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THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM SALUDA COUNTY
DeAndrea G. Benjamin, Circuit Court Judge

Appellate Case No: 2014-002715

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MAR 03 2016

SC Court of Appeals

THE STATE

RESPONDENT,

v.

JOHNNY JEROME BOYD

APPELLANT.

SUPPLEMENTAL RECORD ON APPEAL

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INDEX

TRIAL TRANSCRIPT PAGES 40-46.....1
CERTIFICATE OF COUNSEL.....8

1 THE COURT: All right.

2 (The jury returns to the courtroom.)

3 THE COURT: All right. Good morning, ladies and
4 gentlemen of the jury. At this time I apologize for the
5 delay. Sometimes we are in here handling matters that
6 cannot be brought up in front of you and so therefore
7 we'll have you stay in the jury room during that time.
8 I'm going to give you some introductory remarks, but at
9 this time I'm going to ask the clerk to swear you in.

10 (The jury was duly sworn by the Clerk of Court at
11 10:41 a.m.)

12 THE COURT: All right. Juror number 145, Ms. Ouzts,
13 I'm going to ask you to serve as our forelady in this
14 case so you two will need to change seats. Thank you.

15 Ladies and gentlemen of the jury, at this time what
16 I would say now is intended to serve as an introduction
17 to the trial of this case. These remarks are not a
18 charge on the law in this case. I will instruct you on
19 the law applicable to this case at the end of the trial
20 before you retire to consider your verdict. This is
21 merely an explanation of the procedure that we will
22 follow in the trial of this case so that you may better
23 understand what may be happening.

24 You are not to take notes during this trial. The
25 defendant in this case is charged by an indictment filed

1 with this court for the crime of attempted murder the
2 elements of which will be explained to you later. The
3 indictment is simply the charge by which the case is
4 brought into court and it is not in any sense evidence
5 of any of the allegations it contains. The defendant
6 has pled not guilty to this indictment. The state
7 therefore has the burden of proving each of the elements
8 of the indictment beyond a reasonable doubt. And it
9 will be your duty, ladies and gentlemen, to decide
10 whether the state has met that burden.

11 Your purpose as jurors is to find and determine the
12 facts. You are the sole judges of the facts in this
13 case. If at any time I make any comment regarding the
14 facts, you must disregard it. You are to determine the
15 facts from the testimony you hear and the other evidence
16 introduced in court. It is up to you to determine the
17 emphasis which you feel may properly be drawn from the
18 evidence. It is especially important that you perform
19 your duty of determining the facts diligently and
20 conscientiously because ordinarily there is no way to
21 correct an erroneous determination of the facts by a
22 jury.

23 On the other hand and with equal emphasis the same
24 law that makes you the judges of the facts in this case
25 makes me the judge of the law. The law as given by the

1 court is the only law you may consider. You must accept
2 and follow it even though you may disagree with it. I
3 cannot tell you what the facts are and you cannot
4 disagree with me about what the law is or what the law
5 should be. Your job is to take the law as I give it to
6 you and apply it to the facts as you find them from the
7 testimony of the witnesses and any other evidence that's
8 introduced. After doing that, you will render your
9 verdict, a true and just verdict under the solemn oath
10 that you just took as jurors.

11 Until I advise you to begin your deliberations, you
12 must not discuss this case with anyone including your
13 fellow jurors, friends, family members, or anyone
14 involved in the case. This includes discussions
15 face-to-face and those by telephone, e-mail, text,
16 blogs, or any other method of communication.

17 After the case is submitted to you, you must discuss
18 it only in the jury room with your fellow jurors. The
19 attorneys and parties in this case have been advised
20 that they are not to talk to you at all. So if you see
21 anyone involved in the case and they do not even say
22 hello, they're not being unfriendly, they're just
23 following my instructions.

24 During the trial do not read, listen to, watch any
25 news reports about this case. This includes anything

1 that may be in the newspapers or on the Internet, radio
2 or television. As I said to you yesterday, do not do
3 any independent research regarding any issue that may
4 come up in this case. Do not do any social networking
5 regarding your service on the jury. You must not
6 consider anything you may have heard or read about the
7 case outside the courtroom whether before or during the
8 trial.

9 It is important that you keep an open mind and not
10 decide any issue in the case until all of the evidence
11 has been presented, the parties have presented their
12 closing arguments, and I have instructed you on the law
13 in this case.

