

STATE OF SOUTH CAROLINA)
 COUNTY OF Charleston)
 STATE VS.)
Curtis Grome Lemon)
 AKA: _____)
 Race: B Sex: M)
 DOB: _____ Age: 40)
 SSN: _____)
 DL#: _____)
 SID#: _____)

IN THE COURT OF GENERAL SESSIONS
 INDICTMENT/CASE#:

98 -GS- 10 - 1814
 A/W#: F576997
 Date of Offense: 1-9-98
 S.C. Code § : 16-3-652
 CDR Code #: 0111610



SENTENCE Apr 02 2025

PLEA TRIAL CONVICTED OF or PLEADS

In disposition of the said indictment, comes now the Defendant who was CONVICTED OF or PLEADS
 TO: Criminal Sexual Conduct 1st
 in violation of § 16-3-652 of the S.C. Code of Laws, bearing CDR Code # 0111610

NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS 17-25-45

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury.
 The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.
 ATTEST:

 Solicitor Defendant Attorney for Defendant

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center,
 for a determinate term of 30 days/months/years or under the Youthful Offender Act not to exceed _____ years
 and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
 of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____
 months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
 probation, which are incorporated by reference.

The Defendant is to be given credit for _____ days/months jail time.
 CONCURRENT or CONSECUTIVE to sentence on: 98-65-10-1815

SPECIAL CONDITIONS:

RESTITUTION Heard, Waived, Ordered
 Total: \$ _____ plus 20% fee \$ _____
 Payment Terms: _____
 set by SCDPPPS _____
 Recipient: _____

PTUP _____
 _____ days/hours Public Service Employment
 Obtain GED _____
 Attend Voc Rehab. or Job Corps _____
 May serve W/E beginning _____
 Substance Abuse Counseling _____
 Random Drug/Alcohol Testing _____
 Fine may be pd. in equal, consecutive weekly/monthly
 pmts. of \$ _____ beginning _____
 \$ _____ paid to Public Defender Fund.
 Other: _____

*Fine:\$
 § 14-1-206 - Assessments 100%.....\$
 § 14-1-211 - Surcharge.....\$ 100.00
 (Exceptions: See § 14-1-211)
 § 56-5-2995 (DUI).....\$
 County (3%).....\$ 3.00
 TOTAL.....\$ 103.00

Clerk of Court/Deputy Clerk: R. Wakeham
 Court Reporter: H. Hiott

PRESIDING JUDGE: [Signature]
 Judge Code: _____
 Sentence Date: 3/18/99

98-01-MJM-00187

DOCKET NO. 1998-GS-10-1814

WITNESSES

The State of South Carolina

JOHN BURNETT AND/OR

County of Charleston

KEITH HAIR

COURT OF GENERAL SESSIONS

GORDON, CPD

MARCH TERM 1998

Connelly

THE STATE

vs.

ARREST WARRANT NUMBER

CURTIS JEROME LEMON

F 576997

JANUARY 14, 1998

ACTION OF GRAND JURY

TRUE BILL

D. Henry

Foreperson of Grand Jury

MAR 2 1998

VERDICT

Indictment for

CRIMINAL SEXUAL CONDUCT
FIRST DEGREE

Foreperson of Petit Jury

Date:

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

INDICTMENT FOR
CRIMINAL SEXUAL CONDUCT FIRST DEGREE

At a Court of General Sessions, convened on March 2, 1998 the Grand Jurors of Charleston County present upon their oath:

That Curtis Jerome Lemon did in Charleston County on or about the 9th day of January, 1998, engage in sexual battery, to wit: sexual intercourse upon and with the body of Andrea L. Dillon, without her consent and the sexual battery was accomplished by the use of aggravated force. This is in violation of §16-3-652 of the South Carolina Code of Laws (1976) as amended.

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


ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA)
 COUNTY OF Charleston)
 STATE VS.)
Curtis Jerome Lemon)
 AKA: _____)
 Race: B Sex: M)
 DOB: _____ Age: 40)
 SSN: _____)
 DL#: _____)
 SID#: _____)

IN THE COURT OF GENERAL SESSIONS
 INDICTMENT/CASE#:
98 -GS- 10 - 1815
 A/W#: F576996
 Date of Offense: 1-9-98
 S.C. Code § : 16-3-50
 CDR Code #: 012117

SENTENCE

PLEA TRIAL

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

TO: Voluntary Manslaughter
in violation of § 16-3-50 of the S.C. Code of Laws, bearing CDR Code # 012117

NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS 17-25-45

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury.

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

ATTEST:

 Solicitor Defendant Attorney for Defendant

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center,
 for a determinate term of 30 days/months/years or under the Youthful Offender Act not to exceed _____ years
 and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
 of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____
 months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
 probation, which are incorporated by reference.

The Defendant is to be given credit for _____ days/months jail time.

CONCURRENT or CONSECUTIVE to sentence on: _____

SPECIAL CONDITIONS:

RESTITUTION Heard, Waived, Ordered
 Total: \$ _____ plus 20% fee \$ _____
 Payment Terms: _____
 set by SCDPPPS _____

PTUP _____
 _____ days/hours Public Service Employment
 Obtain GED _____
 Attend Voc Rehab. or Job Corps _____
 May serve W/E beginning _____
 Substance Abuse Counseling _____
 Random Drug/Alcohol Testing _____
 Fine may be pd. in equal, consecutive weekly/monthly
 pmts. of \$ _____ beginning _____
 \$ _____ paid to Public Defender Fund.
 Other: _____

Recipient: _____

*Fine:\$
 § 14-1-206 - Assessments 100%.....\$
 § 14-1-211 - Surcharge.....\$ 100.00
 (Exceptions: See § 14-1-211)
 § 56-5-2995 (DUI).....\$
 County (3%).....\$ 3.00
 TOTAL.....\$ 103.00

Clerk of Court/Deputy Clerk R. Wakeham
 Court Reporter: H. Hiatt

PRESIDING JUDGE [Signature]
 Judge Code: _____
 Sentence Date: 3/18/99

98-01-MJM-00187

DOCKET NO. 1998-GS-10-1815

The State of South Carolina

County of Charleston

COURT OF GENERAL SESSIONS

MARCH TERM 1998

THE STATE

vs.

CURTIS JEROME LEMON

WITNESSES

JOHN BURNETT AND/OR

KEITH HAIR

GORDON, CPD

Connelly

ARREST WARRANT NUMBER

F 576996

JANUARY 14, 1998

ACTION OF GRAND JURY

TRUE BILL

Da Henry
Foreperson of Grand Jury
MAR 2 1998

VERDICT

Indictment for

MURDER

Foreperson of Petit Jury

Date:

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

INDICTMENT FOR
MURDER

At a Court of General Sessions, convened on March 2, 1998 the Grand Jurors of Charleston County present upon their oath:

That Curtis Jerome Lemon did in Charleston County on or about the 9th day of January, 1998, feloniously, willfully and with malice aforethought murder Andrea L. Dillon, to wit: did manually strangle the victim, and did cause blunt force trauma to her head, and that Andrea L. Dillon did die in Charleston County as a proximate result on or about January 9, 1998. This is in violation of §16-3-10 of the South Carolina Code of Laws (1976) as amended.

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


ASSISTANT SOLICITOR

1 STATE OF SOUTH CAROLINA * GENERAL SESSIONS
 *
 2 COUNTY OF CHARLESTON * TRANSCRIPT OF RECORD
 *
 3 -----X
 STATE OF SOUTH CAROLINA, *
 4 *
 State, *
 5 *
 vs. * Case No. 1998-GS-10-01814
 6 * 1998-GS-10-01815
 CURTIS LEMON, *
 7 *
 Defendant.*
 8 -----X

November 13, 2023

B E F O R E:

The Honorable Deadra Jefferson, Presiding Judge

A P P E A R A N C E S:

Kescia Holmes, Probation
 Chelsey Marto, Esq.
 Attorney for the Defendant

22 Court Reporter: Bobbi Fisher, RPR
 23 SC Official Court Reporter III
 24
 25

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I N D E X

DESCRIPTION

PAGE

Proceedings

3

E X H I B I T S

(None.)

1 P R O C E E D I N G S

2 (The following proceedings started at 10:15 a.m.):

3 THE COURT: When was Mr. Lemon sent notice?

4 MS. HOLMES: Mr. Lemon is out in the hallway, Your
5 Honor. He will be coming in.6 THE COURT: Is he represented? I have Chelsey
7 Marto?

8 MS. MARTO: Yes, ma'am.

9 (Pause in the proceedings.)

10 THE COURT: Is there a reason the defendants are not
11 in the courtroom, why they go have to hunt and look for
12 them?13 MS. MARTO: Judge, I spoke with him earlier today.
14 He was right outside in the hallway.

15 THE COURT: Is he not out there now?

16 THE BAILIFF: He's checking.

17 THE COURT: Okay. Thank you.

18 MS. HOLMES: Yeah, I saw him sitting out in the
19 hallway earlier.20 MS. MARTO: Yeah, I spoke to him earlier, Your
21 Honor.

