

## STATE OF VERMONT

SUPERIOR COURT  
RUTLAND UNITCRIMINAL DIVISION  
Docket 194-2-18 Rdcr

STATE

V.

JACK SAWYER

**FILED**

APR 20 2018

VERMONT SUPERIOR COURT  
RUTLAND UNIT**State's Notice of Dismissal on Counts #1-4 and  
State's Motion to Continue Bail and Conditions of Release  
as Ordered on April 17, 2018.**

Now comes the State of Vermont, by and through Rutland County State's Attorney Rosemary M. Kennedy, and hereby notices its dismissal of counts #1-4 Attempted Aggravated Murder in violation of 13 V.S.A. §§ 9 and 2311(a)(3), Attempted Aggravated Murder in violation of 13 V.S.A. §§ 9 and 2311(a)(7), Attempted Murder in the 1<sup>st</sup> Degree in violation of 13 V.S.A. §§ 9 and 2301 and Aggravated Assault with a Weapon in violation of 13 V.S.A. § 1024(a)(2). The State dismisses all four counts without prejudice, pursuant to V.R.Cr.P. 12(d), because the Vermont Supreme Court's decision in this case makes continued prosecution of these attempt charges, on the available evidence, untenable.

The following evidence was introduced at the Weight of the Evidence hearings presented on February 27 and March 2, 2018:

In 2016, the defendant was a student at Fair Haven Union High School hereinafter FHUHS]. In the spring of that year, teachers and administration became concerned by defendant's behavior and apparent fascination with the

Columbine school massacre. They began a threat assessment and determined that defendant posed a threat to the school. Before any plan could be initiated defendant left the school and ran away to California. Ultimately, defendant dropped out of FHUHS and his parents enrolled him in a residential treatment facility in Maine. At the time defendant dropped out of FHUHS, he was within a couple of weeks from carrying out his plan to attack FHUHS. Defendant explained that he had purchased a wood-grain shotgun to conduct his shooting. Vermont State Police [hereinafter VSP] later obtained this shotgun from defendant's father, David Sawyer. The shotgun was sawed off just past the end of the pump action. As defendant explained, his initial plan was disrupted by his parents' intervention and placement of him in the facility in Maine. Defendant continued to plan and prepare for his goal of killing as many FHUHS students as he could. The intervention and programs in Maine did not cause him to abandon his plan.

Defendant spent approximately 15 months in the Ironwood School in Maine. After that, he was enrolled in another residential program called Cornerstone, also in Maine. Defendant remained there until on or about February 9, 2018 when he returned to Vermont. Defendant turned 18 years old on August 11, 2017. In late February, defendant realized he could leave Cornerstone without his parents' permission.

Defendant told VSP that he used his time in Maine to improve his plan to kill students at FHUHS. In an entry dated October 23, 2017, in defendant's journal that he entitled "The Journal of an Active Shooter," defendant writes,

"I've remembered why I almost shot up my old school in the first place and that's because people p--- me off so much that I've developed hatred to mostly every person I've ever met. They're all f--- idiots and deserve to be shot."

In an entry dated October 25, 2017, defendant explains that he has suicidal thoughts, but that he desires to die "in a bigger & better way than

just the stereotypical suicide . . ." and that he is "developing a better plan this time versus [his] previous one."

In an entry dated November 11, 2017, defendant writes that he knows he will "probably let [his family] down when [he] ommits his plan" but then goes on to write that:

"It also makes me sad knowing that a lot of the people who I went to school with at FHUHS won't bethere still when I return. Most will have graduated or mived on. Nonetheless, it is still the place where I struggled greatly and the environment that I suffered in, so I still feel the need to try and kill every stupid motherf---- there."

In an entry dated November 11, 2017, defendant writes:

"I've had a change in plans. The day will be coming much more sooner than previously thought. I've realized the huge importance of being able to kill the kids that I actually know versus waiting a year or so until they're all gone. I'm aiming to kill as many as I can and whoever I can, but it'd also be more fun and satisfying to kill a lot of the dumb f---- that I actually went to school with, I know what they're like and how idiotic they are. With the sudden shift in plans, that also means that I need to prepare and gather supplies quicker."

In an entry dated December 1, 2017, defendant writes:

"The biggest thing I'm trying to figure out right now is how can I get as far as I can into the shooting before cops bust me first and shoot me dead. I know that I am going to have to take officer Scott out first . . . I'm intending to just blow his f----- head off before he can even draw his gun or think about what is happening . . . ."

In an entry dated December 4, 2017, defendant writes:

"From the time I had the first initial thoughts of shooting up FHUHS, it was too late to turn back on it. I can't back out on something so easily once I've dedicated myself to it."

In an entry dated January 2, 2018, defendant writes:

"I've recently stopped taking my meds. Not only do I think that they were doing nothing, but also in case they were doing something, I decided that I want to be as much in total control as I can. Control over who lives and who dies."

He goes on to write that he is only remaining at Cornerstone so he can "comfortably prepare and build up [his] arsenal" "without raising suspicion". "I'll probably be buying the shotgun and rifle legally through stores, but I'll also most likely be buying a handgun through the dark web online."