14 It is your solemn responsibility to determine the
15 guilt or innocence of the defendant and your verdict
16 must be based solely on the evidence as it is presented
17 to you in this trial and on the law as I instruct you
18 during and at the close of the trial.

19 In just a moment the Solicitor will make what is
20 called an opening statement in which the Solicitor will
21 explain to you the issues in the case or at least what
22 the Solicitor thinks the issues are in this case. The
23 attorney for the defendant may also make an opening
24 statement, although he is not required to do so. What
25 the attorneys tell you during the open statements is not

1 evidence in this case. It is only their contention as
2 to what the issues are. The evidence in this case will
3 be presented to you by the testimony and sworn witnesses
4 from this witness stand and/or by exhibits that may be
5 introduced into evidence.

6 From time to time during the trial you may hear one
7 of the lawyers say something like, Your Honor, I believe
8 we have a question of law or a matter of law to discuss
9 with you. Or, Your Honor, may we approach the bench?
10 Or sometimes I myself might find it necessary to excuse
11 you from the courtroom for a short while so the
12 attorneys and I can discuss a matter of law. The reason
13 for this is because you are the judges of the facts in
14 this case and sometimes when I am discussing matters of
15 law with the attorneys, it may be necessary for me to
16 make some comment as to the facts in connection with the
17 ruling on whether or not a particular law applies. I'm
18 not supposed to tell you what I think the facts are so I
19 will excuse you from the courtroom while these
20 discussions take place so that you in no way will be
21 influenced by anything that I may say or do in
22 connection with the facts.

23 In determining what the true facts are in this case
24 you must decide whether or not the testimony of the
25 witnesses are believable. It is my responsibility to

1 rule on matters of law as to whether certain testimony
2 is admissible at all, but once the testimony is
3 admitted, whether or not you believe it is solely for
4 you to determine. And in deciding whether to believe a
5 witness you have the right to consider the interest of
6 any witness, the bias of any witnesses, the prejudice of
7 any witness, the opportunity for the witness to have
8 seen matters and things about which the witness may
9 testify, and the way the witness acts on the witness
10 stand. You have the right to consider anything that is
11 in the record that will help you evaluate the testimony
12 of the witness. That means that it is your duty to pay
13 close attention to these witnesses, to observe the
14 witnesses, to listen to the witnesses, and pay close
15 attention to the attorneys in the court. Do not let
16 your thoughts wander, but give strict attention to the
17 testimony in this case so that at the end of all of the
18 testimony, after the arguments of counsel, and the
19 charge on the law by the Court, you will be in a
20 position to determine what the true facts are and apply
21 the law to those facts and thus render a true and just
22 verdict.

23 It is your added duty, Madam Forelady, to preside in
24 the jury room and be the jury's spokesperson here in the
25 courtroom. It will also be your duty to write the

1 verdict on the verdict form, but I will give you further
2 instructions about that at the conclusion of the case.
3 In order to preserve everyone's rights I will give the
4 parties an opportunity to object to anything that I have
5 said.

6 Any exceptions or objections from the state?

7 MR. YOUNG: No, ma'am.

8 THE COURT: Any from the defense?

9 MR. CASTO: No, Your Honor.

10 THE COURT: All right. Ladies and gentlemen of the
11 jury, at this time we will begin the trial. I will ask
12 Mr. Young to begin with his opening statement.

13 MR. YOUNG: Thank you, Your Honor.

14 Folks, I want to apologize for my voice. It's kind
15 of raspy this morning. I may come and go back and forth
16 to that water a little bit so bear with me.

17 Ladies and gentlemen, on the 15th of September,
18 2013, at 135 Sandy Bottom Road law enforcement was
19 dispatched to this event location in response to a call
20 from Latoya Abney. The call from Latoya Abney was
21 recorded. It's on audio tape. She is live action open
22 mic. You can hear what's going on. She is in
23 conversation with the dispatcher and she has left her
24 house and she is outside her house and she has left
25 Johnny Jerome Boyd, that man sitting right over there,

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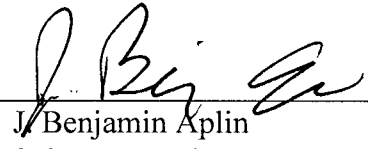
CERTIFICATE OF COUNSEL

MAR 03 2016

SC Court of Appeals

Counsel for Appellant certifies that this Supplemental Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

BY: _____



J. Benjamin Aplin
S.C. Bar No: 8729

March 3, 2016