

STATE OF SOUTH CAROLINA  
COUNTY OF CHARLESTON

IN THE COURT OF GENERAL SESSIONS  
NINTH JUDICIAL CIRCUIT

2016 JUN 15 - AM 10:50

INDICTMENT Nos. 2015-GS-10-2684;  
2015-GS-10-2685; 2016-GS-10-3318

STATE OF SOUTH CAROLINA,

JULIE J. ARMSTRONG  
CLERK OF COURT

vs.

BY

*[Handwritten Signature]*

**DEFENDANT'S NOTICE OF MOTION  
AND MOTION TO RESTATE  
OBJECTIONS RAISED DURING TRIAL  
AND PLACE SIDE BAR RULINGS IN  
THE RECORD**

RHAJON AKEEM RESHAE SANDERS,  
Defendant.

**RECEIVED**

AUG 29 2016

TO THE HONORABLE ROGER YOUNG, PRESIDING JUDGE AND NINA SALVAS,  
ASSISTANT SOLICITOR FOR NINTH CIRCUIT SOLICITOR'S OFFICE:

SC Court of Appeals

The Defendant, by and through his undersigned counsels, hereby move to restate objections raised during the trial and place in the record rulings made during the trial at side bar.

The Defendant's counsel raised objections during the trial and most of them were overruled. The basis of the Court's decisions were rarely addressed on the record. The Defendant's counsel made an attempt to seek clarification for the Court's rulings by requesting a side bar conference and was unaware that the side-bar conferences were not on the record. To ensure an accurate record for purposes of appeal, the Defendant's counsel requested an opportunity to restate her objections and side bar rulings in the record. The Court agreed to allow Defendant's counsel to place previously raised objections on the record and to place side bar conference discussions on the record. The Defendant's counsel was given ten (10) days following sentencing to provide her objections for the record.

Objection Number One (1) Raised: The Defendant questioned the witness, Nicholas Washington, on a photo depicting Kent Avenue. The witness, Nicholas Washington, clearly identified the photo as Kent Avenue and informed the Court that the picture is Kent Avenue, a more recent picture of the street, but nevertheless it was Kent Avenue. The

ATTEST: A TRUE COPY  
JULIE J. ARMSTRONG (SEAL)  
CLERK OF COURT  
By *[Handwritten Signature]*  
DEPUTY CLERK

Defendant's counsel attempted to admit the photo in evidence. The Assistant Solicitor objected to the admission of the photo clearly identified by the State's witness as Kent Avenue and requested a side bar conference. During side bar, the Court ruled that the photo was inadmissible because it was not taken the night of the shooting incident. The State of South Carolina's objection was sustained. The Defendant's counsel takes exception to this ruling. The Defendant's photo was later admitted into evidence after the Defendant brought to the Court's attention that the State of South Carolina admitted a photo of Kent Avenue taken by google maps after the shooting incident. The Court overturned its previous ruling by allowing the admission of the photo, but the witness, Nicholas Washington, testimony had concluded and he was released by the Court as a witness. The Defendant was unable to demonstrate through witness Nicholas Washington's testimony his location at the time the shots were fired. Nicholas Washington's location at the time that the shots were fired was critical in the Defendant's case. The Court's ruling prohibited the Defendant from offering testimony through Nicholas Washington that was critical to the issue in the case.

Objection Number Two (2) Raised: The Assistant Solicitor objected to the Defendant's admission of the witness, Nicholas Washington's, written statement signed December 26, 2014 after Mr. Washington acknowledged that he reviewed the statement, provided the accounts in the statement to law enforcement and signed the statement on December 26, 2014. The Defendant's counsel attempted to admit the previously written statement for impeachment purposes. The Court took a recess and allowed an explanation of the basis of the State's objection to admitting the evidence. During recess, the State of South Carolina argued that the proper foundation was not made for admission of the witness previous inconsistent statement because the witness did not identify who the officer was that wrote the

statement and only the officer could admit the evidence. The State continued to argue that the witness testified that the statement was truthful. The Court sustained the State's objection without stating a reason. The Defendant's counsel takes exception to the Court's ruling. The Court improperly ruled that a witness must identify the officer that took his statement and only the officer could admit the witness statement for impeachment purposes. The witness testified that he provided the contents of the written statement to the officer. The witness admitted to reviewing the statement prior to signing the document and the witness testified on cross examination differently from the written statement. The inconsistent statement should have been admitted into evidence for impeachment purposes.

Objection Number Three (3) Raised: The Assistant Solicitor objected to the witness, Katina Washington answering a question about whether the gate makes loud noise, as testified to by witness Nicholas Washington. The State objected on the basis of speculation. The Defendant's counsel take exception to the Court's ruling. The Court improperly prohibited the witness from testifying based on her personal knowledge of whether a gate she has used many times made noise.

