

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

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Certiorari to Richland County

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S.C. SUPREME COURT

Honorable DeAndrea G. Benjamin, Circuit Court Judge

\_\_\_\_\_  
SANTOS A. AGUILERA,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2019-001376

\_\_\_\_\_  
APPENDIX  
\_\_\_\_\_

JOANNA K. DELANY  
Appellate Defender

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

ATTORNEY FOR PETITIONER

ALAN WILSON  
Attorney General

LINDSEY MCCALLISTER  
Assistant Attorney General  
Rembert Dennis Bldg, Room 519  
1000 Assembly Street  
Columbia, SC 29201

ATTORNEYS FOR RESPONDENT

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STATE OF SOUTH CAROLINA	)	
	)	COURT OF GENERAL SESSIONS
COUNTY OF RICHLAND	)	2015-GS-40-02709
	)	
	)	
State Of South Carolina	)	)
	)	
vs.	)	TRANSCRIPT OF RECORD
	)	
Santos A. Aguilera	)	)
<u>DEFENDANT</u>	)	January 31, 2017

B E F O R E:

THE HONORABLE CLIFTON B. NEWMAN, JUDGE.

A P P E A R A N C E S:

VANCE EATON, ASSISTANT SOLICITOR  
Attorney for the State

LUKE SHEALEY, ESQ.  
Attorney for the Defendant

KESHIA REED  
Official Court Reporter

1 THE COURT: All right.

2 MR. EATON: Please the Court, Your Honor. Vance  
3 Eaton for the State. Does, Your Honor, want to wait for  
4 the clerk?

5 THE COURT: No, keep talking.

6 MR. EATON: Before you, Your Honor, is Santos  
7 Aguilera and his attorney Luck Shealey of the private bar.  
8 Mr. Aguilera is pleading guilty today to attempted murder.  
9 Your Honor, my victim Jesus Navaro is present here in the  
10 court today and I believe would like to address the Court  
11 at the appropriate time. Your Honor, I agreed to  
12 recommend a sentence of a cap of ten years of  
13 incarceration and I would ask the Court for that ten  
14 years. And it is my understanding that Mr. Augilera  
15 wishes to enter his plea under North Carolina vs. Alford,  
16 Your Honor.

17 THE COURT: All right, and, sir, who are you?

18 MR. AVALEZ: Court interpreter Wilmar Avalez.

19 THE COURT: All right, Mr. Avalez, do you  
20 solemnly swear or affirm that you will accurately  
21 translate these proceedings to the benefit of the Court  
22 and the benefit of Mr. Augilera?

23 MR. AVALEZ: I do.

24 THE COURT: All right. Mr. Shealey.

25 MR. SHEALEY: Thank you, Your Honor. May it

1 THE COURT: Are you on a green card? You're an  
2 illegal alien. What's your status here?

3 THE DEFENDANT: I've come in illegally.

4 THE COURT: And do you understand that this  
5 guilty plea may result in your deportation?

6 THE DEFENDANT: Of course.

7 THE COURT: And do you want to plead guilty to  
8 this charge under North Carolina vs. Alford?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: And this charge that you're facing,  
11 the charge of attempted murder that carries up to 30 years  
12 in prison; is that right?

13 MR. EATON: That's correct, Your Honor.

14 THE COURT: And do you understand that?

15 THE DEFENDANT: Yes, sir, Your Honor.

16 THE COURT: And the -- your lawyer and the  
17 Solicitor says they are recommending a sentence -- the  
18 Solicitor -- you and your lawyer says recommending a cap  
19 or maximum sentence of ten years. Do you understand that  
20 is their recommendation?

21 THE DEFENDANT: Yes, Your Honor.

22 THE COURT: And do you understand that I do not  
23 have to accept the recommendation that the sentence is my  
24 decision?

25 THE DEFENDANT: Yes, Your Honor.

1 Mr. Augilera and Mr. Trarinos who are Honduran. I believe  
2 there was an undercurrent perhaps of national pride in  
3 this altercation. Their words -- they started fighting  
4 inside the bar, beer bottles were thrown and the bouncers  
5 threw a number of people out into the parking lot.  
6 Mr. Navara was among those as were a couple of his  
7 friends. Mr. Navara, my victim, was very intoxicated, but  
8 not all his friends were. And they report watching  
9 Mr. Augilera and Mr. Trarinos come after Mr. Navara and  
10 they yelled at him vas a morir esta noche, which means  
11 you're going to die tonight. And then they watched him  
12 stab him repeatedly with knives. Mr. Augilera was  
13 identified by a friend of Mr. Navara's ---

14 THE COURT: Is all that true, Mr. Augilera?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: All right, proceed.

17 MR. EATON: Yes, sir. A friend of Mr.

18 Navara's identified Mr. Augilera and in fact said that in  
19 the parking lot before they went for Mr. Navara, Mr.  
20 Augilera swung at him with a knife before he then chased  
21 after Mr. Navara and they stabbed him.

