

VIRGINIA: IN THE CIRCUIT COURT OF SPOTSYLVANIA COUNTY

COMMONWEALTH OF VIRGINIA



v.

EARL WAYNE REYNOLDS
Defendant

ALFORD
PLEA AGREEMENT

1. My name is Earl Wayne Reynolds and my age is 45 years.
2. I am represented by counsel whose name is Mark S. Gardner, Esquire, and I am satisfied with his services as my attorney.
3. I have received a copy of the indictments before being called upon to plead, and I have read and discussed it with my attorney, and I fully understand the charges against me in this case. I am the person named in the indictment. I have told my attorney all the facts and circumstances, as known to me, concerning the case against me. My attorney has discussed with me the nature of the charges, has explained to me the elements of the offenses, and has advised me as to any possible defense I might have in this case. I have had ample time to discuss the case and all possible defenses with my attorney.
4. STIPULATION OF FACTS: I agree to the following summary of the Commonwealth's evidence against me (which I stipulate can all be proven by the Commonwealth) in the foregoing case, and I request that the Court accept this summary in lieu of presentation of any evidence by the Commonwealth. I further

stipulate that the Commonwealth's evidence constitutes a *prima facie* case in the instance of the crime with which I am charged.

SUMMARY:

At 1:09 AM, August 21, 2007 Spotsylvania Sheriffs Office (SSO) Dispatch Center received a call that "a female just got shot." The line was then disconnected. The connection was reestablished and it was communicated that two individuals had been shot, and one was breathing and the other was "possibly not."

Deputy Daniel Harris, SSO was dispatched to the scene at 11909 Belfonte Road, Spotsylvania County. Enroute he was advised to meet one victim at the intersection of Belfonte Road with Lewiston Road. There he met Amber Barnett, age 19, who had been shot in the neck. She was bleeding only slightly. Amber stated that "(her) stepdad had gone crazy and shot her and her younger sister." She stated that the younger sister, Kayla Reynolds, had also been shot in the neck and she believed that Kayla was dead. He waited with her until rescue arrived and she was taken to Mary Washington Hospital. He then accompanied 1st Sgt Vasquez on the matters below.

1stSgt. Jose Vasquez, SSO would testify that he organized available units to set up a perimeter at the residence. A convoy that included 3 vehicles, 9 Deputies and three Virginia State Police (VSP) Troopers, proceeded to the residence about 0.5 miles away. Upon arrival they went up to the house and located Kayla Reynolds, deceased, on the front porch. They then fell back to the roadway to await the full SSO Emergency Response Team (ERT).

Sgt. John Seay, SSO, was one of the members of the above convoy. As the convoy approached he was riding on the hood of the vehicle with another Deputy. When they arrived on scene, he approached the residence. They removed Lewis Hague, an elderly man who was the owner of the residence. Sgt. Seay checked the body of Kayla Reynolds for a carotid pulse and found none. He did not move the body. He then led one of two ERT Teams to clear the residence and adjacent structures in an attempt to locate the suspect, and also an 8 year old boy that was reported to be missing in the area. Neither was located. (The 8 year old boy was later located, asleep in his bed, at his grandparents' house nearby).

Sgt A. B. Hoopes was the sniper for the ERT Team and he provided "overwatch" security for the searching teams. He approached the residence when directed to do so. He was preparing to move forward with three Virginia State Police Troopers when he heard an individual approach from the woods behind him. Sgt. Hoopes had already viewed a file photo of defendant from a computer link on the way to the scene, and he recognized the man as the defendant, Earl Wayne "Butch" Reynolds.

Reynolds was ordered to the ground and was handcuffed. Reynolds began spontaneously saying words to the effect that the incident occurred because he wasn't going to let the victim "f███ ni███s." He stated that he had just lost it and he had been asking for help for two years.

Sgt. James Failor, VSP, Trooper James Liston, VSP and Trooper I. S. Sargent, VSP were with Sgt. Hoopes when defendant appeared from the woods behind them. They recall defendant being placed on the ground and spontaneously saying words to the effect: "(I) just snapped. I am just sick of it. I had just got her from North Carolina. I was not going to have her f███ a ni███." Defendant complied with directions and did not resist.

