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SC Court of Appeals

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

Appeal from Charleston County

Honorable Jennifer B. McCoy, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

EMERIC HAMILTON,

APPELLANT

APPELLATE CASE NO. 2023-001884

RECORD ON APPEAL

GARY H. JOHNSON  
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

J. BENJAMIN APLIN  
Assistant Attorney General  
Rembert Dennis Building  
1000 Assembly Street, Room 519  
Columbia, SC 29201  
(803)734-3372

ATTORNEY FOR APPELLANT

SCARLETT A. WILSON  
Solicitor, Ninth Judicial Circuit  
O.T. Wallace Building  
101 Meeting Street  
Charleston, SC 29401  
(843) 958-1900

ATTORNEYS FOR RESPONDENT



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**THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:**  
**State’s Exhibit No. 7 (Recording of Interview)**



1 qualified DNA analysts, they have to agree to my  
2 interpretation and results. We're also proficiency tested  
3 every year. It is a test to make sure that we are doing the  
4 lab of work and report (inaudible) correctly.

5 Q. Thank you. Now, this chain of custody  
6 (inaudible), is it digital or is it (inaudible)?

7 A. It's electronic.

8 Q. And how -- how do you -- you -- what inputs the  
9 person's name, is there a system or barcode?

10 A. Yes, ma'am. So we all have barcodes. Each person  
11 and location has barcode and when you make that transfer, you  
12 have to put your password in for it to like take.

13 Q. Now, did you receive evidence in this case?

14 A. I did.

15 Q. Could you please tell the jury what received?

16 A. I received a couple of known standards for  
17 comparison. The victim buccal swab from **Minor** and  
18 item 2, which is buccal swabs from Emeric Hamilton. I also  
19 received items found within the sexual assault evidence  
20 collection kit. The item 1.1, which is our vaginal swabs;  
21 1.2, which were oral swabs; 1.3 were rectal swabs; and 1.4,  
22 which were suspected saliva swabs, bilateral swabs.

23 Q. I want to break something down because I think  
24 sometimes the terminology can be confusing. What -- what is  
25 a known standard?

1           A.    A known standard is a DNA collective alphabet  
2 individual. We know that source of DNA. So typically it's  
3 either blood from the individual or a buccal swab. A buccal  
4 swab is basically a sterile cotton swab. We swab inside of  
5 your teeth that are called cells. And we know the DNA that  
6 collected on that swab or on that blood is from that person I  
7 collected from.

8           Q.    And so what were the known standards in this case?

9           A.    So the items -- the known standards that I  
10 received were the victim buccal swab from **Minor**  
11 and the buccal swab from Emeric Hamilton.

12          Q.    And you referenced I believe it was four others;  
13 vaginal, oral, rectal (inaudible) suspected and saliva swabs?

14          A.    Yes.

15          Q.    Are those unknown?

16          A.    Those are unknown.

17          Q.    And why is that?

18          A.    So they are collected off of the body, but we are  
19 looking for any DNA form to the individual is taken off of.  
20 So there are considered evidence swabs because we're looking  
21 for DNA.

22          Q.    And as part of your testing, would you compare  
23 those four unknowns with the victim, **Minor's** known to  
24 determine her DNA is there?

25          A.    That's correct. I'll compare every standard to

1 that, right.

2 A. Would you expect to find DNA?

3 Q. I would. So if I am swabbing areas off of an  
4 individual's body, we call it intimate sample, where do you  
5 expect their DNA to be there.

6 Q. The item you said you received, did you receive  
7 all of those on the same day?

8 A. I did not.

9 Q. How much -- was there specific amount of time did  
10 you received the victim and the Defendant's?

11 A. Yes, I received the victim's buccle swab that was  
12 part of the sexual assault evidence collection kit. I  
13 received that in 2018. And I believe -- I can refer to the  
14 chain if I need to -- I received the buccal swab from Emeric  
15 Hamilton in 2020.

16 Q. Given your testimony on safeguard controlled, as  
17 well as that time period is there any possibility of  
18 cross-examination in this case?

