

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Pickens
STATE VS.
John W Mccarty

INDICTMENT/CASE#: 2015GS3902275
A/W#: 2015GS3902275
Date of Offense: 7/15/2015
S.C. Code § : 16-03-0010, 0020
CDR Code #: 0116

AKA:
Race: WHITE Sex: M Age: 49
DOB:
Address:
City, State, Zip:
DL#: SID#:

SENTENCE SHEET

30/1.5c

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

CONVICTED OF or PLEADS

in violation of § 16-03-0010, 0020 of the S.C. Code of Laws, bearing CDR Code # 0116
NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS
Mandatory GPS(CSC w/minor 1st or Lewd Act) §17-25-45

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: Cleveland, Baker SC Bar# 78744 Defendant NEWTON, ROBERT SC Bar# 08893

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center,
for a determinate term of 30 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:
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. 85 days

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 (Domestic
Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

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

PTUP
days/hours Public Service Employment
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:

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Table with columns for Fine, Description, and Amount. Includes items like § 14-1-206 (Assessments 107.5 %), § 14-1-211(A)(1) (Conv. Surcharge) \$100, § 14-1-211(A)(2) (DUI Surcharge) \$100, § 56-5-2995 (DUI Assessment) \$12, § 56-1-286 (DUI Breath Test) \$25, Proviso 61.6 (Public Def/Probation) \$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, 3% to County (if paid in installments) \$ 375. TOTAL \$ 128.75

Appointed PD or appointed other counsel, Proviso 61.6 requires \$500 be paid to Clerk during probation and shall be collected before any other fees.

Clerk of Court/ Deputy Clerk Harold P. Welborn, Jr.
Court Reporter: Teresa Johnson

Presiding Judge
Judge Code:
Sentence Date: 10/18/17

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Pickens
STATE VS.

INDICTMENT/CASE#: 2015GS3902276

John William Mccarty

A/W#: 2015A3910500367

AKA:

Date of Offense: 7/15/2015

Race: WHITE Sex: M Age: 49

S.C. Code §: 16-23-0490

DOB: 11/11/1964

CDR Code #: 0549

Address:

City, State, Zip:

DL#: SID#:

SENTENCE SHEET

*CDL Yes No CMV Yes No Hazmat Yes No

5 yrs
[checked] CONVICTED OF or [] PLEADS

In disposition of the said indictment comes now the Defendant who was TO: Weapons / Poss. Weapon During Violent Crime

in violation of § 16-23-0490 of the S.C. Code of Laws, bearing CDR Code # 0549

[checked] NON-VIOLENT [] VIOLENT [] SERIOUS [] MOST SERIOUS [] Mandatory GPS(CSC w/minor 1st or Lewd Act) §17-25-45

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] 78744 Defendant NEWTON, ROBERT 08893 SC Bar#

WHEREFORE, the Defendant is committed to the [] State Department of Corrections, [] County Detention Center, for a determinate term of 5 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.

[checked] CONCURRENT or [] CONSECUTIVE to sentence on: [checked] 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. 85 days

[] 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 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

[] RESTITUTION: [] Deferred [] Def. Waives Hearing [] Ordered

Total: \$ plus 20% fee: \$

Payment Terms:

[] Set by SCDPPPS

Recipient:

*Fine: \$

§ 14-1-206 (Assessments 107.5 %) \$

§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100.00

§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$

§ 56-5-2995 (DUI Assessment) \$12 \$

§ 56-1-286 (DUI Breath Test) \$25 \$

Proviso 61.6 (Public Def/Probation) \$500 \$

§ 14-1-212 (Law Enforce. Funding) \$25 \$ 25.00

§ 14-1-213 (Drug Court Surcharge) \$150 \$

§ 50-21-114(BUI Breath Test Fee) \$50 \$

§ 56-5-2942(J) (Vehicle Assessment) \$40/ea \$

3% to County (if paid in installments) \$ 3.75

TOTAL \$ 128.75

PTUP days/hours Public Service Employment

Obtain GED []

Attend Voc. Rehab. or Job Co.

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, Proviso 61.6 requires \$500 be paid to Clerk during probation and shall be collected before any other fees.

Presiding Judge

Judge Code:

Sentence Date: 10/18/17

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SC Court of Appeals

Clerk of Court/ Deputy Clerk Harold P. Welborn, Jr.

Court Reporter: Teresa Johnson

STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
COUNTY OF PICKENS) THIRTEENTH JUDICIAL CIRCUIT
CLERK OF COURT
THE STATE OF SOUTH CAROLINA) PICKENS COUNTY INDICTMENT # 2015GS3902275
SOUTH CAROLINA)

VS.)

2017 APR 11 A 11:09)

JOHN W MCCARTY,)
DEFENDANT.)

ORDER)

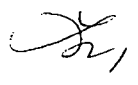
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SC Court of Appeals

Hearing Date: February 23, 2017
Presiding Judge: The Honorable Letitia Verdin
State's Attorneys: Baker Cleveland, Britni McCall
Defendant's Attorney: Robert Newton

This matter is before the court pursuant to the Defendant's Motion asserting statutory immunity from prosecution under the Protection of Persons and Property Act ("the Act"), S.C. Code § 16-11-410, et. seq. The Defendant was indicted for murder under the above-captioned indictment for the killing of Mitchell Bradley in Pickens County on or about July 15, 2015. The Defendant admits to shooting the victim, however he claims that his actions were justified and he is therefore immune from prosecution under the Act. The Defendant has the burden of proving his immunity by a preponderance of the evidence. State v. Duncan, 709 S.E.2d 662, 665 (S.C. 2011). After considering the evidence presented, it is the ruling of the Court that the Defendant failed to meet the burden of proof for the reasons set forth below, and his Motion for immunity is therefore denied.