22 THE COURT: Pointing out to a different person?

23 MR. EATON: Yes, sir, another witness who was  
24 able to identify him from a lineup say that's the guy. He  
25 been face to face with him. Mr. Navara both of his lungs

1 disorderly conduct after he served about 16 months. That  
2 is not because I didn't think that he didn't deserve a  
3 recommendation of ten years, it's because I didn't have  
4 the evidence against him. And, of course, my belief that  
5 he was involved is not enough, and so that's why he pled  
6 out, but we do have the evidence against Mr. Augilera. In  
7 fact, it's on the trial docket in February.

8 THE COURT: Mr. Bowe, you hear all those people  
9 talking all over the place.

10 BAILIFF: Yes, sir, him.

11 THE COURT: The interpreter, oh.

12 MR. EATON: So all that said, Your Honor, I do  
13 think that given the nature of this assault, the severe  
14 devastating injuries to the victim, their intention to  
15 kill him that night and what you will hear from the victim  
16 himself, I believe that ten years is appropriate, Your  
17 Honor.

18 THE COURT: All right. Do you disagree with  
19 anything he said, Mr. Augilera?

20 THE DEFENDANT: What do you mean?

21 THE COURT: Do you disagree with anything that  
22 he's stated?

23 THE DEFENDANT: No, sir.

24 THE COURT: All right. I'll hear from  
25 Mr. Navara. He speak English or Spanish or...

1 life has changed forever. Thank you, Jesus Navara.

2 THE COURT: Thank you. Criminal history.

3 MR. EATON: He has a prior deportation, Your  
4 Honor.

5 MR. SHEALEY: No other criminal history.

6 THE COURT: Mr. Shealey.

7 MR. SHEALEY: Thank you, Your Honor. May it  
8 please the Court. My discussions with my client -- just  
9 for the record, I want to make sure that he understands  
10 what's happening. The facts as he believes them were  
11 slightly different to you because I think that's my  
12 obligation, but before I get to that, I'll tell you that  
13 Mr. Augilera is here illegally. He is here basically out  
14 of fear of imminent death when he returns to Honduras. I  
15 do -- he has a cousin who lives in Canada who was very  
16 helpful. She talk to me. She sent me news articles and  
17 death certificates of his father, his brother, his cousin  
18 who were killed from some local militant faction where he  
19 thought he had to leave to avoid death, that's why he's  
20 here and that's why he has come back after being deported  
21 once, but that's just kind of his background.

22 The reason why that plays into this case and why  
23 I bring it up is that I've only had the case maybe four or  
24 five months. He had a prior attorney they didn't get  
25 along and it kind of drug out. But in terms of Mr.

1 his co-defendant, but I just want to kind of lay that back  
2 story a little bit.

3 He is 28 years old. As he said, he's here from  
4 Honduras. He has an ICE hold on him currently. He will  
5 be deported at the end of whatever sentence, Your Honor,  
6 decides to give him.

7 In investigating this case and trying to  
8 negotiate with the Solicitor, you know, one thing we had  
9 to look at was there are federal guidelines in federal  
10 laws in place that if you are guilty of a re-entry into  
11 this country and commit an assault, your subject to  
12 federal prosecution. And my research into that could have  
13 been -- it looks like you could be facing up to even five  
14 years, so Vance doing his due diligence called ICE a  
15 couple few weeks ago and say, hey, are you going to  
16 prosecute him in that way because it may affect my plea  
17 offer and they said, no, at that time.

18 However, as you know we're in the middle of a  
19 new administration, a new attorney general, I'm bringing  
20 this up because I don't know that we can say a hundred  
21 percent say he will not be given an additional federal  
22 sentence. I know that the Solicitor taking him at his  
23 word as investigating that, but we're about to have a new  
24 attorney general perhaps different policies on punishments  
25 then our old attorney general. I bring that up because

1 THE DEFENDANT: (Defendant speaking in Spanish.)

2 THE COURT: I don't know what you just said.  
3 You got to stop at some point for him to tell me.

4 THE DEFENDANT: I am very sorry for what has  
5 happened, Your Honor, and being in jail has taught me  
6 things about life that I did not know before. I learned  
7 to value life more since I been in jail, Your Honor. You  
8 see before I hadn't really lost anyone in life or to  
9 death, but recently I've lost many people. I lost my  
10 father and my brother on the same day. A month later my  
11 cousin was also killed and a few days ago my grandfather  
12 has also died, so I offer a thousand apologies for what  
13 has happened.