22 (Pause in the proceedings.)

23 THE COURT: Is this a CSP case?

24 MS. HOLMES: Yes, it is, Your Honor.

25 THE COURT: This is Curtis Lemon, represented by

1 Ms. Marto. 1998-GS-10-1814 and 1815. This does not tell
2 me what he was convicted of.

3 MS. HOLMES: Your Honor, he was convicted of
4 criminal sexual conduct first degree.

5 THE COURT: On both offenses?

6 MS. HOLMES: And voluntary manslaughter.

7 THE COURT: And he was sentenced to 30 years. Do
8 you know who the judge that sentenced him? That is
9 likewise not on here.

10 MS. HOLMES: One moment, Your Honor. I cannot read
11 the handwriting, Your Honor.

12 THE COURT: What's the judge code?

13 MS. MARTO: Judge Rawls, Your Honor.

14 MS. HOLMES: Judge Rawls? Okay.

15 THE COURT: Sentenced by Judge Rawls.

16 MS. HOLMES: On 3/18 of 1999.

17 THE COURT: Actually, I don't know if that's Judge
18 Rawls' signature or not.

19 MS. HOLMES: I don't think that is his signature.
20 Because Judge Rawls, usually you could see it --

21 THE COURT: Yeah, I know his handwriting. That's
22 not his handwriting on that sentencing sheet. And there's
23 no judge code on here.

24 THE CLERK: Judge, I'm looking it up now.

25 THE COURT: Thank you, ma'am.

1 MS. HOLMES: Agent Johnson is pulling it up right
2 here, Your Honor.

3 THE COURT: All righty. And Probation seeks to
4 violate him from being terminated from sex offender
5 treatment by Dr. Burke of Southeastern Assessments due to
6 noncompliance with the program regimen. And Mr. Lemon
7 formally requested that his case be brought before the
8 Court to have his sentence reinstated.

9 So he wants to be revoked? Is that how I read this?

10 MS. MARTO: No, Your Honor.

11 Your Honor --

12 THE COURT: So what does that mean? Mr. Lemon
13 formally requested that his case -- before the Court to
14 have his sentence reinstated. What does that mean?

15 MS. HOLMES: Your Honor, what occurred was Mr. Lemon
16 -- and I witnessed this on several occasions. Mr. Lemon
17 would come into our office very irate. Dr. Burke did
18 terminate him from the program on September the 28th of
19 2023.

20 Mr. Lemon requested to come to court because
21 Mr. Lemon stated that he'd rather just go back to prison
22 if he has to do sex offender treatment.

23 One of the ways that they have to -- they have to
24 admit guilt to their crime.

25 THE COURT: Yep, mm-hmm.

1 MS. HOLMES: And if they do not admit guilt to their
2 crime, Dr. Burke will terminate them from --

3 THE COURT: Well, he also, it looks like, refused to
4 take a polygraph as well.

5 MS. HOLMES: That is correct, Your Honor.

6 THE COURT: Mm-hmm.

7 MS. HOLMES: So Mr. Lemon came into the office on
8 two different occasions in which he became very irate and
9 argumentative with my staff. I would have to go down to
10 the office in order to calm Mr. Lemon down; that I think,
11 on the last occasion, I told Mr. Lemon just to leave out
12 the office because it was getting -- he wasn't listening.
13 So we told him that we would then give you your date in
14 court, since you requested to come to court. So that is
15 why we are here today, Your Honor.

16 THE COURT: So he asked to come back to court for
17 what purpose?

18 MS. HOLMES: Initially, he stated that he would
19 rather just go and do his time.

20 THE COURT: Okay.

21 MS. HOLMES: And that's why he came to court. We
22 told him that he is on community supervision. Only up to
23 one year at a time can be revoked if you go --

24 THE COURT: That looks like Judge Epps' writing.

25 Go ahead. I'm listening.

1 MS. HOLMES: Did you pull it up yet?

2 THE COURT: Did you find it?

3 THE CLERK: I'm trying to find it right now.

4 MS. HOLMES: It does look like Judge.

5 THE COURT: It looks like Frank C. Epps. Yeah, it
6 looks like Judge Epps' handwriting. Go ahead. I'm
7 listening.

8 MS. HOLMES: And so we decided to bring him to
9 court. It could be either two matters, Your Honor. The
10 first would be, as far as revocation up to the one year,
11 or Mr. Lemon is going to have to do the sex offender
12 treatment.

13 THE COURT: Is Dr. Burke willing to take him back?

14 MS. HOLMES: Dr. Burke is willing to take him back
15 if he will comply with Dr. Burke's treatment policy.

16 THE COURT: And Ms. Chelsey?

17 MS. MARTO: Yes, ma'am. I have spoken with --

18 THE COURT: Or is it Marto? I apologize.

19 MS. MARTO: Yes.

20 THE COURT: Your last name is Marto?

21 MS. MARTO: My last name is Marto.

22 THE COURT: I apologize; they had it in reverse
23 order.

24 Ms. Marto, mm-hmm?

25 MS. MARTO: It's my client's understanding that,

1 because Dr. Burke is requiring him to admit guilt, then
2 it's difficult for him to participate in that program
3 because he's been challenging his convictions.

4 THE COURT: When did he get released? He couldn't
5 have been challenging them this long. They would have
6 already gone through the appellate process from '98.

7 MS. MARTO: Yes, ma'am. He was released in June.
8 But what I'm saying is, you know, he was convicted in '99.
9 He's had at least three PCR applications.

10 THE COURT: Mm-hmm.

11 MS. MARTO: He's had a post-conviction DNA. He's
12 had appeals. He's hired me to handle a belated appeal
13 from a post-conviction DNA testing case while already
14 being on --

15 THE COURT: It depends on the nature of his
16 conviction because there may not have ever been any DNA.
17 You know, I don't know what the facts of the case were ---

18 MS. MARTO: I understand.

19 THE COURT: --- but I don't know that it's
20 dispositive at all.

21 THE DEFENDANT: I took a DNA -- I gave a DNA --

22 THE COURT: Sir, you've got a lawyer. Let her talk.

23 MS. MARTO: Yes, sir -- yes --

24 THE COURT: That's okay; I'm used to being called
25 "sir." Go ahead.

1 MS. MARTO: No, my client -- you know, it's his
2 understanding that -- he's been fighting these convictions
3 for 30 years. And so, in order to stay in that program,
4 he acknowledges that, you know --

5 THE COURT: Well, he can go back and then he going
6 to have to go through the multidisciplinary process, which
7 is about the same thing. So does he want to face a civil
8 commitment indefinite or does he want to deal with sex
9 offender treatment with Dr. Burke? He got a real stark
10 choice: One --

11 MS. MARTO: I understand, ma'am. And I have spoken
12 with ---

13 THE COURT: -- one way or the other.

14 MS MARTO: --- Mr. Lemon about this.

15 THE COURT: And I'm surprised -- well, the law must
16 not have been changed when they were processing him out
17 for him to go through the multidisciplinary process for
18 sex offender indefinite civil commitment. I don't
19 remember when that law was passed. '98? Yeah, it was
20 passed after this. It would not have been retroactive.

21 So I don't know if he'd be subject to it going back
22 on the CSP. I'm just sort of thinking out loud. But, you
23 know, he -- 30 years ago, I would think any fruitful
24 attempts of challenging this, that boat's sailed.

25 MS. MARTO: I understand, ma'am.

1 THE COURT: Yeah.

2 MS. MARTO: But as --

3 THE COURT: So what PCR does he have pending now?

4 MS. MARTO: Right now, what he's trying to do is a
5 belated appeal from a post -- denial of post-conviction
6 DNA testing, because that wasn't an option up until 2021
7 with State v. Mack. And so we have no --

8 THE COURT: Yeah, but I don't think that law is
9 retroactive, is it?

10 MS. MARTO: I believe it is, Your Honor.

11 THE COURT: Is it?

12 MS. MARTO: I thought it was.

13 THE COURT: I don't know. I'm asking.

14 MS. MARTO: Yeah. It's my understanding that, you
15 know, it is retroactive, and it did apply to Mr. Mack as
16 well.

17 THE COURT: Yeah, I don't know what the allegations
18 were on this conviction. I don't know if DNA would be
19 dispositive. He's got some choices. He needs to figure
20 out if he wants his freedom or not, or whether he wants to
21 deal with -- and I would assume the polygraph has
22 something to do with Dr. Burke's assessment, and I'm a
23 little perplexed as to why he just wouldn't have submitted
24 to it.

25 MS. MARTO: It's my client's understanding that he

1 thought he was given a third option, which is collaterally
2 attacking his convictions.