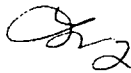
FACTS

Through the Defendant and the State's presentations, all witnesses who were present during the shooting testified at the hearing, and the core facts are largely uncontested. The incident occurred in the evening of July 15, 2015 at a mobile home located off Watts Road in Pickens County. Living at that location at the time was the Defendant, Randy Wilson, Jacob Kirk, and a juvenile relative of Randy Wilson (who was not present at the time of the shooting). Also present was the victim Mitchell Bradley, Jacob Kirk's brother.



On that evening, the parties were drinking at the home, and at some point an argument began between Kirk, Bradley, and Wilson. As the argument escalated, Wilson demanded Kirk and Bradley leave the residence and called law enforcement. By that point, the Defendant had gone to bed. Deputy Williamson with the Pickens County Sheriff's Office responded and observed Kirk, Bradley, and Wilson, who he testified all appeared to be intoxicated. Deputy Williamson informed Wilson that because Kirk was a resident of the home and Bradley was his invited guest, he could not make either leave. Deputy Williamson then left the residence. The argument continued and turned physical between Bradley and Wilson. Bradley shoved Wilson down a small set of stairs at the back porch, injuring Wilson's foot. Wilson came back onto the porch and Bradley shoved him into the corner where it adjoins the residence and the rear door. Wilson called out for the Defendant who was still asleep and had not witnessed any of the ongoing argument. The Defendant immediately retrieved his 9mm pistol and went to the kitchen of the residence where he could see Bradley pinning Wilson against the porch railing through the window of the exterior door. The Defendant fired a warning shot into the interior floor of the residence, and then fired two shots through the window directly at Bradley, striking him in the torso. Bradley died at the scene. Wilson had a broken bone in his foot, but suffered no serious injuries. The shooting occurred approximately twenty minutes after Deputy Williamson left the residence.

Despite the general consensus regarding the basic facts, there was some dispute as to the cause and nature of the argument between Wilson, Kirk, and Bradley. Wilson testified that he had not had much to drink that night, and that Kirk and Bradley had acted aggressively toward him. Wilson also testified that due to a previous neck injury, he feared for his life as Bradley had him pinned in the corner of the porch. Kirk testified that it was Wilson that incited the argument, specifically indicating that Wilson destroyed some of Bradley's property that was outside on the porch, angering Bradley enough to shove Wilson down the stairs. When Wilson came back on the porch, he slapped Bradley's beer away, which provoked Bradley to push him in the corner. Kirk also testified that he did not perceive the fight to be serious, and knowing of Wilson's previous injuries, he would not have allowed the fight to continue if Bradley was seriously injuring Wilson.



LAW / ANALYSIS

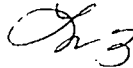
The relevant portion of the Act is found at S.C. Code § 16-11-440(C), which provides in part:

A person who is not engaged in an unlawful activity and who is attacked in another place where he has a right to be . . . has no duty to retreat and has the right to stand his ground and meet force with force, including deadly force, if he reasonably believes it is necessary to prevent death or great bodily injury to himself or another person

State v. Curry, 752 S.E.2d 263 (S.C. 2013), gives guidance in applying the above provision and provides that “a valid case of self-defense must exist, and the trial court must necessarily consider the elements of self-defense in determining a defendant’s entitlement to the Act’s immunity . . . save the duty to retreat.” Id. at 266. The elements of self-defense are well established and need not be fully recounted here. The Defendant in this case was not in danger himself, but rather acting in defense of Randy Wilson. The law provides a person the right to act in the defense of another person if the person being protected would have had the right to kill the assailant in self-defense, a doctrine commonly referred to as “defense of others.” See State v. Long, 480 S.E.2d 62 (S.C. 1997).

It is the Defendant’s burden to prove by a preponderance of the evidence that he had the right to act in defense of others. The determination must include an analysis of Wilson’s right to act in self-defense, if any, as Wilson was the person the Defendant argues he was attempting to defend. In order to invoke the doctrine of self-defense, each and every element must be proven by the moving party. In considering the evidence presented, we find the Defendant failed to meet his burden because he did not prove that Wilson was without fault in bringing about the difficulty. Since this issue is dispositive, the Court need not consider the other elements of self-defense.

Whether or not a defendant is without fault in bringing on the difficulty presents “a quintessential jury question” which is “not a situation warranting immunity from prosecution.” Curry, 752 S.E.2d at 267. Since the Defendant, claiming to have acted in defense of Wilson, is only entitled to immunity if Wilson was entitled to act in self-defense, it becomes a material question as to whether Wilson was at fault in

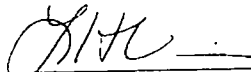


bringing about the difficulty. As a matter of law, one is not entitled to act in defense of others if the other person provoked the encounter and therefore would not be entitled to act in self-defense. See State v. Jackson, 681 S.E.2d 17 (S.C. Ct. App. 2009). The evidence presented conflicting views as to Randy Wilson's involvement in the argument that led to the fatal encounter, and that presents a factual question that must be answered by a jury.

CONCLUSION

The Court finds that the Defendant failed to prove by a preponderance of evidence that he is immune from prosecution pursuant to the Protection of Persons and Property Act, specifically § 16-11-440(C). Other provisions of the Act do not apply to offer immunity. Therefore, the Defendant's Motion is denied.

IT IS SO ORDERED.



The Honorable Letitia H. Verdin
Presiding Judge, Thirteenth Judicial Circuit

Pickens, South Carolina

Dated: 4/7/17, _____

