

The State of South Carolina

For the Court of Appeals

Orangeburg County Court

Edgar W. Dickson

Circuit Court Judge

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APR 01 2022

SC Court of Appeals

Treshawn Jenkins,

Appellant,

Vs.

The State of South Carolina,

Respondent.

Petition for Rehearing

#2018-000360

Appellant files this petition challenging order date March 23, 2022, pursuant to South Carolina Appellate Court Rule 221(a). Appellant contends that this court has overlooked critical law and facts addressing following question:

Is the doctrine of transferred intent applicable in the context of indictment charging appellant with attempt to kill?

In *State v Williams*, 427 SC 148 (2019), our Supreme Court considered a case in which one of the issues raised involved “whether and to what extent the common law doctrine of transferred intent applies to the newly-codified crime of attempted murder” (*Williams*, id, at 149), there the petitioner was convicted of three counts of attempted murder related to his alleged shooting into an occupied mobile home where he knew his intended victim was present, but did not realize two other individuals were in the trailer as well. The court explained:

Under the common law, transferred intent makes a whole crime out of two halves by joining the intent to harm one victim with the actual harm caused to another. Normally, transferred intent applies to general-intent crimes. However, attempted murder is a specific intent crime in South Carolina, and we have not yet addressed whether transferred intent may supply the requisite mens rea for such a crime.”

Williams, id, at 150.

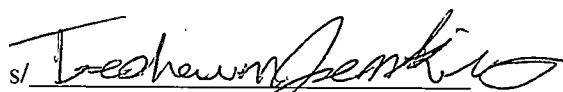
Although not directly on point, our Supreme Court’s more recent opinion in *State v Smith*, 430 SC 226 (2020) is helpful to our analysis here. *Smith* involved an attempted murder conviction resulting from the accidental shooting of an innocent victim in the vicinity of a dispute among rival gang members. *Smith*, id, at 228. There the court explained “it is undisputed *Smith* did not intend to harm the victim. Rather, *Smith* claimed he was acting in self-defense by shooting at a group of men who had threatened him. *Smith* missed his intended target and hit the victim by accident”. In conceding guilt to a felony-possession possession charge, but denying the attempted murder charge and asserting a claim of self-defense, *Smith* implicitly acknowledged he had an express intent to kill the men at whom he was shooting, but asserted his actions wre justified given his belief that he faced an imminent threat to his own life”. *Smith*, id, at 229.

Considering the footnote in *Smith* along with Supreme Court’s pronouncements in *State v King*, 422 SC 47 (2017); *Williams*, id, the doctrine of transferred intent is inapplicable in the context of the current indictment charging appellant with attempt “to kill another person”. See, *State v Geter*, 434 SC 557 (2021).

Wherefore, it is prayed court grant rehearing petition.

Date: 29 day of March, 2022

Respectfully submitted,


T. Jenkins, Pro Se

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