

APPENDIX

RECEIVED

APR 27 2015

S.C. Supreme Court

APPENDIX

**THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE  
CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING  
EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.**

**THE STATE OF SOUTH CAROLINA  
In The Court of Appeals**

The State, Respondent,

v.

Maurio Daetrel Rivers, Appellant.

Appellate Case No. 2012-213729

---

Appeal From Colleton County  
Diane Schafer Goodstein, Circuit Court Judge

---

Unpublished Opinion No. 2014-UP-441  
Heard November 5, 2014 – Filed December 3, 2014

---

**AFFIRMED**

---

Appellate Defender Carmen Vaughn Ganjehsani, of  
Columbia, for Appellant.

Attorney General Alan McCrory Wilson and Assistant  
Attorney General Mary Shannon Williams, both of  
Columbia, for Respondent.

---

**PER CURIAM:** Maurio Rivers appeals his conviction for attempted murder, arguing the trial court erred in denying his motion for a directed verdict and not instructing the jury as to the required specific intent to kill for an attempted murder conviction. We affirm pursuant to Rule 220(b), SCACR, and the following

authorities: *State v. Baccus*, 367 S.C. 41, 48, 625 S.E.2d 216, 220 (2006) ("In criminal cases, the appellate court sits to review errors of law only."); *State v. Odems*, 395 S.C. 582, 586, 720 S.E.2d 48, 50 (2011) ("On appeal from the denial of a directed verdict, [the appellate court] must view the evidence in the light most favorable to the State."); *id.* ("[I]f there is any direct or *substantial* circumstantial evidence reasonably tending to prove the guilt of the accused, an appellate court must find the case was properly submitted to the jury.") (emphasis in original); *Clark v. Cantrell*, 339 S.C. 369, 389, 529 S.E.2d 528, 539 (2000) ("An appellate court will not reverse the trial court's decision regarding jury instructions unless the trial court abused its discretion."); *id.* ("An abuse of discretion occurs when the trial court's ruling is based on an error of law or, when grounded in factual conclusions, is without evidentiary support."); *Sheppard v. State*, 357 S.C. 646, 665, 594 S.E.2d 462, 472-73 (2004) (holding "the trial court is required to charge only the current and correct law of South Carolina" and stating "[a] jury charge is correct if it contains the correct definition of the law when read as a whole").

**AFFIRMED.**

**FEW, C.J., and LOCKEMY, J., and CURETON, A.J., concur.**

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM COLLETON COUNTY  
Court of General Sessions

Honorable Diane Goodstein, Circuit Court Judge

Case No. 2011-GS-15-00549  
Appellant Case No. 2012-213729

Maurio D. Rivers,

Petitioner

v.

Allan McCrory,

Respondent

PETITION FOR REHEARING  
AND  
PETITION FOR REHEARING EN BANC

Maurio D. Rivers  
#232669  
Broad River  
Correctional Institution  
4460 Broad River Rd.  
Columbia, SC 29210  
s/ Prose Petitioner

Tamiki Cobb  
205 New Zion Rd  
Promise Land,  
South Carolina 29819  
(864) 321-2058  
Prose Assistant

Other Counsel of Record:  
Carmen V. Ganjehsani  
PO Box 11433  
Columbia, SC 29211-1433  
**TEL:** 803.734.1343  
**FAX:** 803.734.1345

## QUESTIONS PRESENTED

1. Did the court correctly find trial court judge Diane Goodstein's action of giving an example of the term "Hand of One Hand of All" rather than the law definition alone appropriate or was her action overlooked? As it relates to her not instructing the jury as to the required specific intent to kill for an attempted murder conviction; did the court of appeals consider that Goodstein's example was given as a personal interpretation of the law, in which the jury was convinced of Maurio D. River's guilt still without proper understanding of the law itself but now having a proper understanding of the trial judge's personal opinion of Rivers' guilt expressed through her example?
2. Is it appropriate to conclude that the definition of the law given is correct when there are examples provided directly following the definition that could be easily misinterpreted or subconsciously sway the jury?

**TABLE OF CONTENTS**

QUESTIONS PRESENTED.....3  
ARGUMENT.....4  
CONCLUSION.....5  
PROOF OF SERVICE.....6

ARGUMENT B

Petitioner petitions the Court for a re-hearing in this case on the following grounds:

1. The State failed to establish that Appellant had the required specific intent to kill as required by S.C. Code ANN. 16-3-29.

Assuming arguendo that there was sufficient evidence that Appellant and Shelly were acting together to flee or elude law enforcement, Appellant is nevertheless entitled to a directed verdict on the charge of attempted murder, where there is no evidence that ~~he~~ <sup>the Appellant</sup> possessed the requisite specific intent to kill as required by S.C. Code ANN 16-3-29.

Attempted murder is defined by statute as: "A person who, *with intent to kill*, Attempts to kill another person with malice a forethought, either expressed or implied, commits the offense of attempted murder." ~~16-3-29~~ (emphasis added). This statute became effective on June 2, 2010 and replaced the former common law statute of assault and battery with intent to kill, former S.C. ~~Code~~ <sup>Code</sup> ANN. 16-3-~~29~~ <sup>29</sup>.

