

STATE OF SOUTH CAROLINA

In The Court of Appeals

ORIGINAL

APPEAL FROM NEWBERRY COUNTY

Donald B. Hocker, Circuit Court Judge

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SC Court of Appeals  
RESPONDENT,

THE STATE,

V.

CARLOS DEMONT REEDER

APPELLANT

APPELLATE CASE NO. 2014-000990

RECORD ON APPEAL

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## INDEX

|                                          |     |
|------------------------------------------|-----|
| INDEX .....                              | i   |
| TRIAL TRANSCRIPT .....                   | 1   |
| NEIL V. BIGGERS TESTIMONY – WITNESS      |     |
| RYAN MATTHEWS                            |     |
| Direct Examination by Mr. Scott .....    | 37  |
| Cross-Examination by Mr. Verner .....    | 51  |
| DEBORICA ADAMS                           |     |
| Direct Examination by Mr. Daniel .....   | 57  |
| Cross-Examination by Mr. Verner .....    | 70  |
| Redirect Examination by Mr. Daniel ..... | 84  |
| ALLISON MOORE                            |     |
| Direct Examination by Mr. Scott .....    | 90  |
| Cross-Examination by Mr. Verner .....    | 94  |
| VICKIE DAVIS                             |     |
| Direct Examination by Mr. Scott .....    | 99  |
| Cross-Examination by Mr. Verner .....    | 111 |
| DWAYNE DAVIS                             |     |
| Direct Examination by Mr. Scott .....    | 128 |
| OPENING STATEMENT BY MR. DANIEL .....    | 163 |
| OPENING STATEMENT BY MR. VERNER.....     | 170 |
| TRIAL TESTIMONY – WITNESS                |     |
| RYAN MATTHEWS                            |     |
| Direct Examination by Mr. Scott .....    | 187 |
| Cross-Examination by Mr. Verner .....    | 211 |
| Redirect Examination by Mr. Scott.....   | 221 |
| Recross-Examination by Mr. Verner .....  | 225 |
| QUENTIN GRAHAM                           |     |
| Direct Examination by Mr. Scott .....    | 228 |
| Cross-Examination by Mr. Verner .....    | 238 |
| Redirect Examination by Mr. Scott.....   | 248 |

|                                         |     |
|-----------------------------------------|-----|
| Recross-Examination by Mr. Verner ..... | 254 |
| DAWAYNE DAVIS                           |     |
| Direct Examination by Mr. Scott .....   | 255 |
| Cross-Examination by Mr. Verner .....   | 275 |
| Redirect Examination by Mr. Scott.....  | 285 |
| VICKIE DAVIS                            |     |
| Direct Examination by Mr. Scott .....   | 288 |
| Cross-Examination by Mr. Verner .....   | 311 |
| Redirect Examination by Mr. Scott.....  | 336 |
| Recross-Examination by Mr. Verner ..... | 341 |
| Redirect Examination by Mr. Scott.....  | 350 |
| DEBORICA ADAMS                          |     |
| Direct Examination by Mr. Scott .....   | 351 |
| Cross-Examination by Mr. Verner .....   | 364 |
| ALLISON MOORE                           |     |
| Direct Examination by Mr. Daniel .....  | 375 |
| Cross-Examination by Mr. Verner .....   | 393 |
| VICKIE HUNTER                           |     |
| Direct Examination by Mr. Daniel .....  | 448 |
| CLOSING ARGUMENT BY MR. VERNER .....    | 462 |
| CLOSING ARGUMENT BY MR. SCOTT.....      | 477 |
| VERDICT .....                           | 517 |
| SENTENCING .....                        | 546 |
| INDICTMENTS .....                       | 548 |
| CERTIFICATE OF COUNSEL.....             | 552 |

1 "verdict form." So if you'll bear with me for just a  
2 minute, I'm going to come around this way.

3 Now, Madam Forelady and ladies and gentlemen of the  
4 jury, we have what is called a -- a "verdict form." And  
5 the top part is just the name of the case and the  
6 indictment numbers. And we have it broken down as to both  
7 indictments.

8 There's one indictment concerning Dawayne Davis and  
9 one indictment concerning Vickie Davis. So we just -- just  
10 arbitrarily -- and the order doesn't matter. We  
11 arbitrarily selected the indictment, Dawayne Davis.

12 And it says: "As to Indictment" -- and that's the  
13 indictment number -- "the charge of attempted murder of  
14 Dawayne Davis, we, the jury, find the defendant" -- and,  
15 Madam Forelady, you would select either guilty or not  
16 guilty based on the unanimous verdict of the jury.

17 Now, the instruction is: If the verdict as to No. 1  
18 is not guilty, then you go to No. 2 and consider the  
19 lesser-included charge of assault and battery in the first  
20 degree. Okay? And you would consider guilty or not  
21 guilty.

22 Now, if you find guilty as to No. 1, naturally you  
23 would skip over No. 2 because assault and battery would not  
24 be applicable. And then you'd go over to the Vickie Davis  
25 indictment, and it's the same process: ". . . the charge

1 of attempted murder of Vickie Davis, we, the jury, find the  
2 defendant" -- and if -- on the unanimous -- all 12 of you  
3 find guilty or not guilty, you would select that. Okay?

4 And again, it has the same instruction. If you -- if  
5 the verdict is not guilty, then you go to No. 4 and  
6 consider the lesser-included offense of assault and battery  
7 in the first degree. If you find guilty on the attempted  
8 murder, then you would stop.

9 After those two -- those decisions are made, then,  
10 Madam Forelady, you would sign it as the foreperson. It's  
11 already dated.

12 Now, when you have reached a verdict, you will, I  
13 think, knock on the doors, typically how it's done, so the  
14 bailiffs would know that -- that you have reached a  
15 unanimous verdict as to each indictment.

16 Now, what I'm going to do at this time: I'm going to  
17 send you back. Don't start your deliberations yet because  
18 I need to review with the attorneys to make sure that my  
19 final charge was proper; make sure that there's no  
20 objections or exceptions or any additions.

21 And if there are no additional charges to be made,  
22 then what will happen is the bailiffs will deliver to you  
23 the verdict form, both indictments, and we have a good  
24 number of exhibits. All that will be delivered to you.

25 When that delivery is made, that is your cue to start

1 your deliberations. Okay? So I'm going to ask that you  
2 retire to your jury room.

3 Hopefully, it'll be for just a minute. And let me  
4 make sure with the attorneys that I've done everything  
5 proper concerning my final charge.

6 (Whereupon, the jury exited the courtroom at 2:47  
7 p.m.)

8 THE COURT: Okay. Any exceptions, challenges,  
9 objections to the Court's final charge from the state?

10 MR. SCOTT: No, sir, Your Honor.

11 THE COURT: From the defense?

12 MR. VERNER: Subject to what's been already ruled on

13 ---

14 THE COURT: Sure.

15 MR. VERNER: --- Judge, the -- I'm -- I -- I'm  
16 satisfied with the Court's ---

17 THE COURT: Okay.

18 MR. VERNER: --- charging.

19 THE COURT: All right. Thank you very much. All  
20 right. We're going to go off the record and I'm going to  
21 ask the lawyers to get with the court reporter and make  
22 sure all the exhibits are together, everything is in order,  
23 before they're delivered to the jury. We're off the  
24 record.

25 (Off the record at 2:48 p.m.)

1 (Whereupon, the jury began deliberating at 2:50 p.m.)

2 (On the record at 4:12 p.m.)

3 THE COURT: Okay. We're -- we're -- we're back on the  
4 record. And as discussed with the attorneys, we've got  
5 three questions.

