell Your
10 Honor is going to sound like an excuse, but it's not an
11 excuse; it's just an explanation of how Mr. Wheeler ended up
12 in front of you today under these circumstances. I don't
13 honestly believe that Mr. Wheeler is an evil person. He
14 didn't know these people in 1996, I think is when they said
15 the first burglary was. He didn't know these people in
16 2021. He does not know these people. He has no ill will
17 towards these people. Mr. Wheeler has made a very, very
18 long series of bad decisions in his life that have brought
19 him here today. Some of them he had lots of control over
20 and some things he had no control over, Your Honor. And I
21 will just give you things that we feel, again, somewhat not
22 justified by any means but explain how somebody ends up in
23 the situation Mr. Wheeler found himself in. And these are
24 things that are also documented in the report that you read.

25 Mr. Wheeler, you know, like too many of the people

1 that I represent that come in front of you was -- came from
2 a single parent family. His father was never really
3 involved in his life. He and his mother separated what he
4 calls it, as Mr. Wheeler said; when he was still arm baby.
5 He has no real memories of his father. I asked him about
6 visitation and seeing his dad. He said I would go to his
7 mother's house, which would be his paternal grandmother's
8 house, and if he was there I would see him but there was no
9 regular visitation. When he was about seven or eight years
10 old, Your Honor, he was abused physically and sexually by a
11 family friend. That was not revealed for many, many years;
12 but that started, quite honestly, a string of events in
13 Mr. Wheeler's life that probably until later in life when he
14 did get some mental health treatment, he didn't understand.
15 He started drinking when he was 11 or 12 years old, had some
16 conduct issues in school, started missing school, ended up
17 dropping out of school.

18 The burglary first that I think they're talking
19 about was kind of his first encounter with law enforcement
20 back in the nineties, mid nineties. I think 1996 he got a
21 YOA for that. Your Honor, again, it was not, you know,
22 intended. Nobody was home, but because of that it's
23 classified as a violent crime because it was a home at night
24 because of the propensity for things like this to happen.
25 Mr. Wheeler admitted that that behavior was the result of

1 drug addiction. He was seeking goods to trade or sell to
2 have money to buy drugs. He progressed like most people do
3 from alcohol. I say like most people, like most people in
4 his circumstances do. Certainly other people do fine
5 without doing that, Your Honor. From alcohol to marijuana,
6 cocaine to heroine, he had a severe heroine addiction for
7 many years to the point he had to be hospitalized in 2002 as
8 a result of some withdrawals when he tried to get off of it.
9 He spent three weeks at Morris Village. Unfortunately, he
10 went back, relapsed in 2005. He spent six months at -- I
11 want to get the name right of drug rehabilitation -- Freedom
12 Farm Ministries in North Carolina. So Mr. Wheeler has
13 battled this demon for years, Your Honor. And I told him,
14 I'm not up here justifying anything that he's done. He's
15 made the conscious decision each and every time he's taken a
16 drug, whether it's ingesting it, smoking it, injecting it,
17 whatever he's done, he's made that conscious decision. But
18 as Your Honor has seen, it becomes a pattern where he simply
19 is, you know, almost a slave to this. And that's where he
20 is. Everything that he did, everything that he does, is
21 looking for his next high. He has been so addicted and has
22 literally had a life long dependency on drugs that he -- he
23 didn't know anything else.

24 Now I will tell you, probably for the first time
25 in his life, he's been in the Clarendon County jail for 802

1 days, and I would be willing to bet you since he was a
2 teenager those are the first 802 days consecutively he has
3 been clean.

4 There has been a noticeable difference in him
5 quite frankly from my first meetings with him, not
6 necessarily in his attitude, but just his overall demeanor,
7 his appearance, his mindset. He's in a much better place.
8 Now I will be honest with you, and you know this to be true,
9 my fear -- I know -- we know he's going to prison so there's
10 no if, ands, or buts. We're not up here asking for anything
11 different than that, Your Honor. The reality of it is,
12 though, I'm scared he's going to lose the sobriety. As you
13 know, drugs are easier to get in SCDC sometimes than they
14 are on the streets. That's beyond the Court's control, but
15 I just tell you that as a concern but.