The statute defining attempted murder requires a specific intent to kill. In State v. Sutton, 340 S.C.393, 532 S.E.2d 283 (2000), the South Carolina Supreme Court declined to recognize the offense of attempted murder, which had not yet been codified. The court, in its reasoning, observed that an attempt to commit murder requires a specific intent to kill. There were three guns recovered from the wreck scene. One gun was found on the ground after the vehicle was rolled up right. Tr. P 106, 11. 9-18. Another gun was found lying in plain view while the vehicle was still upside down. Tr. P 109, 11. 1-4. The last gun was found inside the glove box of the black vehicle. Tr. 111, 11. 22-24.

It is clear that the appellant did not intend to murder an attempt to retrieve a weapon. The record shows that his capture. The record also reflects that he ran in the opposite direction from the passenger. Tr. 70, 1P.17-24. The State argued that the appellant's conduct indicated his continued concern with his passenger. The record reflects that he ran away from the passenger as well as

**CONCLUSION**

For the above reasons the petitioner requests that the court grant a rehearing.

**PROOF OF SERVICE OF A PETITION FOR REHEARING**

THE STATE OF SOUTH CAROLINA  
In The Court Of Appeals

---

**Appellate Case No. 2012-213729**

---

The State, Respondent

v.

Maurio Daetrel Rivers, Appellant

---

**PROOF OF SERVICE**

---

at I have served the notice of A Petition for Rehearing on the Court of Appeals by a copy of it in the United States Mail, postage prepaid, on December 17, 2014 addressed to Jenny Abbott Kitchings Clerk of Court P.O. Box 11629 Columbia, SC 29211

I certify that I have served the notice of A Petition for Rehearing on the The State by depositing a copy of it in the United States Mail, postage prepaid, on December 17, 2014 addressed to Alan McCrory Wilson and Mary Shannon Williams P.O. Box 11549 Columbia, SC 29211-1549.

I certify that I have served the notice of A Petition for Rehearing on the former attorney for appellant by depositing a copy of it in the United States Mail, postage prepaid, on December 17, 2014 addressed to Carmen V. Ganjehsani PO Box 11433 Columbia, SC 29211-1433

December 17, 2014

s/ Maurio D. Rivers. Per Se  
Hope T. Rivers  
Obo/Maurio D. Rivers  
1928 Summey Ave  
Charlotte NC 28205  
980.267.6128



# The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS  
CLERK

V. CLAIRE ALLEN  
DEPUTY CLERK

POST OFFICE BOX 11629  
COLUMBIA, SOUTH CAROLINA 29211  
1220 SENATE STREET  
COLUMBIA, SOUTH CAROLINA 29201  
TELEPHONE: (803) 734-1890  
FAX: (803) 734-1839  
[www.sccourts.org](http://www.sccourts.org)

April 17, 2015

Maurio Daetrel Rivers, 232669  
Broad River Correctional Institution  
4460 Broad River Road  
Columbia SC 29210

Re: The State v. Rivers, Maurio Daetrel  
Appellate Case No. 2012-213729

Dear Mr. Rivers:

Enclosed is a copy of an order of the panel denying your petition for rehearing. Your petition for rehearing en banc was distributed to the judges, but it has been rejected. *See* Rule 219, SCACR.

Very truly yours,

Handwritten signature of Jenny Abbott Kitchings in black ink.  
CLERK

cc: Mary Shannon Williams, Esquire  
Alan McCrory Wilson, Esquire  
Isaac McDuffie Stone, III, Esquire

Mark Reynolds Farthing, Esquire  
Laura Ruth Baer, Esquire  
The Honorable Diane Schafer Goodstein

# The South Carolina Court of Appeals

The State, Respondent,

v.

Maurio Daetrel Rivers, Appellant.

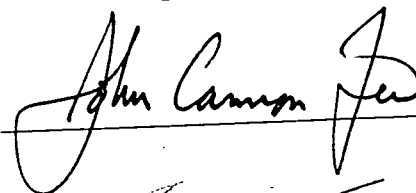
Appellate Case No. 2012-213729

---

## ORDER

---

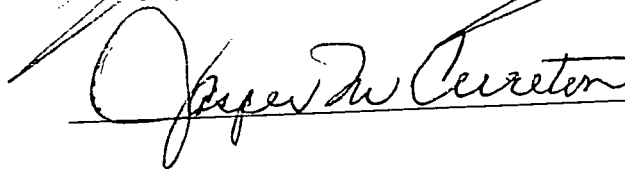
After careful consideration of the petition for rehearing, the Court is unable to discover that any material fact or principle of law has been either overlooked or disregarded, and hence, there is no basis for granting a rehearing. Accordingly, the petition for rehearing is denied.



C.J.



J.



A.J.

Columbia, South Carolina

cc:

Maurio Daetrel Rivers, 232669  
Mary Shannon Williams, Esquire  
Alan McCrory Wilson, Esquire  
Isaac McDuffie Stone, III, Esquire  
Mark Reynolds Farthing, Esquire

Laura Ruth Baer, Esquire

**FILED**

April 16, 2015