6 The first question is: "Could we get the written  
7 statements of Vickie and Dawayne Davis?" The Court's  
8 ruling: Unless the state and the defense agreed, I will  
9 not allow that because they were not put into evidence as  
10 exhibits; they were only marked for ID. But ---

11 MR. SCOTT: I -- I'm sorry, Your Honor.

12 THE COURT: --- absent an agreement, I'm -- I'm not  
13 going to allow those to go in.

14 MR. SCOTT: Well ---

15 THE COURT: So ---

16 MR. SCOTT: --- I -- I would just -- I would ask maybe  
17 not -- if Your Honor would be inclined, not -- not to say  
18 that -- that the state and the defense have not stipulated  
19 to it, just the fact that they didn't come in, in evidence  
20 in the -- in the trial.

21 THE COURT: Right. I mean, if -- if -- if you don't  
22 agree, I'm not going to allow them to come in. And I'll  
23 explain to them ---

24 MR. SCOTT: Oh, okay.

25 THE COURT: --- I can't give them to you because

1 they're not ---

2 MR. SCOTT: Right.

3 THE COURT: --- they're not evidence.

4 MR. SCOTT: Yes, sir.

5 THE COURT: Okay.

6 MR. VERNER: Yeah. I would just ask the charge --  
7 just -- just to -- instead of telling the jury there's no  
8 agreement to put them, just -- they were ---

9 THE COURT: No.

10 MR. VERNER: --- not admitted into evidence.

11 THE COURT: No. I'm -- I'm -- no. I'm not going to

12 ---

13 MR. VERNER: All right.

14 THE COURT: --- tell them there's no agreement to put  
15 them in.

16 MR. VERNER: Just ---

17 THE COURT: I'm going to tell them they're not --  
18 they're not exhibits into evidence and that they can't come  
19 in.

20 MR. VERNER: Yes, sir. I think ---

21 THE COURT: Okay.

22 MR. VERNER: --- that's just short ---

23 THE COURT: All right.

24 MR. VERNER: --- and simple would be ---

25 THE COURT: And the second question: "Are Vickie and

1 Dawayne the only people we have to prove he tried to  
2 hurt/kill, or could it have been anyone that was in the  
3 yard and their names are on the indictment because they are  
4 the only people that came forward to pursue it?"

5 My instruction's going to be that they are to consider  
6 two indictments and two indictments only. One indictment  
7 concerns the attempted murder charge as it relates to  
8 Dawayne Davis. And the other indictment, it -- it concerns  
9 attempted murder as it relates to Vickie Davis, period.

10 Is that satisfactory to both sides? I think that  
11 would answer the question, I ---

12 MR. SCOTT: Yes, sir.

13 THE COURT: --- would think. Defense, you okay with  
14 that?

15 MR. VERNER: Yes, sir. I -- I think that satisfy -- I  
16 -- I wouldn't mind the Court reinstructing them that they  
17 have to find beyond a reasonable doubt that Vickie Davis  
18 was the victim of the assault or that the assault ---

19 THE COURT: Well, they ---

20 MR. VERNER: --- the attempted ---

21 THE COURT: --- have to ---

22 MR. VERNER: --- murder ---

23 THE COURT: --- the state ---

24 MR. VERNER: --- was against ---

25 THE COURT: --- has to prove beyond a reasonable doubt

1 the allegations in this indictment, and I'll reread the  
2 indictment as concerns Dawayne Davis and do the same thing  
3 with Vickie Davis.

4 MR. SCOTT: The -- Judge, before ---

5 MR. VERNER: Yes, sir.

6 MR. SCOTT: --- you bring them, may I speak with  
7 Charles ---

8 THE COURT: Sure.

9 MR. SCOTT: --- briefly?

10 THE COURT: Sure.

11 (Whereupon, Mr. Scott and Mr. Verner conferred.)

12 MR. VERNER: All right. The -- part of my problem  
13 with the statements, Judge, is if the witnesses had  
14 actually read the statements, I -- I would have a little  
15 bit less problem.

16 THE COURT: Sure.

17 MR. VERNER: But they didn't even ---

18 THE COURT: They were referred to and maybe questioned  
19 a little bit, pieces of it. But that -- that's it. Okay.

20 And then, the third is: "Get a -- get a written copy  
21 of the law on both verdicts."

22 What I'm going to do is I'm going to recharge them.  
23 If you've got your copy of the charge, I'm going to start  
24 on page 20, halfway down where I -- I read the -- the  
25 statute. And I will -- I'll keep going all the way over to

1 -- through page 26. That would be a -- a recharge on  
2 attempted murder; recharge on assault and battery, first-  
3 degree.

4 MR. VERNER: Yes, sir.

5 MR. SCOTT: I ---

6 THE COURT: Okay.

7 MR. SCOTT: --- I think it'd be helpful to tell them  
8 that malice would be the -- the difference between the --  
9 the two -- or one thing that attempted murder would have  
10 that would -- would not apply to A&B ---

11 THE COURT: Well ---

12 MR. SCOTT: --- first.

13 THE COURT: --- I -- I ---

14 MR. VERNER: My -- my problem with that is that the  
15 ---

16 THE COURT: Yeah.

17 MR. VERNER: --- that -- that's an incorrect  
18 statement. Intent to kill is what they say is the  
19 difference, not malice. So I -- I disagree that that's  
20 even a ---

21 THE COURT: Well, I'm ---

22 MR. VERNER: --- correct ---

23 THE COURT: --- going to -- I'm going to charge the --  
24 the -- both offenses and let them make that ---

25 MR. VERNER: Yes, sir.

1 THE COURT: --- distinguish them. Okay?

2 All right. I think we're going to need to be at ease.  
3 They're in the bathroom and out smoking. So do y'all want  
4 to take up this gentleman back here? What is -- what is  
5 this?

6 MR. VERNER: The ---

7 MR. DANIEL: It's a ---

8 MR. VERNER: -- it would ---

9 MR. DANIEL: --- drug charge.

10 MR. VERNER: --- be a plea if it's worked out, Judge.  
11 But we have ---

12 THE COURT: Oh. You -- you're still in the middle of  
13 that? Okay.

14 MR. VERNER: Well, the tail end of it. And we'll let  
15 the -- them know.

16 THE COURT: All right.

17 MR. VERNER: Here, let me ---

18 THE COURT: Mr. Coats, if -- could you just let me  
19 know when the -- those jury members are back in?

20 THE BAILIFF: Yes, sir.

21 THE COURT: Thank you.

22 (Off the record from 4:16 p.m. until 4:18 p.m.)

23 THE BAILIFF: Are you ready for them now, sir?

24 THE COURT: Yes, sir. They back in?

25 THE BAILIFF: Yes, sir.

1 THE COURT: Yeah. Bring them back in.

2 (Off the record briefly.)

3 (Whereupon, the jury entered the courtroom at 4:18  
4 p.m.)

5 THE COURT: Okay. Let the record reflect that the  
6 jury's back in. Madam Forelady and ladies and gentlemen of  
7 the jury, I have before me a -- three questions that the  
8 jury has submitted to the Court. And I will respond to --  
9 to each question. The first one is: "Could we get the  
10 written statements of Vickie and Dawyane Davis?"

11 And my response is no. And the only reason for that  
12 is they were not put into evidence. They were marked for  
13 identification purposes so we could keep track of them.

14 And I think the witnesses may have been questioned  
15 about those statements, but they were not put into  
16 evidence. So the fact that they are not into evidence,  
17 then I cannot give those. You are only to consider what is  
18 in evidence.

19 The second question -- and I'll read the whole  
20 question: "Are Vickie and Dawyane the only people we have  
21 to prove he tried to hurt or kill, or could it have been  
22 anyone that was in the yard and their names are on the  
23 indictment because they are the only people that came  
24 forward to pursue it?"

25 Now, for -- what you are to consider is whether or not

1 the state has proved beyond a reasonable doubt all of the  
2 allegations in just two indictments that are before you.  
3 The indictment as concerns attempted murder of Dawayne  
4 Davis -- and you are to consider whether or not they have  
5 proved beyond a reasonable doubt all of the elements of  
6 that offense.