16 Your Honor, the day of the event that it happened,
17 Mr. Wheeler admitted that he had used some drugs and was
18 given something that he thought was liquid Xanax. It was
19 not liquid Xanax. There was no analysis performed. But
20 based on his description to -- and the way it affected him,
21 his description to the examiner, they believed it was LSD or
22 acid, and that's what led up to this. Quite frankly,
23 Mr. Wheeler does not remember the majority of this event and
24 what happened, and I will just lay it out factually to kind
25 of present you the picture. He was on the way home. He had

1 taken his grandmother's car going to a motel room to get
2 high with a young lady friend, and his grand momma called
3 and said, I need the car back, where are you. So Mr.
4 Wheeler was in a hurry to get home. This young lady gave
5 him something to, quote/unquote, calm his nerves and he took
6 it. He then hit a deer on the way home and, quite frankly,
7 had a psychotic episode. Now I'll -- as I told you during
8 the earlier portion of the plea when we were talking about
9 his criminal responsibility, it was clearly drug induced by
10 this particular drug, but he was literally out of his mind
11 at that point in time. He has no recollection until later
12 during this stand-off period of what was going on. He did
13 go to a friend's house, he recounts, to ask for a ride or
14 some help; but he was very paranoid, very out of sorts, had
15 kind of an inflated concern about what his grandmother was
16 going to say about him wrecking her car. He ran and hid in
17 the woods, got his clothes wet, and supposedly when -- later
18 on when asked why he went to his house he was looking for
19 dry clothes. The homeowner, Ms. Coker, came home and thank
20 God she had the camera system and got some sort of heads-up
21 that she didn't walk into a situation where she directly
22 encountered Mr. Wheeler in this state and is here today to
23 talk about that because we all know how dangerous it can be
24 when you're in that kind of a mind frame, and Mr. Wheeler
25 was.

1 But, Your Honor, he had no ill will or ill intent
2 when he went in that house. He was literally out of his
3 mind on drugs. That's his fault. We're not asking the
4 Court to forgive him for that or give him probation and drug
5 treatment for that, Your Honor; but what we are asking for
6 is to take into account the totality of the circumstances,
7 his life, his life experience, his mental illness. Your
8 Honor, he has been diagnosed with PTSD which occurred during
9 his last stint in prison. Again, he was physically and
10 sexually assaulted there, diagnosed, given medication; and
11 he was not on medications at the time of this event. He was
12 self-medicating. He's also been diagnosed with bipolar
13 disorder and certainly substance dependence for a number of
14 different substances.

15 Mr. Wheeler has a lot of problems, Your Honor, and
16 a lot of them are self-induced. We are -- we are not asking
17 for forgiveness. We are grateful that the victims in this
18 case are mature enough, Christian enough, and kind enough to
19 express that they have given some forgiveness, and I join
20 with them. I hope Mr. Wheeler finds the Lord in prison and
21 makes things right in his heart. He can't make them right
22 on this earth for what he's done, Your Honor. But what
23 we're asking the Court to do is to temper his punishment
24 with a little bit of mercy, to give Mr. Wheeler a time in
25 prison, a significant time in prison, Your Honor. We're

1 asking Your Honor to consider a 20 year sentence. That is a
2 significant prison sentence. As you know, this is an
3 85 percent no parole. He'll serve 85 percent of that.
4 Based on his current age, he'll be 48 in September, Your
5 Honor. He will be just shy of 63 if Your Honor followed
6 that recommendation. And the reason I ask for that, quite
7 frankly, Your Honor, is so that Mr. Wheeler can prove
8 something to himself. He's got 20 years to find the Lord,
9 to find himself, to battle these demons that he's been
10 battling his whole life on the street ineffectively. But so
11 that there is some hope, quite frankly, something for him to
12 look forward to, a chance to get out and again to prove --
13 his mother, his grandmother have been very involved.
14 Neither one of them are able to be here today because
15 they're old and sickly. They cannot get out and get around.
16 I have talked with his mother a number of times, Your Honor.
17 And I'm not saying this to hurt Mr. Wheeler's feelings or
18 can do anything else, but he realizes they're not going to
19 be here when he gets out of prison. He's missed his
20 opportunity to make good for the people that -- the only
21 people that really ever cared about him and his life. But
22 this is a situation that I've talked to him. He simply
23 wants a chance to prove to himself that there is another
24 chapter in his book.

