

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

RECEIVED
May 19 2023
SC Court of Appeals

Appeal from Barnwell County

Honorable Courtney Clyburn-Pope, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

DEVAJAY R. STEVENS,

APPELLANT

APPELLATE CASE NO. 2022-000902

RECORD ON APPEAL

JESSICA M. SAXON
Appellate Defender

ALAN WILSON
Attorney General

South Carolina Commission on Indigent
Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1330

WILLIAM M. BLITCH, JR.
Senior Assistant Deputy Attorney General
Rembert Dennis Building
1000 Assembly Street, Room 519
Columbia, SC 29201
(803)734-3372

ATTORNEY FOR APPELLANT

ATTORNEYS FOR RESPONDENT

INDEX

INDEX i

GUILTY PLEA HEARING TRANSCRIPT DATED MAY 31, 20221

 PLEA COLLOQUY WITH DEFENDANT4

 PRESENTATION OF THE FACTS BY MS. STAGGS.....5

 COURT ACCEPTS GUILTY PLEA.....9

 MITIGATION PRESENTATION BY MR. HAYES.....9

 SENTENCING19

INDICTMENT22

SENTENCE SHEET24

MOTION TO RECONSIDER SENTENCE.....26

 MEMORANDUM IN SUPPORT OF MOTION TO RECONSIDER SENTENCE.....28

 WITNESS AFFIDAVITS FROM L.S.....31

 LETTER FROM MENTAL HEALTH PROVIDER.....34

ORDER DENYING MOTION TO RECONSIDER SENTENCE.....35

CERTIFICATE OF COUNSEL36

I N D E X

(No witnesses were called.)

E X H I B I T S

(No exhibits were submitted.)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

P R O C E E D I N G S

DEVAJAY STEVENS,

after being duly sworn, testified as follows:

THE COURT: Yes, ma'am.

MS. STAGGS: May it please the Court.

Your Honor, before you is Mr. Devajay Stevens charged under indictment 2022-GS-06-00085 with criminal sexual conduct with a minor in the second degree. It is my understanding he wishes to plead guilty today as indicted. The State is making no recommendation in regards to sentencing, but we have negotiated a cap of ten years, Your Honor.

THE COURT: All right.

Mr. Hayes, have you explained to Mr. Stevens the nature of his charges, possibility penalties and his Constitutional rights regarding this charge?

MR. HAYES: I have, Your Honor.

THE COURT: And do you believe that Mr. Stevens has understood that?

MR. HAYES: I do.

THE COURT: Are you in agreement with his decision to plead guilty to this charge?

MR. HAYES: I would say, Judge, it was his decision. He understands that going to trial is a big gamble and he did not want to risk it.

1 THE COURT: All right. Thank you, Mr. Hayes.

2 Mr. Stevens, good morning, sir.

3 THE DEFENDANT: Good morning.

4 THE COURT: Mr. Stevens, have you had any illegal drugs
5 or alcohol within the last 72 hours?

6 THE DEFENDANT: No, ma'am.

7 THE COURT: All right. Are you on any type of
8 medication that would prevent you from understanding what we
9 are doing here today?

10 THE DEFENDANT: No, ma'am.

11 THE COURT: Mr. Stevens, have you had enough time to
12 speak with your attorney, Mr. Hayes?

13 THE DEFENDANT: Yes, ma'am.

14 THE COURT: Are you totally and completely satisfied
15 with his representation of you?

16 THE DEFENDANT: Yes, ma'am.

17 THE COURT: Has he answered all the questions that
18 you've asked of him?

19 THE DEFENDANT: Yes, ma'am.

20 THE COURT: Is there anything else that you need to ask
21 him before we go forward with this plea?

22 THE DEFENDANT: No, ma'am.

23 THE COURT: Mr. Stevens, has anyone forced you or
24 promised you anything in order to take this plea today?

25 THE DEFENDANT: No, ma'am.

1 THE COURT: Are you pleading guilty to this charge
2 because you are guilty of this charge?

3 THE DEFENDANT: Yes, ma'am.

4 THE COURT: Have you been truthful in your answers to
5 me?

6 THE DEFENDANT: Yes, ma'am.

7 THE COURT: Madam Solicitor, may I have the facts of
8 the case, please?

9 MS. STAGGS: Thank you, Your Honor.

10 This incident happened on December the 5th of 2019.
11 The following day, law enforcement responded to the
12 residence in Blackville here in Barnwell County in regards
13 to the sexual assault of a minor. The Defendant and the
14 victim in this case, Your Honor, are brother and sister. He
15 was 26 at the time and she was 15. And she reported that he
16 had moved into their home, the home that she shared with her
17 mother in early November of 2019, so he had been there for
18 about a month.

19 And she said that since he moved in -- that the night
20 that he moved in was the first time that he forced her to
21 have sex with him and since then, he would make her perform
22 oral sex on him. She would be forced to masturbate him.
23 And she said that the most recent incident happened the
24 night before, the night of December the 5th of 2019, so she
25 reported it that next day.