Det. Ed Lunsford and Det. Troy Skebo, SSO, responded and did an extensive crime scene investigation. They interviewed Lewis Hague, the homeowner. They took numerous photos and video of the scene and the body of Kayla Reynolds, which had not been moved. They observed what appeared to be a bullet entrance wound to Kayla's head, and an exit wound towards the right side of her neck. They recovered four bullet casings, as well as a Colt .32 caliber pistol.

Det. Doug Chewning, SSO assisted in the crime scene investigation, and he proceeded to the residence of William "Cowboy" Craft a short distance down the road. He interviewed Mr. Craft and recovered from him a .32 caliber pistol that had recently been fired.

William "Cowboy" Craft would testify that he lives three or four hundred yards from defendant's residence at 11909 Belfonte Road. Defendant worked for him from time to time in construction and related work. During the day before (August 20, 2007) he and defendant and another man were working on a vehicle for Lake Anna Winery. During the day the three men consumed a 12 pack of beer, and they concluded work about 9:30 PM. Each went to their respective residences.

About 12:35 AM defendant came to his residence and awoke him. Defendant stated that he had a possum and some cats fighting at his house, and requested assistance. Mr. Craft loaned him a .32 caliber Colt pistol. At the time defendant appeared in a normal state and did not appear intoxicated.

A half an hour or an hour later defendant returned. Defendant stated "I got them" and returned the pistol to Mr. Craft. There was a brief conversation about the day's activities, and defendant left. Again, the defendant's state of mind appeared normal. The pistol was later seized by a SSO detective.

(This is a summary from his testimony at the November 28, 2007 preliminary hearing).

Amber Shalee Barnett would testify that she is the 19 year old step daughter of defendant. She was raised by defendant since about age 3. She had a sibling, Kayla Reynolds, a half sister who was killed on August 21, 2007 at the age of 13.

Prior to August 20, 2007 Amber had been living for a time in North Carolina with her boyfriend's dad.

On August 20, 2007 she returned to the home on 11909 Belfonte Road, to live with Kayla and defendant. Defendant and Kayla had traveled down to North Carolina and returned with Amber to Virginia on August 20. There they were all living with Louis Hague, a relative. (Mr. Hague had married defendant's aunt).

Mrs. Reynolds, Amber and Kayla's mother, had died in November of 2003, while the family was living in South Carolina.

At about 10:00 PM on August 20, 2007, Kayla, defendant and Amber got into an argument. It was over defendant's drug habit and the fact that he got survivor's benefits and has nothing to show for it. Also of dispute was that defendant had stolen from Louis Hague and had used crack cocaine.

At one point, when the two girls were in Louis's room, defendant left for about ten or fifteen minutes. When he returned, the girls were seated on the front porch. The girls were seated in chairs and the defendant come up the stairs. Defendant sat down on the railing. He came and went, and the argument continued. At one point Amber became aware that defendant had a pistol. The argument continued.

Defendant walked over the Kayla's car, located next to the porch, and fired one bullet at it. He then said "how do you like me now?" and walked back to the porch. On the way he pointed the gun through the spindles, at Amber. He said to her "keep f[redacted]ing around." He came up on the porch and went inside. He came back out to the same place on the railing and said to Amber "I can't believe you are doing this to me after I came to North Carolina and got you." At one point he said "now that you're back, I'm going to get my revenge on you."

While sitting on the railing, defendant fired at Amber. The first bullet missed, going in front of her face from right to left. Defendant fired again. The second bullet struck Amber, entering below her chin. It exited on the left side of her upper shoulder. She felt the bullet burn after it had passed through her body. She fell to the ground and played dead.

She then heard Kayla say "no, Daddy, no." She then heard another gunshot, and then heard footsteps as defendant ran down the stairs and left. As he left she heard two more shots. Louis was present and he told her to come inside and call 9-1-1. She got up and saw Kayla lying on the ground, not moving. She called 9-1-1, and then defendant walked in. He gave her a stare that scared her. She dropped the phone and saw defendant standing over Kayla's body. She then ran out the door and got help.

The bullet went thru her esophagus and caused a small hole in it. It also broke a small bone in her neck. Her doctors did not do any surgery on her.

(This is a summary from her testimony at the November 28, 2007 preliminary hearing).

