

OCT. 18 - 2019

To Mr. Daniel E. Shearouse

WHAT IS A LESSER INCLUDED OFFENSE?
A. LESSER INCLUDED OFFENSE "IS."
ONE THAT DOES NOT REQUIRE PROOF OF
ANY ADDITIONAL ELEMENT BEYOND
THOSE REQUIRED BY THE GREATER
OFFENSE. U.S. V. SCOTT.

UNITED STATES DISTRICT COURT.

D. DELAWARE, JANUARY 15, 2003,

243 F. SUPP. 2d. - 97 2003 WL 2153

8

Appellate Case no. 2019-000192

STATE OF SOUTH CAROLINA

COUNTY OF HAMPTON

THE STATE OF SOUTH CAROLINA

v.

JAMES GARDNER,

Defendant

FILED

FEB - 4 2015

CLERK OF COURT
HAMPTON COUNTY

IN THE COURT OF GENERAL
SESSIONS

INDICTMENT NO. 2013-GS-25-00073;
2013-GS-25-00075; 2013-GS-25-00079;
2013-GS-25-00080

VERDICT

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OCT 23 2019

S.C. SUPREME COURT

1) We, the jury, by unanimous consent, find the Defendant James Gardner, in
Indictment No. 2013-GS-25-00073:

Guilty of Attempted Murder of Major Bobby Anderson

OR

Not Guilty of Attempted Murder of Major Bobby Anderson.

2) We, the jury, by unanimous consent, find the Defendant James Gardner, in
Indictment No. 2013-GS-25-00075:

Guilty of Attempted Murder of Mariam Walden

OR

Not Guilty of Attempted Murder of Mariam Walden.

3) We, the jury, by unanimous consent, find the Defendant James Gardner, in
Indictment No. 2013-GS-25-00079:

Guilty of Attempted Murder of Mary Etta Montouth

OR

Not Guilty of Attempted Murder of Mary Etta Montouth.

If you find the Defendant Not Guilty of Attempted Murder, you must find the Defendant Not Guilty in Question 4.

If you find the Defendant Guilty of Attempted Murder, please answer Question 4 by checking one of the blanks.

4) We, the jury, by unanimous consent, find the Defendant James Gardner, in Indictment No. 2013-GS-25-00080:

Guilty of Possession of a Weapon during the Commission of a Violent Crime

OR

Not Guilty of Possession of a Weapon during the Commission of a Violent Crime.

This man IS RELATED TO THE VICTIM

Harold Emms
FOREPERSON

Hampton, South Carolina
February 4, 2015

Please indicate your finding by checking the appropriate line and certify this finding by the foreperson's signature. Please inform the bailiff when you have reached your verdict.

FAMILY Member on The Jury

MARY ETTA MONTOUTH - DIRECT BY MS. LEGETTE

- 1 A: Okay. I came out. Well, I came through the driveway and
2 came -- went -- well, went behind (Aunt Ethel's) house. Okay.
3 And I was wondering what to do. *Alice SCOTT*
- 4 Q: You mentioned earlier that there were trees in the area?
5 A: Yes.
6 Q: Where are those trees?
7 A: In the back.
8 Q: Okay.
9 A: In the back of the houses, like, a small area.
10 Q: Okay. All right. So what did you do?
11 A: Okay. I went behind Ethel's trailer and I was wondering
12 what to do now because I was sure James was going to come to
13 look for me to find me. So I stood right there for a while at
14 the side of her house wondering what to do, and I peeked
15 around the house because you can see all back here and see the
16 back of my house. I saw James' truck. I saw him. The truck
17 had not moved. So I said, well, okay, I can go to the church.
18 I went down Smoaks Lane. The church is back over here.
19 Okay. And I saw two vehicles coming out. The first one was a
20 black SUV or a truck or something, and I was waving my hands
21 to try to get their attention, but they didn't stop. The next
22 car stopped. It was Ms. Grimes. So she came. She said,
23 what's going on?
24 Q: Don't tell us what she said, but --
25 A: So anyway, I got in the -- I stopped her. I said

MARY ETTA MONTOUTH - DIRECT BY MS. LEGETTE

1 somebody is trying to kill us. He's trying to kill us. She
2 said ~~call 9-1-1~~. I said James. So she said get in and call
3 9-1-1. So I did, and we went down, got on Pine, and by the
4 time we came around, the cops and everybody was there.

5 But while I was here, I heard a gunshot and I thought he
6 had killed my sister. So, of course, that upset me. I
7 dropped down. I didn't know what to do.

8 Q: Okay. All right. Thank you, Ms. Montouth. You can have
9 a seat back on the witness stand.

10 (WHEREUPON, the witness complied.)

11 THE COURT: Exhibits to the court reporter.

12 MS. LEGETTE: Yes, Your Honor. I beg the Court's
13 indulgence. Ms. Montouth, thank you. I have no further
14 questions, ma'am. Please answer any questions from the
15 defense.

16 THE COURT: Do you have all of the exhibits, Krystal?

17 THE COURT REPORTER: Yes, sir.

18 THE COURT: You may proceed, counsel.

19 MS. LEGETTE: Yes, Your Honor.

20 THE COURT: Cross-examination?

21 MR. FLEMING: Thank you, sir.

22 CROSS-EXAMINATION

23 BY MR. FLEMING:

24 Q: Ms. Montouth, I think one of the first things that you
25 said was that James was drinking Crown Royal?

James allen Gardner #177263 # Stone-A-27
Lieber Correctional Inst.
Post office Box 205
Ridgewille, S.C. 29472

Mr. Daniel E. Shearouse
Clerk of Court
the Supreme Court of S.C.
Post office Box 11330
Columber, South Carolina, 29211

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MAIL ROOM

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OCT 20 2019

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