In an entry dated January 6, 2018, defendant writes:

"I'm trying to put every bit of my money towards my guns so I can just get on with this already and end it as quickly as I can. I'm tired of it all. It's weird knowing that I'm putting up with everything in my life right now just waiting until I'm able to commit the shooting and once that day comes, then nothing will matter anymore."

In an entry dated January 11, 2018, defendant writes:

"The big question still on my mind is, how do I go about killing officer Scott before he can kill me or stop me? . . . Tomorrow I'm going to buy the shotgun at Dick's so that'll be exciting. Afterwards, I still haven't decided whether it'll be the rifle or the handgun that I buy next. The handgun I would have to buy off the Dark web, not too hard. The rifle will probably be an AR-15 type, maybe from Cabela's . . . ."

In an entry dated January 23, 2018, defendant writes that he has not bought any guns yet. He explains that he has decided to buy them as close in time to each other as possible, so he does not need to hide them very long. He writes:

"I'm aiming to carry out this plan in March . . . I'm trying to get more work hours so I can get more money for all of this and so I can be well prepared for when the time comes. I want to make this happen sooner rather than later . . ." He describes his plan to lie to his dad and friends and act as if everything is alright, but that he intends to go to FHUHS and "gear up and let loose [his] anger and hatred. It'll be fantastic."

In an entry dated January 28, 2018, defendant writes:

"The other day I purchased \$500 worth of Bitcoin which soon, once it arrives in my Bitcoin wallet, I'll be buying that Glock 19 off the dark web."

Subsequently, after a consent search of defendant's laptop, VSP found that defendant did purchase \$500.00 worth of Bitcoin on the Dark web using a TOR browser which is meant to conceal a user's IP address.

In an entry dated February 3, 2018 – which appears to be the last entry – defendant writes:

"Today I went and tried buying the shotgun at Dick's, but found out that I need a Maine license . . . This just means that I'll be taking a low-key trip to VT soon to get the shotgun and hopefully, rifle. It's all very complicated and I feel very rushed with the date being only a little more than a month away, but this span of time to do it is the best option as not to raise any alarms or suspicions. Soon I'll have the bitcoin to buy the handgun off the dark net, so that'll be good. My only worries are that people in the house [Cornerstone] will start questioning my packages, that I won't be ready in time, and if it becomes apparent that I have little money and being asked where it's all going."

Defendant later told VSP that he realized he could leave Cornerstone as an 18 year old. He explained that he then came to Vermont to carry out his plan after he could not buy a gun in Maine.

Once back in Vermont, defendant told VSP that he was living out of his car or sleeping at friends' homes. At the bail review hearing, defendant's father testified that the defendant spent one night at his house.

On February 14, 2018, Fair Haven Police Department [hereinafter FHPD] received a call from a parent whose child attended FHUHS. The call indicated that defendant was back in Vermont, had purchased a gun and was making threats to FHUHS. Chief Humphries from the FHPD responded to the call and located defendant at his friend's home in Poultney. When Humphries made contact, defendant was holding a jug and indicated to the chief that he had just been target shooting with a shotgun he bought the day before. Defendant showed Humphries the spent shells he had used. During this conversation, defendant assured Humphries that the threats to FHUHS were old – from 2016 – and that he was not intending to harm the school at

this point. Chief Humphries concluded that no crime had occurred and left defendant.

Detective Hewitt of the FHPD contacted Dick's in Rutland Town and determined that defendant purchased his 12-gauge shotgun on February 13, 2018, as well as 4 boxes of ammunition. The State presented defendant's ATF Form 4473 and receipts from Dick's into evidence. The shotgun and boxes of remaining ammunition were located in defendant's car.

The following day, while Chief Humphries was at FHUHS, he was contacted by a school resource officer in New York. The officer sent Chief Humphries images of a Facebook messenger conversation between defendant and a student, A.M., at the New York school.

In a text message, later determined to be sent on Sunday, February 11, 2018, defendant writes: "Back in VT I'm trying to start fresh. Just a few days ago I was still plotting on shooting up my old high school so it's not like I really wanted a future anyways . . . ." When A.M. texts that he shouldn't do anything impulsive, defendant responds, "I wouldn't consider [the plans to shoot up FHUHS] necessarily impulsive because it's been the plan for like 2 years, but don't worry I won't be."

In a text conversation later determined to be Wednesday February 14, 2018, the day of the Parkland school shooting in Florida, A.M. asks defendant if he is watching the news because the school shooting is being reported. Defendant responds, "That's fantastic. 100% support it . . . I think the human population sucks so I like to hear about cases of natural selection." He goes on to explain that it is natural selection because "it's getting rid of the dumb f----- by getting shot. . . ." Having read these messages, Chief Humphries concluded that the defendant's threat to the FHUHS was not merely something that existed in 2016, but is rather, a present threat.