14 THE COURT: All right. Anything further, Mr.  
15 Shealey?

16 MR. SHEALEY: No, Your Honor.

17 THE COURT: Any response from anyone?

18 MR. EATON: Just that these two Mr. Trarinos and  
19 Mr. Augilera were both involved in this but are  
20 differently situated because the evidence is different  
21 against them.

22 THE COURT: When I look at a sentence for  
23 attempted murder, my focus is more on the victim and the  
24 impact of the crime on the victim. I cannot sentence this  
25 defendant based on anyone's else case. I know nothing

1 let alone anything less than a ten year sentence. I'm  
2 looking at the maximum sentence or -- he can get up 30  
3 years for trying to kill someone and you don't get the  
4 benefit of determining or calling the shots of whether or  
5 not they're dead. How many times was he stabbed?

6 MR. EATON: Multiple, Your Honor, and they left  
7 him in a pool of blood to die.

8 THE COURT: He could have just as easily been  
9 dead. He be on a murder trial, a murder charge, so all of  
10 that's out of Mr. Augilera's control once he decide to  
11 start stabbing. He gets no -- shouldn't in my view get  
12 any benefit of good medical care or the fact that someone  
13 saved his life or wasn't his time to go. Crime is still  
14 the same. It's attempt murder and could just as easily  
15 been murder.

16 So I think Mr. Shealey's done a great job to  
17 negotiate a cap of ten years. He certainly understands  
18 the hardships of everyone prosecuting cases especially and  
19 probably all the witnesses speak Spanish in trying to put  
20 together and piece the whole thing together is very  
21 difficult. I'll impose the sentence that's the cap. I'm  
22 not going under there. They're attempting to go above  
23 there, but I'm going to stay with what you all have  
24 negotiated as far as the cap and I'll sentence him to ten  
25 years, with credit for 793 days.

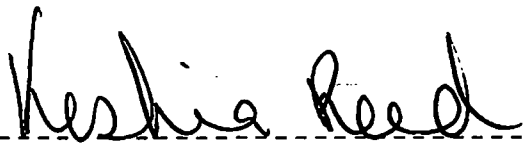
CERTIFICATE OF REPORTER

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STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF FLORENCE )

I, Keshia Reed, Court Reporter in and for the State of South Carolina At Large, do hereby certify that the above-entitled cause was heard as hereinafter set out; that I was authorized to and did transcribe the said proceedings; and that the foregoing and annexed paged, numbered 1 through 19, inclusive, constitute a true and accurate transcription of my stenographic report of the said cause taken during the said hearing. In the Court of General Sessions for Richland County, South Carolina, on the 31st day of January, 2017.

I do further certify that I am neither of kin, counsel nor interest to any party hereto. In witness whereof, I have hereunto affixed my signature this 14th day of December 2017.

  
Keshia Reed, Court Reporter

(b) \_\_\_\_\_

(c) \_\_\_\_\_

5. The date upon which sentence was imposed and the terms of the sentence:

(a) 02-02-2017

(b) \_\_\_\_\_

(c) \_\_\_\_\_

6. Check whether a finding of guilty was made:

(a)  after a plea of guilty PLEA GUILTY TO ATTEMPTED MURDER

(b) after a plea of not guilty \_\_\_\_\_

(c) after a plea of nolo contendere \_\_\_\_\_

7. Did you appeal from the judgment of conviction or the imposition of sentence?

NO

8. If you answered "yes" to (7), list:

(a) the name of each Court to which you appealed:

i. N/A

ii. \_\_\_\_\_

iii. \_\_\_\_\_

(b) the result in each such Court to which you appealed:

i. N/A

ii. \_\_\_\_\_

iii. \_\_\_\_\_

(c) the date of each such result:

i. N/A

ii. \_\_\_\_\_

iii. \_\_\_\_\_

(d) if known, citations of any written opinion or orders entered pursuant to such results:

i. N/A

ii. \_\_\_\_\_

iii. \_\_\_\_\_

9. If you answered "no" to (7), state your reasons for not so appealing:

(a) N/A