7 And the second -- the second indictment for you to  
8 consider is whether or not the state has proved beyond a  
9 reasonable doubt all of the elements as concerns the  
10 attempted murder of Vickie Davis. Those are the only two  
11 indictments that are before you.

12 And the third question is: "Get a written copy of the  
13 law on both verdicts." What I'm going to do is recharge  
14 you the -- the law as to attempted murder and assault and  
15 battery in the first degree. So if you'll pay attention,  
16 and I will so charge.

17 The defendant is charged with attempted murder.  
18 That's found in Section 16-3-29, Code of Laws for South  
19 Carolina, and it states as follows: A person who, with  
20 intent to kill, attempts to kill another person with malice  
21 aforethought, either expressed or implied, commits the  
22 offense of attempted murder.

23 In order to prove this crime, the state must prove the  
24 defendant attempted to kill another person with malice  
25 aforethought, either expressed or implied.

1 Malice is hatred, ill-will, or a hostility towards  
2 another person. It is the intentional doing of a wrongful  
3 act without just cause or excuse and with an intent to  
4 inflict an injury or under circumstances that the law will  
5 infer an evil intent.

6 Malice aforethought does not require that malice  
7 exists for any particular -- for any particular time before  
8 the act is committed. But malice must exist in the mind of  
9 the defendant just before and at the time of the act is  
10 committed. Therefore, there must be a combination of the  
11 previous evil intent and the act.

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

18 Express malice is shown when a person speaks words  
19 which expressed hatred or ill-will for another or when the  
20 person prepared beforehand to do the act which was later  
21 accomplished. For example, an example I gave you  
22 previously: Lying in wait for a person or any other acts  
23 of preparation going to show that the deed was within the  
24 defendant's mind would be express malice.

25 Malice may be inferred or implied from conduct showing

1 a total disregard for human life.

2 If facts are proved beyond a reasonable doubt  
3 sufficient to raise an inference of malice to your  
4 satisfaction, this inference would be simply an evidentiary  
5 fact to be considered by you, the jury, along with the  
6 other evidence in this case. And you may give it the  
7 weight you decide it should receive.

8 A specific intent to kill is not an element of  
9 attempted murder. But there must be a general intent to  
10 commit serious bodily injury. Intent means intending the  
11 result which actually occurs, not accidentally or  
12 involuntarily.

13 Intent may be shown by acts and conduct of the defendant  
14 and other circumstances from which you may naturally and  
15 reasonably infer intent. Evidence of the character of the  
16 act, the character of the instrument used, the manner in  
17 which it was used, the purpose to be accomplished, and the  
18 resulting wounds or injuries may be considered in  
19 determining the intent with which the act was committed.  
20 Intent may also be inferred when it is demonstrated that  
21 the defendant voluntarily and willfully commits an act, the  
22 natural tendency of which is to destroy another's life.

23 If you determine the state has not proven attempted  
24 murder beyond a reasonable doubt, you then can consider  
25 whether the state has proven beyond a reasonable doubt that

1 the defendant is guilty of assault and battery in the first  
2 degree. A person commits the offense of assault and  
3 battery in the first degree if the person unlawfully offers  
4 or attempts to injure another person with the present  
5 ability to do so and the act is accomplished by means  
6 likely to produce death or great bodily injury.

7 Great bodily injuries means bodily injury which causes  
8 a substantial risk of death or which causes serious,  
9 permanent disfigurement or protracted loss or impairment of  
10 the function of a bodily member or organ.

11 All right. With that said, Madam Forelady and ladies  
12 and gentlemen of the jury, I'm going to ask that you go  
13 back to your jury room and continue with your  
14 deliberations. Thank you very much.

15 (Whereupon, the jury exited the courtroom at 4:24  
16 p.m.)

17 THE COURT: The state -- any -- any objections from

18 ---

19 MR. SCOTT: No, sir.

20 THE COURT: --- the additional charge, defense?

21 MR. VERNER: No, Your Honor.

22 THE COURT: Okay. Please note that for the record,  
23 please, madam court reporter.

24 (Whereupon, Court's Exhibit 2 was marked for  
25 identification.)

1 THE COURT: Okay. Everybody be at ease.

2 (Off the record from 4:24 p.m. until 6:05 p.m.)

3 THE COURT: Okay. We're -- we're back on the record.  
4 And we've got another question. I met with the lawyers in  
5 chambers. The question is: "We cannot come to a unanimous  
6 verdict on Vickie Davis; currently, 10-2. Should we  
7 continue to deliberate? I don't think the other two will  
8 change their minds."

9 In talking with the lawyers, it's been agreed that I'm  
10 not going to give them an Allen charge quite yet. I'm just  
11 going to have them brought back and -- and just tell them,  
12 in response to their question, that yes, we definitely want  
13 them to continue to deliberate and we'll see how things go.

14 So with that said, madam bailiff or madam clerk or  
15 whoever, bring them out, please.

16 (Off the record briefly.)

17 THE COURT: All right. Let the record reflect the  
18 jury is back in. And, Madam Forelady and ladies and  
19 gentlemen of the jury, in response to your question, should  
20 you continue to deliberate, the answer is yes. I would ask  
21 that you go back to your jury room and continue with your  
22 deliberations. Okay? Thank you very much.

23 (Whereupon, the jury exited the courtroom at 6:06  
24 p.m.)

25 THE COURT: All right. We'll be at ease once again.

1 (Whereupon, Court's Exhibit 3 was marked for  
2 identification.)

3 (Off the record from 6:06 p.m. until 6:57 p.m.)

4 THE COURT: Okay. Back on the record, and, gentlemen,  
5 I understand from -- from the clerk that the jury's  
6 indicated that they've reached a verdict. We need to take  
7 up anything on the record before the jury comes?

8 MR. SCOTT: Nothing from the state ---

9 THE COURT: Okay.

10 MR. SCOTT: --- Your Honor.

11 THE COURT: All right. Okay. Madam clerk, when the  
12 jury comes out, I'll ask the forelady if they've reached a  
13 verdict and was it unanimous on both indictments. And when  
14 she gives that indication, then I'll ask her to hand it to  
15 you. If you'll hand it to me just to review and inspect  
16 without publication, then I'll hand it back to you, madam  
17 clerk, for publication. Okay?

18 DEPUTY CLERK OF COURT: Okay. And I have their checks  
19 too.

20 THE COURT: Oh, okay. All right. Bring the jury out,  
21 please.

22 (Off the record briefly.)

23 (Whereupon, the jury entered the courtroom at 6:58  
24 p.m.)

25 THE COURT: Okay. Let the record reflect that the

1 jury is back. And, Madam Forelady, I've been informed that  
2 -- that the jury has reached a verdict on both indictments,  
3 correct?

4 JURY FOREPERSON: That's correct.

5 THE COURT: And without indicating the verdict, was  
6 the verdict on both indictments unanimous among the 12 of  
7 you?

8 JURY FOREPERSON: Yes.

9 THE COURT: Okay. All right. Madam clerk, would you  
10 obtain the verdict form for both indictments.

11 DEPUTY CLERK OF COURT: (Complied.)

12 THE COURT: Okay. All right. Madam clerk, would you  
13 publish the verdict, please. And I ask Mr. Reeder to  
14 stand.

15 THE DEFENDANT: (Complied.)

16 VERDICT OF THE JURY

17 DEPUTY CLERK OF COURT: (As read): "South Carolina v.  
18 Carlos Demont Reeder, as to the indictment, 2013-GS-36-466,  
19 the charge of attempted murder of Dawayne Davis, we, the  
20 jury, find the defendant not guilty. As a charge, assault  
21 and battery, first-degree, we, the jury, find the defendant  
22 guilty.

23 "As to Indictment 2013-GS-36-470, the charge of  
24 attempted murder of Vickie Davis, we, the jury, find the  
25 defendant not guilty. As to the charge of assault and

1 battery, first-degree, we, the jury, find the defendant  
2 guilty.