3 THE COURT: Not when he's -- not when he's going --
4 none of this stuff is stayed.

5 MS. MARTO: Judge, that's what my client --

6 THE COURT: Oh, bear with me one second.

7 I'm sorry; I'm listening.

8 MS. MARTO: Ma'am, my client was under the
9 impression he had a third option. He said that, when he
10 met with Dr. Burke, he told Dr. Burke he was innocent of
11 the crime and he couldn't admit. So he said --

12 THE COURT: That's not a third option for Dr. Burke.

13 MS. MARTO: I understand. I understand.

14 THE COURT: And anybody going into that program
15 knows that's not an option.

16 MS. MARTO: Okay. That's his perspective.

17 THE COURT: And sex offender treatment is a
18 requirement of his sentence. And it was Judge Smoak that
19 sentenced him.

20 MS. MARTO: Ma'am, he's also telling me that,
21 because it wasn't on the sentencing sheet and he wasn't
22 sentenced to that after court, then he shouldn't be
23 required to comply. And so we would request that the
24 Court modify --

25 THE COURT: I'm not modifying anything that Judge

1 Smoak did. I'm not modifying any of the conditions that
2 are required by Probation by the regulations that have
3 been delegated to them by the legislature. I don't have
4 that prerogative or that power.

5 MS. MARTO: So he's just, you know --

6 THE COURT: And if he continues to go to Probation's
7 office and be disruptive, he's going to find himself in
8 another situation, if he continues threatening them,
9 because they are considered public officials under the
10 statute.

11 Ms. Holmes, what is Probation's position regarding
12 this?

13 MS. HOLMES: Your Honor, our position is for
14 Mr. Lemon to be revoked up to one year, Your Honor. Like
15 I stated, from day one -- from day one, when
16 Mr. Smoak [verbatim] was released from SCDC, I just
17 happened to be at the office at that time as well. And he
18 was argumentative about being on the GPS monitor.

19 THE COURT: Which is -- isn't that this new law that
20 was passed that requires them to be on --

21 MS. HOLMES: That is correct. Mr. Lemon usually
22 comes to the office with his sister, and his sister --
23 actually, on the last occasion, he even started yelling at
24 his sister. And that is when I actually put him out of
25 the office because I wasn't going to allow that to occur

1 at all.

2 So Mr. Lemon just does not understand that we are
3 required to adhere to the conditions of probation, and if
4 he was ordered to -- if one of our conditions is that he
5 has to complete sex offender treatment or be enrolled --

6 THE COURT: And that's by state law; correct?

7 MS. HOLMES: Yes.

8 THE COURT: Sir, they don't have any options about
9 this. There are laws that have been passed that have
10 certain requirements.

11 THE DEFENDANT: Can I --

12 THE COURT: Yeah, I want you to be clear, because
13 you're putting yourself in jeopardy of going back to the
14 Department of Corrections --

15 THE DEFENDANT: Could I --

16 THE COURT: No. I don't want you to say anything
17 that could be used against you, and it can be. So let
18 your lawyer speak for you. I'm only telling you this for
19 clarity so that you can understand that Probation is not
20 acting -- what's the word that I'm looking for? --
21 arbitrary towards you.

22 There are certain rules and regulations that they
23 must follow that have been passed by the legislature, and
24 one of those is certain requirements based on certain
25 offenses. And it's not just this offense. There are lots

1 of offenses where the legislature has subsequently passed
2 certain things you must follow that must be enforced by
3 Probation, and they don't have any choice.

4 So I need you to understand that they haven't just
5 picked you out -- a needle out of a haystack to enforce
6 these conditions. The State legislature requires them to
7 impose these conditions. And she can't change it. You
8 know, you'd have to go to the legislature and get them to
9 change it. They have decided, in their infinite wisdom,
10 this is a requirement.

11 THE DEFENDANT: Do I get a chance to ever speak in
12 here, ma'am?

13 THE COURT: I mean, you've have got a lawyer. I
14 don't want anything you say to be used against you.

15 THE DEFENDANT: I wouldn't say nothing that would be
16 used against me.

17 THE COURT: Oh, you don't know that, because you
18 don't know the law. You think you do, but you don't. And
19 anything you say in this courtroom is being recorded, and
20 it can be used against you.

21 And you need to understand that Probation is not the
22 same as -- it is a different. It's a hybrid, and this is
23 what we call a condition of the state of grace, and it
24 ain't the same -- and I hate to use a colloquialism "it
25 ain't" -- but it is not the same as a beyond the

1 reasonable doubt in a criminal conviction. It's a whole
2 different process. And so, I don't want you putting
3 yourself in jeopardy.

4 But you got two choices: You can either comply or
5 not comply.

6 THE DEFENDANT: She is not explaining to the
7 Court --

8 THE COURT: She can't talk. Because, when I talk,
9 the only person that's being recorded is me. And I'm
10 going to give her plenty of opportunity to speak. And I
11 think every lawyer in this courtroom knows, I let them
12 speak at length, probably much to the chagrin of most of
13 my court reporters.

14 Yes, ma'am?

15 MS. MARTO: Yes, Your Honor. I have spoken to
16 Mr. Lemon multiple times. Every time, he has told me he
17 had a third option. That was hiring a PCR attorney.

18 He has informed me he does not think sex offender
19 treatment is acceptable for him because of his insistence
20 on his innocence. Again, he's being doing that for three
21 decades. He has been --

22 THE COURT: Sir, you doing your sex offender
23 treatment has no bearing on your PCR. None.

24 MS. HOLMES: And, Your Honor, I would like to add
25 that when Mr. -- when Mr. Lemon was --

1 THE COURT: And don't get abusive with her.

2 THE DEFENDANT: I'm not getting abusive with her.

3 THE COURT: Yeah, you are. Your behavior is
4 overbearing. And I'm documenting it for the record
5 because a cold record will not show body language or tone.
6 She is --

7 And I don't mean this in any pejorative sense, but
8 your stature is must smaller than his. He's being very
9 overbearing. He's speaking to you very aggressively and
10 being demanding, and I do not think it is appropriate.
11 And the Court's observations would be the same whether it
12 was male or female.

13 Sir, you need to let her do her job. It is not her
14 job to do what you ask her to do. She doesn't have to
15 agree --

16 THE DEFENDANT: It's what I paid her to do.

17 THE COURT: She doesn't -- no, no. She doesn't have
18 to even agree with you on strategy, even if you wrote her
19 a big 'ol check. She has to do what's in your best
20 interest.

21 She can talk to you about it, but she doesn't have
22 to have your consent to do it. And that's a misnomer
23 people have watching television. You don't get to tell
24 your lawyer what they're going to do. They are bound
25 ethically to do, one, what is appropriate, what is in your

1 best interest, what is in good faith, and she is bound by
2 the ethics rules and by the law. She doesn't get to just
3 make stuff up because you want it to be so. It doesn't
4 work that way.

5 And what I'm trying to explain to you is, you can
6 still pursue your post-DNA appeal on your PCR and still
7 complete your treatment with Dr. Burke. The two are not
8 inconsistent. And neither one of them has any bearing on
9 one another.

10 If the Court is going to give you an appeal on your
11 post-DNA testing, they don't care whether you have
12 admitted it. They could care less. They're not going to
13 be looking at what you're doing with Dr. Burke. It's a
14 totally different legal standard, and they're going to
15 determine whether the judge should have pursued it based
16 on the case law and the statutes and the rules; whether
17 you should have gotten post-DNA testing or not. And it
18 has nothing -- the two things are completely separate
19 processes, and they have no bearing on one another.

20 So to the extent that you have some misapprehension
21 that it does, it doesn't. So you can still proclaim your
22 innocence -- well, actually, you don't even really have to
23 proclaim your innocence to ask for post-DNA testing.

24 Is that a requirement for getting post-DNA testing?
25 I'm not aware of the statute saying that.

1 MS. MARTO: I don't think so, Your Honor.

2 THE COURT: So we're back at the original point,
3 which is, they need you to get back into treatment. If
4 you don't, they don't have any choice but to revoke you or
5 ask to revoke you.

6 THE DEFENDANT: Can I say something, Your Honor?

7 THE COURT: Sure.

8 THE DEFENDANT: Can how can I describe a crime I
9 didn't do? That's what I told Dr. Burke. If I didn't do
10 a crime, how can I describe one? I pled not guilty in
11 court.

12 THE COURT: Why didn't you go take the polygraph
13 test?

14 THE DEFENDANT: Because he tell me to hire a lawyer
15 or take the polygraph test, and I hired her. That's how I
16 got her.

17 THE COURT: Is that your understanding?

18 MS. MARTO: That's my understanding from talking
19 to --

20 THE COURT: Did you talk to Dr. Burke?

21 MS. MARTO: I called twice. His staff took notes.
22 The notes were given to Mr. Burke. Mr. Burke did not
23 respond to me. I called over the course of two or three
24 weeks.

25 THE COURT: Did y'all talk to Dr. Burke? Did he

1 tell them that it was a -- that he had to take the
2 polygraph or hire a lawyer?

3 THE DEFENDANT: Or hire a lawyer. That's what he
4 told me.

5 MS. HOLMES: I am not sure, Your Honor. That was
6 Agent Sheriff (ph) that was his supervising agent.

7 But I do want to note this, Your Honor, that
8 Mr. Lemon was aware that he had to do sex offender
9 counseling. He signed his community supervision
10 certificate on March 26th of 2023, which states that he
11 has to do GPS not less than six months and he also had to
12 attend sex offender counseling.

