

**ORIGINAL**

**VOLUME II OF II**

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

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Appeal from Lancaster County

Honorable Thomas A. Russo, Circuit Court Judge

**RECEIVED**

**MAR 31 2017**

**SC Court of Appeals**

THE STATE,

RESPONDENT,

V.

BRANDON HUNTER KENNY RIVERS,

APPELLANT

APPELLATE CASE NO 2016-000402

\_\_\_\_\_  
RECORD ON APPEAL  
\_\_\_\_\_

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1 focusing on Chris. They just fired off from the gun.  
2 They're out in the roadway on a motorcycle just shooting.  
3 They going to shoot whoever is out there. They were there  
4 for everybody in that house. They didn't -- they didn't  
5 leave the house and said I'm going to go over there and  
6 kill every single person in that house, but whoever was  
7 out there was in their line of fire and there was no  
8 specific intent for a specific person. And that's why --  
9 Ronnie could have been hit just as easy as Chris. They're  
10 right there beside each other. Kacy could have been hit.  
11 Nobody is standing there, feet planted, shoulders squared  
12 up aiming, they're just firing off. That's why he's  
13 charged with all of them.

14 Now, you know, what's the motive behind this? What  
15 would lead Brandon Rivers to go shoot at these people?  
16 Well, the simple answer is that Kacy Noe called him a  
17 crackhead. Now, I don't think that that type of insult or  
18 comment would bring a reasonable person to the action to  
19 go shoot somebody, but I don't think we're dealing with a  
20 reasonable person in Brandon Rivers. I don't think he was  
21 in the mind frame to logically think this is probably a  
22 bad idea and not worth it because all she did was call me  
23 a crackhead.

24 He started off this day drinking Burnett's vodka,  
25 which is pretty much rubbing alcohol, taking Xanax and

1 smoking weed. I mean, he has not made a rational decision  
2 from the time he woke up that day until the time that he  
3 got arrested. He started off smoking, drinking, taking  
4 pills. Then getting on his motorcycle and riding around  
5 here, riding all around town. I went to this house, I  
6 went the this house. Taking pills, drinking. He's 18  
7 years old, but got somebody to buy him alcohol. He's  
8 riding around. He already told you he didn't have a  
9 license or insurance on the bike. Because allegedly  
10 that's why he ran because he didn't have insurance. And  
11 he told you he was on house arrest when this happened.

12 So first off, before he even decided to go get some  
13 Burnett's and pills, he took his ankle monitor off and  
14 left his house. So first wrong decision was taking his  
15 ankle monitor off, leaving his house, going looking for  
16 drugs, looking for alcohol, driving his motorcycle with no  
17 license, with no insurance. Then he goes to Kacy's house  
18 with Terry and Angie to confront Shane the first time.

19 And I asked him, I said, You're family with Terry,  
20 right? I don't consider him family. Well, he is family,  
21 it's his mom's brother. They are family. And he says, I  
22 don't consider them family. And the little girl, Emily,  
23 who this whole thing was about, I don't consider her  
24 family. Well, technically, it is his family. But he  
25 doesn't really care, but what he -- he knew before they

1 left Terry was going to confront Shane and Brandon had no  
2 business going over there. His mom even told him, Do not  
3 go over there. He said my mom said don't go, but I went  
4 anyway.

5 Getting back on his motorcycle, here he goes again.  
6 Gets to the house, knowing what the situation -- knowing  
7 it's going to be hostile there. And the only reason he  
8 leaves is because somebody threatens to call law  
9 enforcement and he's out of his house where he's supposed  
10 to be confined to on a GPS monitor that he's taken off.  
11 So the threat of law enforcement arrives, so he leaves.  
12 I'll give him credit. That was a good decision by him  
13 because law enforcement is coming.

14 Well, when he left there, he says he went back to his  
15 house and Brian is there. Mr. Grier said this is when  
16 Brian learns about all of this, about Emily getting yelled  
17 at by Shane. And that very well could be true, but Brian  
18 wasn't at the point there where he felt the need to go  
19 fight Shane. If he found out then, why would he not go  
20 then to confront Shane? Why would he go to his sister's  
21 -- I'm sure when he went to his sister's, she told him  
22 about it then. But if he found out about it there, it  
23 didn't rise to the level where I need to go there and, as  
24 everyone said, whip Shane's ass.

25 Something else happened to give them the umph to go

1 back over there. And what that was was Kacy texting Angie  
2 and say, Why did you bring that skinny crackhead over to  
3 my house? And Brandon saw it. Because when they're at  
4 Angie's house, Brian and Brandon are there. And Brian, as  
5 I said, he already knows this happened to Emily and he  
6 hadn't decided to go over there. Actually, he couldn't go  
7 over there because he didn't have a car. His  
8 transportation is walking. He was essentially homeless.  
9 He was bouncing around from Angie's house to somebody  
10 named Joanne's house to trying to stay at Brandon's house.

11 But if Brian found out earlier this happened, he had  
12 not decided to go back over there. He was -- obviously,  
13 he was mad, but from the moment that Kacy texted and  
14 called Brandon a skinny crackhead, that's when everything  
15 changed. That's when the two of them decided to go over  
16 there together, Brandon going to confront Kacy -- Brian  
17 now has back up. Now, he's got a muscle with him. He's  
18 got Brandon as back up and the two -- he's got a ride and  
19 the two of them are going over there for the sole purpose  
20 to confront Shane and fight. Kacy said that they were  
21 texting her that they were coming, she knew they were  
22 coming.

23 How did she know they were coming? Well, Angie could  
24 have told them. Angie said Brandon got her phone. She  
25 read it out loud and said Kacy called you a skinny

1 crackhead and, excuse me, what Brandon said was, Fuck  
2 that, I'm going back over there. And that's exactly what  
3 happened. She saw Brandon with a gun at her house before  
4 they left. She said, My brother doesn't deal with guns.  
5 Brian probably couldn't afford a gun. The only gun Brian  
6 had was a tattoo gun because, apparently, that's the only  
7 way he could make any money. She said Brandon had a gun.  
8 She said, Brian doesn't mess with guns. She said her mom  
9 committed suicide by shooting herself. The two of them  
10 don't go around guns.

11 And Angie, as I'm sure you vividly remember, didn't  
12 sugar coat anything. And I know some of you were laughing  
13 when she was up there because she was just telling it how  
14 it is. I mean, she was giving her brother just as hard a  
15 time as Brandon. She said, Yeah, my brother is a  
16 crackhead, so is Brandon Rivers. She even tried to have  
17 her brother locked up after this happened because she said  
18 that he stole her TV. So Angie is not trying to cover up  
19 for Brian. I don't think Angie actually even likes  
20 Brandon. I know she doesn't like Brandon, but I really  
21 don't think she even likes her brother. I think he's just  
22 a nuisance being around her and she doesn't like dealing  
23 with him. She tried to have him locked up that night.

24 But Angie said Brandon put -- she sees the gun, he  
25 puts it in another jacket. Now, first off, Brandon said

1 he's got two jackets on. I don't know why he's got two  
2 jackets on in September in South Carolina because he also  
3 has on shorts and flip-flops, his own testimony. He said  
4 Brian had on a T-shirt and blue jeans. And poor Tonya is  
5 out there and she's got her shorts on in January,  
6 February, September, whatever month it is. She wears  
7 shorts all year round. So why Brandon had two jackets on  
8 to start with, I don't know. But the conclusion of that  
9 is he had two jackets on because he had guns in them.  
10 25-caliber pistol that Investigator Taylor from CSI  
11 said -- and we asked him, How big a 25-caliber? It's a  
12 small gun. It's easily concealable, easy to fit in your  
13 pocket. That's what was firing shots in the road toward  
14 this car was Brandon Rivers with the gun.

15 Now, there's a lot of things that we do not know for  
16 certain, but there's some things that we do. We know that  
17 Brandon went to that house earlier that day and had no  
18 business going over there. And we know that Brandon was  
19 taking Xanax, drinking liquor, driving around drunk on his  
20 motorcycle. We know he was supposed to be locked up in  
21 his house on house arrest and he took his monitor off and  
22 left. Took his monitor off and left because he's going  
23 places he's not supposed to be. Technically, anywhere not  
24 his house is where he's not supposed to be and he's really  
25 not supposed to be over at somebody's house fighting where

1 he knows that law enforcement is coming. We know that no  
2 shots were fired except from the road. Nobody in this  
3 yard shot a gun. We know that there's gunshot residue in  
4 Brandon's pocket.

5 And Mr. Grier said why didn't they do gunshot residue  
6 on anybody at the scene? Nobody said anybody at the scene  
7 shot anything. And if he wants to do gunshot residue on  
8 this gun, what's that going to prove? Nothing. The gun  
9 doesn't even shoot anything. Well, is there DNA on it?  
10 Yeah, it's going to have DNA on it. Chris is sitting  
11 there laying on it. That doesn't prove anything. Not a  
12 single thing -- testing on this gun is going to prove  
13 anybody did anything with it.

14 And the one thing that stood out to me from  
15 Mr. Rivers is I asked him, I said, Why are you going over  
16 there to fight with these people? Do you have a problem  
17 with Chris Jones? No, sir. Do you have a problem with  
18 Ronnie Blackwell? No, sir. Are you friends with Brian  
19 Steele? No, sir, not really. Do you have a problem with  
20 anybody there? No, sir. I said, Well, if Brian gets in a  
21 fight, you going to jump in? Yeah, if it comes to that  
22 because if I'm with somebody, I'm with them till the end.  
23 That is a direct quote from Brandon Rivers, If I'm with  
24 somebody, I'm with them till the end.

25 And what that leads us to is Mr. Grier said the hand

1 of one, hand of all. Now, we've got, at least, three  
2 people saying Brandon is the shooter. And they said he's  
3 on the motorcycle, Brian comes in the yard, they go back.  
4 Brian says shoot these racial slur, Brandon starts  
5 shooting. He says -- Brian said -- and they thought it  
6 was over until they got out there and Brandon starts  
7 shooting. Gunshots definitely came from the bike, okay.

8 Now, Brandon said Brian shot. Hand of one, hand of  
9 all, nobody was shooting anybody unless Brandon Rivers  
10 drives his motorcycle with Brian Steele on the back over  
11 to that house. They brought this whole altercation to  
12 fruition. They brought this up. Without Brandon and  
13 Brian, none of this happens.

14 Now, honestly, I don't care if you think Brian is the  
15 shooter or Brandon is the shooter because the two of them  
16 went over there knowing what they were going to do was to  
17 fight, at least, fight. And one of them had a gun on them  
18 to start with because they didn't stop at the store and  
19 buy one on the way over there. They left Brian's sister's  
20 house with a gun, at least, one of them did.

21 Now, Brandon's testimony about how it led to going  
22 over there is Brian said, I need to go over there. And  
23 Brandon said, Sure, I'll give you a ride. That's pretty  
24 much how he said it. Brandon was not being a good  
25 samaritan by taking Brian over to this house. Brandon had

1 his own idea of what was going to happen. He had his own  
2 motive to go over there. Somebody had offended him over  
3 there. That was his family, too, that was in the episode  
4 earlier.

5 And like I said, you know, why would Brandon do this?  
6 Why would Brandon do any of this stuff? I mean, he hasn't  
7 shown one ounce of logic or reason or responsibility or  
8 any type of self-control since he woke up that morning.  
9 From the time he got up, started drinking, went over there  
10 to fight one time, left, went back again to fight and then  
11 ran from the police for 15 miles. He didn't do a single  
12 thing for you to have any reason to believe that he made  
13 any logical decision that whole day.

14 And for Mr. Grier to say mere presence does not mean  
15 hand of one, hand of all. If you think Brandon Rivers was  
16 merely present, then you probably think I've been merely  
17 present by sitting at this table in here all week.  
18 Brandon Rivers knew what was going on. He was involved.  
19 He brought it on himself, he brought it on Mr. Steele.  
20 Without him, without his motorcycle, without him going,  
21 without his back up, Brian Steele never goes over there.  
22 He admitted it, we went there for a confrontation, to  
23 fight. And somebody ended up getting shot all because of  
24 Brandon Rivers.

25 The Judge will tell you what the law is, but I want

1 to show you, this is hand of one, hand of all. Person who  
2 joins with another person to commit an unlawful act is  
3 criminally responsible for everything done by the other  
4 person which happens as a probable or natural consequence  
5 of the acts done in carrying out the common plan or  
6 purpose.