3 "I certify this decision was the unanimous decision of  
4 the jury. Signed, Betty" ---

5 JURY FOREPERSON: Suber.

6 DEPUTY CLERK OF COURT: --- "Suber."

7 Ladies and gentlemen of the jury, if this is your  
8 verdict, please indicate by raising your right hand.

9 JURORS: (Raised right hands.)

10 DEPUTY CLERK OF COURT: Thank you.

11 THE COURT: All right. Let the record reflect that  
12 all 12 raised their hands in the infirmity -- in the -- in  
13 the affirmative. Anything concerning the jury from the  
14 state before I -- I release them?

15 MR. SCOTT: No, sir.

16 THE COURT: From the defense?

17 MR. VERNER: No, Your Honor.

18 THE COURT: Okay. Y'all can have a seat.

19 Madam Forelady and ladies and gentlemen of the jury,  
20 let me just express my sincere -- sincere appreciation for  
21 your -- your service. I know this was a -- a difficult  
22 case, simply because you spent some time with it. And --  
23 but that's what you're supposed to do. You're supposed to  
24 spend a sufficient amount of time in order to reach a  
25 unanimous verdict.

1           And serving on a jury is not -- not always easy -- an  
2           easy task, but again, a vital and a very important  
3           responsibility for our system. And again, I appreciate  
4           your service. I appreciate your patience that -- that you  
5           have shown while we've gone through this trial.

6           I appreciate the close attention that you paid. I  
7           continuously look at my juries to make sure that  
8           everybody's listening and paying attention; that no one's  
9           nodding off asleep. And all 12 of you were always very  
10          attentive to what was going on, and I appreciate that very  
11          much.

12          You now are entitled -- if you like, to discuss this  
13          matter with anybody else -- your family, friends -- if --  
14          if you like. Certainly, you know, I -- and I don't know if  
15          any of the attorneys would contact you, but they -- they  
16          can. If they want to find out what you think about how  
17          they did, they certainly can do that.

18          You don't have to talk with them. You don't have to  
19          talk with anybody about -- about what went on. Typically,  
20          the -- the -- the deliberations -- it's usually better not  
21          to disclose what went on the -- the jury concerning your  
22          deliberations. And -- but the restriction as far as  
23          discussing the -- the facts of this case now is lifted and  
24          you -- you can discuss the case with anybody you want to if  
25          you like to.

1           Certainly, I don't expect this to happen. But if --  
2   if anybody forces themselves for you to discuss the case  
3   and you don't want to and they continue to insist, then  
4   certainly notify the Court. We can deal with it. Again, I  
5   don't expect that happening, but I just want you to know  
6   that we protect our juries. And we will protect all 12 of  
7   you under any circumstance that may arise.

8           Again, I don't anticipate anything happening. But  
9   understand that we're there to protect you. Okay?

10          Now, I understand that we have a -- a -- a rather  
11   large paycheck for you. And don't go out and spend it all  
12   at one time. And so the clerk will -- will give that to  
13   you. And you are free to leave, and you're free for the  
14   rest of the week. There'll be no further -- for the work  
15   that we need from you.

16          Madam Forelady, you will need to -- after the checks  
17   are handed out and -- and you leave, you'll need to get  
18   with the clerk to sign the indictments. And she'll show  
19   you what to do there. So you stay with us for just a  
20   second.

21          Have a good evening. Thank you.

22          (Off the record from 7:04 p.m. until 7:06 p.m.)

23          THE COURT: Okay. As I informed the -- the attorneys,  
24   since we're -- it's -- it's late in the evening and I know  
25   everyone has things to do and want to get home, we're going

1 to delay sentencing until -- I'll be here tomorrow; I'll be  
2 here Friday. Whatever can be put together, whatever --  
3 I'll be here. We'll -- we'll take care of sentencing at  
4 that time, but we're not going to do it this evening.  
5 Okay?

6 And, of course, naturally, Mr. Reeder, you're still --  
7 still in custody. All right. Thank you very much.

8 MR. SCOTT: Thanks, Judge.

9 THE COURT: We'll be in recess until 10 -- 10:30 in  
10 the morning.

11 (Whereupon, the proceedings were adjourned at 7:06 p.m.)  
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1 TRIAL DAY 4 - 04/24/14

2 (Whereupon, the proceedings were resumed at 3:55 p.m.)

3 THE COURT: All right. We're on the record this  
4 afternoon. And this is the sentencing phase of the -- in  
5 the case of the *State v. Carlos Reeder*. Record yesterday  
6 should indicate -- well, it -- it does already indicate,  
7 but just to kind of reiterate the jury returned a verdict  
8 about 7/7:30 last night, finding Mr. Reeder guilty of two  
9 lesser-included offenses: assault and battery in the first  
10 degree on -- on both of the indictments.

11 And what I'll do is -- is allow the state to present  
12 whatever they want to present in connection with sentencing  
13 and then allow the defense to -- to follow up.

14 Let the record reflect that I did have a conversation  
15 with the attorneys in chambers this morning concerning  
16 sentencing. And Mr. Verner raised some -- some issues that  
17 we can certainly address during -- during sentencing. But  
18 I'm going to go ahead and hear from the state first and  
19 then from the defense.

20 MR. SCOTT: Okay. Judge, not a whole lot to say in --  
21 in respect to the facts of the case. Those -- those have  
22 been spoken to ---

23 THE COURT: Do I ---

24 MR. SCOTT: --- by people ---

25 THE COURT: --- have the ---

1 MR. SCOTT: --- who are ---

2 THE COURT: --- sentencing sheets? Oh, they're right  
3 -- they already been given to me.

4 MR. VERNER: And, Your Honor, Mr. Reeder was sworn, I  
5 guess, for the purpose of his -- whether he was going  
6 testify or not. Does ---

7 THE COURT: Right.

8 MR. VERNER: --- does the Court want him sworn for the  
9 ---

10 THE COURT: Yeah. Let's go ahead and do that now,  
11 madam clerk.

12 CARLOS REEDER, having been first duly sworn,  
13 stated as follows:

14 THE COURT: Okay. All right. Solicitor Scott?

15 MR. SCOTT: Thank you, Your Honor. I -- I do want to  
16 give you an -- a -- a few things for Your Honor's  
17 consideration. As you've stated, he was convicted of two  
18 counts of A&B-first. Of course, we always went with the  
19 theory of attempted murder and that had anybody been shot  
20 and killed, it -- it probably would've been a murder -- we  
21 would certainly expect that the jury's decision -- and I  
22 understand how they reached that point. But we have always  
23 felt that it was a deliberate act, where he did aim at that  
24 group of people and just, by the grace of God, nobody was  
25 hurt.

1 I have a -- a few things for Your Honor to consider  
2 here. I have pulled the incident report. Your Honor asked  
3 about whether a weapon was involved with his prior AWIK.

4 THE COURT: That was in '09, I think?

5 MR. SCOTT: The conviction -- the actual incident was  
6 12/3/07.

7 (Whereupon, Mr. Verner and the defendant conferred.)

8 MR. SCOTT: His sentence on the AWIK was June 5th,  
9 '08. I -- I -- I -- I think it's -- it's very compelling,  
10 Your Honor. So I just want to read what -- what the  
11 incident represent says. He did plead -- ultimately plead  
12 guilty to this.

13 At that time Laurens County dispatched -- dispatch was  
14 -- indicated there was a man walking down Main Street in  
15 Cross Hill with a cut on the back of his head. The subject  
16 was one of the people that was fighting on John Grant  
17 Street. Department Timmons and -- Deputy Timmons and  
18 Deputy Taylor responded to where the man was seen walking.

19 One of the EMS workers stated that he got into a car  
20 that just passed us on the road. Timmons and Taylor turned  
21 around and located the vehicle the man was in. Ultimately,  
22 it's -- it's Carlos Reeder. He stated that he had just  
23 been in a fight and was heading to the hospital; did not  
24 wish to press any charges; was very vague on what was  
25 happening, but was trying to get out of there in a hurry.

