

State of South Carolina)
County of Chesterfield)
State of South Carolina)
vs.)
Michael Lamont Watts,)
Defendant.)

IN THE COURT OF GENERAL SESSIONS
FOURTH JUDICIAL CIRCUIT

2024 MAR 11 A 9 20

Indictment Nos. 05-GS-13-477, 05-GS-13-0476,
05-GS-13-0473, 05-GS-13-0471,
05-GS-13-499

Christy F. Gaddy
CLERK OF COURT
CHESTERFIELD COUNTY, S.C.

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SC Court of Appeals

PROPOSED ORDER DENYING
MOTION FOR NEW TRIAL

The Defendant, Michel Lamont Watts, by and through his counsel, **Elizabeth Franklin-Best, of Elizabeth Franklin-Best, P.C.**, moved this Court for relief of a new trial based on after-discovered evidence on June 3, 2022. The State, by and through counsel, **Deputy Solicitor Kernard E. Redmond of the Fourth Circuit Solicitor’s Office**, responded to the above motion on June 15, 2022. A hearing was held on the matter by **The Honorable Paul M. Burch** on April 26, 2023. The Defendant along with his above referenced counsel and counsel for the State were present at the hearing.

Findings of Fact

In the issue of a new trial based on after-discovered evidence, this Court makes the following findings of fact. On August 1st, 2007, the Defendant was convicted of escape (05-GS-13-0477), discharging firearms into an occupied building (05-GS-13-0476), assault and battery with the intent to kill (“ABWIK”) of David Evans (05-GS-13-0473), murder of Clifton Funderburk, Jr. (05-GS-13-0471), and possession of a weapon during the commission of certain crimes (05-GS-13-0499) after a jury trial in front of the Honorable Paul M. Burch in Chesterfield County, South Carolina. At the conclusion of the three day trial, the Defendant was sentenced to

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life without parole for the murder conviction, with additional concurrent terms for the remaining charges.

The indictments and conviction stemmed from a shooting that occurred on November 28, 2004, at Matrix, a club located in Pageland, South Carolina. The State, represented by Assistant Solicitors Franklin Joyner and Kevin Hales, presented to the jury that after an argument involving the Defendant and Victims at Matrix, the Defendant exited the club, retrieved a firearm from his vehicle, and then discharged the weapon inside the club, fatally shooting Clifton Funderburk, Jr., and injuring David Evans and another man.

The State called various witnesses to prove its version of events including Detective Larry Brown, who served as both an eyewitness and lead investigator in the case. Detective Brown, who was working off duty as a security officer at Matrix at the time of the shooting, identified the Defendant as the shooter and further described the Defendant as leaving the club to get a firearm and then returning and shooting the victims inside of the club. Detective Brown further collected, transported, and delivered into evidence both a firearm from the Defendant's vehicle and expended shell casings from the club the South Carolina Law Enforcement Division (SLED). Detective Brown also testified that he completed an incident report based on his recollection of the night's events and personally photographed some aspects of the scene to include the floor of Matrix where the murder victim had collapsed following the shooting. The Defendant made a statement to another investigator admitting he retrieved a firearm but that he did not remember shooting anyone and believed he shot the firearm into the air. Additionally, the record reflects that several other witnesses testified from different vantage points to seeing the Defendant being involved in an altercation, going to his car and get his firearm, cocking it, and going back inside the club, and discharging his weapon inside and then outside the club.

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These witnesses included David Evans, Latoya Miller, Tyrone Miller, Charles Miller, Kevin Johnson, Dewayne Miller, Angelo Mason, Tameka Austin, and Michael Tresdale.

The Defendant hired a private investigator, Brian Setree, to review evidence related to his conviction. On October 13, 2021, Setree made a Freedom of Information Act Request (FOIA) which was received on November 6, 2021. On that date, the Defendant became aware of a letter sent to Detective Larry Brown from Chief of Police John W. Sowell, Jr., which indicated he was not allowed to work at the Matrix off duty on the date of the shooting. Chief Sowell further indicated that for Detective Brown to work at Matrix, would be a violation of police department policies.

The Defendant posits that had this information been disclosed, trial counsel would have been able to use this information to challenge the credibility of Detective Brown as a witness and the credibility of the investigation as a whole. The Defendant contends that he should be granted a new trial. The State contends that this after-discovered evidence was not material to the outcome of the case and other evidence, particularly the numerous witnesses who testified, nullifies the materiality of the letter. Therefore, the State requests the motion for a new trial be denied.

Conclusion

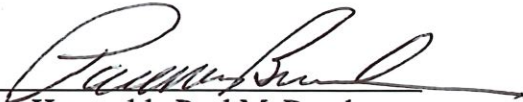
Based on the arguments of counsel at the hearing, information submitted to the Court by counsel, and the prior record in this case, this Courts finds that under SCRP Rule 29(b) and S.C. Code Ann. § 17-27-20(A)(4) (2014), that a new trial is not warranted based on after-discovered evidence.

Therefore, the Defendant's request for relief of a new trial is hereby DENIED.

AND IT IS ORDERED.

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The Honorable Paul M. Burch
Presiding Judge Fourth Judicial Circuit

March 11th, 2024
Chesterfield County, SC

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