1 Law enforcement came. They collected the sheets that
2 were on her bed and the shorts that she had been wearing.
3 The victim said she had been assaulted sometime between nine
4 and ten times, in that window, but, again, that the most
5 recent one and the subject of this indictment had happened
6 the night before.

7 The DNA on the bed sheets and the shorts, it was semen,
8 Your Honor, and it came back to match the Defendant in this
9 case. He was interviewed and he did later admit, after
10 initially denying any sexual contact with the victim and
11 denying -- he admitted he had slept in her bed, but denied
12 that he had ever masturbated in her bed. There would be no
13 reason for his semen to be on her sheets. But then later,
14 admitted that during the night, she had masturbated him and
15 he had ejaculated. So there is a confession, Your Honor.

16 He does not have a prior record. And the victim and
17 her mother, who is also the Defendant's mother, are here and
18 I believe would like to address the Court.

19 THE COURT: They certainly are welcome, but are not
20 required if they are not comfortable.

21 Do you wish to address the Court?

22 MS. STAGGS: She does. You can come on up right here.

23 MS. L.S.: My name is L.S. --

24 THE COURT: Speak just a little bit louder for me, Miss
25 L.S., okay, so that my court reporter can hear everything

1 that you're saying.

2 MS. L.S. : I said my name is L.S.

3 THE COURT: Yes, ma'am.

4 MS. L.S. : And I am 18 years old now. But I just
5 wanted to speak because I feel as if this situation has just
6 -- it's not -- there's no reason he should be doing more
7 time.

8 THE COURT: Okay. So what you're saying is you don't
9 believe he should get more jail time?

10 MS. L.S. : No.

11 THE COURT: You do not believe that he should get more
12 jail time?

13 MS. L.S. : Yes, ma'am.

14 THE COURT: All right. I just wanted to make sure. Is
15 there anything you want to tell me -- tell me everything you
16 want to tell me, Ms. L.S.

17 MS. L.S. : I am now about to be a mother and I would
18 like to put all this behind me.

19 THE COURT: Thank you, Ms. L.S.

20 MS. STAGGS: Judge, by way of explanation, this is a
21 difficult position for the victim in this case and I'm sure
22 very difficult for her mother as well as she is the
23 biological mother of both of these people that are involved
24 in this incident.

25 However, the State intended to go forward with this

1 case regardless. As I'm sure Mr. Hayes will tell you that
2 he has a letter that the victim wrote recanting the
3 allegation that she made. But at the time the State spoke
4 with the victim in this case where she was alone and had not
5 had the opportunity to be influenced by her mother, she was
6 cooperative. She told me what happened. You know, Ms.
7 O'Berry was with me when we had that telephone call and she
8 was cooperative with the prosecution of this case.

9 After that happened and her mother found out, the
10 recantation letter was written. This is a girl who's 18
11 years old. She's pregnant. She lives with her mother. She
12 doesn't have her own car. She doesn't have a job. She
13 doesn't have any way to be independent of what her mother
14 wants in this case and doesn't really have the ability, the
15 State believes, to speak up against her mother. And her
16 mother is wholeheartedly on the side of the Defendant in
17 this case, I believe.

18 I think either way, the State intended to go forward
19 and put her on the stand. This is heinous sexual
20 allegations in this case. So just by way of explanation, I
21 believe that, certainly, she's welcome to speak today and we
22 want to take into account how she feels, which is why we
23 negotiated the cap of ten years in this matter, Judge. But,
24 again, I believe that those statements have been
25 substantially influenced by the Defendant's mother.

1 THE COURT: Thank you, Madam Solicitor.

2 Mr. Stevens, did you hear the facts of the case?

3 THE DEFENDANT: Yes, ma'am.

4 THE COURT: Are you in agreement with those facts, Mr.
5 Stevens?

6 THE DEFENDANT: Yes, ma'am.

7 THE COURT: How do you wish to plead, sir?

8 THE DEFENDANT: I want to take a second degree.

9 THE COURT: You're pleading guilty?

10 THE DEFENDANT: Yes, ma'am.

11 THE COURT: All right, Mr. Stevens, I am going to
12 accept that plea and I find that you have done so freely and
13 voluntarily, knowingly and intelligently. You have had the
14 assistance of your attorney, Mr. Hayes, with whom you said
15 you are satisfied with.

16 All right. Mr. Hayes, I'll hear from you, sir.

17 MR. HAYES: May it please the Court, Your Honor. I've
18 got a letter, as you heard from the State, from his mother,
19 she said she wanted to address the Court, as well as a
20 statement from the sister.

21 THE COURT: Okay. Thank you.

22 MR. HAYES: They are dated since the incident, but when
23 he bonded out of jail, the story was the same then as it is
24 now. She's saying she lied because she got caught with a
25 bottle of liquor at school. Now, I don't think she was

1 lying about everything, but I do believe she was lying about
2 rape and I do believe she was lying about it being forced.
3 I believe that they were experimenting with each other and
4 it was a decision they decided to do together.