7 Now, Brandon, if you believe he's the shooter, which  
8 I say he is, this doesn't really matter. But if Brian's  
9 the shooter and Brandon's taking him over there and he  
10 knows he's going to fight and Brandon -- there's somebody  
11 there who has called Brandon a crackhead, which led them  
12 to go over there, it is a natural and probable consequence  
13 that somebody at that house is going to be injured. That  
14 is why they went, to hurt somebody. It couldn't be any  
15 more natural consequence out of what happened than what  
16 actually happened.

17 Brian got him to take him over there and Brandon  
18 wanted to go, too. Brandon was not a cab driver. He was  
19 a willing, acting participant in everything that happened.  
20 He knew what was going on in that house. And law  
21 enforcement had been there already. They'd already  
22 threatened to call law enforcement and he's going back  
23 over there. He knows there is nothing but trouble at that  
24 house.

25 And the second part, when a person does an act in the

1 presence of and with the assistance of another person, the  
2 act is done by both. Where two or more acting with a  
3 common plan or intent are present at the commission of a  
4 crime, it does not matter who actually commits the crime,  
5 all are guilty.

6 Like I said, this doesn't even matter if you believe  
7 Brandon is the shooter, which I believe he was. If Brian  
8 is the shooter, Brandon took him there, he knew what was  
9 going on. He knew they were going to hurt somebody. And  
10 it's so petty. But the reason behind it doesn't matter  
11 the outcome is what matters. What happened is that Chris  
12 Jones got shot right between his legs and two other people  
13 were right there in the line of fire. Luckily, they  
14 weren't shot, too.

15 Now, one thing that I want to talk to you about is  
16 assault and battery of a high and aggravated nature. And  
17 the reason I bring this up is because when the Judge tells  
18 you what the law is, he will also advise you of this  
19 charge. And what assault and battery of a high and  
20 aggravated nature is -- you can read it in front of you,  
21 and I'll read it, Person commits an offense of assault and  
22 battery of a high and aggravated nature if the person  
23 unlawfully injures another person and great bodily injury  
24 results, or the act is accomplished by means likely to  
25 produce death other great bodily injury.

1           Now, the crime of attempted murder requires malice  
2   aforethought. And that means -- the judge will tell you,  
3   hostility, ill will, and you had the intent to commit that  
4   crime. You don't have to have the specific intent for one  
5   particular person to be killed, but you can -- and like I  
6   said earlier, I can't look in Brandon's head and say this  
7   is his intent. There's no piece of evidence outside of a  
8   confession to say this is what he intended to do.

9           But before you can come to assault and battery, the  
10   attempted murder is you can infer from the fact that he  
11   used a gun and he went back over there that his plan was  
12   not to just hurt these people. If his initial plan was to  
13   hurt somebody, you don't take a gun. You go over there  
14   and whatever it be, fistfight, bat, or whatever he wants  
15   to do. If your purpose is just to hurt them, you don't  
16   take a deadly weapon, but they did.

17           And I will submit to you that he's guilty of  
18   attempted murder, but if for some reason you don't think  
19   it -- that's the case, then this charge -- and we call it  
20   ABHAN, is what's called a lesser-included offense. So you  
21   may say I don't know if it's attempted murder, but it's --  
22   it would definitely be this. And great bodily injury, the  
23   actual law on great bodily injury says that the laws are  
24   impairment with disfigurement of a vital bodily organ or  
25   function. Chris Jones got shot in the penis, which

1 there's no question that is a bodily organ. And I've not  
2 inspected it, I don't want to, he has not shown me, but I  
3 promise you it does not work the same way it did before he  
4 got shot there. And he told you that he had to have two  
5 surgeries. And I'm sure that was not a pleasant  
6 experience for Chris Jones. But you don't even get to  
7 this if you believe what the testimony was. This is  
8 essentially a fall back, but it's -- I contest that it's  
9 an attempted murder in the light that they went to this  
10 house, armed with a gun and started firing in that yard.

11 Reasonable doubt is the big elephant in the room that  
12 defense attorneys and defendants try to make it seem like  
13 this impossible burden. Ladies and gentlemen, that is not  
14 the case. If beyond a reasonable doubt was an impossible  
15 burden, then there is absolutely no point for me to ever  
16 be here or for you to be here. It is not all doubt. You  
17 can doubt anything in this world; but a reasonable doubt  
18 is just that, something that's reasonable.

19 There's no doubt that Chris Jones got shot. There's  
20 no doubt that Brandon Rivers went to that house that night  
21 after he took his ankle monitor off, not supposed to be  
22 out, after somebody had called him a name, after he had  
23 been drinking, after he had been taking pills, after he  
24 had been smoking pot with another individual who had his  
25 own vendetta to go over there. The two of them went over

1 there together, somebody got shot, and then Brandon ran  
2 from the police for 15 miles. There is no doubt in any  
3 one of those statements. Based on physical evidence,  
4 based on the testimony, based on Mr. Rivers's testimony,  
5 you know all of those things. When you put all of that  
6 together, I ask that you please do something that Brandon  
7 Rivers did not and use your common sense for once.  
8 Because nobody in here used any until today. And for that  
9 reason, I'd ask that you find him guilty on all three  
10 counts of attempted murder. Thank you.

11 THE COURT: Thank you, Mr. Cook.

12 JURY CHARGE

13 THE COURT: Ladies and gentlemen, when we started  
14 this trial, I told you that you are the judges of the  
15 facts and I'm the judge of the law. And so during the  
16 trial, it's been appropriate for me to be up on the bench  
17 out of the way while the attorneys have been addressing  
18 you with the facts of the case. But we've reached a  
19 portion of this trial where you and I are in this  
20 together. You as the judges of the facts and me as the  
21 judge of the law, so I think it's appropriate to come down  
22 and be with you as I give you the charge.

23 Now, I'm going to read this verbatim so that I don't  
24 leave anything out or misquote anything. So if you'll  
25 please listen carefully on the law that is applicable to

1 this case.

2 Mr. Foreman and members of the jury, you heard the  
3 evidence and the arguments of both parties. I will now  
4 explain to you the law -- the rules of law that you must  
5 follow and apply in deciding this case. When I have  
6 finished, you will go into the jury room and begin your  
7 discussions, which we sometimes call deliberations. Your  
8 decision must be based on the evidence presented here.  
9 You must not be influenced in any way by either sympathy  
10 for or prejudice against anyone.

11 The indictments charge the defendant, Brandon Hunter  
12 Kenny Rivers, with three counts of attempted murder. I  
13 remind you that the fact that the defendant was arrested,  
14 charged and indicted in this case is not evidence in the  
15 case. And it cannot be considered by you as evidence of  
16 guilt in this case nor does it create any presumption or  
17 inference of guilt. The indictments are simply the formal  
18 written instruments which contain the charges made against  
19 the defendant. The indictments are the formal documents  
20 by which this case is brought into court.

21 Now, I'm going to give you a copy of these  
22 instructions in written form to have with you in the jury  
23 room. During your deliberations, you may refer to these  
24 instructions to guide you in your decision making. You  
25 must follow the law as I explain it even if you don't

1 agree with it. You must follow all of my instructions as  
2 a whole. You must not single out or disregard any portion  
3 of the instructions of the law.

4 Now, the defendant has pled not guilty to these  
5 charges and that plea puts the burden on the state to  
6 prove the defendant guilty. A person charged with  
7 committing a criminal offense in South Carolina is never  
8 required to prove him or herself innocent. I charge you  
9 that it is an important rule of law that the defendant in  
10 a criminal trial no matter what the seriousness of the  
11 charge may be will always be presumed to be innocent of  
12 the crime for which the indictment was issued unless guilt  
13 has been proven by evidence satisfying you of that guilt  
14 beyond a reasonable doubt.

15 This presumption of innocence does not end when you  
16 begin your deliberations, but it accompanies the defendant  
17 throughout the trial until you reach a verdict of guilt  
18 that is based on evidence satisfying you of that guilt  
19 beyond a reasonable doubt. The presumption of innocence  
20 is not a mere legal theory. It's not just a legal phrase,  
21 but it is a substantial right to which every defendant is  
22 entitled unless you, the jury, are satisfied from the  
23 evidence of the Defendant's guilt beyond a reasonable  
24 doubt.

25 So what is a reasonable doubt in the law? Some of

1 you may have served as jurors in civil cases where you  
2 were told that it is only necessary to prove that a fact  
3 is more likely true than not true, such as by the greater  
4 weight or preponderance of the evidence. In criminal  
5 cases, the state's proof must be more powerful than that.  
6 It must be beyond a reasonable doubt. Proof beyond a  
7 reasonable doubt is proof that leaves you firmly convinced  
8 of the defendant's guilt.

9       There are very few things in this world that we know  
10 with absolutely certainty. And in criminal cases, the law  
11 does not require proof that overcomes every possible  
12 doubt. If, based on your consideration of the evidence,  
13 you are firmly convinced that the defendant is guilty of  
14 the crimes charged, you must find the defendant guilty.  
15 If, on the other hand, you think there is a real  
16 possibility that the defendant is not guilty, you must  
17 give the defendant the benefit of that doubt and find him  
18 not guilty.

19       As I said before, you must consider only the evidence  
20 that has been admitted into this case. Evidence includes  
21 the testimony from witnesses and the exhibits which were  
22 admitted. But anything that the lawyers have said is not  
23 evidence and is not binding on you. You shouldn't assume  
24 from anything that I have said that I have any opinion  
25 about any factual issue in this case. Except for my

1 instructions to you on the law, you should disregard  
2 anything I may have said during the trial in arriving at  
3 your decision about the facts. Your own recollection and  
4 interpretation of the evidence is what matters. In  
5 considering the evidence, you may use reasoning and common  
6 sense to make deductions and reach conclusions.

7 Now, there are typically two types of evidence which  
8 are generally presented during a trial. There's direct  
9 evidence and there's circumstantial evidence. Direct  
10 evidence is the testimony of a person who claims to have  
11 actual knowledge of a fact, such as an eyewitness.

12 Circumstantial evidence is proof of a chain of facts and  
13 circumstances, which indicate the existence of a fact.

14 Crimes may be proven by circumstantial evidence. To the  
15 extent that the state relies on circumstantial evidence,  
16 all of the circumstances must be consistent with each  
17 other and when taken together point conclusively to the  
18 guilt of the accused beyond a reasonable doubt. If these  
19 circumstances merely portray the defendant's behavior as  
20 suspicious, then that proof has failed.

21 Now, the law makes absolutely no distinction between  
22 the weight or value to be given to either direct or  
23 circumstantial evidence, nor is there a greater degree of  
24 certainty required of circumstantial evidence than of  
25 direct evidence. You should weigh all of the evidence in

1 this case. The state has the burden of proving the  
2 defendant guilty beyond a reasonable doubt. This burden  
3 rest with the state regardless of whether they rely on  
4 direct evidence, circumstantial evidence or some  
5 combination of the two.

6 Now, when I say that you must consider all of the  
7 evidence, I don't mean that you must accept all of the  
8 evidence as true or accurate. You should decide whether  
9 you believe what each witness has had to say and how  
10 important that testimony was. In making those decisions,  
11 you may believe or disbelieve any witness in whole or in  
12 part. A number of witnesses testifying concerning the  
13 particular point doesn't necessarily matter.

14 To decide whether to believe any witness, I suggest  
15 that you ask yourself a few questions. Did the witness  
16 impress you as one who was telling the truth? Did the  
17 witness have any particular reason not to tell the truth?  
18 Did the witness have a personal interest in the outcome of  
19 this case? Did the witness seem to have a good memory?  
20 Did the witness have an opportunity and ability to  
21 accurately observe the things he or she testified about?  
22 Did the witness appear to understand the questions clearly  
23 and answer them directly? Did the witness's testimony  
24 differ from that of other witness's testimony or other  
25 evidence? But keep in mind that a simple mistake does not

1 mean that a witness was not telling the truth as he or she  
2 remembers it. People naturally tend to forget some things  
3 or remember them inaccurately. So if a witness misstated  
4 something, you must decide whether it was because of an  
5 innocent lapse in memory or an intentional deception. The  
6 significance of your decision may depend on whether the  
7 misstatement is about an important fact or about an  
8 unimportant detail.

9 Now, the rules of evidence ordinarily do not permit a  
10 witness to testify about opinions or conclusions. There's  
11 an exception to this rule that we have for witnesses that  
12 we call expert witnesses. A witness who by education and  
13 experience has become an expert in some art, science,  
14 profession or calling may state an opinion as to relevant  
15 and material matter in which the witness claims to be an  
16 expert and may also state the reasons for that opinion.  
17 You should consider any expert opinion received into  
18 evidence in this case and, like any other evidence, give  
19 it the weight that you think it deserves. An expert  
20 witness's -- excuse me, an expert witness's testimony is  
21 to be given no greater weight than that of any other  
22 witness simply because that witness is an expert.  
23 Furthermore, you're not required to accept an expert's  
24 opinion even though it's not contradicted.