25 Thirty-five years, Your Honor, is not technically

1 a life sentence; but in reality, it is a life sentence and
2 so we're asking Your Honor to consider to temper that into
3 this punishment. You had a young man that just stood in
4 front of you simply with less of a record but with a much
5 more severe crime. He took somebody else's life and was
6 given a 20 year sentence, Your Honor. So we would ask you
7 to consider -- this has had a devastating impact, again, on
8 the family that we can never cure, that we can never make up
9 for. This is our request, Your Honor, that justice be
10 tempered with a little bit of mercy, that there be some
11 daylight on the other side of this sentence to give Mr.
12 Wheeler an incentive to better himself and to prove to
13 himself that he can be a good person, that he can get off of
14 drugs and stay off of drugs and have some brief period of
15 time to get out and demonstrate that. And so, Your Honor,
16 that's what we would ask you to consider is somewhere in the
17 neighborhood of a 20 year sentence. And just for math
18 purposes, 20 years, as told you, he would be just shy of 63.
19 At 35 years he would be just shy of 79. I do not think life
20 expectancy of SCDC inmates goes that high. And I realize
21 again this is -- this is us asking for some mercy, Judge.
22 He -- if you give him the 35 years, he realizes he has --
23 he's earned it. But we just hope that today that you can
24 put things in a little bit of perspective and realize that
25 thank the Lord that Mr. Wheeler did not kill anybody, has

1 not killed anybody. He's done some very, very dangerous
2 things that could have affected people far more severely
3 than they have, and we're grateful that that did not happen
4 and that's largely because of law enforcement's efforts and
5 training. And, again, we are incredibly grateful for the
6 understanding of the victim's family because I certainly
7 can't stand here and pretend to know what they've been
8 through and to know what they continue to go through and I'm
9 not going to pretend to tell you that anything that happens
10 in here today is going to fix that.

11 What I'm asking for, again, Your Honor -- I'm
12 sorry to beat this dead horse, but this is all I've got for
13 you -- is that this justice that we realize is going to be
14 imposed is tempered with a measure of mercy to give
15 Mr. Wheeler an opportunity in his latter life to come out of
16 this and prove something to whoever is around to see it,
17 that he can overcome his circumstances and that is our
18 request, Your Honor.

19 THE COURT: Okay.

20 MR. ROBINSON: Mr. Wheeler, do you want to say
21 anything?

22 THE DEFENDANT: Yes, sir.

23 MR. ROBINSON: Your Honor, Mr. Wheeler would like
24 to say something if that would be appropriate. Make sure
25 you speak up.

1 THE COURT: Yes, sir.

2 THE DEFENDANT: I'd just like to apologize and say
3 this was not my intention. I did not -- I wasn't going into
4 their house to burglarize. I wasn't -- it just wasn't my
5 intention. I wasn't in my right mind. I'm sorry. And I
6 know that sounds trivial for what's going on; but I'm truly
7 sorry and for whatever much time I get, I'll try my best to
8 be in prison so I can pay them back.

9 THE COURT: The gun that -- the possession of
10 weapon charge I find that he does have a prior violent
11 offense that qualifies that. Did he take the gun to the
12 house or did he get the gun from the house?

13 MR. ROBINSON: Go ahead. My understanding was it
14 came from the house, Your Honor.

15 SHERIFF BAXLEY: The gun was in the house. Your
16 Honor, the gun he shot was a 9-millimeter pistol; but what
17 we were very fortunate of, there was also a 7-millimeter
18 Magnum rifle in that house and he got his hands on that and
19 that would -- we wouldn't have had anything that would have
20 protected us from that.

21 THE COURT: Okay. On the first count of assault
22 and battery first degree, the sentence of the Court is
23 you're committed to the State Department of Corrections for
24 a term of 10 years, give him credit for 802 days. Second
25 assault and battery the sentence is the same, ten years to

1 run concurrent with credit for 802 days. Third assault and
2 battery is ten years to run concurrent with credit for 802
3 days. The fourth assault and battery is ten years to run
4 concurrent with credit for 802 days. The next one is ten
5 years to run concurrent with credit for time served with
6 credit for 802 days. All right. And the last one is ten
7 years to run concurrent with credit for 802 days. On all
8 seven I give him ten years to run concurrent.

9 Possession of a weapon is five years during the
10 commission of violent crime to run concurrent with credit
11 for 802 days. And the possession of by a convicted felon,
12 it's five years to run concurrent with credit for time
13 served 802 days. On the burglary, and I understand your
14 situation but the -- this is technically this burglary LWOP
15 you're looking at life. The sentence of the Court, you'll
16 be committed to the State Department of Corrections for a
17 term of 35 years. I'm giving you credit for 802 days. Your
18 record is too bad.