19 A. Not between those two samples.

20 Q. Can you tell who you received these from?

21 A. I can't. If I refer to the chain of custody that  
22 I mentioned.

23 MS. FRIERSON: Your Honor, may I approach?

24 THE COURT: Uh-uh.

25 BY MS. FRIERSON:

1 Q. (Inaudible).

2 A. This is a copy of the chain of custody for this  
3 case.

4 A. And so can you tell who you received that from?

5 Q. I can. I received the sexual assault kit in the  
6 (inaudible) that from Bethany Davidson, a forensic technician  
7 in our evidence control department. This chain of custody  
8 that you provided to me does not have item 2 on it, but I do  
9 have it in my case file (inaudible) reference that -- yes.  
10 Okay. So item 2, which is buccal swabs from Hamilton, I  
11 received those from forensic technician Julia Beckman on May  
12 28, 2020.

13 Q. Thank you. Now, when you received these items  
14 (inaudible) have they ever gone any prior testing?

15 A. Some of the evidence has.

16 Q. Can you tell us a little bit about that, starting  
17 with the CSC kit.

18 A. Yes, ma'am. So the sexual assault kit first went  
19 to our serology unit within the DNA (inaudible) department.  
20 Verona Herrera was serologist assigned to this case. She  
21 would've opened the CSC kit and inventoried it and giving  
22 each swab or envelope in the kit a unique number. And then  
23 she would perform the necessary serology in this case. And  
24 then she'd also prepare the sample for DNA.

25 Q. What about the Defendant buccal swab?

1           A.    No one else opened the Defendant buccal swab  
2   besides me.  I was the first one to cut into that item and I  
3   prepared it for DNA analysis.

4           MS. FRIERSON:  Approach the witness?

5           BY MS. FRIERSON:

6           Q.    I'd like to show you what has -- (inaudible) --  
7   what has been premarked State's Exhibit 8.  If you can take a  
8   look at that and tell me if you recognize them?

9           A.    Yes, I do recognize them.

10          Q.    And what is this?

11          A.    These -- these are the bubble swab from Emeric  
12   Hamilton.

13          Q.    And how do you recognize them?

14          A.    I can -- it's hard to kind of see -- but up here,  
15   this is the bloodline number and I item number.  And on the  
16   side is where I opened it and then sealed it back up.  My  
17   initial and date are on that seal.  I posted,??

18          A.    I don't want to get into your -- get into your  
19   results yet, but also contained in that bag when put your  
20   results (inaudible)?

21          A.    Just the swab.

22          MS. FRIERSON At this time, Your Honor, the State seeks  
23   to introduce State's Exhibit 8 into evidence.

24          THE COURT:  Any objection?

25          MS. FORD:  Yes, Your Honor, based on chain.  Was also

1 an issue with the initial (inaudible) the chain between -- I  
2 know that's admitted, but it was a question between the two  
3 buccal swab.

4 THE COURT: Okay. Overruled based on previous ruling,  
5 relying on (inaudible) law. Admitted (inaudible) objection.

6 (State's Exhibit number 8 was admitted into evidence.)

7 BY MS. FRIERSON:

8 Q. Just briefly, you know, we heard from Ms.  
9 (inaudible) yesterday, but what is -- what is your  
10 (inaudible) of the purpose sending evidence to serology  
11 first?

12 A. So serology is the key step to determine whether a  
13 body fluid is on a swab. So the serology department will  
14 test for any body fluid of interest and depending on their  
15 results will affect how I perform DNA analysis on a sample.

16 Q. Is their testing alter the sample that you have  
17 (inaudible)?

18 A. It does not -- by altering does not change what's  
19 on the swab, no. A portion of the swab or item is used for  
20 that test, but it does not alter what is on that swab.

21 Q. Do you -- do you ever (inaudible) you received  
22 items from this case and were they sealed?

23 A. They were all sealed.

24 Q. And were they sealed from Ms. Herrera?

25 A. For the CSC kit (inaudible).

1 Q. And I talked about finding the numbers and bar  
2 code. You go through your analysis. Now, after your  
3 analysis, you created a report.

4 A. I did.

5 Q. And I'd like to kind of go through your report and  
6 discuss your results. So I'd like to start with what you did  
7 initially on the items from the victim.

8 A. May I ask which report you're referring to?

9 Q. Your report on August 13th -- 14th.

10 A. Thank you.

11 Q. Yes. To make it easier, (inaudible) one by one, I  
12 believe you testified that you received (inaudible) swab?

13 A. I did. And since there was no indication of semen  
14 on this item, I performed a, what we call a normal  
15 extraction. And the results were that the DNA cells is  
16 consistent with the DNA profile of **Minor**. Meaning  
17 I did not find any foreign DNA on the swab.