1       A green-in-color Blazer, they state, pulls up and some  
2 individuals got out. They immediately tell officers that  
3 he had just been shooting at them. They try to put Mr.  
4 Reeder in investigative detention; he begins pulling away.

5       At that point, in officers' presence, he yells at one  
6 of the victims that he was going to kill them when he gets  
7 out of this. They transport him to the hospital and begin  
8 speaking with the victims. They say that they were at a  
9 party, Your Honor, which -- which kind of reminds me of  
10 this case; that he begins having some problems -- some  
11 verbal-type problems. After the fight he went and got a  
12 gun from one of his friends and began shooting at people.

13       Again -- and in our case, there was a -- one of the  
14 bystanders yells out, "He's got a gun." At that point he  
15 unleashes and begins firing at people.

16       This case, luckily, no one was shot, again. He ran  
17 out into the woods, the victim did, and waited for Reeder  
18 to leave.

19       The -- this is just another example, Your Honor, the  
20 state would say of -- of Mr. Reeder taking it to the next  
21 level, an argument that probably should end there, but he  
22 -- he's going to involve a deadly weapon.

23       THE COURT: What was his sentence on that, Solicitor?

24       MR. SCOTT: One of the provisions, "will not possess  
25 or use a firearm during probation," but the active sentence

1 was six years.

2 MR. VERNER: I -- I think it was -- four years was the  
3 active sentence, Judge.. So -- so maybe it was something --  
4 six, suspended to four. What was the active sentence?

5 (Whereupon, Mr. Verner and the defendant conferred.)

6 MR. VERNER: My understanding, it was an active  
7 sentence, but it was an active four-year sentence, Judge.

8 THE COURT: Okay.

9 (Whereupon, Mr. Scott and Mr. Simmons conferred.)

10 MR. SIMMONS: Your Honor, he had a six-year, suspended  
11 to time served, and 18 months probation. And then he went  
12 before a judge on a probation violation. He was revoked  
13 the four years.

14 THE COURT: Okay.

15 MR. SCOTT: I -- I've got the paperwork, Judge. I  
16 don't -- you might be able to -- there's two sheets here.  
17 There's an original sentencing sheet; and then, a --  
18 probably need to ---

19 MR. VERNER: I -- I think the probation agent's  
20 probably correct on his . . .

21 MR. SCOTT: Yeah.

22 MR. VERNER: May I look at that?

23 THE COURT: Sure.

24 MR. SCOTT: Judge, it -- obviously, these are  
25 allegations merely at this point. In fact, he hadn't been

1 served with these warrants. But currently, out of Saluda  
2 Police Department, he is wanted for two counts of attempted  
3 murder. Again, there was -- there was a woman at -- at --  
4 at this incident that -- that is shot in the foot and  
5 another person's hit with some shrapnel. And he is picked  
6 out of a photo lineup as being the shooter.

7 Again, I -- I just mention that. Those are pending  
8 charges, no adjudication at this point.

9 As far as the Laurens County charge and the  
10 similarities, Your Honor, he -- he served active time on  
11 that. He -- he did not learn his lesson. Here is again,  
12 doing it in Newberry County. Just it -- it -- what I've  
13 told the jury, I truly believe: That is the definition of  
14 just complete disregard for any kind of value of human  
15 life, firing seven shots into a group of people.

16 The state thinks he's a menace to society. He does  
17 need active time. I don't think ten years on an A&B-first  
18 would satisfy, I think, where justice would be in this  
19 case. I think he deserves consecutive sentences. These  
20 would be nonviolent offenses, so 55 percent, probably, of  
21 each one. We would ask for ten years on each and run them  
22 consecutive, Your Honor.

23 His record -- I don't -- I don't know if you care to  
24 hear a juvenile record. But he has two -- in '04, two  
25 convictions on a juvenile level. They were burg-first and

1     petit larceny. '08 is the assault with intent to kill and  
2     the use of vehicle without permission. And then '09 was  
3     the burg-third we had mentioned before a simple possession  
4     of marijuana.

5             Allison Moore -- Sgt. Allison Moore, as you know,  
6     represents Newberry Police Department. She would like to  
7     address the Court. And -- and you're familiar with  
8     Deborica Adams, and she would also like to address the  
9     Court at the appropriate time.

10            THE COURT: Okay. Madam clerk, would you swear both  
11     these witnesses in. You can swear them at the same time.

12            DEPUTY CLERK OF COURT: Yes, sir.

13            ALLISON MOORE and DEBORICA ADAMS, having been  
14     first duly sworn, stated as follows:

15            THE COURT: Okay. Who wants to go first? Doesn't  
16     matter to me.

17            MS. MOORE: I'll be brief, Your Honor.

18            THE COURT: Okay.

19            MS. MOORE: I just want to say that there's been an  
20     increase in this type of incidence here in Newberry, and  
21     we're simply not going to tolerate folks who come in and  
22     just want to shoot at our citizens. I'm just -- I praise  
23     God that no one was hurt, and I concur with what the  
24     solicitor has to say.

25            THE COURT: Okay. Thank you, officer. Ms. Adams?

1 MS. ADAMS: I mean, I'm just -- basically, I'm just --  
2 well, I mean, I totally agree what Ms. Moore said. But I  
3 just -- I would like to seek justice. I wanted justice  
4 served because just like Officer Allison said, it -- no --  
5 no one was hurt, but someone could've got hurt. And so I  
6 really just want justice served. That's all.

7 THE COURT: Thank you very much.

8 MS. ADAMS: You're welcome.

9 MR. SCOTT: Judge, I'm sorry. I apologize. Victims  
10 advocate Wiltshire ---

11 THE COURT: Sure.

12 MR. SCOTT: --- is going to speak on behalf of Vickie  
13 Davis.

14 THE COURT: Okay. Be glad to hear from you.

15 MR. WILTSHIRE: Okay. Thank you, Your Honor. You met  
16 Ms. Davis. I think the interesting thing, from her  
17 perspective, is she said it took her so long to get over  
18 the trauma of having a gun pointed straight at her and come  
19 -- seeing the smoke come out. And she was not enjoying --  
20 I don't know if you got the sense of nervousness when she  
21 was on the stand, but she was not enjoying having to live  
22 through this again.

23 She wants as much time as you can possibly hang on  
24 him, which I'm sure you already gauged. I -- I wanted to  
25 make a -- an observation that this was a ideal situation.

1 It was a -- a cookout; it was a nice, sunny day with people  
2 that don't drink and don't smoke. Neither Deborica or  
3 Vickie smoke or drink. They were enjoying themselves with  
4 lots of children around in their community.

5 There was no guns there because nobody returned any  
6 shots. So this was a nice a group of people as probably  
7 will ever want to meet. Yes, they do have nicknames. And  
8 maybe not the same as we are, but those are nice a group  
9 having a barbecue and this came upon them.

10 And the community, as the officer has said, really  
11 should not have to put up with this. And we need to send  
12 that message. Thank you.

13 THE COURT: Okay. Thank you very much. Solicitor,  
14 anything further? And I know you may want to respond to  
15 some legal issues that Mr. Verner will -- will -- will  
16 raise on the record. But -- and I'll give you an  
17 opportunity to respond to that once he does. But anything  
18 else you want to present at this time?

19 MR. SCOTT: Nothing factually ---

20 THE COURT: Okay.

21 MR. SCOTT: --- Your Honor.

22 THE COURT: All right. Thank you very much. All  
23 right. Mr. Verner, be glad to hear from you, sir.

24 MR. VERNER: May it please the Court, Your Honor?

25 THE COURT: Yes.

1       MR. VERNER: The -- Carlos is 25 years old. The AWIK  
2 he did get in trouble for and -- he got, actually, time  
3 served initially and probation from Judge Kinard and then  
4 violated his probation and got the active four-year, which  
5 terminated the probation. He's been in -- so he was 18 at  
6 that time, Judge, the -- still a young man, but certainly,  
7 particularly was young when he first got in trouble.