19 MS. PIERCE: Will you order restitution while he's
20 in SCDC?

21 THE COURT: Well, she just said that the insurance
22 company, they're the ones that get the restitution. Is that
23 what they want me to do? Pay the insurance -- the chances
24 of them getting paid back are zero. How much restitution is
25 it?

1 MS. PIERCE: They estimate it at approximately
2 250,000.

3 THE COURT: I can order it, but it's not going to
4 -- there's no way that insurance is going to ever get
5 anywhere close that or anything. I don't think the
6 Department of Corrections -- only if he makes parole if
7 there'd be any hope of that. Okay.

8

9

10 * * * END OF REQUESTED TRANSCRIPT OF RECORD * * *

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

STATE OF SOUTH CAROLINA)
)
 COUNTY OF CLARENDON)
)
 State of South Carolina,)
)
 vs.)
)
 Robert Ashley Wheeler,)
)
 Defendant.)
 _____)

IN THE COURT OF GENERAL SESSIONS
 THIRD JUDICIAL CIRCUIT
 INDICTMENT #: 2021-GS-14-0398

**MOTION TO RECONSIDER
 THE SENTENCE**

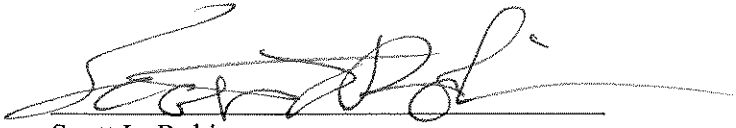
2023 AUG 03 09:15 AM
 CLERK OF COURT
 CLARENDON COUNTY
 1000 MARKET STREET
 MANNING, SC 29102

**TO THE HONORABLE R. FERRELL COTHRAN, JR., PRESIDING JUDGE,
 AND TO DARLA F. PIERCE, ASSISTANT SOLICITOR:**

YOU WILL PLEASE TAKE NOTICE that the Defendant, by and through his undersigned counsel, will move before this Honorable Court, on the tenth day after the filing of this motion or as soon thereafter as is practicable, to Reconsider the Sentence of the Defendant, Robert Ashely Wheeler, in the above captioned matter. Said motion is based upon the Court’s failure to give proper weight to the mitigating factors in the case, included but not limited to the Defendant’s diminished capacity and altered mental state as a result of his mental diseases which were exacerbated by his chronic drug use and being given a foreign substance that the Defendant was not aware of nor familiar with.

The Defendant further bases his motion for reconsideration on the applicable case and statutory law and upon such further evidence as may be presented at oral arguments.

August 3, 2023



Scott L. Robinson
 Attorney for the Defendant
 Post Office Box 339
 Manning, SC 29102
 (803) 433-0188

STATE OF SOUTH CAROLINA)
)
 COUNTY OF CLARENDON)
)
 State of South Carolina)
)
 vs.)
)
 Robert Ashley Wheeler,)
)
 Defendant.)
 _____)

IN THE COURT OF GENERAL SESSIONS
 THIRD JUDICIAL CIRCUIT
 INDICTMENT #: 2021-GS-14-0398

Order Denying
**MOTION TO RECONSIDER
 THE SENTENCE**

RECEIVED

APR 22 2024

SC Court of Appeals

The Defendant, Robert Ashley Wheeler, requests the Court to reconsider the sentence in the above captioned matter.

Having duly considered the motion to reconsider of the Defendant, this Court has determined that its original sentence is fully supported by the law and the evidence and is hereby ratified and reconfirmed. The motion to reconsider the sentence is DENIED without hearing.

Manning, South Carolina

Dated: April 10, 2024

R. Ferrell Cothran, Jr.
 R. Ferrell Cothran, Jr.
 Judge, Third Judicial Circuit

CERTIFIED TRUE COPY
 OF ORIGINAL FILED IN THIS OFFICE

DATE 4/18/2024

Beulah B. Roberts
 CLERK OF COURT
 CLARENDON COUNTY, SC

RECEIVED

APR 22 2024
SC Court of Appeals

CERTIFIED TRUE COPY
OF ORIGINAL FILED IN THIS OFFICE

DATE 4/19/2024

Bonnie B. Roberts
CLERK OF COURT
CLARENDON COUNTY, SC

DOCKET NO. 2021-GS-14-0398

The State of South Carolina

County of CLARENDON

COURT OF GENERAL SESSIONS

October TERM 2021

THE STATE

vs.