25 Now, the defendant, Mr. Rivers, is charged with three

1 counts of attempted murder. In order to prove these  
2 crimes, the state must prove that the defendant attempted  
3 to kill another person with malice aforethought, either  
4 express or implied.

5 Now, malice is hatred, ill will or hostility towards  
6 another person. It is the intentional doing of a wrongful  
7 act without just cause or excuse and with the intent to  
8 inflict an injury or under circumstances that the law will  
9 infer an evil intent. Malice aforethought does not  
10 require that malice exist for any particular time before  
11 the act is committed, but malice must exist in the mind of  
12 the defendant just before and at the time that the act is  
13 committed. Therefore, there must be a combination of a  
14 previous evil intent and the act itself.

15 Malice aforethought may be expressed or inferred.  
16 These terms, expressed and inferred, do not mean different  
17 kinds of malice, but merely the manner in which malice may  
18 be shown to exist. That is, either by direct evidence or  
19 by inference from the facts and circumstances which are  
20 proved.

21 Expressed malice is shown when a person speaks words  
22 which express hatred or express ill will for another or  
23 when the person prepared beforehand to do the act which  
24 was later accomplished. For example, lying in wait for a  
25 person or any other acts of preparation going to show that

1 the deed was within the defendant's mind would be  
2 expressed malice. Malice may be inferred from the conduct  
3 showing a total disregard for human life. Inferred malice  
4 may also arise when the deed is done with a deadly weapon.

5 A deadly weapon is any article, instrument or  
6 substance which is likely to cause death or great bodily  
7 harm. Whether an instrument has been used as a deadly  
8 weapon depends on the facts and circumstances of each  
9 case. If facts are proved beyond a reasonable doubt,  
10 sufficient to raise an inference of malice to your  
11 satisfaction, this inference would simply be an  
12 evidentiary fact to be considered by you, the jury, along  
13 with the other evidence in this case and you may give it  
14 whatever weight you decide it should have.

15 A specific intent to kill is not an element of  
16 attempted murder, but there must be a general intent to  
17 commit serious bodily injury. Intent means intending the  
18 result which actually occurs. In other words, not  
19 accidentally or involuntary. Intent may be shown by acts  
20 and conduct of the defendant and other circumstances from  
21 which you may naturally and reasonably infer intent.  
22 Evidence of the character of the act, the character of the  
23 instrument used, the manner in which it was used, the  
24 purpose to be accomplished and the resulting wounds or  
25 injuries may all be considered in determining the intent

1 with which the act was committed. Intent may also be  
2 inferred when it is demonstrated that the defendant  
3 voluntarily and willfully commits the act, the natural  
4 tendency of which is to destroy another's life.

5 Now, if you find that the state has not proven that  
6 the defendant is guilty of attempted murder, you must then  
7 determine whether the state has proved that the defendant  
8 is guilty of assault and battery of a high and aggravated  
9 nature. Assault and battery of a high and aggravated  
10 nature is an unlawful act of violence -- excuse me, an  
11 unlawful act of violent injury to the person of another  
12 accompanied by circumstances of aggravation. An assault  
13 occurs when a person unlawfully attempts or offers to  
14 commit a violent injury upon another person and had the  
15 present ability to complete the attempted injury.

16 An assault is the intentional creation of a  
17 reasonable fear of imminent bodily harm. It is not  
18 necessary that the attempted injury or harm actually take  
19 place. For example, if I walk up to you and when we are  
20 within arm's reach, I draw back as if I'm going to hit  
21 you, that's an assault. A battery is the unlawful  
22 touching of another person by a person who has committed  
23 an assault. An unlawful touching can be caused by a part  
24 of the accused's body or by any object that the accused  
25 puts in motion. A battery is the completion of the

1 assault by using or applying force to another person,  
2 however slight, in a rude, angry or resentful manner  
3 without legal justification for doing so. So using my  
4 earlier example, if I carry through with the assault by  
5 actually hitting you, then that is a battery.

6 The state must prove a circumstance of aggravation.  
7 Circumstances of aggravation include the use of a deadly  
8 weapon, the intent to commit a felony, the infliction of  
9 serious bodily injury, a great disparity between the ages  
10 or physical conditions of a party, a difference in gender  
11 of the parties, the taking of indecent liberties or  
12 familiarities with a female through the use of force or  
13 the purposeful infliction of shame and disgrace and the  
14 resistance of lawful authority. All of these are merely  
15 examples of situations or circumstances of aggravation.

16 Now, under South Carolina law, if a crime is  
17 committed by two or more people who are acting together in  
18 committing a crime, the act of one is the act of all. A  
19 person who joins with another to commit an unlawful act is  
20 criminally responsible for everything done by the other  
21 person which happens as a probable or natural consequence  
22 of the acts done in carrying out a common plan and  
23 purpose. If two or more people are acting together --  
24 excuse me, if two or more people are together -- acting  
25 together assisting each other in committing the offense,

1 the act of one is the act of all. Or as it is sometimes  
2 referred to the hand of one is the hand of all.

3 Prior knowledge that a crime is going to be committed  
4 without more is not sufficient to make a person guilty of  
5 that crime. Mere knowledge that another person is going  
6 to commit a crime, even if the defendant is present when  
7 the crime is committed, is not sufficient to convict the  
8 defendant as a principle. Guilt as a principle is shown  
9 by actual or constructive presence at the scene as a  
10 result of a prior arrangement. Therefore, a finding of a  
11 prior arranged plan or a common scheme is necessary for a  
12 finding of guilt as a principle. The state must prove  
13 beyond a reasonable doubt by competent evidence the theory  
14 of the hand of one being the hand of all.

15 A principle in a crime is one who either actually  
16 commits the crime or who is present aiding, abetting or  
17 assisting in the committing of a crime. When a person  
18 does an act in the presence of and with the assistance of  
19 another, the act is done by both. Where two or more  
20 acting with a common plan or intent are present at the  
21 commission of a crime, it does not matter who actually  
22 commits the crime, all are guilty. The hand of one is the  
23 hand of all.

24 Presence at the commission of a crime means to be  
25 sufficiently near to aid and to abet and to assist in the

1 commission of the crime. However, mere presence at the  
2 scene of a crime is not sufficient to convict one as a  
3 principal on this theory. Intent is also a necessary  
4 element, for there must have been a common design or  
5 intent to commit a crime and the crime must have been  
6 committed pursuant thereto with the person aiding and  
7 abetting by some overt act. Intent may be shown by acts  
8 and conduct of the defendant and other circumstances from  
9 which you may naturally and reasonably infer intent. The  
10 state must prove these elements beyond a reasonable doubt.

11 Mere presence at the scene is not sufficient to prove  
12 someone guilty of a crime. A defendant's presence where a  
13 crime is being committed or mere association with one who  
14 commits a crime does not make a defendant an accomplice or  
15 an aider and abettor of the person who is committing the  
16 crime.

17 The burden is on the state to prove every element of  
18 the crime charged. If you find after reviewing all of the  
19 evidence that the state has proved that the defendant was  
20 only present at the scene of the crime, and that he did  
21 not -- and that they have not proved beyond a reasonable  
22 doubt any other participation in the crime, then you must  
23 find the defendant not guilty. If, however, you find that  
24 the state has proved that the defendant was a participant  
25 in the crime and not merely just present, then the law on

1 mere presence would not apply.

2 Now, ladies and gentlemen, your verdict in this case,  
3 as I've told you, must be unanimous. In other words, you  
4 must all agree on the verdict. Your deliberations are  
5 secret. You'll never have to explain your verdict to  
6 anyone. Each of you must decide this case for yourself,  
7 but only after fully considering the evidence with your  
8 other jurors. So you must discuss the case with one  
9 another in trying to reach an agreement.

10 While you're discussing the case, don't hesitate to  
11 re-examine your own opinion and change your mind if you  
12 become convinced that you are wrong, but don't give up  
13 your honestly held beliefs just to be in agreement with  
14 the others or because you simply want to get the case over  
15 with. Remember, that in a very real way, you are the  
16 judges. You are the judges of the fact. Your only  
17 interest is to seek the truth from the evidence in this  
18 case regardless of it's source.

19 Now, I prepared these verdict forms for you, ladies  
20 and gentlemen.

21 And Mr. Foreman, they're going to be in the front of  
22 this notebook that will go back with you.

23 And as indicated to you earlier, Mr. Rivers is  
24 charged under three indictments for three counts of  
25 attempted murder. So each one is related to that charge.

1 For example, there's a verdict form for attempted murder  
2 as to Chris Jones, attempted murder as to Kacy Curtis Ann  
3 Noe, and attempted murder as to Ronnie Lee Blackwell. You  
4 will consider these.

5 Ladies and gentlemen, each indictment, each case is  
6 to be considered on its own merit. A person can be  
7 convicted on all three, can be acquitted on all three, or  
8 can be convicted on one or two, acquitted on one or two.  
9 You must consider each case on its own merit.

10 The verdict form is very simple. As you heard in the  
11 instructions, Mr. Rivers is charged with attempted murder.  
12 If you find the state has proved that charge beyond a  
13 reasonable doubt, then you would vote guilty of attempted  
14 murder. If you do not find that they have proved that  
15 beyond a reasonable doubt, you must then consider whether  
16 or not the state has proven whether he is guilty of  
17 assault and battery of a high and aggravated nature. If  
18 you find the state has proven that beyond a reasonable  
19 doubt, you would mark that box. However, if you find they  
20 have not proven that either, and that they have not proven  
21 beyond a reasonable doubt that he is guilty of either  
22 attempted murder or assault and battery of a high and  
23 aggravated nature, you would then mark the box for not  
24 guilty.

25 Those are the forms of verdict for each of the three

1 charges and they're in the front of the notebook for you,  
2 Mr. Foreman, when you get to that.

3 Now, ladies and gentlemen, what I want to do is  
4 continue to state that if there's any point during your  
5 deliberations you should desire to communicate with me,  
6 Mr. Foreman will write down your message or your question  
7 and pass it to me -- pass it to the bailiff, who will then  
8 bring it to me. I will then respond either by writing a  
9 response back or I may bring you back into the courtroom  
10 and respond to your question.

11 It's important, ladies and gentlemen, that you -- in  
12 sending out a question, regardless of what it is, at no  
13 time does the Court need to know or do I want to know  
14 where you're at in your deliberations. In other words, I  
15 don't want a breakdown on what the vote may be. All I  
16 need to know is if you have a question to just let me know  
17 what the question is and I'll respond to it.

18 Now, I'm going to get you to step into the jury room.

19 Mr. Foreman, don't begin the deliberations quite yet.  
20 I'm going to briefly confer with the attorneys and make  
21 sure I've covered everything.

22 If there's anything I haven't covered or if I've  
23 misstated anything, I'll bring you out and I'll give you  
24 further instruction. But if everything is good, I'll  
25 collect these exhibits and this notebook. When you

1 receive the exhibits and the notebook, that's the cue then  
2 to begin deliberations. Okay. So if you would go back  
3 the jury room and await these items.

4 (The jury left open court at 11:45 a.m.)

5 THE COURT: All right. Are there any exceptions or  
6 objections to the charge from the state?

7 MR. COOK: Nothing from the state, Your Honor.

8 MR. GRIER: Just mine noted.

9 THE COURT: You want to renew your objections,  
10 Mr. Grier?

11 MR. GRIER: Yes, sir.

12 THE COURT: And we'll certainly do that at this time  
13 and note those exceptions as well.

14 If you would, guys, come on down and let's go over  
15 the exhibits so we make sure that everything that's  
16 supposed to go back is here.

17 (WHEREUPON, jury deliberations begin at 11:49 a.m.)

18 THE COURT: Mr. Wall, Ms. Bryson, I want to thank you  
19 for your service. You have the unenviable task of being  
20 alternates. My wife tells me I tend to relate everything  
21 to football, but it kind of is appropriate, this analogy.  
22 It's kind of like in football you've practiced all week,  
23 you've hit, you've sweated, you've done everything  
24 everyone else has done and now it's Saturday afternoon and  
25 we're getting ready to kick off and coach won't let you

1 play. That's just the unfortunate task of the alternate.

2 It's very important, however, that you have been here  
3 for everything and participated because we've had on  
4 several occasions -- recently, I've had to substitute  
5 alternate jurors for the main panel because they had to be  
6 excused for one reason or another. So obviously, it's  
7 important you heard everything. But this does conclude  
8 your service.

