

Area News

Jury acquits Stamford man on attempted murder charge

By Eve Sullivan
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STAMFORD — After deliberating for about two hours yesterday, a six-member jury acquitted a Stamford man of attempted murder and attempted assault.

The jury did find Benjamin McDonald, 32, of 72 Spruce St., guilty of criminal possession of a weapon in the July 3, 2003, shooting on the West Side.

McDonald briefly smiled as the verdict was handed down just after 5 p.m. in state Superior Court in Stamford. Judge Robin

Wilson kept his bond at \$250,000 and scheduled his sentencing for Dec. 8.

"I was pleasantly surprised," said his attorney, Lindy Urso. "I thought the state's attorney presented a very good case."

The state alleged that McDonald fired two shots at GaBrian Holloway in the area of Stillwater Avenue and Smith Street that day at about 3 p.m. It presented several witnesses who saw him.

McDonald admitted to firing the shots with an antique double-barrel-shotgun but said he was

only trying to scare Holloway because Holloway had previously assaulted him.

In her closing arguments yesterday, Assistant State's Attorney Kelley Swift verified that the victim has a criminal record and fought with McDonald on the street.

"Just because GaBrian is not a pillar of the community, doesn't mean he deserves to be shot at in the street," she said.

After the two got into a fight, Swift said McDonald went to his house, got a gun and searched for Holloway. She said he fired two

shots as Holloway was running away.

"The fact that the defendant missed when he shot GaBrian doesn't matter," Swift said. "It's what he intended to do."

Urso said McDonald just wanted to scare Holloway because he had been beating and harassing him. He said McDonald fired the first shot at close range, then let Holloway run all the way up Stillwater Avenue before shooting a second time.

"If he intended to hit him and just missed, why would he wait

until he got a football field and a half away until he fired the second shot?" Urso asked the jurors.

Urso asked the jurors whether there was enough evidence to prove he intended to commit murder.

Swift argued that McDonald was using a 100-year-old gun, which was heavy and hard to maneuver. She said the gun kicked back and hit him in the face after the first shot, causing a delay in the second shot.

"Is it likely that he would miss under all these conditions?" Swift asked. "Of course it is."

The prosecutor closed by saying that when "one person fires a shot at another human being," the intent is to hurt or kill them.

The trial, which started Tuesday, included testimony from five witnesses, several police officers and experts. McDonald and Holloway also testified.

McDonald could have received 25 years in prison if convicted of attempted murder, attempt at first-degree assault and criminal possession of a weapon. He now faces up to five years on the weapons charge.