13 So he was aware that he had to do sex offender
14 counseling. So him coming into our office stating that he
15 does not want to do it, he's not going to do it, that's
16 where we had to then just bring him to court.

17 THE COURT: Yes, ma'am.

18 MS. MARTO: Yes, Your Honor. Again, Mr. Lemon,
19 since he first retained me, has been consistently saying
20 that he was told he could hire a lawyer and that would be
21 a satisfactory condition.

22 Now, I will also say on Mr. Lemon's behalf is he
23 does have family support. He is working every single day
24 at the landfill. He's in his mid 60s. He has no prior
25 other convictions. He's only had two minor disciplinary

1 issues in SCDC.

2 The only issue we really have here is whether or not
3 he violated the terms of his release by not taking sex
4 offender treatment. When he did show up, he paid
5 Dr. Burke, he talked to Dr. Burke. Dr. Burke told him he
6 couldn't help him because of his maintained --

7 THE COURT: That is one of the conditions of sex
8 offender treatment.

9 MS. MARTO: I understand, Your Honor, but that's...

10 THE COURT: You have to give me some defense in the
11 law. They're asking that he be revoked on CSP for failure
12 to comply. There is no middle ground. He doesn't get to
13 not comply with that requirement. It's either that or
14 confinement. He can decide which one he wants.

15 MS. MARTO: Yes, Your Honor.

16 THE COURT: Do you want to have a chat with him
17 while I take my next case?

18 MS. MARTO: Sure.

19 (This matter recessed from 10:34 a.m. to 12:03 p.m.)

20 THE COURT: Have you had a chance to talk to your
21 client?

22 MS. MARTO: Yes, ma'am, I have.

23 THE COURT: I'm listening.

24 MS. MARTO: Okay. Mr. Lemon has informed me again
25 that he feels like he can't go under the treatment because

1 of the fact that he's innocent and he can't describe a
2 crime that he hasn't committed. And so, again, just for
3 the record, I understand Your Honor's position. We would
4 ask --

5 THE COURT: I don't have a position. The state law
6 has a position. This Court is neutral. I'm not an
7 advocate. My job is to interpret and enforce the law.
8 Full stop. I don't get to have an opinion. The
9 Constitution prohibits me from having one.

10 MS. MARTO: Yes, Your Honor.

11 THE COURT: So I don't get to willy-nilly decide
12 what I'm going to enforce and what I'm not going to
13 enforce. I don't get to have a personal opinion about it,
14 and I don't have a personal opinion about it.

15 MS. MARTO: I understand, Your Honor. My client
16 feels like he cannot undergo additional sex offender
17 treatment with Dr. Burke.

18 THE COURT: Did y'all contact Dr. Burke to confirm
19 whether, in fact, he told him he could take the polygraph
20 or get a lawyer?

21 MS. MARTO: I attempted to contact him twice: One,
22 last Tuesday, and one, about a week before that --

23 THE COURT: No, I mean while we've been -- while
24 I've been doing guilty pleas ---

25 MS. MARTO: No, I haven't an attempt.

1 THE COURT: --- was there any attempt made to
2 contact him?

3 MS. MARTO: Mr. Lemon did show me a note with
4 Mr. Tommy Thomas's information on it that he got from
5 Dr. Burke, but I haven't tried to contact him again based
6 I understood -- based upon the fact that the staff was
7 relaying my messages. I was under the impression that
8 they did not want to talk to me.

9 THE COURT: Ms. Holmes?

10 MS. HOLMES: Yes, Your Honor.

11 As stated, Mr. Lemon was aware that he had to attend
12 sex offender counseling. He was aware before he was
13 released from the Department of Corrections. He was also
14 aware when he signed the sex offender conditions in our
15 office. And he was also aware verbally by myself when he
16 reported, once he was released from SCDC, of the
17 requirements of probation.

18 So it is our belief that Mr. Lemon just has been
19 totally defiant since being released from SCDC. As I
20 stated, starting with day one when we placed the GPS unit
21 on his ankle, which he was aware he had to wear a GPS
22 because he also signed --

23 THE COURT: Has he complied with the GPS?

24 MS. HOLMES: He has complied with the GPS, Your
25 Honor.

1 Then, also, he was aware, day one, that he had to do
2 the sex offender counseling. He has just been very
3 argumentative with any conditions that we advised
4 Mr. Lemon that he must do.

5 And we are before the Court at Mr. Lemon's request.
6 He requested to come to court. We were ready to reenroll
7 him back into Dr. Burke, and he just refused.

8 THE COURT: Yes, ma'am, anything further?

9 MS. MARTO: Nothing further, Your Honor.

10 THE COURT: Here's the bottom line, sir. Actually,
11 I need to get Dr. Burke on the phone because I need to
12 find out the veracity of what's been represented to this
13 Court about the polygraph test. So if you'll bear with me
14 one moment while my secretary accomplishes that.

15 (Pause in the proceedings from 12:07 p.m. to
16 12:12 p.m.)

17 THE COURT: Okay. What Dr. Burke says is that he
18 never represented to you that you could take the polygraph
19 or get a lawyer. What he said was he told you that he
20 would require that you take a polygraph. The attorney
21 thing came up when you insisted that Dr. Burke in some way
22 deal with your assertions that you were innocent, and what
23 Dr. Burke told you was that you had to get a lawyer if he
24 wanted to deal with that. And he has the termination
25 letter explaining what he did.

1 So he never made any representations to you that it
2 was either/or.

3 MS. MARTO: Thank you, Your Honor. We'll retract
4 that.

5 THE COURT: And Dr. Burke's position is still the
6 same. You would be required to take a polygraph. It's
7 not an either/or option.

8 MS. MARTO: Thank you, Your Honor.

9 THE COURT: So I need to know: Does he plan to take
10 the polygraph or is he still going to be adamant about not
11 taking the polygraph?

12 MS. MARTO: Your Honor, my client will take the
13 polygraph.

14 THE COURT: Ms. Holmes -- I'm waiting for Dr. Burke
15 to respond as to whether he'll take him back into
16 treatment or not.

17 MS. HOLMES: Thank you, Your Honor.

18 (Pause in the proceedings.)

19 THE COURT: And what Dr. Burke says, he'll take you
20 back as long as you're willing to comply with the
21 requirements of the program, one of which is to take the
22 polygraph. He said, everyone in the program is required
23 to take a polygraph every six months. And he said he will
24 give him another shot.

25 All right. So what I need to know from Probation is

1 do y'all have any exception to continuing Mr. Lemon's
2 situation until he has the opportunity to comply with
3 taking the polygraph as required by Dr. Burke?

4 MS. HOLMES: We have none, Your Honor.

5 THE COURT: And, Ms. Marto, do you have any
6 exception to that?

7 MS. MARTO: No, Your Honor.

8 THE COURT: So what I'm going to do, sir, is I'm
9 going to continue your matter to give you -- when is the
10 next probation docket?

11 MS. HOLMES: Your Honor, I believe it's the first or
12 second week in December.

13 THE COURT: That's enough time -- well, I don't
14 know. Is that enough time to take the polygraph? I guess
15 they're scheduled two weeks out. So it is -- that would
16 be three weeks from now. If he can't schedule it,
17 though --

18 MS. MARTO: Judge, maybe if we push it back to
19 January, that would maybe be safer.

20 THE COURT: I don't know. You know, I find that the
21 longer you give people to do things, the longer it takes
22 them to do it.

23 MS. MARTO: Understood.

24 THE COURT: I will give him -- what we'll do is
25 we'll continue it to the next term; however, if they --

1 you know, whatever comes up, they can't schedule it, he's
2 not going to be penalized for that. You just need to let
3 Ms. Holmes know. And I'm certain Dr. Burke will likewise
4 let her know. And if the polygraph can't be scheduled, of
5 course, then we'll move it out, but I'm not inclined to
6 wait until January, because if we wait until January, then
7 it will be February, and then it will be March, and we'll
8 still be back at the same place.

9 MS. MARTO: I understand, Judge.

10 THE COURT: So he needs to -- Dr. Burke says he will
11 take him back. He'll give him another opportunity to take
12 the polygraph. And then y'all can go from there, and it
13 will be continued for one term to get that scheduled.

14 MS. HOLMES: Thank you, Your Honor.

15 MS. MARTO: Thank you, Judge.

16 THE COURT: You're welcome. Have a good day.

17 (The hearing concluded at 12:16 p.m.)
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CERTIFICATE OF COURT REPORTER

CASE NAME/NUMBER: State v. Curtis Lemon

1998-GS-10-01814

DATE OF HEARING: 11/13/23

I, Bobbi Fisher, do hereby certify that the foregoing transcript is a true and correct record of the recorded proceedings to the best of my ability, and that I am neither counsel for, related to, nor employed by any of the parties to this case, and I have no interest, financial or otherwise, in its outcome.