8       The -- he's been in jail since March 6th of 2013,  
9 which is 414 days today. But -- but any sentence he would  
10 get, the -- it -- it -- it would -- the sentence start date  
11 would be March 6th of 2013. I think we've -- that's a --  
12 probably my nonconfrontational thing or non ---

13       THE COURT: Okay.

14       MR. VERNER: The -- I -- I guess my -- my first issue  
15 is the -- the Court -- I -- was concerned if -- or had an  
16 interest in whether the 16-3-610 was an applicable statute.  
17 It -- if -- if the Court still has that concern -- and, of  
18 course, that's the statute that requires the Court to  
19 impose, what, I think three to twelve additional months if  
20 -- if a gun is used in an assault crime. And -- and this  
21 is certainly a crime that qualifies.

22       That statute, I believe, doesn't apply for -- one, it  
23 -- it cross-references, by its own terms, Section 17-19-40,  
24 which says that in -- in every indictment the enhancement  
25 provisions for the use of a weapon during an assault are

1 required to be indicted contained in the indictment. The  
2 -- I can hand that up, Judge. But this ---

3 THE COURT: Sure.

4 MR. VERNER: --- this section is actually cross-  
5 referenced in the 16-3-610 statute, which require all  
6 charges to be -- enhancement provisions for weapons have to  
7 be included in the indictment.

8 THE COURT: All right.

9 MR. VERNER: And I -- I will -- if -- if I can, I'll  
10 hand up *U.S. v. Booker* also -- U.S. Supreme Court case that  
11 if -- if an enhancement provision has any facts -- require  
12 any findings of facts, there has to be a jury adjudication  
13 of those facts or -- or the Court lacks jurisdiction if --  
14 if -- because the Court cannot, of course, make a finding  
15 of fact. And -- and those were under the provision.

16 So I -- I think, both under the federal law and by  
17 state statute, 16-3-610 would not apply. That may help him  
18 a little bit, but he's still got some problems with the  
19 charges he was found guilty of.

20 The -- I handed up -- I cannot -- I apologize. I  
21 cannot remember the section number I handed up. But I did  
22 hand up, Your -- for Your Honor, a Section 17 ---

23 THE COURT: --- -25 -- -25-50.

24 MR. VERNER: That's -- yes, sir. And the -- the --  
25 that is a statute that, when a defendant is found guilty of

1 multiple offenses but they arise out of the same incident,  
2 then -- my reading says "shall," and it does say that they  
3 have to contain the same elements. And -- and, of course,  
4 he was found guilty of two counts of assault and battery,  
5 first-degree.

6 The -- I -- I recognize the Court's got discretion in  
7 almost all cases on consecutive sentences. My -- my  
8 reading of "shall" takes away a court's -- "shall," of  
9 course, is a mandatory phrase.

10 The -- he was found guilty of two counts of assault  
11 and battery, first-degree. As -- as I indicated to the  
12 Court earlier, under the state's theory of the case,  
13 several shots were fired at one time. Each shot was  
14 potentially fatal to each member of the group out in the  
15 yard. But there were no specific testimony about he chose  
16 this particular target and then chose this particular  
17 target.

18 The -- as the solicitor said, each bullet -- no --  
19 none of the bullets carried anybody's name on them. So the  
20 statute, 17-25-50 refers to incident: ". . . (1) if they  
21 arise out of the same incident." I couldn't find any real  
22 cases that -- on this particular issue that would help us.  
23 I -- the -- a lot of cases talk about the two-strike/three-  
24 strike laws, but none specifically on this, other than the  
25 Legree case, which I referenced earlier, which was

1 consecutive sentences when somebody's found guilty of  
2 around, burglary, crimes that carry -- carry distinctly  
3 different elements to those crimes.

4 The -- other than incidents -- and it -- defined as  
5 being an act, if -- if it occurs out of one act or one  
6 incident, that is what the Court looks at. If -- if the  
7 Court agrees that it occurred out of one incident, I -- I  
8 -- I -- I read that there's mandatory language -- or  
9 certainly, a strong presumption that the concurrent -- the  
10 -- that he's entitled to be convicted of the crime he's --  
11 or sentenced for the crimes he's convicted of.

12 The -- and -- and I understand the state's concerns.  
13 But -- but the -- the -- the -- the -- the jury ends the --  
14 the question about what crime he's guilty of, and that's  
15 assault and battery, first-degree.

16 The -- I -- I think the language of -- of 17-25-50  
17 supports our contention that the -- that a concurrent  
18 sentence is appropriate, particularly when there's no  
19 injury. I -- I think the -- the degree of injury is  
20 usually what separates the degree of the crime is -- and --  
21 and the Supreme Court has said that: that basically, when  
22 it comes to enhancing sentences, the first thing we look at  
23 is the degree of the injury.

24 The -- he's got troubles. He's got a temper. The --  
25 I do -- my theory of the case is -- actually, my theory of

1 what happened today is just one group of young men in their  
2 20s/30s barked against another group of hothead young men  
3 and somebody got angry or disrespected and shot in general.  
4 I -- I don't think any of those bullets had an actual -- I  
5 really don't think that any of them had any specific intent  
6 to kill anybody. I -- I -- I recognize that each of them's  
7 a deadly .380-caliber going into the side of a house or a  
8 car.

9 The -- legally, the -- Your Honor, I -- I submit that  
10 the appropriate sentence is concurrent. I -- I'm not going  
11 make any kind of presumption on knowing the appropriate  
12 punishment. But I -- I do think, legally, that -- that the  
13 facts support a concurrent sentence or -- or possibly a  
14 consecutive sentence that is suspended to supervision. I  
15 -- I don't think supervision will be a bad thing for him  
16 when he does come home, because it will be a nonviolent  
17 offense.

18 He has pled not guilty to the -- he hasn't even been  
19 served with warrants on the Saluda charges, Judge. And --  
20 and they do -- that -- there are some red flags that  
21 indicate to me that -- that it might be a little bit of a  
22 different situation, different people. But he -- he's  
23 certainly a named suspect in an assault with intent to kill  
24 or an attempted murder ---

25 MR. WILTSHIRE: Attempted murder.

1 MR. VERNER: --- in Saluda, which would be a drive-by  
2 shooting.

3 The -- he is here. His mother is here, Judge. His  
4 girlfriend, Ayesha, is here. They have a child together.  
5 His grandmother is the third lady. And then, his aunt is  
6 the fourth lady. So he does have family support here in  
7 Newberry.

8 The -- the -- I -- I'm not going to presume to know  
9 the appropriate punishment. But I would ask the Court --  
10 and I do think it's supported by law that the concurrent is  
11 the appropriate sentence.

12 THE COURT: All right. Do any of these ladies wish to  
13 address the Court?

14 MS. GWENDOLYN REEDER: Hi.

15 MR. VERNER: If you'd tell him your name too, because  
16 she's got to write your ---

17 THE COURT: Okay.

18 MR. VERNER: --- name down.

19 MS. GWENDOLYN REEDER: Oh.

20 THE COURT: Do we ---

21 MS. GWENDOLYN REEDER: My name ---

22 THE COURT: --- just ---

23 MS. GWENDOLYN REEDER: --- is Gwendolyn Reeder.

24 MR. VERNER: Did -- would Your Honor want to swear  
25 them ---

1 THE COURT: Right.

2 MR. VERNER: --- in to ---

3 THE COURT: Just -- just you -- you -- the others do  
4 not. Okay.

5 MR. VERNER: If you want ---

6 THE COURT: Everybody ---

7 MR. VERNER: --- to speak ---

8 THE COURT: --- wants ---

9 MS. VANCE: Yeah.

10 THE COURT: --- to speak? This lady does not -- we  
11 got three -- swear these three in, madam clerk.

12 GWENDOLYN REEDER, AYESHA VANCE, and CAROLYN  
13 REEDER, having been first duly sworn, stated as follows:

14 THE COURT: Okay. Yes, ma'am. We'll start with you.  
15 State your name, please.

16 MS. GWENDOLYN REEDER: Okay. My name is Gwendolyn  
17 Reeder. I'm Carlos Reeder's mom. First of all, I would  
18 like to apologize for what has happened, even though I  
19 don't really know what happened.