18 Q. And would you expect that?

19 A. Yes, I would.

20 Q. What about item 1.2, the victim buccal swab?

21 A. 1.2 had the same result. The DNA protocol is  
22 consistent with the DNA profile of **Minor**.

23 Q. Item 1.3 were the victim of rectal swabs. Could  
24 you tell us about your results on that?

25 A. Yes. So the item 1.3, rectal swabs indicated that

1 there was being present. So the DNA analysis is a little bit  
2 different. It's two different fractions. We have a fraction  
3 one and a fraction two to kind of isolate the spermatozoa in  
4 the fraction if we can. So my results are that a DNA profile  
5 suitable for comparison was developed from the sperm  
6 fraction, but from a second fraction. And then since it was  
7 suitable for comparison, I was able to compare the known  
8 standards submitted in the case to this fraction. And to  
9 first I compare the victim and the results for that  
10 comparison was that the DNA profile is approximately 110,000  
11 times more likely that **Minor** and an unidentified,  
12 unrelated individual contributed to the mixture and a two  
13 unidentified, unrelated individuals contributed to the  
14 mixture.

15 Q. And so those are some large numbers. Is there a  
16 verbal scale that corresponds to the statistical result?

17 A. We do, but we do at the end of our report, in our  
18 notes section, provide a verbal scale kind of to help what  
19 does that number mean. And the whole scale of everything.  
20 And for -- sorry, 110,000, it would fall into the 10,000 to  
21 999,999 verbal warning. And that is strong support.

22 Q. And was there -- the rectal swabs, have actually  
23 heard is an mixture two individuals?

24 A. That's correct.

25 Q. And using that, you come up with a proposition

1 (inaudible).

2 A. I did (inaudible) scenario. So did this DNA  
3 profile because (inaudible) is it more likely that person of  
4 interest and somebody could -- to contribute to the mixture  
5 or the two other people.

6 Q. And using -- making sure I understand -- using  
7 this case as an example, you one proposition, or I mean, is  
8 one proposition, the victim and Defendant versus another one  
9 that the victim and someone else.

10 A. So that would be -- you're explaining my second  
11 (inaudible) Ms. Campbell. So the first one I did was victim  
12 and somebody else versus two other people, to make sure that  
13 it is the victim's DNA in that profile. And there was strong  
14 support that the victim was in that -- that evidence sample.  
15 So then I can't make -- I can -- we call it conditioning. We  
16 can assume it's her body that she's there. So we do victim  
17 and person of interest versus victim and somebody else.

18 Q. And did you reach a statistical result regarding  
19 this defendant when the victim's rectal swabs?

20 A. Yes, I did.

21 Q. And what was that?

22 A. So the DNA profile is approximately 2.6 octillion  
23 times more likely that **Minor** and Emeric Hamilton  
24 contributed to the mixture. That **Minor** and an  
25 unidentified, unrelated individual contributed to the

1 mixture.

2 Q. And using your verbal -- or in the verbal scale  
3 that you talked about earlier, where does 2.6 octillion fall?

4 A. So any likelihood ratio over a million is very  
5 strong support.

6 Q. Do you know how many zeros are in a million?

7 A. Six.

8 Q. Do you know how many zeros are in octillion?

9 A. Twenty-Seven.

10 Q. Now, the suspected saliva swabs, bilateral bugs,  
11 they were item 1.4.

12 A. Yes ma'am.

13 Q. Could you tell us about your results there,  
14 whether or not there's a mixture?

15 A. Yes, I did develop a DNA profile suitable for  
16 comparison and I determined it was a mixture of originating  
17 from three individuals.

18 Q. And because it was three individuals, were you  
19 able to confirm your analysis?

20 A. Yes, I could -- since it was suitable for  
21 comparison and it was a mixture of three, not five or more, I  
22 could compare the (inaudible) in the case to the sample.

23 Q. And again, to make sure I understand, you come up  
24 with these hypothesis proposition and determine the  
25 likelihood ratio statistical result for the probability that

1 the defendant DNA (inaudible) be included?

2 A. So -- yeah, so the likelihood ratio is, come up  
3 with two scenarios, comparison standard and whoever  
4 contributed or wasn't compared standards, somebody else. And  
5 the likelihood will be how likely one scenario is more likely  
6 than the other scenario with that evidence.

7 Q. And did you reach a or determine the statistical  
8 result regarding the buccal of the Defendant on the  
9 (inaudible) suspected saliva swabs of the bilateral swab?