Objection Number Four (4) Raised: The Assistant Solicitor objected to any line of questioning by the State's Witnesses Officer Stanley Tucker and Officer Rotthaus regarding the number of times each witness responded to the Defendant's neighborhood and street, Kent Avenue. The Court sustained the objection. The matter was taken up on side-bar. The Defendant's counsel informed the Court that the issue of the Defendant's neighborhood formed the Defendant's state of mind. The Defendant's counsel informed the Court that the neighborhood is relevant because the Defendant lives in a high crime neighborhood subject to shooting, robberies, and other criminal behavior. During side bar, the Court informed the

attorneys that a Defendant cannot live in an area and then refer to it as bad. The Defendant's counsel takes exception to this ruling. The Defendant's counsel believe that it was imperative that the jury was allowed to hear testimony about the Defendant's neighborhood's propensity for violence is relevant to assist the jury as factfinders and which formed his opinion and state of mind on December 26, 2014. The Court ruled that the Defendant's neighborhood was not on trial and any evidence relating to the conditions of the neighborhood for violence and criminal acts were inadmissible.

Objection Number Five (5) Raised: The Assistant Solicitor during cross examination of Defendant, Rhajon Sanders, inferred to the jury that the Defendant was reckless for having a loaded weapon on his person while on his property. The Defendant's counsel requested side-bar and moved to allow the testimony about the Defendant's neighborhood citing that the State of South Carolina had opened the door for such line of questioning by inferring to the jury that the Defendant was reckless in having possession of a loaded weapon while on his property. The Court's ruling restricting any mention of the violence in the Defendant's neighborhood prohibited the Defendant from answering the State's inquiry about having a firearm on his person. During the side bar conference, the Court ruled that the State of South Carolina did not open the door to such line of questioning. The Defendant's counsel take exception to the ruling.

Objection Number Six (6) Raised: The Assistant Solicitor on cross examination of witness Cynthia Sanders questioned her about whether she asked the neighbors if there were problems in the neighborhood. The witness testified that the neighbor did not relay any problems, but that the area was in a high crime area. The Defense requested side bar and informed the Court that the Assistant Solicitor's line of questioning opened the door to the

reputation of the neighborhood. The Court ruled that the Assistant Solicitor did not open the door and the witnesses may not testify to any propensity for violence in the neighborhood but could elicit testimony about Kent Avenue solely. The Court's ruling that the witnesses may testify to Kent Avenue after the Assistant Solicitor opened the door prejudiced the Defense because the witnesses such as Officer Routhhuas, Detective Rebecca Barfield, and PFC Shawn Perkins, testimony had concluded and were released from their subpoena. The Defensed did not have an opportunity to elicit testimony from these witnesses regarding their knowledge, interactions or involvement of Kent Avenue. The Defendant's counsel takes exception to the Court's ruling.

Objection Number Seven (7) Raised: The Defendant's counsel objected to the State's re-direct examination of SLED witness Jennifer Nates allowing the State to introduce evidence they failed to properly admit on direct examination. During direct examination, the State failed to introduce the gunshot residue kit in evidence. The Court informed the State of South Carolina that the line of questioning was re-direct and the State's response was that they had to get the evidence in. The Court overruled the Defendant's objection and allowed the State to introduce evidence that they failed to admit during direct examination and was not a proper line of questioning on redirect. The Defendant's counsel takes exception to the Court's ruling and the admission of the gunshot residue kit.

Objection Number Eight (8) Raised: The Defendant's counsel objected to the State's line of questioning to witness, Ferantez Sanders regarding jail phone calls with the Defendant. The jail phone calls were not introduced for impeachment purposes, but was wholly irrelevant. The Defendant's counsel requested side-bar. During side bar, the Court ruled that the Assistant Solicitor was not limited in her scope of questioning on cross examination, but that the

Defendant is limited on direct. The Defendant's counsel inquired whether the line of questioning must be relevant. South Carolina Rule of Evidence 611 does not allow a party to utilize cross examination as a mode to introduce irrelevant evidence. The Defendant's counsel takes exception to the Court's ruling that the State of South Carolina was not limited on her scope of questioning on cross examination and the testimony involving jail calls was improperly admitted into evidence during the trial.

Objection Number Nine (9) Raised: During the jury charge conference, the Defendant's counsel informed the Court that the State's witness, Nicholas Washington testified that his friend was killed in the neighborhood. The Defendant's counsel presented the Court with a rough draft transcript of the testimony as attached hereto as Exhibit "A". The Defendant's counsel informed the Court that the testimony was part of the record and that no one objected to the line of questioning and that the testimony was not struck from the record. The Court ruled that the Defendant's counsel was prohibited from making any reference to the witness Nicholas Washington's testimony where he stated his friend was killed in the Accabee community. The Court further admonish the Defendant's counsel on the record after the jury charge conference that if any reference to the community was made during closing remarks, the Court will deal the Defendant's counsel. The Defendant's counsel takes exception to the Court's ruling.


Objection Number Ten (10) Raised: During the Assistant Solicitor's closing argument, the Defendant's counsel objected several times that the statements made by the State was not in the evidence. The Court overruled the objection. The State of South Carolina continued to misinform the jury of evidence that was not in the record. The Defendant's counsel takes exception to the Court's ruling.