20 But even though he -- like he said, he's a little  
21 hotheaded; he blows off. But he's a good kid. He's a good  
22 child.

23 And he has two kids. And I would like for him to be  
24 in their life so their life won't be so regretful as his,  
25 because his dad wasn't in his life. So I think a lot of

1     that anger that he got comes from that. But I would like  
2     for him to be home to help raise his kids so that the  
3     pattern doesn't repeat itself.

4             THE COURT: Okay. All right. Thank you, ma'am.

5             Yes, ma'am. Your name, please?

6             MS. VANCE: Ayesha Vance.

7             THE COURT: Yes, ma'am.

8             MS. VANCE: Y'all can get up here and act like he a  
9     stone-cold killer; he a bad guy. But he really -- I have  
10    two kid. One of them's not even his, and he take care of  
11    him. You think I'd let my son stay at home with a killer?  
12    No, sir.

13            They can sit up here and act like, Oh, he a bad guy.  
14    But it trigger -- it's something to trigger him to do  
15    something like that.

16            THE COURT: Okay. Thank you, ma'am.

17            And, yes, ma'am. Your name?

18            MS. CAROLYN REEDER: I'm Carolyn Reeder, her mother,  
19    his grandmama.

20            THE COURT: Yes, ma'am.

21            MS. CAROLYN REEDER: And Carlos was doing good for --  
22    he -- when he was staying in Laurens with me. He -- he  
23    wasn't giving nobody no trouble. And I'm handicapped; he  
24    come up there and help take care of me when my kids wasn't  
25    around. So like he said, he got hardheaded, you know.

1           That -- that stuff what happened down there in Cross  
2 Hill, didn't happened like that. But, you know, stuff  
3 happen. They figured out a way to put it on somebody else.  
4 And when Carlos got a record, they put it on him when they  
5 started it.

6           But -- but he really not that bad. Stuff happen, you  
7 know. But I apologize for you for him too, Judge.

8           THE COURT: Okay.

9           (Whereupon, Mr. Verner and the defendant conferred.)

10          MR. VERNER: Your Honor, Carlos would also like to  
11 address the Court ---

12          THE COURT: Okay.

13          MR. VERNER: --- if the Court would entertain.

14          THE COURT: One -- one second, please.

15          MR. VERNER: I'm sorry.

16          THE COURT: Okay. Carlos, be glad to hear from you,  
17 sir.

18          THE DEFENDANT: First off, I want to say that I'm  
19 sorry for the crime that -- that I committed against Vickie  
20 and Dawayne Davis. But I have been in Newberry County for  
21 like a year now. And with me sitting in Newberry County, I  
22 have really sat down and sat and thought about things.

23          And I realize that I need to make some changes because  
24 it's -- I have people out there that really need my  
25 attention. You know, I have kids out there that really

1 need my help as well. And, Your Honor, all I want to say  
2 is if you can just bless me to be able to make it back home  
3 to -- to my kids and my family members to be able to help  
4 them soon, I'll be very thankful to you. And once again, I  
5 want to say that I'm sorry for the incident.

6 THE COURT: Okay. Thank you, sir. Anything further  
7 from this side, Mr. Verner?

8 MR. VERNER: (Shook head from side to side.)

9 THE COURT: Okay.

10 MR. VERNER: No, Your Honor.

11 THE COURT: Okay.

12 MR. VERNER: Thank you.

13 THE COURT: Thank you very much.

14 Solicitor, any -- anything in response?

15 MS. CAROLYN REEDER: Could I sit down?

16 MR. VERNER: Yes, ma'am. She -- I'm sorry. The  
17 grandmother has ---

18 THE COURT: Yes. Y'all can -- y'all can ---

19 MR. VERNER: --- health issues.

20 THE COURT: --- sit down. Anybody that needs to sit  
21 down, anybody that'd like to stand up here with Mr. Reeder,  
22 that's fine too.

23 Solicitor?

24 MR. SCOTT: Just strike me -- you know, he says he's  
25 learned this lesson this time. I wonder why the four years

1 before on the almost exact same set of facts didn't get him  
2 right. I don't know the answer to that.

3 But, Your Honor, in regards to 16-3-610, if you're --  
4 if you're ready to hear ---

5 THE COURT: Sure. Yeah.

6 MR. SCOTT: --- our -- our stance on -- the  
7 solicitor's office would consent to waiving the imposition  
8 of that statute. I -- I don't know how Your Honor's  
9 decided to rule on that.

10 THE COURT: Okay.

11 MR. SCOTT: I'm -- I'm unfamiliar with it, to be  
12 honest with you. And probably, that would be something I  
13 would look at in the future in -- in indictments and maybe  
14 include in there, maybe like -- like an enhancement-  
15 property-crime-type statute. I'll -- I'll reference that  
16 in an indictment. We certainly have not in this one. So  
17 we would waive the imposition of that.

18 In regards to Mr. Verner's argument about consecutive  
19 sentences, my understanding is a trial judge always has  
20 discretion in -- in sentencing and -- and stacking crimes,  
21 as far as running them consecutively or concurrently. In  
22 our case we have two separate victims.. Theoretically, we  
23 could've had two separate trials.

24 The way I read 17-25-50, which comes on the heels of  
25 the LWOP provisions, is that it is -- it -- it is

1     referencing the -- the LWOP offenses only. And, in fact,  
2     the Legare case refers to -- they say: "In past cases this  
3     statute, we have said, is a recidivist statute" --  
4     referring to 17-25-50. I -- I think it's determining cases  
5     that a solicitor may use to serve somebody with an LWOP  
6     notice.

7             *State v. Gordon*, found -- that's a '03 case, found at  
8     356 S.C. 143, it -- it stands for that provision. That's a  
9     -- again, an '03 case. And then, that was overruled on  
10    different grounds by *Bryant v. State*, which is also  
11    instructive. That's 384 S.C. 525, and that's an '09 case.

12            But -- and I see that as a recidivist statute not  
13    applying to a trial judge's discretion on running two  
14    separate charges that a jury returns a verdict on  
15    consecutively.

16            THE COURT: Okay. All right. Thank you very much.  
17    Everybody be at ease for just a moment.

18                    (Off the record briefly.)

19            THE COURT: Okay. I had already decided on the -- and  
20    for purposes of the folks in here that are not lawyers,  
21    we'll talk about some legal matters for just a moment. The  
22    16-3-610, I had already decided not to enforce that, even  
23    though I think -- and -- and -- and I -- I think it would  
24    authorize me to -- to -- to add to the -- the sentence on  
25    the two convicted charges, anywhere from three months to

1 twelve months.

2 But since it's a statute that, quite candidly, we all  
3 kind of have -- have indicated that we're somewhat  
4 unfamiliar with, to err on the side of caution, I had  
5 already decided not to -- not to invoke that.

6 I did some -- somewhat extensive research over lunch  
7 concerning the argument about 17-25-50 and read several  
8 cases. And it -- from all indications, it appears that the  
9 solicitor's position is correct in that it's a statute that  
10 prevents the Court from considering, in -- in looking at  
11 prior convictions, prior offenses, when two offenses are --  
12 have taken place -- same offenses, basically same incident  
13 -- it requires, under the recidivist statute, to consider  
14 that as one offense. I don't think it binds the trial  
15 court at sentencing for an existing -- or existing  
16 offenses. So in -- in looking at that, it certainly  
17 appears that the Court has full authority to impose  
18 consecutive sentence, if that's what the Court decides  
19 otherwise.