Det. Twyla Demoranville and Det Earl Swift would testify that they interviewed defendant that morning at the sheriff's office. The interview was audio and video taped. After Miranda warning and waiver, he agreed to a lengthy interview. Among other statements, he said "I screwed up" and I let life and my daughters get the best of me." He said that "I pulled a gun" and that I'm not going to lie about it. It happened on the porch." "I started shooting." He said that he kept the gun in the bushes and threw it there when he was done. Later, when confronted with other facts, he did admit that he had given the gun to "Cowboy."

A full copy of the interview transcript will be offered into evidence.

Photographs: Eight photographs – of the wounds to Kayla Reynolds and Amber Barnett, as well as of the crime scene are attached and are a part of this plea agreement.

The Autopsy of Kayla Reynolds is in the court file and will be offered into evidence.

5. My attorney has advised me that the offenses charged are as follows: Premeditated Murder, Aggravated Malicious Wounding, and Use of Firearm in Commission of a Felony (2 Counts).

6. I understand that I may, if I so choose, plead "not guilty" to any charge against me, and that if I do plead "not guilty" the Constitution guarantees me (a) the right to a speedy and public trial by jury; (b) the process of the Court to compel the production of any evidence and attendance of witnesses in my behalf; (c) the right to have the assistance of a lawyer at all stages of the proceedings; (d) the right against self-incrimination; and (e) the right to be confronted by my accuser.

7. I understand that by entering an "Alford plea", which is a form of a guilty plea pursuant to North Carolina v. Alford, 400 U.S. 25 (1970), I waive my

right to an appeal and, although I am not conceding factual guilt, I am admitting the Commonwealth has sufficient evidence to convict me, and that it is in my best interest to enter this plea. The only remaining issue to be decided by the Court is punishment.

8. I understand that the Commonwealth's Attorney has agreed to recommend to the Court the following specific punishment as the appropriate disposition in this case, as follows:

- A. On my pleas to Premeditated Murder (Va. Code 18.2-32), Malicious Wounding (Va. Code 18.2-51, reduced from Aggravated Malicious Wounding), and one count of Use of a Firearm in Commission of a Felony (VA. Code 18.2-53.1), the Commonwealth will nolle prosequere the remaining Use of a Firearm in the Commission of a Felony indictment.
- B. A Presentence Report will be ordered and sentencing will be set for a later date.
- C. As a condition of the defendant's sentence, the defendant shall forthwith give a biological sample for DNA analysis, pursuant to Virginia Code Section 19.2-10.2, et. seq., and shall cooperate fully in such procedure.

9. I understand that the Court may or may not follow the Commonwealth's Attorney's recommendation and may accept or reject this plea agreement. I understand that if the Court rejects this agreement, I will be permitted to withdraw my "Alford plea" if I so desire, and if I do not withdraw my "Alford plea" neither side is bound by this agreement and the Court may impose any sentence within the limits set forth in Paragraph 4, which disposition may be less favorable to me than is contained in this agreement.

10. I declare no officer or employee of the State or County or Commonwealth's Attorney's office, or anyone else, has made any promise to me except as contained in this agreement.

11. After having discussed the matter with my attorney, I do freely and voluntarily enter an "Alford plea" to the offenses of Premeditated Murder, Malicious Wounding, and Use of Firearm in Commission of a Felony, and waive my right to a trial by jury and request the Court to hear all matters of law and fact.

Signed by me in the presence of my attorney on this _____ day of June 2008.

Earl Wayne Reynolds
Defendant

CERTIFICATE OF DEFENDANT'S COUNSEL

The undersigned attorney for the above-named defendant, after having made a thorough investigation of the facts relating to this case, do certify that I have explained to the defendant the elements of the charges in this case; and that the defendant's "Alford plea" is voluntarily and understandingly made.

Mark S. Gardner
Counsel for the defendant

CERTIFICATE OF COMMONWEALTH'S ATTORNEY

The above accords with my understanding of the facts in this case, and I further certify that, when applicable upon the written request of the victim, I have consulted with such victim(s) and I have notified him/her of the right to be present at this hearing, pursuant to Section 19.2-11.01 of the Code of Virginia.

COMMONWEALTH OF VIRGINIA

By _____
John C. Bowers
Deputy Commonwealth's Attorney

The Court, being of the opinion that the Alford plea and waiver of jury trial are voluntarily made, and that the defendant understands the nature of the charges and the consequences of said "Alford plea", doth accept the same and concur therewith.

Filed and made a part of record this _____ day of June, 2008.

Judge