5 He bonded out October 15th of 2020 after being in jail
6 for 289 days and he was told to move McCormick, and he did
7 so. He's stayed there since. He was supposed to be seeing
8 mental health. And we had a resolution where the case would
9 be dismissed if he had done that. However, in McCormick, he
10 was having issues finding help with DMH and going to
11 counseling. When I tried to help him, DMH told me flat out,
12 we don't do any counseling with that and we kind of just got
13 left sitting in the pond with nothing, no row boat, no motor
14 and couldn't get it figured out.

15 Of course, time passed and the next thing I know we're
16 on the trial list and the offer is CSC third or CSC second.
17 And when that happened, that's when the victim came to my
18 office and said -- without her mother. Her mother may have
19 drove her, but I told the mother to leave and my
20 investigator met with her alone. I was with another client.
21 And the statement was written. And then she happened to
22 come back so she could give us a photo idea because I won't
23 take a statement without one, and I asked her to come in and
24 speak with me and she reiterated what she wrote in the
25 letter, what she had said back in October of 2020. Your

1 Honor, I can't explain the semen on the sheets and the
2 shorts.

3 He's been out of jail for two years. He's not gotten
4 in any more trouble. He hasn't had any other record his
5 whole life. He's 29 years of age. He works right now at
6 Venator. They make pigments for paints. He's been there
7 for the last three months. Prior to that, he was a
8 maintenance man for the last seven years. So he's been
9 gainfully employed for long periods of time. He just
10 recently switched jobs. He told me that he's been looking
11 at another job at Starbucks over in Augusta. So he's out
12 looking for employment and trying to better himself.

13 He went to McCormick High School, graduated in 2011.
14 He then went to South Carolina State. He did one semester
15 and ran into financial issues with financial aid and wasn't
16 able to go because financial aid didn't cover the summer
17 semester and he was told he can't come back until he can
18 actually pay the bill and get caught up. He hasn't been
19 able to do that. He just recently in the last month became
20 a father. His first child was born.

21 Now, we started -- he was supposed to be seeing
22 somebody for long term, but when this came back up, he
23 started looking harder and we ended up looking in North
24 Augusta, which according to the bond violates the bond
25 because he had to leave McCormick County. But he went and

1 paid for his own psychiatrist.

2 I talked to her the other day. She was supposed to
3 have sent me a letter, but he's telling me the only thing
4 she's diagnosing him with right now is anxiety and that's
5 part of this upcoming trial. Now, I haven't seen a faxed
6 letter come in yet. With the internet being down, that
7 might be some of my issues.

8 But I did speak with her two times in the last three
9 weeks -- or Monday going back three weeks, I've spoken with
10 her. She got him in. She met with him. She then called me
11 and we had a long conversation over the phone about what his
12 options are, either go to trial or plead guilty. And he's
13 telling me he does not wish to put her through that. He
14 doesn't want to risk it.

15 And the question then comes down to do you go with the
16 CSC third or you go with the CSC second. CSC third is a
17 mandatory requirement that you register. It's mandatory
18 that you also wear a GPS on your leg for, at least, ten
19 years before you can apply to have it removed. CSC second
20 is 85 percent, no parole if he goes to prison. But then if
21 you do go to prison, you know you're going to do more time,
22 but when you get out, you, at least, don't have an ankle
23 monitor on your leg. You still register for, at least, the
24 next ten years. So he had to weigh that information. After
25 weighing all of that, that's how we ended up with CSC

1 second.

2 His father is here with him, Your Honor. My
3 understanding in talking with the family, he and his sister
4 were estranged. They were reared in two different
5 locations. He was with his father after his father was able
6 to get him out of foster care. He was in two different
7 foster cares prior, then his father got him, reared him.
8 Then when he became older, he wanted to come here and meet
9 his mother and spend time here and that's when he moved
10 here. Then these allegations happened. When we did the
11 bond order, his bond order was to go to McCormick and stay
12 away. From my understanding, that's what's happened until
13 recently, today, when we had to bring him here to court.

14 Your Honor, I would like you to take into consideration
15 all of those facts. I've spoken with the victim. The story
16 she's telling me and the information I'm getting is
17 different than what the State is telling me they're getting
18 from her. All I can say is that when I talked to her, her
19 mother wasn't there. She was in the parking lot. She had
20 no idea what she was saying. In the grand scheme of things,
21 I even wrote in the e-mail, what she's saying to y'all, what
22 she's saying to me, what you're telling me are two different
23 stories.

24 He did 289 days in the county jail, Judge. I would ask
25 the Court to give him a sentence that would be suspended to

1 time served and probation to follow. He has done two and a
2 half years almost with no more arrest, no more issues. He
3 just became a father. He is gainfully employed. He seems
4 to be going down the right path. He's also started seeing a
5 general practitioner psychologist, is meeting with him on a
6 weekly basis.

7 You said you met with her yesterday?

8 THE DEFENDANT: Yes, sir.

9 MR. HAYES: And he met with her last Monday and the
10 Monday before that is when he set it up. So it seems like
11 it's on a weekly basis that he's going to see her.

12 And I've explained to him that if he violates in any
13 way on probation, probation is going to put that GPS on him
14 and it's going to be an issue. So right now, he wouldn't
15 have to have the GPS unless he violates his probation. But
16 he does have to register.

