

Jan 10 2023

SC Court of Appeals

RICHLAND COUNTY  
FILED

STATE OF SOUTH CAROLINA ) IN THE COURT OF GENERAL SESSIONS  
2022 OCT 24 BH 3: 16 ) FIFTH JUDICIAL CIRCUIT  
COUNTY OF RICHLAND )  
JEANETTE W. MCBRIDE )  
The State, C.C.P., G.S. & F.C. ) CASE NO: 2019A4021602389  
)  
)  
v. )  
)  
Clayton T. Jones, )  
)  
Defendant. )

**ORDER DENYING MOTION  
FOR NEW TRIAL**

This matter comes before this Court on Motion for New Trial filed by Defendant Clayton T. Jones ("Defendant") on July 24, 2022. On July 14, 2022, a Richland County jury found Defendant guilty on one (1) count of Criminal Sexual Conduct with a Minor, third degree. Following the verdict, victim impact, and Defendant's mitigation presentation, Defendant was sentenced to fifteen (15) years for his conviction.

On July 24, 2021, Defendant timely filed a substantive Motion for New Trial. In his Motion, Defendant asks the Court to grant him a new trial based on the following: (a) that the individual who conducted a video interview with the minor victim ("Interviewer") testified via "WebEx," rather than appearing to testify in person; and (b) that the lead investigator was allowed to identify Defendant for the accuser, rather than the minor victim testifying at trial to identify Defendant.

With respect to Defendant's first argument, the Supreme Court of South Carolina offered guidance in an Administrative Order, dated September 21, 2021, on whether witnesses could be allowed to testify remotely during a jury trial; in relevant part, it reads:

"(1) Use of [Remote Communication Technology, or] RCT, in Jury Trials. . . (B) Without the consent of the parties, a judge may allow a witness to testify using ERCT if the judge finds there is sufficient justification to do so. In a criminal case, this justification must rise

to a level to satisfy the standard established by *Maryland v. Craig*, 497 U.S. 836 (1990).”

The aforementioned standard established by *Craig* is as follows: “a defendant’s right to confront accusatory witnesses may be satisfied absent a physical, face-to-face confrontation at trial only where denial of such confrontation is necessary to further an important public policy and only where the reliability of the testimony is otherwise assured.” 497 U.S. at 850. As the South Carolina Court of Appeals recognized in *State v. Johnson*, “the right to face-to-face confrontation under the Sixth Amendment is not absolute[.]” 422 S.C. 439, 449, 812 S.E.2d 739, 744 (Ct. App. 2018).

Certainly, the protection of minor victims of sexual crimes is an important public policy in South Carolina. Further, the Court finds there were no questions as to the reliability of “WebEx” testimony from Interviewer in this case. Interviewer was previously subpoenaed to testify in another case in Washington state and was unable to appear in person at Defendant’s trial. Instead, Interviewer appeared on a live video feed with audio and was subject to both direct and cross examination, uninterrupted by technical difficulties. As such, the Court holds, under the circumstances presented in Defendant’s trial, it was appropriate pursuant to *Craig* and its progeny to hear testimony from Interviewer via “WebEx.”

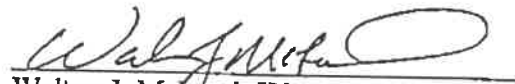
Defendant’s second argument is that the lead investigator in Defendant’s case testified to witnessing the minor victim identify Defendant in a photo on a television screen from another room. Defendant describes this as a hearsay identification and claims the evidence is insufficient to sustain Defendant’s conviction. The Court disagrees and holds that this an insufficient basis for granting a new trial to Defendant under Rule 29, SCRCrimP. Furthermore, the minor victim previously identified a photo of Defendant in her forensic interview, and, at the time of trial,

Defendant's physical appearance was dissimilar from that of the incident due to an increase in facial hair.

In light of all the facts and circumstances, and in reviewing the file, this Court finds there is an insufficient basis for a new trial on the grounds made in Defendant's motion or on any other grounds. In addition, this Court finds that Defendant's Motion for New Trial is appropriately adjudicated based upon the written submission from each party and without oral argument pursuant to Rule 29(a), SCRCrimP.

THEREFORE, this court DENIES Defendant's Motion for New Trial.

**AND IT IS SO ORDERED.**

  
Walton J. McLeod, IV  
Presiding Judge  
Eleventh Judicial Circuit

Lexington, South Carolina  
October 18, 2022



State of South Carolina  
The Circuit Court of the Eleventh Judicial Circuit

Walton J. McLeod, IV  
Judge

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October 18, 2022

The Honorable Jeanette McBride  
Clerk of Court, Richland County  
1701 Main St., Room 205  
Columbia, SC 29201

Re: State of South Carolina v. Clayton T. Jones  
Case No.: 2019A4021602389

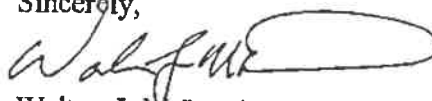
Dear Madam Clerk:

Please find enclosed the *Order Denying Motion for New Trial* regarding the above referenced case. As you will recall, this trial proceeded to jury verdict on July 14, 2022. Defendant Jones filed a Motion for New Trial on July 24, 2022.

I would appreciate you filing this Order and providing a clocked copy to the attorneys of record. Thank you for your assistance, and please do not hesitate to contact me if I can answer any questions for you.

With kind regards,

Sincerely,

  
Walton J. McLeod, IV

cc: Theresa Johns, Esq.  
Tivis Sutherland, Esq.

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FILED  
2022 OCT 21, PM 3:16  
JEANETTE V. MCBRIDE  
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