9 I want to share with you you're free to go, you're  
10 free now to talk about the case with anyone. You're also  
11 free to tell them you don't want to talk about it. So  
12 it's up to you whether you want to talk about the case  
13 with anyone.

14 Also, Mr. Hammond has ordered lunch for the jury and  
15 that's going to be coming. You are more than welcome to  
16 stay and have lunch if you would like, but if you're ready  
17 to go and go about your business, you can do that as well.  
18 I'll leave that up to you. But I want to thank you for  
19 your service.

20 And if they need a work excuse?

21 THE CLERK: Ms. Williams is working on that right  
22 now.

23 THE COURT: That sounds great.

24 (WHEREUPON, the Court was in recess awaiting a verdict.)

25 THE COURT: We have two questions that are rather

1 involved. And I'll tell you my thoughts and I'll take  
2 yours. And I think the easiest way to do this is to  
3 simply read what they wrote. Question one is, On Page 11  
4 of the hand of one law, it states that a crime -- if a  
5 crime is committed, it requires a common plan and purpose.  
6 On Page 12 of the hand of one law, it states that there  
7 must be a common design or intent to commit a crime. Does  
8 the word "the" apply to the crime the defendant is charged  
9 with in the indictment?

10 Now, my response to that would simply be no, it does  
11 not apply to that. And let me give you the example that I  
12 typically would refer to. The hand of one hand of all  
13 refers to this, if Susan and I choose to go to the  
14 restaurant across the road and rob the place and while  
15 we're there -- so the crime that we're going to commit is  
16 the robbery. And while we're there, she goes nuts and  
17 kills the cashier. We didn't go there to kill anybody,  
18 but someone died in the commission of that crime. And  
19 that's what the hand of one, hand of all applies to. The  
20 common scheme or plan does not have to be the crime that  
21 was planned. Do you see what I'm saying?

22 In other words, in this case, if you believe what  
23 Mr. Rivers shared and what Mr. -- I can't remember his  
24 last name, the codefendant shared, they went over there to  
25 confront, to fight, to whatever that was going to be.

1 There wasn't any testimony about we went over there to  
2 shoot somebody. It's we went over there to fight. What  
3 resulted was a shooting occurred and he was charged with  
4 that. So the hand of one, hand of all doesn't require or  
5 doesn't necessarily apply to the crime that he was  
6 indicted for, which is what they're asking. Does the word  
7 "the" apply to the crime that the defendant is charged  
8 with in the indictment? And the short answer is no, it  
9 does not. But I think it bears explaining.

10 Second question, If the method of harm changed from a  
11 verbal confrontation, which was planned, to a shooting,  
12 which may not have been planned, does the hand of one,  
13 hand of all still apply? The short answer is yes. Goes  
14 back to the same example I gave. If Susan and I planned  
15 to rob that restaurant, that's the crime that was planned.  
16 The fact that it escalated from a robbery to a killing  
17 doesn't -- that's what triggers the hand of one, hand of  
18 all. So the fact that it started out as a planned verbal  
19 confrontation and it morphed into a shooting, the hand of  
20 one hand of all still applies.

21 MR. GRIER: Could you read the second question again,  
22 Your Honor?

23 THE COURT: If the method of harm changed from a  
24 verbal confrontation, which was planned, to a shooting,  
25 which may not have been planned, does the hand -- the hand

1 in hand law still apply is what it says.

2 MR. GRIER: Your Honor, the verbal confrontation is  
3 not a crime. And so if the common scheme was to go have a  
4 verbal confrontation, you know, that wouldn't be a plan or  
5 common scheme to commit a crime. In other words, if the  
6 jury is saying, you know, it morphed from -- you know, the  
7 first -- the question seems to be, you know, is the  
8 first -- the way it applies to the second one is the first  
9 description of the confrontation a noncrime, you know,  
10 kind of ties into the first question of --

11 THE COURT: Well, here's the answer to the first  
12 question. Because what it wants to know is does the crime  
13 have to be the one he's indicted on, for hand of one hand  
14 of all to apply.

15 MR. GRIER: Right.

16 THE COURT: And the answer to that is no. The  
17 example is we go to rob the restaurant, that's our intent.  
18 It ends up being a murder charge. That wasn't the plan,  
19 but that's what I got indicted for. The hand of one still  
20 applies there.

21 MR. GRIER: I agree with you if go with the plan to  
22 commit a crime, but if you go -- in that first scenario --

23 THE COURT: That's my point, though. I think the  
24 explanation that has to be made to the panel is that if  
25 you go to a scene with the intent to commit a crime, okay,

1 got to have that.

2 MR. GRIER: Right.

3 THE COURT: And another crime is committed during  
4 that situation, then the indictment doesn't have to be for  
5 the crime that was planned. It can be for whatever crime  
6 occurred. So you've got to have the first and then  
7 whatever crime occurs, it applies.

8 MR. COOK: Your Honor, I think -- I don't have it in  
9 front of me, but I believe at the paragraph above that in  
10 your charge that says that any natural probable  
11 consequence that arises out of additional action are still  
12 subject to it. I think that's -- the explanation that  
13 you're giving, it's in the charge.

14 THE COURT: It is. It is. But I'm going to have to  
15 direct them to that.

16 MR. COOK: Right. I'm just --

17 THE COURT: And you're right. Now -- then the second  
18 question is that if the method of harm changed from verbal  
19 confrontation, which was planned, to shooting, which was  
20 not planned, does the hand of one, hand of all still  
21 apply? Well, first, you've got to have the intent to  
22 commit a crime.

23 MR. GRIER: Right. And verbal confrontation is not a  
24 crime. So if a verbal confrontation morphs into an  
25 unanticipated crime, then the hand of one, hand of all.

1 would not apply. If a noncrime -- a scheme to go commit a  
2 non -- what's not a crime, a verbal confrontation, morphs  
3 into an unanticipated crime, in the context of accomplice  
4 liability, then the hand of one, hand of all, you know.

5 THE COURT: The answer would be that the hand of one  
6 is the hand of all would only apply under the scenario  
7 where they went with the intent to commit a crime.

8 MR. GRIER: Correct.

9 THE COURT: So if there is no intent to commit a  
10 crime, then you don't have the hand of one, hand of all.  
11 Is that correct?

12 MR. COOK: Little bit confused, Your Honor.

13 MR. GRIER: Could we --

14 MR. COOK: The problem is we're going to get into the  
15 factual issues about why they went there to start with,  
16 but, you know, the testimony is that they go there to  
17 fight Shane.

18 THE COURT: Yeah, but you've got to understand, when  
19 I'm responding to a jury question, I'm not going to make  
20 comments on the facts. They're the fact finders. So I've  
21 got to be careful in my comments that -- I mean, because  
22 I'm going to be candid as we sit out here away from the  
23 jury and no one else around, I don't know how they got to  
24 that because the codefendant -- excuse me, my language,  
25 the codefendant said, "We went there to kick his ass," and

1 Mr. Rivers said he was going there to kick his ass. So I  
2 don't know how they turned that into a verbal, but whether  
3 they did or not, they're the fact finders. So I'm not  
4 going to make comments about the facts themselves, just  
5 the charge and the law as it applies.

6 Now -- and I'm looking at it right now. And I may  
7 bring the jury out and just read this to them slowly and  
8 go through it bit by bit. If a crime is committed by two  
9 or more people who are acting together in committing a  
10 crime, the act of one is the act of all. A person who  
11 joins with another to commit an unlawful act is criminally  
12 responsible for everything done by the other person which  
13 happens as a probable or natural consequence of the acts  
14 done in carrying out a common plan and purpose. If two or  
15 more people are together acting together, assisting each  
16 other in committing the offense, the act of one is the act  
17 of all, or sometimes said the hand of one is the hand of  
18 all.

19 And that's what you're referring to, and it was that  
20 you're responsible for everything that's done that is a  
21 probable and natural consequence, which goes back to my  
22 example, if the clerk gets shot, then we're both facing  
23 murder.

24 MR. GRIER: In the context of the first question.

25 THE COURT: In the context of the first question.

1 MR. GRIER: Yes, sir. In the context of the second  
2 question, if you go to confront the waitress because she  
3 charged you twice as much, you know, overcharged you and  
4 had a beef with the waitress and you just went to have a  
5 verbal confrontation with her and your buddy ends up  
6 committing a crime, then, you know, I don't think --

7 THE COURT: If we went there because Susan felt she  
8 was overcharged and I went with her and she got in an  
9 argument with the lady and in the process of that  
10 argument, killed her -- that's pretty strong of a lunch.  
11 No, I don't think the hand of -- you think the hand of one  
12 hand applies in that scenario?

13 MR. COOK: I think if you went there to back her up  
14 thinking that it's going to escalate.

15 THE COURT: No, no, no. Went there to confront that  
16 she overcharged her. It's clear here, prior knowledge  
17 that a crime is going to be committed without more is not  
18 sufficient to make a person guilty. Mere knowledge that  
19 another person is going to commit a crime, even if the  
20 defendant is present when the crime is committed is not  
21 sufficient to convict as a principle. Guilt as a  
22 principle is shown by actual or constructive presence at  
23 the scene as a result of a prior arrangement. Therefore,  
24 a finding of a prior arranged plan or common scheme is  
25 necessary for a finding of guilt as a principle.

1 I don't think hand of one, hand of all applies if we  
2 go over there to lawfully argue that you overcharged her.

3 MR. COOK: I guess my concern is how would that be  
4 expressed to the jury without getting into the factual  
5 questions -- how -- if he only went over there to a verbal  
6 altercation without --

7 THE COURT: They're the fact finders. They have to  
8 decide based upon the evidence whether or not the  
9 codefendant and Mr. Rivers were going to that location  
10 with the intent to commit a crime, i.e. assault. They  
11 have to make that decision. If they find that that was  
12 the purpose of going over there, then the hand of one,  
13 hand of all applies. That's the answer to the second  
14 question.

15 The answer to the first question is that the word  
16 "the" where it says there must be a common design or  
17 intent to commit the crime, that does not apply to the  
18 crime that he was indicted for. That's saying that there  
19 must be a common design or intent to commit a crime. It  
20 goes back to the original question, there must be a common  
21 plan or design to commit a criminal offense. And both are  
22 guilty of using the exact language. Both are guilty of  
23 any criminal -- any criminal conduct that is a probable or  
24 natural consequence of the action in carrying out the  
25 plan.

1           So the clearest way to respond to the jury's  
2 questions is to actually take question two first. They  
3 numbered them number one and number two. I think  
4 answering number two first, and that is that you as the  
5 fact finder, if from the evidence you feel that the --  
6 Mr. Rivers and the codefendant went to this location with  
7 the intent to commit a criminal offense, then the hand of  
8 one is the hand of all is applicable. If through your  
9 weighing of the evidence, you find that they did not  
10 intend to go there to commit a criminal offense, then it  
11 would not be applicable.

12           Question one is if you find that they went there to  
13 commit a criminal offense, if that is what your decision  
14 is, then the word "the" does not just apply to the crime  
15 that was intended to be committed, but to any criminal  
16 actions or any probable or natural consequences of the  
17 acts done in carrying it out.

18           MR. COOK: I agree with that.

19           MR. GRIER: But the question is posited as --

20           THE COURT: I'm not going to make a comment on the  
21 facts.

22           MR. GRIER: I understand that.

23           THE COURT: Even though they may have wrote this, is  
24 the method of harm changed from a verbal confrontation,  
25 which was planned, to a shooting, which may or may not

1 have been planned, does the hand of one, hand of all still  
2 apply? I think the appropriate response to that is for  
3 the hand of one and -- is the hand of all, for that law to  
4 apply, there has to be a finding that there was a prior  
5 plan or scheme to commit a criminal offense.

6 MR. GRIER: I think that my opinion is the more  
7 appropriate response would be no, because they're  
8 asking -- would be simply no, because they're asking if  
9 there's not a criminal offense --

10 THE COURT: You're asking me to make a judgment on  
11 what they feel is a criminal offense.

12 MR. GRIER: They seem to -- I don't know quite how to  
13 interpret it, but the question actually asked about -- in  
14 essence, asked if a verbal confrontation is a crime. They  
15 may be seeking the answer to that question. You know, it  
16 could be interpreted that it's posited as asking if a  
17 specific noncriminal action --

18 THE COURT: But the reason I can't decide what  
19 they're thinking there is this, the testimony in the  
20 record reflects that the only two people who knew what  
21 went on between Mr. Rivers and the codefendant are  
22 Mr. Rivers and the codefendant. The only evidence in the  
23 record is the two of them went over there to kick  
24 somebody's ass. Don't do that, Mark, because that was the  
25 testimony.