Bobbi Fisher

/s/ Bobbi Fisher_____

Bobbi Fisher, RPR, Court Reporter III

Date Submitted: 9/18/24

NOTE: PURSUANT TO RULE 607(h)(1)(B), SCACR, "A COURT REPORTER SHALL RECEIVE THE FEE OF \$1.00 PER PAGE FOR FURNISHING A COPY OF A PREVIOUSLY PREPARED TRANSCRIPT." ALL REQUESTS FOR COPIES OF THE ATTACHED TRANSCRIPT (FORM 800) FROM OPPOSING PARTY OR NON-PARTIES MUST BE SENT TO THIS REPORTER AT BFISHER@SCCOURTS.ORG.

1 STATE OF SOUTH CAROLINA * GENERAL SESSIONS
 2 COUNTY OF CHARLESTON * TRANSCRIPT OF RECORD

3 -----X
 4 STATE OF SOUTH CAROLINA, *
 5 State, *
 6 vs. * Case No. 1998-GS-10-01814
 7 CURTIS LEMON, *
 8 Defendant.*
 -----X

December 18, 2023

B E F O R E:

The Honorable Jennifer McCoy, Presiding Judge

A P P E A R A N C E S:

Kescia Holmes, Probation

Chelsey Marto, Esq.
Attorney for the Defendant

Recorded by: DCRP Court Monitor Caressa Johnson

Transcribed by: Bobbi Fisher, RPR
SC Official Court Reporter III

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I N D E X

DESCRIPTION	PAGE
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E X H I B I T S

(None.)

COURT REPORTER LEGEND

Dash (--)	Indicates an interruption in speech
Ellipses (...)	Indicates trailing off in speech
(ph)	Indicates phonetic word
[Verbatim]	Indicates the word is said as written
(Indiscernible)	[Transcription] Indicates word(s) is not known due to audio recording quality

1 P R O C E E D I N G S

2 (The following proceedings started at 9:41 a.m.):

3 MS. HOLMES: And, Your Honor, there was an add-on.

4 It is Curtis Lemon.

5 THE COURT: Okay.

6 MS. HOLMES: He's in the hallway.

7 THE COURT: Okay. Got it.

8 (Pause in the proceedings.)

9 THE COURT: How are you?

10 MS. MARTO: Judge, how are you?

11 THE COURT: Fine. Tell me your name.

12 MS. MARTO: Chelsey Marto.

13 THE COURT: How do I spell that last name?

14 MS. MARTO: M-a-r-t-o.

15 THE COURT: Okay.

16 MS. MARTO: First name is C-h-e-l-s-e-y.

17 THE COURT: All right. What office are you with?

18 MS. MARTO: I'm a private solo attorney.

19 THE COURT: Solo. Got it.

20 MS. MARTO: I'm representing Mr. Lemon.

21 THE COURT: Wonderful.

22 How are you, Mr. Lemon?

23 THE DEFENDANT: I'm good, ma'am.

24 THE COURT: Great. Well, we are here because the

25 Department of Probation and Parole has alleged you have

1 violated one or more terms of your probation. I will hear
2 from the agent first and then I'll hear from your
3 attorney. Okay?

4 THE DEFENDANT: Yes, ma'am.

5 THE COURT: Yes, ma'am.

6 MS. HOLMES: Yes, Your Honor. Before you is
7 Mr. Curtis Lemon. Mr. Lemon is on community supervision
8 for the offense of criminal sexual conduct first degree.

9 THE COURT: Mm-hmm.

10 MS. HOLMES: He received a 30-year sentence, Your
11 Honor. And the reason that we are here today is because
12 Mr. Lemon has been terminated from sex offender treatment
13 with Dr. Burke. The evaluation was done, and during the
14 evaluation, Mr. Curtis, he denied any form of the offense,
15 in which they do have to admit to the offense.

16 THE COURT: Mm-hmm.

17 MS. HOLMES: And he also refused to do the
18 polygraph. So Dr. Burke terminated him from the program.

19 THE COURT: Okay.

20 MS. HOLMES: We then had a hearing a couple of weeks
21 ago with Judge Jefferson.

22 THE COURT: Okay.

23 MS. HOLMES: Judge Jefferson then, in turn -- which,
24 at that time, Mr. Lemon agreed to do the polygraph.

25 THE COURT: All right.

1 MS. HOLMES: And then Dr. Burke would allow him back
2 into the program.

3 We did not disclose of the legal process at the
4 request of Judge Jefferson at the time because he didn't,
5 at that time, agree to it.

6 THE COURT: Okay.

7 MS. HOLMES: After the hearing, Mr. Lemon refused
8 again to submit to the polygraph. He refused -- there
9 was -- of course he did become argumentative and stated
10 that he was not going do the polygraph. He does nothing
11 in writing.

12 THE COURT: Okay.

13 MS. HOLMES: And he refused to do it.

14 THE COURT: All right.

15 MS. HOLMES: So we brought him back to the Court in
16 reference to deal with the violation of failure to attend
17 and actively participate in sex offender treatment.

18 THE COURT: Okay. What's your recommendations?

19 MS. HOLMES: The recommendation now is revocation,
20 Your Honor.

21 THE COURT: Which would put us where? How much is
22 hanging over his head?

23 MS. HOLMES: Your Honor, it's community supervision,
24 so it's up to one year. And then he'll be returned back
25 out on community supervision.

1 THE COURT: Where he's going to have the same
2 requirements.

3 MS. HOLMES: Same requirements. Yes, Your Honor.

4 THE COURT: Okay. Would that ever expire at any
5 point?

6 MS. HOLMES: Once his time is up -- his term is up
7 of his full 30 years that he originally received --

8 THE COURT: Back in 1999.

9 MS. HOLMES: Yes, Your Honor.

10 THE COURT: Okay. I can't read that judge's
11 signature. I don't know who that was.

12 MS. HOLMES: Seems like we looked at it before too.

13 MS. MARTO: Yeah, we looked at the signature the
14 last time, Your Honor.

15 THE COURT: It doesn't matter.

16 All right. Well, Mr. Lemon, let me hear from your
17 attorney.

18 What would you like to tell me about this?

19 MS. MARTO: Yes, Judge. The agent's recitation of
20 what happened, I would say, is true. Mr. Lemon feels like
21 he can't participate in sex offender treatment because of
22 his maintaining his innocence.

23 THE COURT: Uh-huh.

24 MS. MARTO: Dr. Burke required him to basically say
25 "tell me the story of what happened in the crime." And he

1 said he couldn't do it because he's innocent. So he feels
2 like, you know, he's been on the hook for this for almost
3 three decades, Judge.

4 THE COURT: Right.

5 MS. MARTO: And --

6 THE COURT: I'll note for the record, he was
7 convicted at trial. It's not like he pled guilty to this.

8 MS. HOLMES: That is correct, Your Honor.

9 MS. MARTO: Yes, Judge.

10 THE COURT: All right.

11 MS. MARTO: He received multiple PCRs. He's
12 received post-conviction DNA testing. He feels like he
13 can't do offender treatment because of he's maintaining
14 his innocence.

15 I have talked to him about the consequences. I have
16 talked to him many times, Your Honor, with regard to
17 those, but Mr. Lemon is very insistent that he's not
18 (indiscernible). Unfortunately -- and he really has
19 (indiscernible) and he really has been doing really well
20 on release. He has stable employment. He has a great
21 family. He's in his 60s. He only had two very minor
22 issues in SCDC concerning discipline.

23 You know, concerning the polygraph in particular, he
24 did call me up today about the hearing, asking if I
25 (indiscernible), and I told him that was unlikely since it

1 was open and that he still was required to his polygraph
2 even though it wasn't in writing. I said I could
3 potentially try to get an order if that would change
4 anything, but I think Mr. Lemon's position is that --

5 THE COURT: He didn't want to compromise his stance?

6 MS. MARTO: Yes. Exactly.

7 THE COURT: Okay. Well, I'll put it in an order.

8 MS. MARTO: Okay.

9 THE COURT: That's what we'll do.

10 And that doesn't affect your maintenance of your
11 position on your guilt or innocence. It's just going to
12 be that you're mandated to do it by order of the Court.
13 Okay?

14 THE DEFENDANT: I don't understand what this means.

15 THE COURT: You can talk to your attorney about that
16 if you don't understand it.

17 But I'll do a court order. He'll have to do it
18 within the next 30 days. Okay?

19 MS. MARTO: Okay.

20 THE COURT: Thank you so much.

21 MS. MARTO: And then would we come back for another
22 hearing or --

23 MS. HOLMES: No, we'll do the order.

24 THE COURT: Not necessarily.

25 MS. HOLMES: The order is going to disclose of that.

1 MS. MARTO: I just wanted to make sure.

2 Thank you, Judge.

3 THE COURT: That will be it. All right. Thank you,
4 sir. You're free to leave.

5 (The above matter concluded at 9:47 a.m.)