Objection Number Eleven (11) Raised: The Defendant's counsel objected to the jury charges. The Defendant proposed eight (8) jury charges attached hereto as Exhibit 'B'. The Court did not submit the proposed charge for good character. The proposed language was read into the record. The proposed jury charge for good character was supported by the evidence offered during the trial. During the jury charge conference in chambers the Court stated that "the boy's grandmother did testify to his character". The Defendant's grandmother did not testify. The Defendant's mother testified during this trial and clearly stated that her child has never given her any problems and gave examples of his good character. The Proposed Jury Charge for Good Character was supported by the evidence. The Court ruled that it will not submit the jury trial proposed by the Defendant's counsel. The Defendant's counsel take exception to this ruling.

Objection Number Twelve (12) Raised: The Defendant's counsel objected to the jury charges. The Defendant proposed eight (8) jury charges attached hereto as Exhibit 'B'. The Court did not submit the proposed charge for criminal intent. The proposed language was read into the record. The proposed jury charge for criminal intent was necessary to assist the jury with reaching a verdict. The issue before the Court was whether the Defendant possessed malice or criminal intent when he fired his weapon or fear. Criminal intent is necessary for the charge of attempted murder. During deliberations, the jury presented a question about malice. The Proposed Jury Charge for Criminal Intent would have aid the jury in determining whether the Defendant possessed a criminal intent or malice at the time he fired his weapon. The Defendant's counsel takes exception to the Court's ruling.


Objection Number Thirteen (13) Raised: The Defendant's counsel objected to the jury charges. The Defendant proposed eight (8) jury charges as attached hereto as Exhibit 'B'. The Court did not submit the self- defense act on appearances charge to the jury although the

evidence in the record supported an act on appearances charge. The Defendant and witness, Ferantez Sanders both testified that Nicholas Washington was standing across the street from their residence in all black in the dark. The Defendant and witness, Ferantez Sanders testified that Nicholas Washington placed his hands behind his back, started approaching the Defendant and reached towards his waistband. The Defendant fired his weapon based on his observations of Nicholas Washington. The State of South Carolina argued that the self-defense act on appearances charges is only appropriate when a weapon has been observed. The Assistant Solicitor referred to *State vs. Rouse*, 138 SC 98, 135 S.E. 641 (S.C. 1926) as a case supporting her position to exclude the self-defense act on appearances charge. However, in *State vs. Rouse*, the Court ruled that general charge offered by the Judge did cover the right of one to act on appearances and secondly the Defendant's counsel waived his right to argue because he failed to address it after the Court charged the jury. In this case, the Defendant's counsel requested the self-defense act on appearances did not allow the instruction for the act of appearances to be submitted to the jury because there was a general instruction that included the language. In this case, the Defendant's counsel requested the self-defense act on appearance charge based on the evidence in the record and the Court did not offer any charge that included such language. The Court ruled that the charge was not appropriate and did not submit to the jury. The Defendant's counsel take exception to the Court's ruling.

Respectfully submitted,  
  
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June 15, 2016

ATTEST: A TRUE COPY  
JULIE J. ARMSTRONG (SEALED)  
CLERK, P.F.S. & C.  
By   
DEPUTY CLERK

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CLERK OF COURT

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**EXHIBIT A**

- 1 enforcement to patrol that that area?
- 2 A. I mean that's a way through to get to Leeds for the  
3 police.
- 4 Q. Are you familiar with any type of incidents that  
5 have happened on in the Accabee community?
- 6 A. I mean.
- 7 Q. You go there pretty often?
- 8 A. Yeah.
- 9 Q. Yeah. Are you familiar with the different types of  
10 burglaries or robberies that happen in that community?
- 11 A. ~~I don't know anything about burglaries but~~  
12 ~~it have some boys who passed a while back that the~~  
13 ~~only thing that really happened around there that I know~~  
14 of.
- 15 Q. That you know of.
- 16 A. Yeah.
- 17 Q. But you been going there quite sometime?
- 18 A. Yeah.
- 19 Q. And you have not --
- 20 A. I live around there at one -- I didn't -- I lived  
21 around there at one point in time middle school. That's  
22 when I lived there.
- 23 Q. Where did you live?
- 24 A. I lived on Bailey Drive.
- 25 Q. Okay. Bailey Drive is not that far correct?

1 A. It's right there. I have people around there that  
2 know who I am.

3 Q. The people around there know who you are?

4 A. Yeah they just already like my family. We have the  
5 ~~dude across the street to fix my mom car.~~

6 Q. Across the street?

7 A. On Bailey Drive.

8 Q. That's not the address, the street in Kent Avenue  
9 is it?

10 A. No. Like a turn --

11 Q. Okay.

12 A. -- right down street and turn.

13 Q. So Accabee community you are aware of a friend of  
14 yours that was killed out there?

15 ~~\_\_\_\_\_ killed there.~~

16 Q. Are you familiar with any other incidents that  
17 happened in Accabee?

18 A. No not at all.

19 MS. SAVAS: Objection Your Honor asked answered.

20 THE COURT: Sustained.

21 Q. As far as your parents you say your grandparents  
22 lived there how long?

23 A. I can't tell you offhand but a good period of time  
24 like almost like five, six, six years or something like  
25 that. It was long though probably like I want to say

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**EXHIBIT B**