17 THE COURT: Under second?

18 MR. HAYES: Yes.

19 THE COURT: Ms. Staggs.

20 MS. STAGGS: Just by way to explain any sort of prior
21 offer, Your Honor, those discussions did happen and were
22 based upon the cooperation of the victim, as was stated by
23 her mother because she was 15 years old when this happened
24 and when we were first able to talk to her. Again, the one
25 and only time we had discussions with her when she was of

1 age and alone, you know, we determined it was appropriate to
2 go forward.

3 THE COURT: All right.

4 MR. HAYES: I will say he didn't fulfill his end by
5 doing the counseling.

6 MS. STAGGS: The plea would have been contingent upon
7 counseling that was never done.

8 MR. HAYES: But I'm also saying he was kind of thrown
9 into a counseling desert, too, in McCormick and the ball got
10 dropped where getting him some help would have required him
11 leaving the county. That may have been my fault, may be his
12 fault, but I did try and I called multiple people. One was
13 a private practitioner and she was not going to have that
14 discussion and DMH flat out told me no. So it wasn't any
15 other options in McCormick County.

16 And everything I've heard from the victim is exactly
17 what it was in 2020. I can't say what she told the State.
18 I just know what she said before and what she says now to me
19 is two different things from what they're saying she said.

20 THE COURT: Mr. Stevens, you understand that entering
21 this plea today that you're waiving any right to a jury
22 trial, do you understand that, sir?

23 THE DEFENDANT: Yes, ma'am.

24 THE COURT: And you still wish to go forward with this
25 plea?

1 THE DEFENDANT: Yes, ma'am.

2 THE COURT: You understand there's a negotiated cap of
3 up to ten years, you do understand that, Mr. Stevens?

4 THE DEFENDANT: Yes, ma'am.

5 THE COURT: This is a violent and a most serious. Has
6 that been explained to you by your attorney, Mr. Stevens?

7 THE DEFENDANT: Yes, ma'am.

8 THE COURT: If you wish to appeal this plea for any
9 reason, you have to do so within ten days of today. Do you
10 understand that?

11 THE DEFENDANT: Yes, ma'am.

12 THE COURT: Mr. Hayes and Ms. Staggs, I want to think
13 about this for a few minutes. I'm going to come back after
14 lunch and sentence Mr. Stevens. So Mr. Stevens is to remain
15 here until his sentencing. We're going to sentence him at
16 1:45.

17 MR. HAYES: Okay.

18 MS. STAGGS: Thank you, Your Honor.

19 (Hearing was adjourned until 1:45 p.m.)

20 THE COURT: We'll stand down until 1:45.

21 (Lunch break.)

22 MR. HAYES: Your Honor, I was told after we broke that
23 his mother would like to address the Court.

24 THE COURT: All right. Where is she?

25 MS. WILLIAMS: My name is Kizzy Williams.

1 THE COURT: Say your first name for me.

2 MS. WILLIAMS: Kizzy.

3 THE COURT: Kizzy Williams?

4 MS. WILLIAMS: Yes, ma'am.

5 THE COURT: Yes, ma'am, Ms. Williams.

6 MS. WILLIAMS: I'm here to speak on behalf of my son --

7 THE COURT: You've got to speak a little bit louder. I
8 can't hear you.

9 MS. WILLIAMS: I'm here to speak on behalf of my son.

10 THE COURT: Yes, ma'am, Ms. Williams.

11 MS. WILLIAMS: First off, I do want to say that he did
12 not have sex with her. It was -- and she confirmed it, so
13 that's, basically, what it was.

14 So with that being said, I have never met this woman
15 until two weeks ago. The things she said, it offends me a
16 lot that I told my daughter to say something. I don't
17 condone my children in anything and that hurt me. I mean, I
18 know that it was both of them and not just one and I knew it
19 from the beginning, from when she first said that that it
20 was both of them. It was her.

21 THE COURT: What else do you want to tell me, Ms.
22 Williams?

23 MS. WILLIAMS: Just take that in consideration.

24 THE COURT: Certainly. Thank you, Ms. Williams.

25 MR. HAYES: His father wants to address the Court.

1 THE COURT: Yes, sir, come forward. What's your name?

2 MR. TUTT: Maurice Tutt.

3 THE COURT: Tutt?

4 MR. TUTT: Tutt.

5 THE COURT: T-U-T-T.

6 MR. TUTT: T-U-T-T.

7 THE COURT: Yes, sir, Mr. Tutt.

8 MR. TUTT: I got custody of Devajay when he was young.

9 Devajay always was a good kid. We never had any problems
10 until this situation. And I just want you to have as much
11 leniency on him as you can because he's a really good kid.
12 Never had any problems. That's all I want to say.

13 THE COURT: Mr. Tutt, thank you for being here as well.
14 Thank you, sir.

15 MR. TUTT: Thank you.

16 THE COURT: Anything further, Mr. Hayes?

17 MR. HAYES: No, Your Honor.

18 THE COURT: Anything further from the State?

19 MS. STAGGS: No, Your Honor. Thank you.

20 MR. HAYES: I believe I told the Court he had 289 days.

21 THE COURT: 289 days is what I have.

22 Now, I've had a few moments to really take into
23 consideration all of the things I was told by both the
24 prosecution as well as Mr. Hayes and just momentarily, Ms.
25 Williams and Mr. Tutt, who are the parents of Mr. Stevens.