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CERTIFICATE OF TRANSCRIBER

CASE NAME/NUMBER: State v. Curtis Lemon

1998-GS-10-01814

DATE OF HEARING: 12/18/23

COURT REPORTER/MONITOR: DCRP/Caressa Johnson

I, Bobbi Fisher, do hereby certify that the foregoing transcript is a true and correct record of the recorded proceedings; that said proceedings were transcribed to the best of my ability from the audio recording and supporting information, and that I am neither counsel for, related to, nor employed by any of the parties to this case, and I have no interest, financial or otherwise, in its outcome.

Bobbi Fisher

/s/ Bobbi Fisher_____

Bobbi Fisher, RPR and Certified Transcriber

Date Submitted: 9/20/24

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 2 COUNTY OF CHARLESTON * TRANSCRIPT OF RECORD

3 -----X
 4 STATE OF SOUTH CAROLINA, *
 5 State, *
 6 vs. * Case No. 1998-GS-10-01814
 7 CURTIS LEMON, *
 8 Defendant.*
 -----X

February 12, 2024

B E F O R E:

The Honorable Allison Lee, Presiding Judge

A P P E A R A N C E S:

Kescia Holmes, Probation

Chelsey Marto, Esq.
Attorney for the Defendant

Recorded by: DCRP Court Monitor Maria-Emanuel Klein

Transcribed by: Bobbi Fisher, RPR
SC Official Court Reporter III

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I N D E X

DESCRIPTION	PAGE
Proceedings	3

E X H I B I T S

(None.)

COURT REPORTER LEGEND

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P R O C E E D I N G S

(The following proceedings started at 9:44 a.m.):

MS. HOLMES: Yes, Your Honor. Curtis Lemon.

THE COURT: And just for the record, tell me your name again.

MS. HOLMES: Kescia Holmes. H-o-l-m-e-s.

THE COURT: Thank you.

On behalf of Curtis Lemon is?

MS. MARTO: Chelsey Marto, Your Honor.

THE COURT: Yes, ma'am?

MS. HOLMES: Yes, Your Honor. Before you is Curtis Lemon. Mr. Lemon is on community supervision, Your Honor, for CSC and involuntary murder. He received a 30-year sentence, Your Honor, and he was released from SCDC on June the 30th of 2023.

Your Honor, the reason that we are here today, within the last probably about three to four months, we have been back before three different judges. The first judge was Judge Jefferson, and that matter was in reference to Mr. Lemon refusing to have his polygraph administered.

Judge Jefferson then gave Mr. Lemon the opportunity to have his polygraph done by Dr. Burke and also to actively attend sex offender treatment. Mr. Lemon then, in turn, refused to abide by that.

1 Then we went in front of Judge McCoy, Your Honor, on
2 December the 18th of 2023, on the same matter in reference
3 to his refusal to have the polygraph administered. Judge
4 McCoy then ordered that he must attend sex offender
5 counseling and have the polygraph administered. He did
6 refuse to sign the order. We advised Judge McCoy. Judge
7 McCoy stated that it has been placed on record; he needs
8 to abide by that.

9 Mr. Lemon refused to -- again, to have the polygraph
10 and attend sex offender counseling. We then, in turn,
11 arrested Mr. Lemon, and we're now back here for a third
12 time to address Mr. Lemon, his noncompliance with
13 community supervision.

14 Mr. Lemon just refuses to -- from the time that he
15 was released from SCDC and reported into our office, he
16 has just been very, I would say, combative and refused to
17 adhere to any of his conditions. He's stating, because he
18 feels like he did not do the crime, that he does not have
19 to attend sex offender counseling.

20 Your Honor, that is not for Probation and Parole to
21 handle; that's something that's out of our privy. We
22 don't have anything to do that with. Our job is to ensure
23 that he abides by the conditions in which he was released
24 on supervision, and he has refused to comply.

25 We are requesting a revocation. As you know, with

1 community supervision, they can be revoked up to one year
2 and then they are continued again to do two years, if the
3 they can do the two years, until the sentence is complete.
4 He has 1,425 days remaining on his sentence, Your Honor.

5 THE COURT: I'm sorry? What was the --

6 MS. HOLMES: 1,425 days remaining on his
7 supervision.

8 THE COURT: And you are Curtis Lemon?

9 THE DEFENDANT: Yes, ma'am.

10 THE COURT: How old are you, sir?

11 THE DEFENDANT: 66.

12 THE COURT: And how far did you go in school?

13 THE DEFENDANT: All I got is GED, ma'am.

14 THE COURT: And you're represented by Ms. Marto; is
15 that correct?

16 THE DEFENDANT: Yes, ma'am.

17 THE COURT: Yes, Ms. Marto?

18 MS. MARTO: Yes, good morning, Your Honor. This is
19 just a sad case, Your Honor, because Mr. Lemon feels like
20 he didn't commit any crime and feels like, because it's
21 not reflected in the actual sentencing sheet, he shouldn't
22 be required to abide by anything, condition of release. I
23 believe the sentencing sheet is before Your Honor. He did
24 hold to his innocence. He has been holding to his
25 innocence for almost 30 years, Your Honor.

1 Based upon the way he acted upon release, everything
2 else has been by the book. He had a full-time job. He
3 had a supportive family. You know, he didn't commit any
4 other violations whatsoever. He just feels like he's done
5 more than enough time for the crime he feels he didn't
6 commit; that this wasn't initially orders in the '90s for
7 him to have to do, and so he shouldn't have to do it
8 today.

9 Now, I did discuss with him the consequences, and I
10 think he understands not complying, but it's his position
11 that (A) sex offender treatment isn't right for him
12 because of his insistence upon his innocence but also it
13 wasn't specifically ordered when the initial sentence was
14 issued.

15 And so, for those reasons, Your Honor, we would just
16 request he remain on release.

17 THE COURT: And he's charged with -- and he was
18 convicted of an involuntarily murder? Is that what you
19 said?

20 MS. HOLMES: Involuntary manslaughter and criminal
21 sexual conduct, Your Honor.

22 And I would argue that it may not have been placed
23 on the original sentencing sheet back in 1999, but when he
24 was released, on his community supervision certificate, it
25 was listed, and Mr. Lemon signed on June the 26 of 2023.

1 So he was well aware that he had to attend sex offender
2 counseling.

3 THE COURT: And was it a trial or was it a plea?

4 MS. HOLMES: I believe it was a trial, Your Honor.

5 MS. MARTO: It was a trial, Your Honor.

6 THE COURT: And he's completed -- taken advantage of
7 all the appeals?

8 MS. MARTO: Yes, Your Honor. He's had multiple
9 PCRs. I believe he's had a direct appeal. He's had
10 post-conviction DNA testing. He's done everything. And
11 he's still trying to seek relief.

12 THE COURT: Mr. Lemon, at this particular time, I
13 understand -- I understand the position that you're
14 taking, but given the fact that there was a trial and that
15 you have gone through all of your appeals, you have been
16 through post-conviction relief, and none of that has been
17 changed, you still have to abide by those requirements.
18 And with the criminal sexual conduct charge, there is a
19 requirement that you attend and complete sex offender
20 treatment.

21 I understand that you may feel that you do not need
22 to attend that because you disagree with the conviction,
23 but that is the requirement in order for you to be able to
24 return appropriately into society, and it's still a part
25 of the requirements that you have for community

1 supervision.

2 So if you do not wish to comply with that, then you
3 don't -- it wouldn't be any reason not to send you back to
4 jail. So based upon that, I will revoke one year and
5 you'll be released after that particular time.

6 MS. HOLMES: Thank you, Your Honor.

7 THE DEFENDANT: Your Honor, I can't say nothing?

8 THE COURT: If you'd like to say something.

9 THE DEFENDANT: They ain't telling you I did go to
10 Dr. Burke. And we talked, Dr. Burke. I hired her through
11 Dr. Burke. I told him -- he said I have to get up and
12 describe a crime. I said I can't describe a crime. He
13 told me to hire this lady right here. I have been to
14 Dr. Burke. They're telling you like I wasn't there. I
15 was there.

16 THE COURT: And, under community supervision --

17 THE DEFENDANT: If I can't describe a crime, how can
18 I -- I can't take his class, he said. That's why he told
19 me to hire this lady here to do a PCR for me. So it's not
20 like I didn't go to attend the class. I can't attend the
21 class, he said.

22 THE COURT: And is there documentation to support
23 that?

24 THE DEFENDANT: That's what --

25 MS. HOLMES: He is stating that -- yes, Your Honor.

1 He did attend Dr. Burke, and during the process -- the
2 first initial visit, you always have to do a polygraph.
3 Of course Mr. Lemon is refusing that he committed the
4 crime. He's stating that he did not commit the crime.
5 And so Dr. Burke basically terminated him from the class.

6 He then stated, when he was in front of Judge
7 Jefferson, that he will go, he will do the polygraph and
8 stuff, because Mr. Lemon didn't do the polygraph at all.
9 And he stated that he would do it.

10 So when we left the courtroom on that date, after
11 that, he stated, "I'm not going. I'm not doing the
12 polygraph." So that's when we brought him back in front
13 of Judge McCoy. Judge McCoy ordered that he do the
14 polygraph, and he refused to.