ROBERT ASHLEY WHEELER, III

Indictment for

Burglary - First degree;
Possession of a Weapon During a Violent Crime;
Attempted Murder (7 Counts); and
Possession of a Weapon by a Person Convicted of a
Crime of Violence

Ernest A. Finney III

ERNEST A. FINNEY, III, SOLICITOR

WITNESSES

Clarendon County Sheriff's Office:

Sheriff Tim Baxley Contrell Watson

Robert Shearer Andrew Beasley

Thomas Huckaby Joseph Brancato

Matthew Stone William Secrist

Genesis Aranda Randy Jones

Mark Justice Joshua Jackson

Katherine Coker Zackary Coker

ARREST WARRANT NUMBER

2021A141020088 2021A1410100150 2021A1410100145

2021A1410100149 2021A1410100148 2021A1410100140

2021A1410100143 2021A1410100139 2021A1410100142

2021A1410100141

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date: 10/21/21

VERDICT

Foreperson of Petit Jury

Date:

DATE 4/19/2024

Paul B. Roberts

CLARENDA COUNTY SOUTH CAROLINA)
CLARENDA COUNTY, SC

COUNTY OF CLARENDA)

RECEIVED

APR 22 2024

SC Court of Appeals

INDICTMENT FOR

Burglary - First degree;
Possession of a Weapon During a Violent Crime;
Attempted Murder (7 Counts); and
Possession of a Weapon by a Person Convicted of a Crime of
Violence

At a Court of General Sessions, convened on October 21, 2021 the Grand Jurors of
CLARENDA County present upon their oath:

COUNT ONE - BURGLARY, 1ST DEGREE

That ROBERT ASHLEY WHEELER, III did in Clarendon County on or about May 12, 2021 enter the dwelling
of located at [REDACTED], Turbeville without consent and with the intent to commit a crime therein and
when, in effecting entry or while in the dwelling or in immediate flight, the defendant was armed with a deadly
weapon, remained in the home in the nighttime, and used or threatened to use a dangerous instrument, to wit:
remained inside the residence during the nighttime, armed himself, and fired shots at deputies outside the home, in
violation of Section 16-11-0311(A), Code of Laws of South Carolina, 1976, as amended.

COUNT TWO - POSSESSION OF A WEAPON DURING A VIOLENT CRIME

That ROBERT ASHLEY WHEELER, III did in Clarendon County on or about May 12, 2021, possess a firearm,
or visibly display what appeared to be a firearm, or visibly displayed a knife, during the commission or attempted
commission of a violent crime, to wit: Defendant did enter and remain the home of Katherine and Zackary Coker,
became armed with a firearm, and fired the firearm at deputies outside the residence, in violation of Section 16-23-
0490, Code of Laws of South Carolina, 1976, as amended.

COUNT THREE - ATTEMPTED MURDER

That ROBERT ASHLEY WHEELER, III did in Clarendon County on or about May 12, 2021, with the intent to
kill another person, to wit: Sgt. Thomas Huckaby, with malice aforethought, either express or implied, by means of
shooting at the victim with a firearm while unlawfully entering and remaining in the residence of another, in
violation of Section 16-3-29, Code of Laws of South Carolina, 1976, as amended.

COUNT FOUR - ATTEMPTED MURDER

That ROBERT ASHLEY WHEELER, III did in Clarendon County on or about May 12, 2021, with the intent to
kill another person, to wit: Sr. Inv. Contrell Watson, with malice aforethought, either express or implied, by means
of shooting at the victim with a firearm while unlawfully entering and remaining in the residence of another, in
violation of Section 16-3-29, Code of Laws of South Carolina, 1976, as amended.

COUNT FIVE - ATTEMPTED MURDER

That ROBERT ASHLEY WHEELER, III did in Clarendon County on or about May 12, 2021, with the intent to
kill another person, to wit: Deputy Joseph Brancato, with malice aforethought, either express or implied, by means
of shooting at the victim with a firearm while unlawfully entering and remaining in the residence of another, in
violation of Section 16-3-29, Code of Laws of South Carolina, 1976, as amended.