1 Ms. Staggs, you noted that there was a confession; is
2 that correct?

3 MS. STAGGS: Yes, Your Honor.

4 THE COURT: Now, Mr. Stevens, the issue that I'm having
5 is that whether or not this was consensual or -- you know,
6 to quote as your mother said, it was her, I do believe that
7 she is a victim in this case because at the time, she was 14
8 years of age --

9 MR. HAYES: 15.

10 MS. STAGGS: 15, Your Honor.

11 THE COURT: 15. She was 15, I apologize. She was 15
12 years of age.

13 That said, I read the two letters, the letter written
14 by your mom and the letter written by the alleged victim in
15 this case. And this is what I decided is appropriate in
16 your case. I'm sentencing you to the State Department of
17 Corrections for a term of ten years, provided upon the
18 service of eight years. The balance will be suspended for a
19 two-year probationary sentence. You will receive credit for
20 the time you have served in the amount of 289 days. While
21 you're on probation for those two years, you will be subject
22 to random drug and alcohol testing. I'm also requiring
23 mental health counseling at the discretion of Department of
24 Probation.

25 Good luck to you, Mr. Stevens.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

THE DEFENDANT: Thank you.

THE COURT: Thank you, sir.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA)
COUNTY OF BARNWELL)

I, PENNY M. JOHNSON, Official Court Reporter for the
Second Judicial Circuit of the State of South Carolina, do
hereby certify that the foregoing is a true, accurate, and
complete Transcript of Record of the proceedings had and the
evidence introduced in the hearing of the captioned case,
relative to appeal, in the Court of General Sessions for
Barnwell County, South Carolina, on the 31st day of May,
2022.

I do further certify that I am neither of kin, counsel,
nor interest to any party hereto.

January 14, 2023

Penny M. Johnson
Penny M. Johnson
Official Court Reporter

WITNESSES

Barnwell Sheriffs Office

James M Davis

TAC

Law Enforcement Case #: BCSO C19-12-6384

LBS

ARREST WARRANT NUMBER

2019A0610300113

ACTION OF GRAND JURY

True Bill

Charlene [Signature]

Foreperson of Grand Jury
Date: May 26, 2022

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2022GS0600085

The State of South Carolina

County of Barnwell

COURT OF GENERAL SESSIONS

MAY TERM 2022

THE STATE

vs.

DEVAJAY RAHIEM STEVENS

CDR #: 0397

Indictment for

CRIMINAL SEXUAL CONDUCT WITH A
MINOR IN THE SECOND DEGREE

§ 16-03-0655(B)(2)

BILL WEEKS, SOLICITOR

STATE OF SOUTH CAROLINA)
)
 COUNTY OF BARNWELL)
)

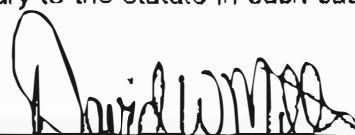
INDICTMENT FOR
 CRIMINAL SEXUAL CONDUCT WITH A
 MINOR IN THE SECOND DEGREE

§ 16-03-0655(B)(2)

At a Court of General Sessions, convened on May 31, 2022, the Grand Jurors of Barnwell County present upon their oath:

That **DEVAJAY RAHIEM STEVENS** did in Barnwell County on or about December 5, 2019, commit the crime of Criminal Sexual Conduct With A Minor In The Second Degree, in that the Defendant did commit a sexual battery upon **L. S.** a minor who was at least fourteen (14) years of age, but less than sixteen (16) years of age at the time of the incident, and the defendant was in a position of familial, custodial, or official authority to coerce the victim to submit, and/or the defendant was older than the victim. All in violation of §16-3-655 of the Code of Laws of South Carolina (1976), as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided,


 BILL WEEKS, SOLICITOR

24 (0-20 years)

Negotiated cap of 10 years

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Barnwell

STATE

INDICTMENT/CASE#: 2022 - GS - 06 - 00085

VS.

Devajay Rahiem Stevens

AW#: 2019A0610300113

AKA:

Date of Offense: 12/5/2019

Race: Black Sex: M Age: 29

S.C. Code §: 16-03-0655(B)(2)

DOB: [REDACTED] SS#: [REDACTED]

CDR Code #: 0397

Address: Bypass 127

City, State, Zip: Laurens, SC 29360-7518

DL# [REDACTED] SID# SC02098978

SENTENCE SHEET

*CDL Yes No CMV Yes No Hazmat Yes No

In disposition of the above indictment comes now the Defendant who was CONVICTED OF or PLEADS

TO: Sex / Criminal sexual conduct with minor - victim under 16 yrs of age - Second degree

In violation of § 16-03-0655(B)(2) of the S.C. Code of Laws, bearing CDR Code # 0397

NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS § 17-25-45
(CSC w/minor 1st or CSC w/minor 3rd)

The charge is: As indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury. _____ (def.'s Initials)

The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST:

[Signature] 101118 [Signature] [Signature] 77834
Prosecutor SC Bar # Defendant Attorney for Defendant SC Bar #

WHEREFORE, the Defendant is committed to the State Department of Correction County Detention Center,

for a determinate term of 10 days/months/years Time Served Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$____; provided that upon the service of 8 days/months/years Time Served and or payment
of \$____; plus costs and assessments as applicable*; the balance is suspended with probation for 2

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

The sentence shall run CONCURRENT or CONSECUTIVE to sentence on: _____

The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by SCDOC.
289 days/months

To include time spent on monitored house arrest prior to trial and sentencing.