15 This has been an ongoing thing since Mr. -- and I
16 remember when Mr. Lemon got released from SCDC, Your
17 Honor, in which there's also an issue. First, it was an
18 issue with the GPS. Then now there's an issue as far as
19 with the treatment and stuff.

20 So we're at a stance in that we're not going to
21 negotiate every time that he just refuses to do things
22 under our supervision.

23 THE DEFENDANT: I didn't refuse, Your Honor. I went
24 to Dr. Burke.

25 THE COURT: Did you -- did you do the polygraph?

1 THE DEFENDANT: Dr. Burke didn't tell me to do --
2 Dr. Burke said I needed -- "What you need is a PCR."
3 That's how I hired her.

4 THE COURT: I understand that, but we're past the
5 PCR.

6 THE DEFENDANT: But she want me to do the polygraph.
7 Dr. Burke didn't -- Dr. Burke tell me to do a PCR. That's
8 how I hire her. That's how I got her.

9 THE COURT: Under the signature of -- if Judge
10 Curtis and Judge Jefferson required that you take a
11 polygraph, then the polygraph is part of the --
12 apparently, the polygraph is part of the program.

13 THE DEFENDANT: Yeah.

14 THE COURT: You'll need to --

15 THE DEFENDANT: Could I ask you a -- could I ask you
16 a question?

17 THE COURT: Yes, sir.

18 THE DEFENDANT: Don't the judge got the -- don't the
19 sentencing judge got to sentence you to take them
20 classes -- Dr. Burke's class or GPS or parole or whatever?
21 I'm just asking.

22 THE COURT: Maybe at the time that you were
23 initially -- in 1998.

24 THE DEFENDANT: I maxed out, ma'am. I did my whole
25 85 percent. I maxed out.

1 THE COURT: I understand that, but in order for you
2 to be released from community supervision, there are
3 additional requirements, and there can be additional
4 requirements.

5 THE DEFENDANT: I went to Dr. Burke. She is a
6 product from Dr. Burke, ma'am.

7 THE COURT: I heard you. I heard you several times.
8 You need to -- either you need to take the polygraph and
9 if the polygraph says that you were truthful and that you
10 didn't do any of these things or that you don't need the
11 sex offender counseling, then that would be something that
12 would be in a report from them.

13 THE DEFENDANT: I'll take the polygraph. I'll take
14 the polygraph, ma'am.

15 THE COURT: And if otherwise required by the -- if
16 otherwise required --

17 THE DEFENDANT: I can't take the class, ma'am. I
18 did not commit a crime. I can't take the class.

19 THE COURT: Well, then --

20 MS. HOLMES: Your Honor, this is what we have been
21 dealing with.

22 THE DEFENDANT: Well, if I can't take -- if I didn't
23 commit the crime, how can I take the class? How can I
24 stand up and describe a crime I didn't do? I mean, I
25 can't describe a crime I didn't do. I'll take the

1 polygraph, but I can't describe a crime I did not do.

2 MS. HOLMES: Your Honor, you are the third judge
3 that Mr. Lemon has said this to, that he was going to do
4 the polygraph.

5 THE DEFENDANT: I will do the polygraph.

6 THE COURT: All right.

7 MS. HOLMES: So you couldn't do it the other two
8 times?

9 THE DEFENDANT: I can't describe a crime I didn't
10 do.

11 MS. HOLMES: I'm sorry, Your Honor --

12 THE COURT: It doesn't -- y'all cannot have a
13 conversation between the two of you.

14 MS. HOLMES: Yes, Your Honor. I apologize.

15 THE COURT: This is what I'm telling you to do. You
16 need to take the polygraph. If, after taking the
17 polygraph, they tell you that you need to go through sex
18 offender counseling, then you need to do that. And you
19 can talk about whatever you want. You can say whatever
20 you need to say as it relates to how you feel about that
21 particular matter.

22 THE DEFENDANT: I -- I ain't going to do the
23 polygraph.

24 THE COURT: Well, then, this is going to come back
25 over and over.

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MS. HOLMES: Thank you, Your Honor.
(The above matter concluded at 9:57 a.m.)

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CERTIFICATE OF TRANSCRIBER

CASE NAME/NUMBER: State v. Curtis Lemon

1998-GS-10-01814

DATE OF HEARING: 2/12/24

COURT REPORTER/MONITOR: DCRP/Maria-Emanuel Klein

I, Bobbi Fisher, do hereby certify that the foregoing transcript is a true and correct record of the recorded proceedings; that said proceedings were transcribed to the best of my ability from the audio recording and supporting information, and that I am neither counsel for, related to, nor employed by any of the parties to this case, and I have no interest, financial or otherwise, in its outcome.

Bobbi Fisher

/s/ Bobbi Fisher_____

Bobbi Fisher, RPR and Certified Transcriber

Date Submitted: 9/20/24

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F576997

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STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

2024 FEB 13 PM 1:35

IN THE COURT OF GENERAL SESSIONS
No. 98 -GS- 10 - 01814
Count

STATE
-vs-
CURTIS LEMON
Defendant
00160348
SID #
[Redacted]
SCDC# or DOB

JULIE J. ARMSTRONG
CLERK OF COURT
BY MSS

Community Supervision
REVOCATION ORDER

RECEIVED
Jul 03 2024
SC Court of Appeals

This matter was brought before me on the 12 day of FEB, 24, pursuant to a [warrant or citation] charging the Defendant with violating the Defendant's Community Supervision Program and asking the Court to revoke the Defendant's community supervision. I find:

- 1. The terms of the Community Supervision Program are fair and reasonable;
- 2. The Defendant has not complied with all terms of the Community Supervision Program;
- 3. The Defendant has willfully violated terms of the Community Supervision Program;
- 4. The Defendant should not be continued in the Community Supervision Program under its current terms or under other terms and conditions;

IT IS ORDERED that the Defendant be in the custody of the South Carolina Department of Corrections for a term of ___ days ___ months 1 0 year (total may not exceed one (1) year).

This 12 day of FEB, 2024
Chas.

[Signature]
Presiding Judge
9th Judicial Circuit

This is to certify that I have received this order.

Offender's
Signature

12 Unavailable to sign
FEB 2024

Witnessed by

[Signature]
Chas.

F576997

59

FILED

IN THE COURT OF GENERAL SESSIONS

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

2024 FEB 13 PM 1:35

No. 98 -GS- 10 - 01814
Count

Community Supervision
REVOCATION ORDER

STATE

-vs-

CURTIS LEMON

Defendant

00160348

SID #

SCDC# or DOB

JULIE J. ARMSTRONG
CLERK OF COURT

BY MSS

FILED
2024 FEB 16 PM 2:19
JULIE J. ARMSTRONG
CLERK OF COURT
BY MSS

This matter was brought before me on the 12 day of Feb, 24, pursuant to a [warrant or citation] charging the Defendant with violating the Defendant's Community Supervision Program and asking the Court to revoke the Defendant's community supervision. I find:

RECEIVED

Jul 03 2024

SC Court of Appeals

1. The terms of the Community Supervision Program are fair and reasonable;
2. The Defendant has not complied with all terms of the Community Supervision Program;
3. The Defendant has willfully violated terms of the Community Supervision Program;
4. The Defendant should not be continued in the Community Supervision Program under its current terms or under other terms and conditions;

IT IS ORDERED that the Defendant be in the custody of the South Carolina Department of Corrections for a term of ___ days ___ months 10 year total may not exceed one (1) year).

*Modified to provide credit for time served. SCDC to calculate the credit time.
Also see 2/16/2024.*

This 12 day of Feb, 2024
Chas.

Al Renee Lee
Presiding Judge
9th
Judicial Circuit

This is to certify that I have received this order.

Offender's
Signature

12 Unavailable to sign
FEB 2024

Witnessed by

Chas.

FILED

F576997

STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
COUNTY OF CHARLESTON) FOR THE NINTH JUDICIAL CIRCUIT

2024 FEB 20 AM 11:04

State of South Carolina,)
BY _____) *Re* Case No.: 1998-GS-10-1814

JULIE J. ARMSTRONG
CLERK OF COURT

v.)

**MOTION TO RECONSIDER
THE REVOCATION OF
COMMUNITY SUPERVISION**

Curtis Lemon)
_____)

NOW COMES Curtis Lemon, by and through undersigned counsel, moving to reconsider the Court's February 13, 2024, decision to revoke Mr. Lemon's community supervision. In support of the motion, Mr. Lemon, through undersigned counsel, submits the following:

Argument

Mr. Lemon requests that this Court reconsider its decision to revoke his probation and let him continue under community supervision. Mr. Lemon's only offense was to get terminated from sex offender counseling for failure to take a polygraph or inform his counselor of the specific facts surrounding the sex offense he was charged with and convicted of. Mr. Lemon has maintained his innocence since he was initially charged in 1998 and maintains his innocence today. Forcing him to undergo counseling and take a polygraph test puts him in an impossible situation; either admit to a crime he has consistently claimed he did not commit or go back to prison for asserting his innocence. Mr. Lemon believes that he should not be required to take a polygraph test or counseling because it was not initially ordered when his sentence was handed down, he served out the entirety of his eighty-five percent sentence and should not have to abide by additional conditions upon release after such service, and because counseling and a polygraph are not compatible with attestation of his innocence, Thus, Mr. Lemon requests that he remain on

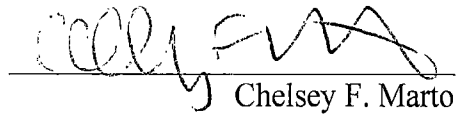
community supervision probation with modified conditions that permit him to avoid counseling and a polygraph test.