20 Now, let me just take a few moments to share my  
21 concerns about this case, Mr. Reeder. If -- if I had been  
22 on the -- on the jury, I don't think there'd be any  
23 question in my mind that I would have voted for guilty as  
24 to both indictments for attempted murder. I don't think  
25 there's any question in my mind after reviewing the

1 evidence.

2 Of course, that's not my role in this case. But I  
3 think I can put myself in the position of the jury now in  
4 determining appropriate sentencing.

5 It concerns me greatly, Mr. Reeder, that you had a  
6 prior conviction -- same set of facts or very similar set  
7 of facts -- and you spent four years or you received a -- a  
8 revoked sentence of four years in prison. And then you  
9 come back out and even though we do have a space of time  
10 here -- I understand that; I recognize that -- to basically  
11 engage in the same sort of behavior, that -- that concerns  
12 me greatly.

13 And even though, certainly, the Saluda pending case,  
14 that is a pending case. And you are presumed innocent  
15 until you're proven guilty if that -- if that's what  
16 happens. But it's just strikingly ironic that you are  
17 accused -- and again, accused -- of a situation somewhat  
18 similar to this involving a gun.

19 Society cannot tolerate, Mr. Reeder, allowing someone  
20 -- and it does not matter whether or not you have a temper.  
21 I know a lot of people that have tempers, and they don't go  
22 around with guns, shooting into a crowd of people. I think  
23 we all, at times, have displayed a temper over situations.

24 But I would have to assume that everyone in this  
25 courtroom hadn't pulled out a gun to -- to display that

1     temper. Just because you engage in an argument with  
2     someone does not justify that you use a gun.

3             Society just doesn't tolerate that kind of behavior.  
4     It really doesn't. And it's just -- it is so sad to me  
5     that I am seeing so many young people like yourself, Mr.  
6     Reeder, engaging in this activity involving guns, anywhere  
7     from a .380 like you had all the way up AK-47s. And for  
8     some reason, people think that is totally acceptable in  
9     this society.

10            But I'm telling you, Mr. Reeder, it is not. And we  
11     got ten or fifteen people, bunch of kids running around,  
12     and you're totally oblivious to all that and you go up and  
13     you start shooting seven times. That is so sad, Mr.  
14     Reeder. That is so sad.

15            You need to -- and you can shake your head, Mr.  
16     Reeder. You can shake your head all you want to. But it  
17     doesn't change anything. It doesn't change anything.

18            But you need to thank Mr. Verner. He did one heck of  
19     a job as your defense lawyer, one heck of a job convincing  
20     this jury not to convict you of attempted murder. Because  
21     if they had have, you would be looking at a whole bunch  
22     more time than what I'm going to give you. So if you  
23     haven't thanked him, you need to, because he did you one  
24     heck of a job.

25            Well, I can spend all afternoon preaching about the

1 evils of guns and society and all that. But nobody wants  
2 to hear all that from me.

3 SENTENCE OF THE COURT

4 Mr. Reeder, you're going to receive consecutive  
5 sentence, ten years, on both indictments. 13-GS-36-466,  
6 sentence of the Court is ten years, State Department of  
7 Corrections. That will run consecutive with the other  
8 indictment, 13-GS-36-470. You're given credit for the 414  
9 days that you have spent in the detention center awaiting  
10 trial.

11 I typically say to people that I sentence, "Good  
12 luck." I'm not going to say that to you. I just truly  
13 hope and pray that one day you can get out and you can turn  
14 your life completely around.

15 That concludes the hearing.

16 (Whereupon, the proceedings were concluded at 3:38 p.m.)

17 --- END OF TRANSCRIPT OF RECORD ---  
18  
19  
20  
21  
22  
23  
24  
25

**CERTIFICATE**

I, the undersigned Maryann S. Nevers, CVR-M-CM, Official Court Reporter for the Eighth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete transcript of record of all the proceedings had and evidence introduced in the hearing of the captioned cause, relative to appeal, in the Circuit Court for Newberry County, South Carolina, on the 21st, 22nd, 23rd, and 24th days of April, 2014.

I do further certify that I am neither of kin, counsel, nor interest in any party hereto.



---

Maryann S. Nevers, CVR-M-CM  
Official Court Reporter

Columbia, South Carolina  
October 14, 2014

**WITNESSES**

Allison Moore  
Newberry Police Department

**THE STATE OF SOUTH CAROLINA**

COUNTY OF NEWBERRY

**COURT OF GENERAL SESSIONS**

August Term, 2013

Indictment # 13GS36-0466

**WARRANT NUMBER**

2012A3620200128

**TRUE BILL**

*[Signature]*  
Foreman of the Grand Jury  
Date: 8-23-13

**THE STATE**

vs.

Carlos Demont Reeder

**VERDICT**

*Attempted murder - not guilty*  
*Assault & Battery 1st degree -*  
*Guilty*  
*8-23-14*  
Foreman

**INDICTMENT FOR**

Attempted Murder

§ 16-03-0029

CDR: 3410

**THE STATE OF SOUTH CAROLINA**

**COUNTY OF NEWBERRY**

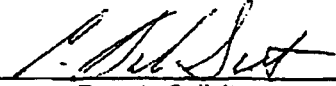
**INDICTMENT FOR**

**Attempted Murder  
§ 16-03-0029**

At a Court of General Sessions, convened on the 23rd day of August, 2013, the Grand Jurors of Newberry County present upon their oath:

That Carlos Demont Reeder, in Newberry County, on or about October 6, 2012 willfully and unlawfully, with the intent to kill and with malice aforethought, attempted to kill Dawayne Davis, in violation of Section 16-3-29 of the South Carolina Code of Laws, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such cases made and provided.

  
Deputy Solicitor

---

**WITNESSES**

Allison Moore  
Newberry Police Department

---

**THE STATE OF SOUTH CAROLINA**

COUNTY OF NEWBERRY

---

**COURT OF GENERAL SESSIONS**

August Term, 2013

Indictment # 13GS36- 0470

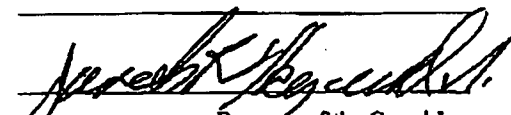
---

**WARRANT NUMBER**

2012A3620200132

---

**TRUE BILL**

  
Foreman of the Grand Jury  
Date: 8-23-13

---

**THE STATE**

va.

Carlos Demont Reeder

---

**VERDICT**

Attempted murder - Not guilty  
Assault & Battery 1<sup>st</sup> degree - guilty  
4-023-14  
Foreman

---

**INDICTMENT FOR**

Attempted Murder

§16-03-0029

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CDR: 3410

**THE STATE OF SOUTH CAROLINA**

**COUNTY OF NEWBERRY**

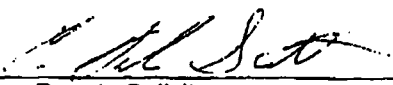
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**Attempted Murder  
§16-03-0029**

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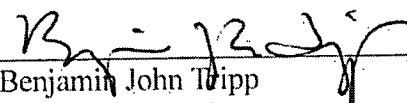
Against the peace and dignity of the State, and contrary to the statute in such cases made and provided.

  
\_\_\_\_\_  
Deputy Solicitor

## 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."

This 19th day of May, 2015

  
Benjamin John Tripp  
Appellate Defender

South Carolina Commission on Indigent Defense  
Division of Appellate Defense  
PO Box 11589  
Columbia, S. C. 29211-1589  
(803) 734-1330

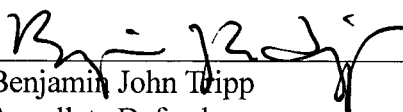
ATTORNEY FOR APPELLANT

**RECEIVED**  
MAY 19 2015  
SC Court of Appeals

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This 19th day of May, 2015

  
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ATTORNEY FOR APPELLANT

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