The Defendant Shall be Released from County Detention Center.

Pursuant to 18 U.S.C. § 922 and § 16-25-30 It is unlawful for a person convicted of a violation of § 16-25-20 or § 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

STATE VS. Devajay Rahiem Stevens INDICTMENT/CASE#: 2022 - GS - 06 - 00085

SPECIAL CONDITIONS:

PTUP after _____ months/years

And Other Terms Listed Below:

- Substance Abuse Counseling
- Completion of GED
- Random Drug/Alcohol Testing
- Attend Voc. Rehab. Or Job Corp
- No Contact with Victim
- Domestic Violence Intervention Program
- Mental Health Counseling
- May serve W/E beginning: _____

Sex Offender Registry pursuant to S.C. Code § 23-3-430 Public Service Employment _____ days/hours

Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.

Other: Mental health counseling at discretion of dept of probation.

RESTITUTION: Deferred Def. Waives Hearing Ordered

Total \$ _____ plus 20% fee: _____ \$ _____

Payment Terms: _____ Set by SCDPPPS

Recipient: _____

*Fine:	\$	Beginning	\$
Fine may be pd. in equal consecutive weekly/monthly prmts. of	\$	_____	_____
§14-1-206 (Assessments 107.5%)			\$
§14-1-211 (A)(1)(Conv. Surcharge)	\$100		\$ 100.00
§14-1-211 (A)(2)(DUI Surcharge)	\$100		\$
§56-5-2995 (DUI Assessment)	\$12		\$
§56-1-286 (DUI Breath Test)	\$25		\$
§14-1-212 (Law Enforce. Funding)	\$25		\$ 25.00
§14-1-213 (Drug Court Surcharge)	\$150		\$
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)	\$41		\$
§50-21-114 (BUI Breath Test Fee)	\$50		\$
§56-5-2942(J) (Vehicle Assessment)	\$40/ea		\$
3% to County (if paid in installments)	TBD		\$ 18.75
<input type="checkbox"/> Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees	\$500		\$ 500.00
<input type="checkbox"/> § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund	TBD		\$ 40.00
TOTAL			\$ 683.75

Clerk of Court/Deputy Clerk: Sharon H. Ritchie
Court Reporter: Penny Johnson

Presiding Judge: [Signature]
Judge Code: 2707
Sentence Date: 5/31/2022

STATE OF SOUTH CAROLINA }
COUNTY OF BARNWELL }

IN THE COURT OF GENERAL SESSIONS
SECOND JUDICIAL CIRCUIT
Indictments 2022-GS-06-00085

STATE OF SOUTH CAROLINA,
vs.
DEVAJAY STEVENS,
Defendant

**MEMORANDUM IN SUPPORT OF
MOTION TO RECONSIDER SENTENCE**

FILED FOR RECORD
2022 JUN -2 AM 11:44
PHILOA D. JONES
CLERK OF COURT
BARNWELL COUNTY, S.C.

The Defendant pled guilty to one count of Criminal Sexual Conduct in the 1st degree on May 31, 2022. He received a sentence of 10 years suspended to 8 years and 2 years of Probation with credit for the time he served in the Barnwell County Detention Center. The sentence contains the condition that the Defendant attend the Addictions Treatment Unit while incarcerated at the South Carolina Department of Corrections.

The authority to change a sentence rests exclusively with the sentencing judge and is within his or her discretion. State v. Smith, 276 S.C. 494, 498, 280 S.E.2d 200, 202 (1981). A judge or other sentencing authority is to be accorded very wide discretion in determining an appropriate sentence, and must be permitted to consider any and all information that reasonably might bear on the proper sentence for the particular defendant, given the crime committed. Wasman v. United States, 468 U.S. 559, 563, 104 S.Ct. 3217, 82 L.Ed.2d 424 (1984).

In this situation, the Defendant was arrested for the commission of Criminal Sexual Conduct. He was arrested and questioned by the police. During the interview he told the officers he was in bed sleeping when his sister grabbed his penis and began to masturbate him. He told officers that he tried to get her to stop but she persisted, and he ejaculated on the bed. Later in the week, she was found to be drunk and with a bottle of liquor in school. She was informed that she would not be able to come back to school. This is when she told school authorities she was raped by her brother and that is why she was drinking.

She later came forward and gave a written statement (attached) and informed defense counsel that she lied about the extent of what happened because she was in trouble at school, and she wanted to get out of it. She also informed defense counsel they have forgiven each other, and she wants to move on with life. She informed the Court she did not want her brother to go to

prison that she thought the time he had already done was enough. She further informed the court that the Defendant is a new parent. She herself is now 18 years of age and that she was expecting a child of her own.