1 Now, here's what ended up happening. When they got  
2 there, apparently, there's a lot of mouthing and somebody  
3 says the police are called, and then there's the leaving  
4 the scene and the shots. Okay. You could say under that  
5 scenario, they went there with the intent to commit a  
6 crime, but before -- before they could actually commit the  
7 crime they went there to commit, somebody screams  
8 something about cops. So they abandon the idea, but in  
9 the process, somebody gets shot and here we are.

10 I think all I can do -- I can't make a comment on the  
11 facts. I can't interpret from this question that they're  
12 telling me that there was not a criminal offense planned.  
13 I just think that I need to give them what the law says,  
14 which means -- which is that there has to be a finding  
15 that there was a common plan or scheme to commit a crime,  
16 a criminal offense. And if you have that, any probable or  
17 natural consequence of those acts that occur, the hand of  
18 one, hand of all applies. If you do not find that there  
19 was an intent to commit a crime, then the hand of one, the  
20 hand of all does not apply. If you find that there was a  
21 common scheme or plan to commit a crime, the crime that  
22 you intended to commit does not have to be the one that  
23 was in the indictment because you're responsible for  
24 everything that is done by the other person, which is a  
25 probable or natural consequence of the acts, which is the

1 answer to number one.

2 So I think to answer number two without making a  
3 comment on the facts, which I don't think I'm allowed to  
4 do, I have to simply say there has to be a finding that  
5 there was an intent to commit a criminal offense before  
6 the hand of one, hand of all applies. If you found that,  
7 then it applies. If you did not find that, then it does  
8 not apply.

9 Number two, if you did find that there was a criminal  
10 offense planned, then the criminal offense that occurred  
11 does not have to be the one that was planned -- or the one  
12 that is in the indictment. All right. I'm --

13 Go ahead.

14 MR. GRIER: I just ask for the instruction to  
15 number two be if you find that a verbal confrontation is a  
16 criminal offense, then the hand of one is the hand of all  
17 applies.

18 THE COURT: I'm not going make a comment on the facts  
19 and I don't know how to say that any clearer.

20 MR. GRIER: Okay, just requesting.

21 THE COURT: I'll deny that and we'll note your  
22 exception to that.

23 MR. GRIER: Thank you, Your Honor.

24 THE COURT: I think it would be improper for me to do  
25 that, but I will define the law in the generic terms as

1 has been given.

2 All right. Let's bring the jury in.

3 (The jury entered the courtroom at 3:42 p.m.)

4 THE COURT: Okay, folks, I did get your questions and  
5 wanted to bring you in to respond, but if I may -- because  
6 they were numbered one and two, I think the way it would  
7 make more sense to you is for me to answer two first, and  
8 then answer one. So that's the way I'm going to do it.  
9 And I'll read your question and then I'll respond.

10 Question two is, If the method of harm changed from a  
11 verbal confrontation, which was planned, to a shooting,  
12 which may not have been planned, does the hand of one law  
13 still apply? And I don't mean to answer that -- I mean,  
14 I know you have this -- the law with you, but the law says  
15 that for the hand of one law to apply, there has to be a  
16 common plan or a common scheme to commit a criminal  
17 offense.

18 So if you -- based upon your viewing of the evidence,  
19 if you feel -- if you find that Mr. Rivers and the  
20 codefendant had planned to go and commit a criminal  
21 offense, then the hand of one, hand of all would apply.  
22 If you find based on your review of the facts that they  
23 did not go there with a common plan or a common scheme to  
24 commit a criminal offense, then the hand of one, hand of  
25 all would not apply. So you have to have that prior

1 common scheme or plan to commit a criminal act.

2       Number two -- number one is that the hand of one,  
3 hand of all states that if a crime is committed it  
4 required a common plan and purpose. Then on Page 12, the  
5 hand of one law states there must be a common design or an  
6 intent to commit a crime. Does the word "the" apply to  
7 the crime the defendant is charged with in the indictment?  
8 And the short answer to that is no. And I'll explain it  
9 by again referring to the law. The law states that if two  
10 people have a common plan or scheme to commit a criminal  
11 offense -- if you look at it, it says that a person who  
12 joins with another to commit an unlawful act is criminally  
13 responsible for everything done by the other person which  
14 happens as a probable or natural consequence of the act in  
15 carrying out the common design or plan.

16       And the example that is often given is if Susan and I  
17 go across the road with the intent to rob the lady at the  
18 restaurant of the money in the cash register, that's our  
19 common plan, our design. We go over there to do that, to  
20 steal that money. And in the process, she freaks out and  
21 she kills and -- she shoots and kills the lady running the  
22 cash register. We didn't go over there with the common  
23 design or plan to kill anybody, but that's what occurred.  
24 And so, if we're both charged -- if she's charged with  
25 murder and I'm charged with murder, it's not -- it wasn't

1 our plan to go over there and commit murder, but I'm  
2 responsible for everything done by the other person which  
3 happens as a probable consequence or natural consequence  
4 of carrying out the act. So the answer to question one is  
5 that does not apply -- in other words, the "the" doesn't  
6 mean the crime for which they were indicted, okay?

7 So just so we're clear, for number two, for the hand  
8 of one, the hand of all to even apply, the -- you have to  
9 find from the evidence that Mr. Rivers and the codefendant  
10 had a common scheme or plan or design to go and commit a  
11 criminal offense, then the hand of one, hand of all would  
12 be applicable. If you find that and -- if you don't find  
13 the common scheme or plan, then it's not applicable. If  
14 you find it is applicable and if it's applicable, it  
15 doesn't -- the word "the" doesn't refer to the crime he's  
16 indicted for necessarily. It could or it may not. In the  
17 example I gave you, we went there to commit a robbery, but  
18 a murder occurred and I ended up getting indicted for the  
19 murder. So the "the" there does not refer to the crime  
20 for which I was indicted. It refers to the crime for  
21 which we went over there to commit.

22 Okay. All right. With that in hand, I'm going to  
23 return you back to your deliberations.

24 (The jury left open court at 3:48 p.m. to continue  
25 deliberations.)

1 THE COURT: All right. I'm going to note, Mr. Grier,  
2 your exception and your objection to the Court not simply  
3 answering question two with a no.

4 MR. GRIER: And I would also ask for a specific  
5 answer that instructs them --

6 THE COURT: Go ahead and put that on the record then.

7 MR. GRIER: I thought I did. But my suggestion of  
8 the proper response would be -- since they're asking about  
9 the confrontation is if you find the -- that the verbal  
10 confrontation is a crime, then the hand of one is the hand  
11 of all applies.

12 THE COURT: Okay. And I respectfully disagree  
13 feeling that that would be making a comment on the facts  
14 that I don't think I'm allowed to make. And so I thought  
15 using the generic language of the charge that for it to  
16 apply, there must have been -- you must find from the  
17 evidence that there was a common scheme or design to  
18 commit a criminal offense. They can decide whether or not  
19 the evidence showed that. But anyway, I'll certainly note  
20 that so the record is protected.

21 Okay. All right. While they continue to work, then  
22 we'll continue with whatever it is we're doing.

23 (A recess was taken from 3:49 p.m. to 4:03 p.m.)

24 THE COURT: All right. Ladies and gentlemen, it's my  
25 understanding the jury has reached a verdict. I sit here,

1 as y'all do, and I don't have any idea what it is.  
2 There's only one thing that I do know and I'm very serious  
3 about this, whatever verdict it is, it's going to be  
4 received in a professional manner without outbursts or  
5 emotion. And if you can't control your emotions, you need  
6 to leave the courtroom. Because whatever the verdict may  
7 be, again, whether it's cheering or crying, either way,  
8 I'm not going to have any outbursts, period. The jury is  
9 entitled to their decision whether you agree with it or  
10 don't agree with it. I don't ask anybody to agree with  
11 the jury's verdict. I just simply ask that you receive it  
12 in a professional manner. You can disagree with it all  
13 you want, but it needs to be done silently. You can agree  
14 with it all you want, it needs to done silently.

15 Now, I'm not a cold-hearted person. I realize that  
16 any time a case involves people, it's going to involve  
17 emotions. But that's why I'm giving you the opportunity  
18 to where if you don't think you can control your emotions  
19 that you take it outside and let somebody share with you  
20 what the verdict is outside. Because I can make this  
21 promise, if there's any outburst at all, whoever it is is  
22 going into custody. You're going to be held in contempt  
23 and you will not be going home tonight. You're going to  
24 go to jail. So take that for what it's worth. I'm  
25 just --



1 Hunter' Kenny Rivers, guilty of attempted murder. Case  
2 2014-GS-29-1539, state of South Carolina vs. Brandon  
3 Hunter Kenny Rivers, defendant, we, the jury, find the  
4 defendant, Brandon Hunter Kenny Rivers, guilty of  
5 attempted murder. Case 2014-GS-29-1540, state of South  
6 Carolina vs. Brandon Hunter Kenny Rivers, defendant, we,  
7 the jury, find the defendant, Brandon Hunter Kenny Rivers,  
8 guilty of attempted murder, signed Nicholas Kiethas, dated  
9 February 19, 2016.

10 Ladies and gentlemen of the jury, if this be your  
11 verdict, so say you all by the raising of your right  
12 hands.

13 Let the record reflect all jurors raised their rights  
14 hands.

15 THE COURT: All right. Thank you very much,  
16 Mr. Clerk.

17 THE CLERK: Yes, sir.

18 THE COURT: Ladies and gentlemen, I want to thank you  
19 for your service this week. It's not -- I don't know how  
20 you feel about jury service in the task at hand, but jury  
21 service is probably more challenging than a lot of people  
22 anticipate and I want to thank you.

23 I watch juries. There are some things I'm doing up  
24 here while the case is being tried, but I keep an eye on  
25 the jury and things that are going on. And I do want to

1 say that I was very impressed, at no time did I ever look  
2 over and see anyone on the jury appear to be disinterested  
3 or not paying attention or eyes shut or whatever.  
4 Everyone seemed to be engaged throughout the proceedings.  
5 And I appreciate that very much. It's not an easy job  
6 that you did this week.

7 You have earned that exemption I talked about on  
8 Tuesday, so if you receive a summons for jury service over  
9 the next -- the balance of this year and the next two  
10 years, you can exercise that exemption if you choose to do  
11 so. I do tell folks all the time, it is just an  
12 exemption. It doesn't mean you're not qualified to serve.  
13 If you receive that summons and you wish to serve again, I  
14 would encourage you to do so.

15 Mr. Hammond, do the checks get mailed?

16 THE CLERK: Checks are mailed out, yes, sir.

17 THE COURT: How they do it up here, is it mileage and  
18 a --

19 THE CLERK: Just a straight \$15 a day.

20 THE COURT: Don't get upset. That's not what we  
21 think of your time folks. We absolutely understand that  
22 your time is more valuable than that. Some places,  
23 Florence does \$10 a day, plus mileage, but the mileage is  
24 like ten cents a mile. It's ridiculous.

25 But here's the thing and this is what I said earlier

1 on Monday. Your service is that, it is a service that you  
2 give to your community. It's not intended to be a paying  
3 job. But I know that it is a high service you've given to  
4 your community and I want to thank you again.

5 That concludes your service. If you need a work  
6 excuse, we have those available for you. You can get  
7 those as you leave.

8 Everyone else please remain seated.

9 Ladies and gentlemen, thank you again for your  
10 service. You're free to go.

11 (WHEREUPON, the jury left open court at 4:11 p.m.)

12 THE COURT: All right. Y'all go ahead and --

13 What we're going to do, Mr. Grier, is I'm going to  
14 entertain any motions, but I want Mr. Rivers obviously to  
15 be present for that. So we'll just stand by while they do  
16 that.

17 MR. GRIER: Yes, sir.

18 THE COURT: Mr. Grier, at this point, I'll be happy  
19 to take up any motions.

20 MR. GRIER: Defense would make a motion at this time  
21 for a new trial, your Honor. The -- I abandoned a couple  
22 of my earlier objections for strategic reasons. I really  
23 didn't think that they had much value in terms of  
24 appellate issues, but I think clearly the last issue with  
25 the letter from the jury was dispositive to the case and

1 I'd ask you to reconsider your ruling there. And I know  
2 the jury has spoken based on that and you can't undo that,  
3 but I'd ask you to reconsider your prior ruling on that  
4 ground, ruling the defendant is entitled to a new trial.