10 A. I did.

11 Q. And what was that?

12 A. The DNA profile is approximately 1.2 octillion  
13 times more likely if **Minor**, Emeric Hamilton and an  
14 unidentified, unrelated individual contributed to the  
15 mixture, then if **Minor** and two unidentified,  
16 unrelated individual contributed to the mixture.

17 A. And 1.2 octillion where did that fall on the  
18 verbal scale?

19 A. Very strong support.

20 Q. Now you mentioned that this was a mixture of  
21 three. To the fact that there is a third person contributing  
22 to the mixture, does that statistically minimize or  
23 (inaudible) the results that she got from this (inaudible)?

24 A. No, ma'am.

25 MS. FRIERSON: When you received samples -- before I

1 get to that, may I approach, Your Honor?

2 THE COURT: Yes.

3 BY MS. FRIERSON:

4 Q. What I'm showing you has been premarked State's  
5 Exhibit 13. If you could take a look at that and let me know  
6 (inaudible).

7 A. I do know these are -- these are my extraction  
8 tubes that I use for DNA analysis. What we do at the end of  
9 our analysis is we draw down the samples and return it with  
10 the evidence. And I can -- I know these are mine based on  
11 the information written on each tube as the case number and  
12 item number, as well as my initial and date on this seal.

13 MS. FRIERSON: At this, Your Honor, State seeks to  
14 (inaudible) into evidence.

15 THE COURT: Any objection to (inaudible).

16 MS. FORD: Just to the effect that they are basically  
17 (inaudible) other chain issues.

18 THE COURT: Okay. Yes it does. So over your  
19 objection, are previously made, (inaudible) is admitted.

20 MS. MS. FRIERSON:

21 Q. Ms. Herrera, a few more questions. When you  
22 received evidence to examine and analyze, how do you know  
23 about the underlying allegations of the case?

24 A. We don't need to know much to perform DNA  
25 analysis. Most of the time we do have an internal report.

1 Sometimes we don't. We do need to know what kind of requests  
2 in DNA analysis we need to perform on the items, but we don't  
3 need to know much of the underlying process.

4 Q. And in your (inaudible) 18 years with SLED, have  
5 you -- would you be able to explain based on your training  
6 and experience and background, if it is possible for DNA to  
7 -- for lack of a better word -- travel on someone's body?

8 A. So any liquid can travel, right? It's not in a  
9 container. So if DNA is contained, like, like saliva, blood,  
10 semen, so if it -- gravity could help make it travel from one  
11 location to another.

12 Q. What about if the individual is laying down?

13 A. Again ---

14 MS. FORD Objection. (Inaudible) for speculation, Your  
15 Honor.

16 THE COURT: I'll allow it. She can -- she has a basis  
17 (inaudible).

18 THE WITNESS: So, yeah, so if you are laying down and  
19 -- and liquid from one part is traveling because of gravity  
20 to another part, it can track down the body.

21 BY MS. FRIERSON:

22 Q. And the swab that you received, the victim's  
23 rectal swabs, do you have any personal knowledge of whether  
24 they were interior rectal or exterior?

25 A. I do not.

1 MS. FRIERSON: Court's indulgence, Your Honor?

2 THE COURT: Uh-uh.

3 MS. FRIERSON: I don't have any further question for  
4 this witness. Please answer any Defense has for you.

5 THE WITNESS: Thank you.

6 CROSS-EXAMINATION

7 BY MS. FORD:

8 Q. So you had several pieces or several swabs to look  
9 at or compare, correct?

10 A. There were several swabs submitted in the CSC kit,  
11 I assume.

12 Q. And you looked at the vaginal swab?

13 A. I did.

14 Q. And there was no semen (inaudible)?

15 A. Based on Verona's report that I have to review  
16 before -- before my analysis, that would be correct.

17 Q. And you did find **Minor** -- **Minor**  
18 (inaudible), correct?

19 A. That is correct.

20 Q. And the solicitor (inaudible) had asked you, is  
21 that what you would expect, and you said, (inaudible),  
22 correct?

23 A. Yes. Because it is off of her body, I would  
24 expect to be her DNA there.

25 Q. So your answer (inaudible) in reference to, you

1 could expect to find **Minor's** DNA (inaudible)?