FHPD, in cooperation with VSP detained defendant and brought him to the VSP Rutland Barracks. Defendant participated in a Mirandized interview

with VSP detectives. Throughout the course of the interview, defendant told the detectives about his plans to carry out an attack on the FHUHS and his goal to commit the largest school shooting in history – more than the 32 murders committed at Virginia Tech on April 16, 2007.

Defendant told detectives the actions he already committed in furtherance of his plan:

- 1) Moving back to Vermont;
- 2) Purchasing a shotgun;
- 3) Purchasing ammunition;
- 4) Researching the types of shotgun ammunition that would be most effective in causing the most casualties;
- 5) Target practicing with the shotgun he purchased;
- 6) Researching the FHUHS's online calendar to select a date for his plan;
- 7) Picking March 13, 2018 as his preferred date for the shooting;
- 8) Saving money to purchase the items on his equipment list;
- 9) Lying to Chief Humphries about his purpose in purchasing the shotgun;
- 10) Converting money from his bank account to Bitcoin for the purpose of buying a handgun on the dark web.

The State presented these actions, especially the buying of the 12-gauge shot gun, as an 'overt act' and the 'commencement of the consummation' of his plan to kill students at FHUHS because that is how defendant described these actions to VSP.

Defendant discussed the actions he had already committed, the actions he has yet to take and his commitment to carry out his planned massacre.

He told Detectives Alberico and Wilkins that despite 2 years away and 2 years of treatment, he is still committed to his plan and his plan has improved. He stated that the 2 years has given him time to make his plan to commit a mass killing, more "precise." He also told the detectives that

though they may detain him and force him to postpone his killings, he will still commit a mass shooting.

On February 16, 2018, this Court found probable cause on Counts #1-4 and on March 19, 2018, this Court found that evidence outline above and admitted into evidence was great, pursuant to 13 V.S.A. § 7553.

The Supreme Court disagrees. In a decision dated April 11, 2018, the Court cites *People v. Murray*, 14 Cal. 159 (1859) discussed in *State v. Hurley*, 79 Vt. 28 (1906). The Court writes:

"The preparation consists in devising or arranging the means or measures necessary for the commission of the offense; the attempt is the direct movement toward the commission after the preparations are made. To illustrate: a party may purchase and load a gun, with the declared intention to shoot his neighbor; but until some movement is made to use the weapon upon the person of his intended victim, there is only preparation and not an attempt."

*Id.*, at 159-60.

In this case, FHPD, FHUHS, VSP and the Rutland County State's Attorney's Office acted swiftly and diligently to use the law of attempts to address the defendant's actions and plans before they resulted in shots fired on school grounds. The State, in coordination with FHPD and VSP, believed that the evidence and the information defendant provided amounted to an "attempt" under 13 V.S.A. § 9. The State advanced its arguments in this Court and at the Vermont Supreme Court. The Vermont Supreme Court's decision leaves the prosecution of counts 1-4 untenable on the available evidence. Given the Supreme Court's decision, the State has no choice but to dismiss Counts #1-4, without prejudice. Should new evidence emerge that will satisfy the Supreme Court's standard, the State will refile.

Regardless, Counts #5 and 6 still exist. As such, defendant stands charged of Criminal Threatening, in violation of 13 V.S.A. § 1702 and Carrying a Dangerous Weapon, 13 V.S.A. § 4003. Based on the evidence and



argument provided at the two-day Weight of the Evidence hearing and the bail review hearing on April 17, 2018, the State moves this Court to continue the \$100,000.00 bail and the conditions of release that were imposed on April 17, 2018.

Dated at Rutland this 20<sup>th</sup> day of April, 2018.<sup>1</sup>

By: 

Rosemary M. Kennedy  
Rutland County State's Attorney

By: 

Ian C. Sullivan  
Deputy State's Attorney

cc: Kelly Green, counsel for defendant

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<sup>1</sup> Today's date weighs heavily on the minds of the undersigned. Eighteen years ago, in 1999, two high school students at Columbine High School in Colorado killed 12 of their fellow classmates, killed 1 teacher, and left another 21 people injured. In the aftermath of that massacre, people debated whether the school, the community or law enforcement could have done more to prevent the senseless killings. In this matter, all involved – from the parent who called FHPD on February 14 and A.M. who reached out on February 15 to Chief Humphries and VSP – acted swiftly and decisively to try and avoid a tragedy.

From the minute the Rutland County State's Attorney's Office was informed of defendant's text messages, it has carefully reviewed the evidence and the caselaw time and time again. In cooperation with law enforcement, we believed that defendant's actions substantiated an attempt under Vermont law. We take defendant at his word that he intends to commit a mass killing, that he has prepared to do so and that if unchecked, he will commit a mass killing. The Vermont Supreme Court has concluded that the available evidence does not substantiate an attempt. The undersigned believes Vermont's law of attempts has proven inadequate when a planned school massacre is uncovered in what the Supreme Court deems its preparatory stages. The undersigned hopes that the Vermont Legislature, as the Supreme Court notes, "tasked with enacting such laws as the people of Vermont think necessary" deems a new attempt statute necessary and enacts legislation this term.