5 Your Honor, I also would ask that you just in light  
6 of the -- and I think you stated what your -- not what  
7 your views about what the verdict should be at all, and I  
8 don't intimate or suggest that in way. You've been very  
9 judicial in every respect, but in our discussions outside  
10 the jury, I think, you know, your views on the evidence  
11 were -- I think that, you know, there was other inferences  
12 that -- as to what -- in interpreting that note, what the  
13 jury was asking about, you know, whether there was a real  
14 possibility I believe of -- if they believed there was a  
15 real possibility he didn't go over to do anything but have  
16 a verbal confrontation, then -- and I think you said that  
17 he said he went over to kick ass. I don't believe he ever  
18 made that comment. I may have missed it, but I don't  
19 believe he ever said we went over to kick ass. So I think  
20 that was -- I think there was confusion about that and  
21 maybe it's on my part, but my recollection is that he said  
22 that he went to back up Mr. Steele. That he was -- that  
23 if he got in a fight, he would be there to back him up.

24 Your Honor, just in light of all the facts and  
25 circumstances and the objections that I have made during

1 the trial, I would ask you to set aside the verdict and  
2 grant the defendant a new trial.

3 THE COURT: All right, sir. And let me say, if I  
4 didn't remember the testimony appropriately or whatever --  
5 I know someone said that. It may have been the  
6 codefendant who said it, but the bottom line is it really  
7 doesn't matter what I remember or what I thought, those  
8 comments were made outside the jury's presence and --

9 MR. GRIER: Yes, sir.

10 THE COURT: And if I misspoke that, I don't think it  
11 had any effect on the jury, obviously. As to the  
12 responding to the jury's question, you know, one of the  
13 things I think is incumbent upon the Court is to go out of  
14 my way to not interfere or to cross the line and move into  
15 the province of the jury, that being the fact finders.

16 So in responding to that question, I thought it -- I  
17 can't interpret that question and I think it would be  
18 wrong for me to try to interpret what a jury means as far  
19 as the way they may put facts on a piece of paper. So  
20 that's why I felt it appropriate to give them the law as I  
21 gave it to them and to tell them that before the law of  
22 the hand of one, hand of all, before that is applicable,  
23 they must find from the evidence that Mr. Rivers and the  
24 codefendant had a common scheme or plan to commit a  
25 criminal offense. And if they don't find that, then it's

1 not applicable, and then to leave it up to them to weigh  
2 the evidence and decide what that showed. And so I  
3 thought that that was an appropriate way of handling that  
4 question. I still think it is. I may prove to be  
5 mistaken down the road.

6 In any case, I do think that this is a tough case.  
7 And I think it's evidenced by the fact that the jury was  
8 out some -- over four hours, maybe four and a half hours.  
9 I think they got it about quarter to 12. So -- but I  
10 think it was very factually driven and very much driven by  
11 the witnesses and the evidence. And I think that whether  
12 I agree or disagree with the jury's verdict, I don't think  
13 that it would be appropriate to override their view of the  
14 evidence. So having said that, I would respectfully deny  
15 the request for a new trial.

16 Are we ready to proceed?

17 MR. COOK: I have to go upstairs to prepare a  
18 sentencing sheet.

19 THE COURT: All right. Let me get you to go ahead  
20 and do that. In the meantime, we'll take care of another  
21 matter or two.

22 Y'all want to take Mr. Rivers back and we'll bring  
23 him back.

24 (WHEREUPON, a short break was taken.)

25 THE COURT: Be happy to hear from the state in

1 regards to sentencing, any position you may have.

2 MR. COOK: Your Honor, Mr. Rivers is convicted of  
3 three attempted murders, that's three violent most serious  
4 crimes. You know what that carries, zero to 30 years on  
5 each one.

6 Just to give you some background on what our office's  
7 initial stance was as it progressed through this  
8 proceeding from the time we originally got this case. His  
9 initial offer from our office was 20 years. And that was  
10 to include -- that was having him plead to these three,  
11 along with two other pending charges that he had with our  
12 office for assault and battery high and aggravated nature  
13 and armed robbery. And we had offered a 20-year sentence.

14 In October of 2015, I extended another offer of 15  
15 years to take care of all of his charges and gave him a  
16 window of time that if by the end of business that court  
17 week of that month that if he didn't take that offer, then  
18 he no longer had -- no longer had an offer from our office  
19 and we would be going to trial unless he pled straight up  
20 to any of these charges.

21 Your Honor, it's three attempted murders. And, you  
22 know, the prior stuff can't be taken into consideration.  
23 His record is a 2010 burglary second degree. And I know  
24 that during the trial, I mean, I beat a dead horse in  
25 trying to get in Facebook stuff and a letter that he wrote

1 to our office. And in comparison to what he's actually  
2 been convicted of, all that's not important right now. I  
3 mean that's -- he's facing a lot of time.

4 The fact that this incident occurred while he was  
5 supposed to be in his house within the confines of his  
6 home on GPS monitoring for two other violent most serious  
7 crimes is what is concerning to our office, the sheriff's  
8 office and, frankly, the entire community. I mean, this  
9 was -- he was on a bond to prevent something else serious  
10 from happening. And giving him the leeway to be at home  
11 and to give him a chance on those two to do better, to  
12 stay out of trouble and he did not take advantage of that  
13 opportunity, Your Honor.

14 And this was something that was completely avoidable.  
15 It was -- as I said in my opening and closing, it was  
16 senseless. And Your Honor, that type of behavior is  
17 almost scarier than somebody who plans to do one  
18 particular thing because this -- this essentially was on a  
19 whim, no thought involved, and something -- it could have  
20 been much worse than it was, but it was -- and this was  
21 not something well thought out. This was on a whim,  
22 people are getting shot at, somebody getting shot.  
23 Somebody could have been seriously injured, Your Honor.

24 And whatever -- I'm not going to give you a number  
25 because you've heard everything I've said. You heard

1 the scenario here, but I think that his unwillingness to  
2 take that first chance that was given to him by the  
3 presiding judge in the initial case to stay out of trouble  
4 and he failed to do that.

5 And it's scary to have somebody -- it's reckless,  
6 Your Honor. And whatever time you think that is --  
7 whether it be to keep him from doing this again,  
8 punishment or whatever theory you may ascribe to for  
9 incarceration, I ask that it be a substantial sentence  
10 because -- because of the motive and the pettiness, I  
11 don't think that type of behavior is something that can be  
12 rehabilitated quickly through programs. I think this is a  
13 mind-set that the best case scenario to avoid something  
14 happening like this again is just time. And I hope he  
15 does get some type of treatment while he's in there. But  
16 I think a lengthy sentence is necessary to best assure  
17 something like this doesn't happen again in the near  
18 future, Your Honor. And I think that's -- nothing else  
19 from the state right now, Your Honor.

20 THE COURT: Thank you, Mr. Cook.

21 Mr. Grier.

22 MR. GRIER: Thank you, Your Honor. Well, Mr. Rivers  
23 is 19 years old. And, Your Honor, he's had -- as you've  
24 seen, had his family in the courtroom with him all week  
25 and he's loved and -- by his family. And, of course, most

1 people are and those that aren't, it's even more tragic  
2 and your chances of being able to overcome bad behavior  
3 and bad judgment are diminished. He has an older brother  
4 named Blake, who I think would be a good example of  
5 someone who would be -- will be someone that Brandon can  
6 look to that made bad mistakes and went and did his time  
7 and now lives in Charleston doing real well and reporting  
8 back to the family.

9 In fact, I represented him and he took responsibility  
10 for the burglaries that he committed and said you'll never  
11 see me back up here again. I've got a job when I get out  
12 and, Your Honor, he did it. And I think Brandon can, too.  
13 Brandon -- Blake is probably six or seven years older than  
14 Brandon, at least. And Blake's misadventures,  
15 unfortunately, contributed to Brandon's pattern of  
16 behavior. I've known the family going back. And there is  
17 no excuse for the judgment that was exercised, but there  
18 is a reason oftentimes how it happens.

19 Unfortunately, Brandon was exposed to lot of things  
20 that he shouldn't have been as a very young kid and  
21 developed substance abuse issues, I think probably 13, 14  
22 years old, and they've continued throughout and have been  
23 something he's had to deal with or he hasn't dealt with, I  
24 guess, however you look at that, but hasn't dealt with,  
25 perhaps, in the way -- certainly, in the way he should

1 have.

2 He has worked some construction with the family. He  
3 did go back and get his GED, Your Honor. While he was out  
4 on bond, his plan before this happened was -- and I  
5 encouraged him and his family, you know, they told me  
6 we're trying to get him in -- he loves motorcycles and  
7 he's apparently gifted as a mechanic, a shade tree  
8 mechanic, and his family is. And that's something that  
9 has been some sort of a positive thing that he's been able  
10 to turn to. But he wanted to go to motorcycle school and  
11 so his mom and family got him accepted, got him into  
12 motorcycle school down in Florida. But unfortunately,  
13 before he could, you know, get down there, this occurred,  
14 this incident occurred, Your Honor.

15 Brandon is a smart guy. I think you could tell from  
16 his testimony that -- I mean, he's not just, you know, an  
17 idiot and in terms of his ability to make a positive  
18 contribution and have a positive outcome in his life. I  
19 don't think he's really ever had any real opportunity  
20 where he wasn't involved in some kind of use of drugs  
21 to -- until he was in jail for 16 months to try to develop  
22 a different lifestyle.

23 But Your Honor, like I said, the jury was out for  
24 about four hours. And you can't make -- we don't know  
25 what happened and how it happened, but it sounded like

1 certainly the issue or the hurdle that they were dealing  
2 with was accomplice liability. And I can't say it with  
3 certainty, but it sounds like there was at least the real  
4 possibility they believed that -- real possibility that he  
5 might be -- that Mr. Steele was the shooter and  
6 Mr. Rivers -- Brandon made bad choices and he's the first  
7 to admit it. Told me that many times, you know, how could  
8 I be that stupid, to do it and to even, you know, get  
9 involved in that and to do that. And, you know, he looks  
10 back on it and it was -- he was making bad choices that  
11 day.

12 But Your Honor, he has -- and his mom and his aunt  
13 and his fiance are out here. I don't know who would like  
14 to speak. Brandon may wish to speak. But, you know, I  
15 believe he's raised -- you know, has been raising a  
16 stepchild, really.

17 Is that your biological child? No?

18 You know, he found a woman who he I think cares  
19 deeply for and she cares deeply for him. She's stuck by  
20 him through his being in jail and is committed to him.  
21 And in my conversations with her, you know, she would help  
22 him get on the right path and if he were to be not  
23 convicted -- if he were not convicted today had a plan for  
24 doing all that.

25 Your Honor, I'll just wrap it up by saying, Judge

1 I -- you know, I understand -- I mean, he's -- Brandon  
2 Rivers is going to prison today and I don't know how long  
3 it's going to be, but I would ask you to take into account  
4 that he is a young guy. And, you know, I think he's  
5 salvageable. I think that a long time suspended --  
6 obviously, I'm not asking for probation, Your Honor, I  
7 don't --

8 THE COURT: It's a non-suspendable offense.

9 MR. GRIER: Yes, sir. At any rate, Your Honor, I  
10 believe that the time that he could -- that he's  
11 sentenced, Your Honor, I would ask that you allow him  
12 to -- fashion a sentence that you believe would allow him  
13 to have a life, to resume a life and follow in his  
14 brother's footsteps and to give him an opportunity to come  
15 out and get started and start a new life, Your Honor. I  
16 don't know if --

17 THE COURT: I'm happy to hear from anyone that would  
18 like to address the Court. I just need -- whoever would  
19 like to address the Court, I need your name for the  
20 record, please.

21 MS. JAMIE RIVERS: My name is Jamie Rivers.

22 THE COURT: Yes, ma'am.

23 MS. JAMIE RIVERS: I'm Brandon's mother. I just want  
24 to ask you to be as lenient as you can on him. I know  
25 he's made mistakes. He's had a lot of time in jail, 16

1 months, and I have an awful lot of medical problems, heart  
2 attack since he's been there. I know myself that he's a  
3 different person than before when he went to jail. And I  
4 want to see him -- I want to be alive when he comes home  
5 from jail. Please just take into consideration his age.  
6 Please be as lenient as you can. Thank you.

7 THE COURT: Thank you, ma'am.

8 MS. BURNETT: Your Honor, I'm Carrie Burnett, I'm  
9 Brandon's aunt. His father is my brother. I've watched  
10 him grow from a little rug rat to where he's at right now.  
11 He was in the jail for a long time. And when he come out,  
12 I've seen a changed person in him. And he's said he was  
13 ready to go on with his life, make a better life. And I  
14 was so proud of him. I just wish, hope and pray you show  
15 mercy in your judgment. Thank you.

