

FILED

STATE OF SOUTH CAROLINA)

COURT OF GENERAL SESSIONS

COUNTY OF CHARLESTON)

NINTH JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA)

CASE: 2020A1021000283

RECEIVED

JULIE J. ARMSTRONG
CLERK OF COURT

INDICTMENT: 2023GS1004605

Feb 14 2025

BY mk

v.)

SC Court of Appeals

EMERIC TYRONE HAMILTON,)

ORDER CONFIRMING RECORD
OF TRIAL

Defendant.)

This matter was remanded by order of the South Carolina Court of Appeals filed July 1, 2024, for a reconstruction of the trial record in connection with the above referenced matter. Following a status conference with all counsel of record, this Court issued an order directing a detailed report from Legal Eagle concerning the potential existence of missing audio recordings from the original trial which occurred from November 27 – 29, 2023. Pursuant to this order, additional missing audio recordings were located that had not been previously provided to Legal Eagle. A revised transcript of the original hearing was prepared and circulated among all counsel of record for review. This Court held a hearing on December 17, 2024, to determine the accuracy of the revised transcript. Defendant, Emeric Hamilton, was present for this hearing with Gary H. Johnson appearing on his behalf along with his trial counsel, Mary Ford. Lauren Frierson and Nick Harris both appeared on behalf of the state.

During the hearing, several additional areas of transcription errors were noted, but the parties agreed that the revised transcript had addressed the most significant concerns: there were no longer entire portions of the trial missing from the transcript. This Court directed the court reporter to listen to targeted areas of the audio recordings to address some of the remaining

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transcription issues, with the court reporter producing an additional revised transcript addressing some of those areas. This revised transcript (revision date January 15, 2025) has been supplied to all counsel of record for review and, if necessary, further objection.

Still absent from the transcript are time references to certain events, particularly surrounding the jury's deliberation. Based upon the contemporaneous notes of Ms. Frierson, the Court's charge to the jury began at approximately 3:15 p.m. on November 29, 2023. Jury deliberations began at approximately 3:33 p.m. At 4:10 p.m., the jury asked about evidence presented during the testimony of Christie Harley, and that testimony was replayed for the jury in full. A second question was asked at 5:26 p.m. regarding the testimony of two additional witnesses, Marianne Boehm and Veronica Herrera. That testimony was also replayed for the jury. Deliberations began again at 6:33 p.m. An additional note was provided at 8:06 p.m. indicating the jury could not reach a unanimous verdict. The Court then instructed the jury pursuant to Allen v. United States, 164 U.S. 492 (1896) (defining the jury charge used to encourage a deadlocked jury to reach a verdict). The jury reached a verdict at 8:25 p.m. All parties confirmed their general agreement with these time stamps.

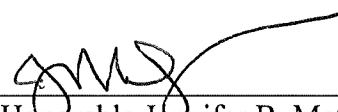
Finally, there is a portion of the transcript that contains numerous errors and inaudible notations: the transcribed version of the forensic interview of the minor. This appears starting on page 351 of the revised transcript and runs through page 368. As the physical copy of the interview was admitted into evidence, that is the best source for the minor's statements and the conduct of the interview. This Court would encourage any party raising an issue concerning that portion of the transcript for appellate review to include a copy of the forensic interview in the record on appeal as the best evidence of that portion of the trial.

Discretion in determining how to proceed with a reconstruction of transcript lies with the trial court. Adams v. H.R. Allen, Inc., 397 S.C. 652, 726 S.E.2d 9, 13 (Ct. App. 2012). A reconstructed record on appeal should allow for “meaningful appellate review.” State v. Ladson, 373 S.C. 320, 325, 644 S.E.2d 271, 275 (Ct. App. 2007). The Court of Appeals ordered this Court to schedule “such hearings [this Court] deems appropriate” to reconstruct the record of the trial to accomplish that goal. In light of the discovery of the missing portions of the audio files, the revisions to the transcript made following a hearing on December 17, 2024, and the testimony provided by trial counsel concerning the timing surrounding the jury’s deliberation, this Court determines that no further action is required to reconstruct the record of Defendant’s trial. As it currently stands, the transcript is accurate as to the witnesses who testified during trial, as supplemented by the additional findings contained in this Order regarding the timing of the jury’s deliberation and the existence of the recorded forensic interview as the best evidence of that portion of the trial.

CONCLUSION

This Court finds that the current transcript of the Defendant's trial on November 27 – 29, 2023, is a complete and accurate record of said trial as supplemented by this order.

IT IS THEREFORE ORDERED that reconstruction of the November 27 – 29, 2023, trial has produced a record of the trial and no further actions are required. A copy of this order shall be transmitted to the South Carolina Court of Appeals to allow the Defendant's appeal to proceed.



The Honorable Jennifer B. McCoy
General Sessions, Ninth Judicial Circuit

Charleston, South Carolina

This 30 day of JAN., 2025.

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2025 JAN 30 PM 2:30
JULIE J. ARMSTRONG
CLERK OF COURT
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