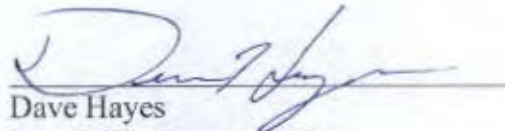
At the time of the plea, the Defendant did ask the Court to consider a probationary sentence with out-patient counseling. The Defendant had no other record and no other arrests. He has also been seen several times by a Licensed Professional Counselor, Rachael Latham, and was hoping to present a letter from her, however the letter had not been sent to Defense counsel at the time of the plea. The letter has now been received and is attached to this memorandum.

In asking the Court to reconsider this sentence, the Defendant would also ask the Court to consider the consequences of his conviction and the length of time he will have to serve before reaching the 85 percent minimum of his sentence. Because he pled under section 16-03-655(B)(2) of the Code of Laws of South Carolina, his charges are most serious, violent, and no parole. The characterization of the charges as most serious will hopefully be a deterrent to him because continued similar convictions could possibly result in a sentence of life without the possibility of parole. Also, due to the characterization of the charges as violent, the Defendant will be housed in a more secure facility of the South Carolina Department of Corrections, face reduced opportunities to obtain work credits and he will have to serve 85 percent of the sentence. He is not eligible for parole and will be on supervised release when he is released from incarceration. Also, he will have to register as a sex offender and because this offense is categorized as a tier 1 offense, he will have to register quarterly for life.

At the time of the plea Mr. Stevens was 29 years old. And employed at Venator and had been employed for the last 3 months. Prior to that he was a machine technician and did industrial maintenance for 7 years at D & W. Mr. Stevens according to his father, has always worked even when he was in High School and when he went to South Carolina State. While at South Carolina State he ran into financial issues and ended up having to stop his college education and help the family. While on bond he was living in a house that his father rented for him in McCormick. Mr. Stevens was able to work and maintain the rent and the bills. He also, in the last month became a first-time father with the birth of his little girl. His father, Maurice Tutt, and his mother, Kenzy Williams, were both present and spoke up on his behalf. As well as, the Victim, L. S. his half-sister. It was her wish that Mr. Stevens not to have to do anymore jail or prison time.

When Mr. Stevens was 2 years old, he was taken by DSS from his mother. His father went and tried to get him back, but he was placed in foster care for one to two years. He had to go through the Court and got custody back. When he got custody, they lived with his grandmother and father in McCormick South Carolina. In 2019 he was laid off and got a job in Augusta Georgia. During this time, he moved in with his mother and half sister to keep from having to drive so far to work.

WHEREFORE, the Defendant prays that the Court reconsider his sentence and allow him a probationary sentence with the condition that he be required to continue his treatment program. In the alternative, the Defendant would ask that his sentence be reduced.



Dave Hayes
Post Office Drawer 267
Barnwell, SC 29812
Attorney for Defendant

Barnwell, South Carolina
June 2, 2022

State v. Devajay Stevens
Indictments 2022-GS-06-00085

STATE OF SOUTH CAROLINA)
COUNTY OF BARNWELL)
State of South Carolina)
vs.)
Devajay Stevens)
Defendant)

IN THE COURT OF GENERAL SESSIONS

WITNESS AFFIDAVIT


DATE: 06/01/22

I didn't want for him to do get as much time for something he didn't do. I lied on my first statement because I was upset with him. He didn't do anything or force me to do anything with him. I will admit I gave him an handjob Everything that I said happened the first time was a lie. The Semen on the sheets came from when his girlfriend came over and they used my room. I want him to do a year on probation so he can be home with his girlfriend and babygirl. I didn't want to see anything bad happen to him I was only upset. I feel that he understand that we was both wrong for what I did to him. Nothing I said that he



L. S.

SWORN TO and subscribed before me
This 1 day of June 2022


NOTARY PUBLIC FOR SOUTH CAROLINA
My Commission Expires 06/29/26

STATE OF SOUTH CAROLINA)

COUNTY OF BARNWELL)

State of South Carolina)

vs.)

Devajoy Stevens)

Defendant)

IN THE COURT OF GENERAL SESSIONS

WITNESS AFFIDAVIT


DATE: 06/01/22

did was true. The only part that was true about the statement was that a hand job was giving and I did know better but I still thought to do it. He never was really here with us and when he was he decided to sleep in the car. 1 year on probation will be enough time for him is what I think He wasn't in the wrong because I decided to ask him to give him an hand job. I will admit I was the one who told him I liked him first and he told me that wasn't right because we was first sisters and brothers.