16 THE COURT: Thank you, ma'am.

17 MS. ARNETT: My name is Linda Arnett, Brandon's  
18 fiance. I know he's made mistakes in his life, but he is  
19 a better person. And he's young and he's got a lot of  
20 potential and he don't deserve to be in jail forever.  
21 Please show mercy.

22 MR. GRIER: Your Honor, I think from our prior matter  
23 that we put -- he pled on the failure to stop for a blue  
24 light, you knew he had done 445 days. That was, of  
25 course, simultaneously and concurrent with this charge and

1 I'd ask whatever time you run, you run failure to stop for  
2 a blue light concurrent with whatever your sentence might  
3 be today.

4 Your Honor, Mr. Rivers indicates he would like to  
5 address the Court.

6 THE COURT: Yes, I'll be more than happy to hear from  
7 him.

8 THE DEFENDANT: Your Honor, I would like to come  
9 stand in front of you, the state, my family, myself,  
10 everybody and say I take responsibility for my actions for  
11 what I have done. I never in my life thought at 19 years  
12 old just by making the wrong mistake of being at the wrong  
13 place -- at the wrong place and time that this would be  
14 happening, but I can't change that. And I know you got to  
15 do what you got to do because it's your job and life goes  
16 on regardless.

17 I just ask you to please believe me whenever I say  
18 this to you, I really have changed a lot from what I had  
19 become. People may not believe it. And yes, I am young.  
20 People think I'm still immature, but I have matured a very  
21 lot, sir. I ask you just please have mercy on me. I'm  
22 not asking you to take anything back, everything happens  
23 for a reason. And I know it did, I know that is happening  
24 for a reason. And I just ask to say I'm sorry to  
25 everybody in here, most of all to my family, to myself. I

1 just ask you please have mercy on me, sir.

2 THE COURT: Thank you, sir. I'm going to -- if  
3 you'll allow me to take a brief recess so I can go back  
4 and kind of reflect a little bit on everything that I've  
5 heard. And I won't keep you waiting terribly long, but I  
6 do need to take a little time to reflect to determine what  
7 I think to be appropriate. The Court will be in recess  
8 for a few minutes.

9 (A recess was taken from 4:51 p.m. to 5:03 p.m.)

10 THE COURT: Thank you, folks. Please have a seat.  
11 This is always by far the thing that makes my job the  
12 hardest. It's the thing that causes me to stay up and  
13 have sleepless nights. It's not easy. It's not easy to  
14 have to decide what's appropriate for a young man, young  
15 woman, whoever and I don't take that lightly. This is  
16 neither here nor there, but I am who I am. And I'm a  
17 Christian and so that's part of who I am and that's every  
18 bit of me. People say, well, hey, be careful saying that  
19 because you're a government official and you can't be  
20 espousing a religion. And I'm not, I'm not saying you  
21 should be one, I'm just telling you who I am. And it's  
22 part of who I am, so it's part of every being part of me.  
23 And so I pray. I've been praying since this verdict was  
24 rendered for wisdom and for discernment to do what is  
25 appropriate under the circumstances. And so I don't

1 expect everybody to agree with me or anybody to agree with  
2 me. All I can tell you is that whether you agree or  
3 disagree, that I can assure you that my decision is what I  
4 truly believe to be appropriate in this situation. I'm  
5 not going to say correct, I'm going to say appropriate.

6 But there's some things that I feel like I need to  
7 say because I'm watching a pattern that I don't think is  
8 ever going to change. Most all of you have probably heard  
9 this before, but it bears listening to. The definition --  
10 people say the definition of insanity is doing the same  
11 thing over and over and expecting a different result.  
12 It's so foolish to -- Mr. Rivers, you have in your life  
13 loved ones in your life, people in your life who have made  
14 bad decisions and have gone to the penitentiary because of  
15 those bad decisions. You've watched those bad decisions.  
16 And yet, you continue to make those bad decisions.

17 And I say this to the young lady who introduced  
18 herself as your fiance. You know, ma'am, I don't know you  
19 at all and I'm not asking you to make any admissions here  
20 or not. I don't know if you're a drug user or not, but  
21 you seem to indicate that you care about this young man.  
22 If he's your fiance, I'm going to assume you love him.  
23 But what kind of love is it when you watch him destroy  
24 himself by using drugs and you tolerate it? Because see,  
25 if he cares about you -- and I'm talking to you. If he

1 cares about you --

2 I'll tell you this -- and this is going to sound like  
3 I'm being light. I don't mean this in a light way. I  
4 have -- my wife would call it an addiction to diet  
5 Mountain Dew. I drink diet Mountain Dew a lot. But I can  
6 tell you this, if my wife said to me, "Tommy, you drink  
7 another diet Mountain Dew and I will take our three  
8 children and I will walk out of your life for good," I can  
9 tell you that would get my attention. That would get my  
10 attention. I'd put them down. You may not know this, but  
11 if he loves you, you have the power to get him off of  
12 drugs. But I'm not trying to put that -- for all I know,  
13 you join him in that drugs use or you don't. Either way,  
14 it doesn't really matter, but, you know -- so there's  
15 that.

16 Mom, he lived with you, didn't he? You knew he was  
17 on house arrest. You knew he took the bracelet off and  
18 left the house.

19 MS. JAMIE RIVERS: He didn't live with me then.

20 THE COURT: He didn't live with you then?

21 MS. JAMIE RIVERS: He did when he came home from  
22 jail.

23 THE COURT: So when all this was going on, he didn't  
24 live with you?

25 MS. JAMIE RIVERS: He wasn't living with me when all

1 this happened.

2 THE COURT: You knew your son was using drugs, he  
3 knew was drinking. What did you do about it? You don't  
4 have to answer that. My point -- I say that to you to get  
5 you to think. Because, you know, say what you want, you  
6 have authority as a parent if you're willing to exercise  
7 it. This young man is 19 now, he's not a child any more,  
8 but he's been using drugs for years by his own admission.

9 Folks, my point in all of this is this, you keep  
10 letting alcohol and drugs and all of that be part of your  
11 family, don't expect any of this to change because it's  
12 not going to. Whatever loved one you have next will be  
13 the next one to go to prison. Because it's insane to  
14 think if we keep living this way, it will get better.

15 When you decide, Mr. Rivers, when you decide that I'm  
16 going to take this crap out of my life, then your life is  
17 going to get better.

18 THE DEFENDANT: Yes, sir.

19 THE COURT: Then things are going to turn around.  
20 Does it mean you're going to have a lot more money, maybe  
21 not. But see, money doesn't bring people happiness.  
22 People with money will tell you that.

23 THE DEFENDANT: Yes, sir.

24 THE COURT: If you're not happy before you have  
25 money, you won't be happy after you have money. Happiness

1 is being content in the place you find yourself. If you  
2 continue down these paths, you've got examples in your  
3 family, you've watched it and then you've decided to  
4 follow it, and now here you are. And it's a tragedy and  
5 my heart breaks for you and for your family. I don't -- I  
6 don't know how I come across to you. It may come across  
7 that he's just an old jerk who likes to sit up there and  
8 preach and act like he's better than people. I don't at  
9 all. It eats me alive that you have to be here.

10 Throughout this trial, I would share with Susan.  
11 We'd go to lunch, I'd go, Susan, these folks, why do they  
12 live like this? Why do -- because there are things that  
13 are within your control. It's not like, you know, why  
14 doesn't he have a job that pays him a hundred thousand  
15 dollars a year? Well, that's maybe out of his control.  
16 But guess what's not out of his control? Don't be 19  
17 years old doing crack or cocaine, drinking liquor, taking  
18 Xanax and busting off your GPS bracelet. Those are things  
19 you can control.

20 Now, each one of these indictments carries 30 years,  
21 so you're looking at 90 years. And I don't say that to  
22 scare you; I'm not going to give you 90 years. But the  
23 message here has got to be that this is unacceptable and  
24 it can't be tolerated. The state went through several  
25 offers and things they made.

1           And I appreciate that, Solicitor. I don't mean this  
2 as a criticism because I did it when I was a prosecutor  
3 and I did it all the time. But that really doesn't impact  
4 me as far as my decision. As a matter of fact, sometimes  
5 I want to say okay, if you're willing to knock it down  
6 that far, don't get mad at me if I do, you know, that kind  
7 of thing.

8           But my point being is I don't consider those things  
9 because as a young man, you have every right to exercise  
10 your right to a trial. And declining their offers, that's  
11 not an issue. Again, for me, it goes back to doing what I  
12 think is appropriate here. I'm going to be candid with  
13 you when I say this. I don't really know who fired the  
14 gun, but I kind of believe you.

15           THE DEFENDANT: Yes, sir.

16           THE COURT: Now, having said that, that doesn't  
17 excuse it. That doesn't excuse it at all. And I just --  
18 I guess maybe it's a way of explaining why I'm not doing  
19 30 years. But it's still significant and -- well, I can  
20 ramble forever and I want to do it anymore. It's just I  
21 can't hardly put into words and emotion how much I want  
22 everybody who's involved in this lifestyle to stop it.

23           How many of your loved ones -- ma'am, you have  
24 another son that had to go to prison. How many of your  
25 loved ones have to go to prison before you as a mother

1 stand up and say it's over children. If you're going to  
2 do drugs, if you're going to do that stuff, then you need  
3 to go. It's -- it needs to end people. And that's  
4 enough.

5 SENTENCE

6 On indictment 2014-GS-29-1538, 1539, and 1540, on  
7 each of those charges -- and these are all going to run  
8 concurrent with each other and concurrent with the failure  
9 to stop charge. But the sentence of the Court on each of  
10 those indictments is that you be committed to the state  
11 Department of Corrections for a period of 25 years.  
12 You're to be given credit for any time that you have  
13 served. And as I indicated, those are all concurrent with  
14 each other. Good luck to you, sir.

15 (Whereupon, the proceedings were concluded.)

16 (Court's Exhibits 1 and 2 were marked.)  
17  
18  
19  
20  
21  
22  
23  
24  
25

#1 ON PAGE 11 THE HAND OF THE LAW STATES IF A CRIME IS COMMITTED IT REQUIRES A COMMON PLAN AND PURPOSE. ON PAGE 12 THE HAND OF THE LAW STATES THERE MUST BE A COMMON DESIGN OR INTENT TO COMMIT THE CRIME. DOES THE WORD THE APPLY TO THE CRIME THE DEFENDANT IS CHARGED WITH IN THE INDICTMENT?

COURT'S	
EXHIBIT NO.	1
IDENTIFICATION	
DRT #	
DATE	

#2 IF THE METHOD OF HARM CHANGED FROM A VERBAL CONFRONTATION ~~TO A SHOOTING~~ WHICH WAS PLANNED, TO A SHOOTING WHICH <sup>MAY</sup> ~~IS~~ NOT PLANNED DOES THE <sup>ALREADY BEEN</sup> HAND IN HAND LAW STILL APPLY? ~~INDICTMENT?~~

COURT'S	
EXHIBIT NO.	2
IDENTIFICATION	
DRT #	
DATE	

WITNESSES  
Adams - LCSO #14-38238

ARREST WARRANT NUMBER/DOA  
2014A2910101191 (DOA-9-27-14)

ACTION OF GRAND JURY  
Foreperson of Grand Jury  
Date: 11-20-2014

VERDICT  
TRIAL

Foreperson of Petit Jury  
Date:

DOCKET NO. 2014-GS-29-1538

The State of South Carolina  
County of Lancaster

COURT OF GENERAL SESSIONS  
DECEMBER TERM 2014

THE STATE  
vs.

Brandon Hunter Kenny Rivers

ATTEMPTED MURDER

SC Code: §16-3-29  
CDR Code: 3410  
Class: Felony A

FILED  
OFFICE OF CLERK  
OF COURT  
2014 NOV 25 PM 12:31  
COURT  
LANCASTER, SC

STATE OF SOUTH CAROLINA )

INDICTMENT

COUNTY OF LANCASTER )

At a Court of General Sessions, convened on November 25, 2014, the Grand Jurors of Lancaster County present upon their oath:

**ATTEMPTED MURDER**

That Brandon Hunter Kenny Rivers did in Lancaster County on or about September 26, 2014, with intent to kill, attempt to kill Chris Jones with malice aforethought, either expressed or implied, by shooting him in the groin/abdominal area, in violation of Section 16-3-29 of the *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.