ATTACHED TO AND BECOMING PART OF THE ORIGINAL INDICTMENT FOR 2021-GS-14-0398
WITH THE AFORESAID NAME OF ROBERT ASHLEY WHEELER, III SHOWN THEREON:

COUNT SIX - ATTEMPTED MURDER

That **ROBERT ASHLEY WHEELER, III** did in Clarendon County on or about May 12, 2021, with the intent to kill another person, to wit: Lt. Matthew Stone, with malice aforethought, either express or implied, by means of shooting at the victim with a firearm while unlawfully entering and remaining in the residence of another, in violation of Section 16-3-29, Code of Laws of South Carolina, 1976, as amended.

COUNT SEVEN - ATTEMPTED MURDER

That **ROBERT ASHLEY WHEELER, III** did in Clarendon County on or about May 12, 2021, with the intent to kill another person, to wit: Agent William Secrist, with malice aforethought, either express or implied, by means of shooting at the victim with a firearm while unlawfully entering and remaining in the residence of another, in violation of Section 16-3-29, Code of Laws of South Carolina, 1976, as amended.

COUNT EIGHT - ATTEMPTED MURDER

That **ROBERT ASHLEY WHEELER, III** did in Clarendon County on or about May 12, 2021, with the intent to kill another person, to wit: Agent Genesis Aranda, with malice aforethought, either express or implied, by means of shooting at the victim with a firearm while unlawfully entering and remaining in the residence of another, in violation of Section 16-3-29, Code of Laws of South Carolina, 1976, as amended.

COUNT NINE - ATTEMPTED MURDER

That **ROBERT ASHLEY WHEELER, III** did in Clarendon County on or about May 12, 2021, with the intent to kill another person, to wit: Inv. Randy Jones, with malice aforethought, either express or implied, by means of shooting at the victim with a firearm while unlawfully entering and remaining in the residence of another, in violation of Section 16-3-29, Code of Laws of South Carolina, 1976, as amended.

**COUNT TEN - POSSESSION OF A WEAPON BY A PERSON CONVICTED OF A VIOLENT
CRIME**

That **ROBERT ASHLEY WHEELER, III** did in Clarendon County on or about May 12, 2021, possess a Taurus 9mm G2C handgun while unlawfully entering and remaining in the residence of another, and Defendant has a prior conviction of Burglary 2nd Degree (Violent) which prohibits him from possessing a firearm, in violation of Section 16-23-10, Code of Laws of South Carolina, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made

and provided.

**CERTIFIED TRUE COPY
OF ORIGINAL FILED IN THIS OFFICE:**

DATE 4/19/2024

Paul B. Roberts
CLERK OF COURT
CLARENDON COUNTY, SC

Solicitor

Ernest A. Fin III

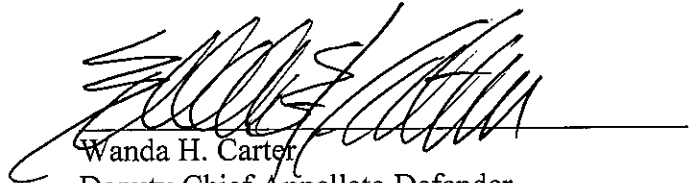
Sep 16 2024

CERTIFICATE OF COUNSEL FOR APPELLANT

SC Court of Appeals

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with 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."

Respectfully Submitted,



Wanda H. Carter
Deputy Chief Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S.C. 29211-1589

ATTORNEY FOR APPELLANT

This 16th day of September, 2024.

RECEIVED

Sep 16 2024

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Clarendon County

Honorable R. Ferrell Cothran, Circuit Court Judge

THE STATE,

RESPONDENT,

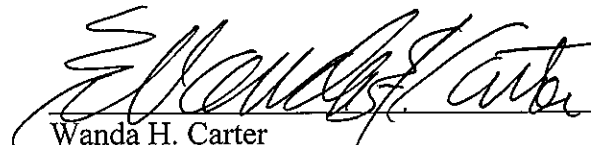
V.

ROBERT ASHLEY WHEELER,

APPELLANT

CERTIFICATE OF SERVICE

Pursuant to Rule 262(a)(3) and Rule 262(c)(3), SCACR, the undersigned hereby certifies a true copy of the Record on Appeal in the above referenced case has been served upon Mark R. Farthing, Esquire, at the primary e-mail address listed in the Attorney Information System (AIS) this 16th day of September, 2024.



Wanda H. Carter
Deputy Chief Appellate Defender