L. S.

SWORN TO and subscribed before me
This 1 day of June 21 2022


NOTARY PUBLIC FOR SOUTH CAROLINA
My Commission Expires 06/28/26

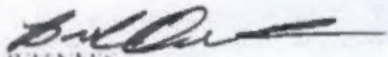
STATE OF SOUTH CAROLINA)
)
COUNTY OF BARNWELL)
)
State of South Carolina)
vs.)
Devajay Rahem Stevens)
)
Defendant)

IN THE COURT OF GENERAL SESSIONS

WITNESS AFFIDAVIT

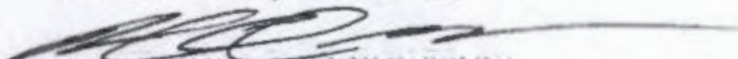
DATE: 05/19/2022

I don't want this case to continue. I just want to drop everything. I want my brother to move on with his life and continue making the changes he has made. I want better for myself as well because I have a baby on the way and I don't want that getting in the way of anything. I only said that he did something to me because I got in trouble at school for taking liquor and they wasn't going to let me come back so I had to come up with an excuse. I talked to my brother and apologized for lying. If I was asked why did I lie I would say only because I wanted someone to get in trouble with me, but that was only because I was young.


WITNESS

L. S.
NAME

SWORN TO and subscribed before me
This 19 day of May 2022


NOTARY PUBLIC FOR SOUTH CAROLINA
My Commission Expires 06/28/2026



May 30, 2022

Rachel Latham
 Ideal Self Counseling
 Licensed Professional Counselor
 Licensed Addictions Counselor
 Registered Yoga Teacher

104 E Pickens Street
 Abbeville, SC 29620

PO Box 714
 Abbeville, SC 29620

864.933.7224
 888.928.1125 (fax)
 Email: info@idealself.net

David Hayes
 Chief Public Defender
 54 Irving Street
 Barnwell, SC, 29812

Client: Devajay Stevens

This letter serves to document that I have met face-to-face with Devajay Stevens. Mr. Stevens presented for a Psychiatric Diagnostic Evaluation on May 23, 2022 and had a follow-up counseling appointment with me on May 30, 2022. He shared that he does intend to continue to engage in treatment services.

Based on Mr. Stevens' report, presenting concerns and symptoms do not appear to meet DSM 5 diagnostic criteria for a mental health disorder at this time. It appears that Mr. Stevens is experiencing significant anxiety related to upcoming prosecution.

This letter is in support of the best outcomes for Mr. Stevens.

Should you have questions, please do not hesitate to call.

Sincerely,

Rachel Latham, LPC, LAC, CCTP, E-RYT200

RECEIVED

Sep 02 2022

SC Court of Appeals

STATE OF SOUTH CAROLINA)
)
 COUNTY OF BARNWELL)
)
 STATE OF SOUTH CAROLINA)
)
)
 vs.)
)
 Devajay Stevens,)
)
 Defendant.)
 _____)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT: 2022-GS-06-00085

ORDER DENYING MOTION TO RECONSIDER SENTENCE

2022 SEP 1 PM 1:37

Having reviewed the Defendant's Motion to Reconsider Sentence and the Memorandum in Support of the Motion filed June 2, 2022, the Court finds:

1. That Defendant was indicted by the Barnwell County Grand Jury for two counts of Criminal Sexual Conduct with a Minor in the 2nd Degree, two counts of Incest and one count of Criminal Sexual Conduct with a Minor in the 3rd Degree on May 26, 2022.
2. That Defendant entered a guilty plea to one count of Criminal Sexual Conduct with a Minor in the 2nd Degree as to the above-referenced indictment number on May 31, 2022 in front of the Honorable Courtney Clyburn Pope. All other indictments were dismissed.
3. That the State and the Defendant negotiated a cap of 10 years in regards to the sentencing of the above-referenced indictment.
4. That this Court sentenced the Defendant to 10 years suspended upon the service of 8 years followed by 2 years of probation.
5. That the Defendant filed a Motion to Reconsider Sentence and Memorandum in Support of Motion to Reconsider Sentence on June 2, 2022.
6. That Defendant's Motion was DENIED on June 13, 2022 and the State and Defendant were notified of the Court's decision via email.

IT IS THEREFORE ORDERED that the Defendant's Motion to Reconsider Sentence is DENIED.

Courtney Clyburn Pope

Judge Courtney Clyburn Pope
Second Judicial Circuit

Barnwell, South Carolina
This 31 day of August, 2022

STATE OF SOUTH CAROLINA
COUNTY OF BARNWELL
I, Rhonda D. McElveen, Clerk of Court for Barnwell County, South Carolina do hereby certify that the foregoing constitutes a true and correct copy of the original documents which have been filed in my office.

Rhonda D. McElveen
Clerk of Court, Barnwell County, SC

By: CBC Date: 9/1/22

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled “Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings.”

Respectfully Submitted,

Jessica M. Saxon
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

ATTORNEY FOR APPELLANT

This 19th day of May, 2023.

RECEIVED

May 19 2023

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Barnwell County

Honorable Courtney Clyburn-Pope, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

DEVAJAY R. STEVENS,

APPELLANT

APPELLATE CASE NO. 2022-000902

CERTIFICATE OF SERVICE

I certify that a copy of the Record on Appeal in the above-referenced case has been served upon William M. Blich, Jr., Esquire, at the Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, this 19th day of May, 2023.

Jessica M. Saxon
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S.C. 29211-1589

ATTORNEY FOR APPELLANT