  
\_\_\_\_\_  
Douglas A. Barfield, Jr., SOLICITOR

**WITNESSES**

Adams - LCSO #14-38238

**ARREST WARRANT NUMBER/DOA**

2014A2910101192 (DOA-9-27-14)

**ACTION OF GRAND JURY**

Foreperson of Grand Jury

Date: 25 NOV 2014

**VERDICT**

**TRUE BILL**

Foreperson of Petit Jury

Date:

NOV 25 2014

DOCKET NO. 2014-GS-29-1539

**The State of South Carolina**

**County of Lancaster**

**COURT OF GENERAL SESSIONS**

**DECEMBER TERM 2014**

**THE STATE**

**vs.**

**Brandon Hunter Kenny Rivers**

**ATTEMPTED MURDER**

SC Code: §16-3-29

CDR Code: 3410

Class: Felony A

2014 NOV 25 PM 12:32

COURT  
LANCASTER, SC

STATE OF SOUTH CAROLINA )

INDICTMENT

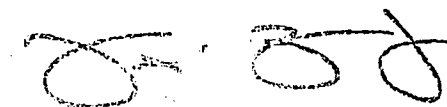
COUNTY OF LANCASTER )

At a Court of General Sessions, convened on November 25, 2014, the Grand Jurors of Lancaster County present upon their oath:

**ATTEMPTED MURDER**

That Brandon Hunter Kenny Rivers did in Lancaster County on or about September 26, 2014, with intent to kill, attempt to kill Ronnie Lee Blackwell with malice aforethought, either expressed or implied, by attempting to shoot the victim on the porch of his residence during a verbal altercation, in violation of Section 16-3-29 of the *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.



Douglas A. Barfield, Jr., SOLICITOR

**WITNESSES**

Adams - LCSO #14-38238

DOCKET NO. 2014-GS-29- 1540

**The State of South Carolina**

County of Lancaster

FILED  
OFFICE OF CLERK  
OF COURT

2014 NOV 25 PM 12: 32

COURT  
LANCASTER, SC

**COURT OF GENERAL SESSIONS**

**DECEMBER TERM 2014**

**ARREST WARRANT NUMBER/DOA**

2014A2910101193 (DOA-9- 27- 1A)

**THE STATE**

vs.

**ACTION OF GRAND JURY**

**Brandon Hunter Kenny Rivers**

Foreperson of Grand Jury

Date: 11-20-14

**VERDICT**

TRUE BILL

**ATTEMPTED MURDER**

Foreperson of Petit Jury

Date:

SC Code: §16-3-29

CDR Code: 3410

Class: Felony A

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF LANCASTER )


INDICTMENT

At a Court of General Sessions, convened on November 25, 2014, the Grand Jurors of Lancaster County present upon their oath:

**ATTEMPTED MURDER**

That Brandon Hunter Kenny Rivers did in Lancaster County on or about September 26, 2014, with intent to kill, attempt to kill Kacy Curtis-Ann Noe with malice aforethought, either expressed or implied, by attempting to shoot the victim on the porch of her residence during a verbal altercation, in violation of Section 16-3-29 of the *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.

  
 \_\_\_\_\_  
 Douglas A. Barfield, Jr., SOLICITOR

COUNTY OF Lancaster
STATE VS.

Brandon Hunter Kenny Rivers

AKA:
Race: WHITE Sex: M Age: 19
DOB: SS#:
Address:
City, State, Zip: Lancaster, SC 29720-3267
DL#: SID#:

INDICTMENT/CASE#: 2014GS2901538
A/W#: 2014A2910101191
Date of Offense: 9/26/2014
S.C. Code §: 16-03-0029
CDR Code #: 3410

SENTENCE SHEET

\*CDL Yes No CMV Yes No Hazmat Yes No
In disposition of the said indictment comes now the Defendant who was TO: Murder / Attempted Murder

CONVICTED OF or PLEADS

in violation of § 16-03-0029 of the S.C. Code of Laws, bearing CDR Code # 3410
NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC §17-25-45 w/minor 1st or Lewd Act)

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury.
The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST: Solicitor SC Bar# 100053 Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center,
for a determinate term of 25 days/months/years or under the Youthful Offender Act not to exceed years
and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment
of \$ plus costs and assessments as applicable\*, the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on: 2014-GS-29-1539 : 1540 : 1541
The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.
The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.
CERTIFIED TO BE A TRUE COPY

SPECIAL CONDITIONS:
RESTITUTION: Deferred Def. Waives Hearing Ordered PTUP
Total: \$ plus 20% fee: \$
Payment Terms:
Set by SCDPPPS
Obtain GED
Attend Voc. Rehab. or Job Corp.
May serve W/E beginning
Substance Abuse Counseling
Random Drug/Alcohol testing
Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ beginning
\$ paid to Public Defender Fund
Other:

Table with columns for description, amount, and total. Includes items like § 14-1-206 (Assessments-107.5%), § 14-1-211(A)(1) (Conv. Surcharge), § 14-1-211(A)(2) (DUI Surcharge), § 56-5-2995 (DUI Assessment), § 56-1-286 (DUI Breath Test), Proviso 47.9 (Public Def/Prob), § 14-1-212 (Law Enforce. Funding), § 14-1-213 (Drug Court Surcharge), § 50-21-114 (BUI Breath Test Fee), § 56-5-2942(J) (Vehicle Assessment), Proviso 90.5 (SCCJA Surcharge), 3% to County (if paid in installments), and TOTAL \$133.40.

Presiding Judge:
Judge Code: 2141
Sentence Date: 2-19-2016

Clerk of Court/Deputy Clerk: Jeff Hammond
Court Reporter: Amy...
SCCA/217 (03/2011)

S580 OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Lancaster
STATE VS.

INDICTMENT/CASE#: 2014GS2901539
A/W#: 2014A2910101192
Date of Offense: 9/26/2014
S.C. Code §: 16-03-0029
CDR Code #: 3410

AKA: Brandon Hunter Kenny Rivers
Race: WHITE Sex: M Age: 19
DOB: SS#
Address:
City, State, Zip: Lancaster, SC 29720-3267
DL#: SID#

SENTENCE SHEET

\*CDL Yes No CMV Yes No Hazmat Yes No
In disposition of the said indictment comes now the Defendant who was
TO: Murder / Attempted Murder

CONVICTED OF or PLEADS

in violation of § 16-03-0029 of the S.C. Code of Laws, bearing CDR Code # 3410
NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC §17-25-45 w/minor 1st or Lewd Act)

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury.
The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST: Solicitor 100052 Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center,
for a determinate term of 25 days/months/years or under the Youthful Offender Act not to exceed years
and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment
of \$; plus costs and assessments as applicable\*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on: 2014-65-29-1538, 1540, 1541
The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
by the State Department of Corrections.
The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal
Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.
CERTIFIED TO BE A TRUE COPY

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered PTUP
Total: \$ plus 20% fee: \$
Payment Terms:
Set by SCDPPPS

JEFF HAMMOND
CLERK OF COMMON PLEAS
AND GENERAL SESSIONS COURT
LANCASTER COUNTY, S.C.

Recipient:

Table with 2 columns: Description and Amount. Includes items like § 14-1-206 (Assessments 107.5 %), § 14-1-211(A)(1) (Conv. Surcharge), § 14-1-211(A)(2) (DUI Surcharge), § 56-5-2995 (DUI Assessment), § 56-1-286 (DUI Breath Test), Proviso 47.9 (Public Def/Prob), § 14-1-212 (Law Enforce. Funding), § 14-1-213 (Drug Court Surcharge), § 50-21-114 (BUJ Breath Test Fee), § 56-5-2942(I) (Vehicle Assessment), Proviso 90.5 (SCJA Surcharge), 3% to County (if paid in installments), and TOTAL \$133.90.

Obtain GED
Attend Voc. Rehab. or Job Corp.
May serve W/E beginning
Substance Abuse Counseling
Random Drug/Alcohol testing
Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ beginning
\$ paid to Public Defender Fund
Other:

Appointed PD or appointed other counsel,
§ 47.12 requires \$500 bc paid to Clerk
during probation.

Presiding Judge
Judge Code: 2141
Sentence Date: 2-19-2016

Clerk of Court/ Deputy Clerk
Court Reporter:
SCCA/217 (03/2011)

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

581

COUNTY OF Lancaster  
 STATE VS.  
Brandon Hunter Kenny Rivers  
 AKA: \_\_\_\_\_  
 Race: WHITE Sex: M Age: 19  
 DOB: [REDACTED] SS#: [REDACTED]  
 Address: [REDACTED]  
 City, State, Zip: Lancaster, SC 29720-3267  
 DL#: [REDACTED] SID#: \_\_\_\_\_  
 \*CDL Yes  No  CMV Yes  No  Hazmat Yes  No   
 In disposition of the said indictment comes now the Defendant who was  
 TO: Murder / Attempted Murder

INDICTMENT/CASE#: 2014GS2901540  
 A/W#: 2014A2910101193  
 Date of Offense: 9/26/2014  
 S.C. Code §: 16-03-0029  
 CDR Code #: 3410

**RECEIVED**

SENTENCE SHEET **FEB 26 2016**

**SC Court of Appeals**

CONVICTED OF or  PLEADS

in violation of § 16-03-0029 of the S.C. Code of Laws, bearing CDR Code # 3410  
 NON-VIOLENT  VIOLENT  SERIOUS  MOST SERIOUS  Mandatory GPS(CSC §17-25-45 w/minor 1st or Lewd Act)  
 The charge is:  As Indicted,  Lesser Included Offense,  Defendant Waives Presentment to Grand Jury (defendant's initials)  
 The plea is:  Without Negotiations or Recommendation,  Negotiated Sentence,  Recommendation by the State.

ATTEST: [Signature] 100052 SC Bar# \_\_\_\_\_ Defendant \_\_\_\_\_ Attorney for Defendant \_\_\_\_\_ SC Bar# \_\_\_\_\_

WHEREFORE, the Defendant is committed to the  State Department of Corrections,  County Detention Center,  
 for a determinate term of 25 days/months/years or  under the Youthful Offender Act not to exceed \_\_\_\_\_ years  
 and/or to pay a fine of \$ \_\_\_\_\_, provided that upon the service of \_\_\_\_\_ days/months/years and/or payment  
 of \$ \_\_\_\_\_, plus costs and assessments as applicable\*; the balance is suspended with probation for \_\_\_\_\_

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of  
 probation, which are incorporated by reference.  
 CONCURRENT or  CONSECUTIVE to sentence on: 2014-GS-29-1538, 1539, 1541  
 The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied  
 by the State Department of Corrections.  
 The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-23-10 (Carrying a Firearm or Ammunition  
 Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:  
 RESTITUTION:  Deferred  Def. Waives Hearing  Ordered PTUP \_\_\_\_\_  
 Total: \$ \_\_\_\_\_ plus 20% fee: \$ \_\_\_\_\_  
 Payment Terms: \_\_\_\_\_  
 Set by SCDPPPS \_\_\_\_\_

[Signature]  
 \_\_\_\_\_ days/hours Public Service  
**JEFF HAMMOND**  
 CLERK OF COMMON PLEAS  
 AND GENERAL SESSIONS COURT  
 LANCASTER COUNTY, S.C.

Recipient: \_\_\_\_\_

*Fine:	\$	\$
§ 14-1-206 (Assessments-107.5 %)	\$	\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2993 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114(BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
Proviso 90:5 (SCJA Surecharge)	\$5	\$
3% to County (if paid in installments)	\$	\$
TOTAL	\$	<u>133.90</u>

Obtain GED   
 Attend Voc. Rehab. or Job Corp.   
 May serve W/E beginning \_\_\_\_\_  
 Substance Abuse Counseling   
 Random Drug/Alcohol testing   
 Fine may be pd. in equal, consecutive weekly/monthly  
 pmts. of \$ \_\_\_\_\_ beginning \_\_\_\_\_  
 \$ \_\_\_\_\_ paid to Public Defender Fund  
 Other: \_\_\_\_\_  
 Appointed PD or appointed other counsel,  
 § 47.12 requires \$500 be paid to Clerk  
 during probation.

Clerk of Court/ Deputy Clerk [Signature]  
 Court Reporter: [Signature]  
 SCCA/217 (03/2011)

Presiding Judge: \_\_\_\_\_  
 Judge Code: 2141  
 Sentence Date: 2-19-2016

## CERTIFICATE OF COUNSEL FOR APPELLANT

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,



David Alexander  
Appellate Defender

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


ATTORNEY FOR APPELLANT

This 31st day of March, 2017.

## CERTIFICATE OF COUNSEL FOR APPELLANT

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,



David Alexander  
Appellate Defender

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

ATTORNEY FOR APPELLANT

This 31st day of March, 2017.

**RECEIVED**  
MAR 31 2017  
SC Court of Appeals