Alternatively, Mr. Lemon requests that this Court issue an amended order revoking community supervision probation affording him credit for time served. The South Carolina Supreme Court decided five days before Mr. Lemon's CSP violation hearing that individuals housed pending a community supervision violation hearing must be afforded credit for time served. *State v. Grissett*, Case No. 2022-000299 (Feb. 7, 2024) ("The precise question presented is whether an inmate arrested for an alleged violation of the CSP terms is entitled to credit toward the potential CSP revocation sentence for time served in jail awaiting adjudication of the CSP violation charge. We hold that such inmates *must* be given credit for any time served awaiting their CSP revocation hearing toward their CSP revocation sentence.") (emphasis added).

The Court's order in this case revokes Mr. Lemon's probation for one year. It does not, however, afford him any credit for time served. After his last CSP violation hearing was continued, Mr. Lemon was taken into custody at the Charleston County Detention Center on January 2, 2024, where he remained detained until his hearing on February 12, 2024. Mr. Lemon is entitled to credit for that time and requests that this Court's order revoking CSP reflect as such. Thus, Mr. Lemon requests that if this Court is not willing to reconsider its prior ruling and continue out his CSP term, that this Court amend the prior order issued to reflect credit for time served, to dispel with any future confusion the current order may produce.

WHEREFORE, Mr. Lemon requests that this Court reconsider the decision to revoke Mr. Lemon's community supervision probation or, if this Court is not willing to let Mr. Lemon remain out on release, afford Mr. Lemon credit for time served waiting for his community

supervision violation hearing to take place.



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For Defendant Curtis Lemon

February 15, 2024

FILED
2024 FEB 20 AM 11:04
JULIE J. PETERSON
CLERK OF COURT
BY LL

Jul 03 2024

F 576997

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)
)
)
State of South Carolina,)
)
)
)
v.)
Curtis Lemon.)
)
_____)

IN THE COURT OF GENERAL SESSIONS
FOR THE NINTH JUDICIAL CIRCUIT

SC Court of Appeals

Case No.: 1998-GS-10-1814

**ORDER DENYING MOTION
FOR RECONSIDERATION**

2024 JUN 25 PM 2:37
JULIE J. ARMSTRONG
CLERK OF COURTS
BY [Signature]

FILED

This matter comes before this Court by way of Defendant Curtis Lemon's community supervision probation violation matter. A violation hearing was held on February 12, 2024, at the Charleston County Courthouse. This Court revoked Defendant's release by one year on February 13, 2024. Defendant submitted a motion to reconsider on February 15, 2024, filed on February 20, 2024, requesting he remain on release or, in the alternative, get credit for time served. This Court issued an amended order giving Defendant credit for time served on February 16, 2024. Defendant requested a formal order reflecting the Court's decision concerning all issues raised in the motion to reconsider. This Order follows.

Procedural History

Defendant was charged with first degree criminal sexual conduct and murder. He was found guilty at a jury trial of the lesser-included offense of voluntary manslaughter and as indicted of first degree criminal sexual conduct. He was represented by Juan Tolly and Melissa Gay, Esquires. The Honorable Gerald C. Smoak, Sr., circuit court judge, presided over the trial. Defendant was sentenced to thirty years' imprisonment for first degree criminal sexual conduct and voluntary manslaughter on March 19, 1999. Defendant appealed his convictions, which were dismissed April 5, 2002.

Thereafter, Defendant pursued numerous other collateral actions. Included in these actions

1 arb #1

were at least three PCR actions, two PCR appeals, and two post-conviction DNA testing actions, all of which were dismissed and relief denied.

CSP Procedural History

Defendant was released from SCDC custody on June 30, 2023. According to his conditions of release, Defendant was required to attend sex offender treatment and counseling with Dr. Burke. Dr. Burke issued a letter dated September 28, 2023, stating that Defendant was terminated from sex offender treatment for non-compliance. This violation initiated the proceedings.

On November 13, 2023, Defendant had his first CSP violation hearing before the Honorable Deadra Jefferson, who gave Defendant thirty days to get re-enrolled in treatment and to take a polygraph test. Defendant refused to comply with the conditions. On December 18, 2023, Defendant had his second CSP violation hearing before the Honorable Jennifer McCoy, who produced a written order allowing him to remain on release but requiring him to go to sex offender treatment and to take a polygraph. Again, Defendant refused to comply with the conditions. Defendant's third CSP violation hearing was held on February 12, 2024, before this Court. At this hearing, this Court revoked Defendant's supervised release for one year.

Summary of the Arguments

At the third and final CSP hearing, PPP argued that Defendant was non-compliant with the initial conditions and subsequent orders from the Court requiring him to take a polygraph and submit to sex offender treatment and counseling. They requested this Court revoke Defendant's bond for up to one year, which is the statutory maximum. Defense Counsel argued that the Defendant felt like he did not need to submit to counseling or submit to a polygraph, given his repeated insistence upon his innocence since he was initially charged. Defense Counsel confirmed that the Defendant was found guilty at trial and pursued repeated post-conviction actions with no

success.

After repeated back and forth with this Court, the Defendant made clear that he would potentially entertain taking a polygraph but refused to do counseling. He stated that he could not participate in counseling because part of counseling required him to admit to commission of a crime that he has maintained his innocence on. He also stated that he did not think he was required to participate in counseling because it was not notated on his sentencing sheet. As such, this Court revoked his release for one year.

Findings of Fact and Conclusions of Law

Defendant, through Counsel, requested in their motion to reconsider that this Court continue the Defendant on community supervision with modified conditions not to include counseling or taking of a polygraph test. Defendant also requested credit for time served if the Court elected not to continue his release. This Court issued an amended order on February 16, 2024, affording Defendant credit for time served. Thus, this secondary request is now moot.

Concerning the request to remain on community supervision on modified conditions, this Court denies Defendant's request. The Department of Probation, Pardon, and Parole ("PPP") is given discretion over "[t]he period of time a prisoner is required to participate in a community supervision program" as well as the "terms and conditions of a prisoner's participation." S.C. Code 24-21-560(B) (2010). Though the General Sessions Court has the ultimate authority to revoke community supervision, PPP has the sole authority to set the actual terms and conditions in a community supervision probationary term. *Id.*; S.C. Code 24-21-560(C) (2010). Further, "the prisoner's participation shall be at the discretion of the department based upon guidelines developed by the director . . ." S.C. Code 24-21-560(B).

When PPP determines that a violation of the terms of the release occurred, a probation

agent must initiate proceedings against the defendant in General Sessions Court. S.C. Code 24-21-560(C). At the CSP violation proceeding, the Court shall determine whether:

- (1) the terms of the community supervision program are fair and reasonable;
- (2) the prisoner has complied with the terms of the community supervision program;
- (3) the prisoner should continue in the community supervision program under the current terms;
- (4) the prisoner should continue in the community supervision program under other terms and conditions as the court considers appropriate;
- (5) the prisoner has willfully violated a term of the community supervision program.

If the Court determines that a prisoner has willfully violated a term or condition of the community supervision program, the court may impose other terms and conditions considered appropriate and may continue prisoner on community supervision, or the court may revoke the prisoner's community supervision and impose a sentence of up to one year for violation of the community supervision program.

Id.

Here, Defendant was released on standard conditions enforced on all sex offenders being released on community supervision probation. These conditions were reasonable, and Defendant stated he would comply with the conditions prior to release. Defendant willfully violated these conditions both initially and after being ordered to comply by two different judges. Defendant also informed this Court that he had no intention of complying with the counseling requirement when asked. Thus, this Court finds that Defendant willfully violated the terms of the community supervision program.

Once the Court determines that a defendant has violated the terms of his release, the Court may revoke or impose other terms and conditions on the defendant that the Court deems

appropriate. No part of the statute permits this Court to undermine PPP's jurisdiction over setting the conditions or otherwise delete or modify the conditions set by PPP because of non-compliance. Defendant's consistent defense of his innocence is not grounds for this Court to inappropriately modify the conditions of his release to only include conditions the Defendant is satisfied with and is willing to comply with. Accordingly, Defendant's request to continue him on community supervision is denied.


Conclusion

WHEREFORE, this Court finds that Defendant's request to remain on community supervision is denied and request for credit for time served moot.

AND IT IS SO ORDERED this 4th day of June, 2024.



ALISON R. LEE
Presiding Judge
Ninth Judicial Circuit

BY 
JULIE J. ARMSTRONG
CLERK OF COURT
2024 JUN 25 PM 2:37

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