2 A. Yes ma'am. Yes, ma'am.

3 Q. Now, the saliva that you tested, that also had  
4 **Minor's** DNA (inaudible), correct?

5 A. That's correct.

6 Q. And that's because the swab was taken from her  
7 mouth?

8 A. I don't -- I can't tell you there was a mixture of  
9 her body cells and saliva or if it was a mixture of saliva.  
10 If no saliva was present on the swab, as well as it was a  
11 mixture of three individuals. I can't tell you if it came  
12 from -- what cells it came from.

13 Q. From the three individual, you can't tell who made  
14 a (inaudible) saliva versus (inaudible).

15 A. Right. I -- right. Someone could -- at least one  
16 person contributed. There's indication of that. However, I  
17 can't tell you if it was one of them, two of them or three.

18 Q. DNA doesn't have to come from a fluid, correct?

19 A. That's correct.

20 Q. And basically, our skin can shed and (inaudible),  
21 is that what you're saying?

22 A. Yes, ma'am. So we call that touch DNA. Anything  
23 you touch your skin cells were shedding multiple times a day,  
24 you going to have that possibility of leaving DNA behind.

25 Q. So I -- I have this coat and I'm touching it lot

1 and somebody would come after me and swab it, then there's a  
2 chance they find my DNA or swab this coat.

3 A. Yeah, there's a chance they find yours that anyone  
4 else would had touched that item.

5 Q. If -- if someone's home, is it fair to say that  
6 likely just like some DNA section on their body, likely their  
7 DNA (inaudible)?

8 A. Likely. It also would depend on how you -- how  
9 often you clean surfaces and stuff like that. But it is  
10 pretty common to find your own DNA in your house.

11 Q. That come from hair (inaudible) example.

12 A. Well, with hair it's a little bit unique. We only  
13 can get DNA from the root material of hair. So like the  
14 shaft part, which is most of your hair does not have nuclear  
15 DNA. It only comes from a root. A root has to be pretty  
16 much pulled outta your head. So most of the time you're  
17 brushing your hair, it's the naturally shedding hairs. So it  
18 probably would not have DNA on those items.

19 Q. Right. You can get DNA from people, like some  
20 people, I mean (inaudible) find DNA on their pillow case?

21 A. Yes, that's -- that's true.

22 Q. Or your (inaudible) it is not clean from brushing  
23 their teeth, you find DNA on the toothbrush for the --

24 A. That'd be correct.

25 Q. And at this time people who have vaginal

1 intercourse they leave behind (inaudible), correct?

2 A. That's correct.

3 Q. And it may not clean right away.

4 A. That's correct.

5 Q. And (inaudible)?

6 A. It is possible.

7 Q. Now, SLED put a lot effort into making sure  
8 nothing is contaminated, correct?

9 A. That's correct.

10 Q. So you gave us a lot of things (inaudible) to make  
11 sure nothing is in bad condition?

12 A. Yeah, I looked at a few of them over there.  
13 Numerous more.

14 Q. Because sometimes contamination's will happen?

15 A. It -- it is possible. Rare, but it is possible.

16 Q. Sometimes you pay someone (inaudible) they might  
17 show up.

18 A. And that's how we have the agency database. So  
19 anyone who works in the forensic department or who comes  
20 through our lab has the submit buccle swab and known  
21 standards. And we basically have a database Excel sheet, and  
22 we have to look at every unknown. We develop a new case  
23 against those to make sure it's no one that has been into the  
24 lot?

25 Q. And at times law enforcement officer (inaudible)?

1           A.   Sometimes we do request law enforcement,  
2 especially you are collecting evidence.  They're standards  
3 too.  Now we don't have all of the state, but it is possible.

4           Q.   So someone's collecting evidence, they  
5 unintentionally transfer their DNA to (inaudible).

6           A.   It is possible.

7           Q.   If they're not taking (inaudible)?

8           A.   It's possible.

9           Q.   You talked a little about transfer, or DNA can be  
10 transferred.

11          A.   Yes.

12          A.   So I want to give an example.  If I were to sit on  
13 (inaudible) whatever and then place my phone down  
14 (inaudible), there is likelihood my DNA on my phone  
15 (inaudible)?

16          A.   Yes.  Your DNA would also be under your code for  
17 me talking on it though as well.

18          Q.   If I were to then take that phone and hand it to  
19 my co-counsel, and she was touching it, then my DNA could be  
20 on her, from the transcript?

21          A.   It is possible.

22          Q.   So there can often be multiple transfers on one  
23 item or other one item?

24          A.   Can you say that question one more time for me?

25          Q.   Just DNA can be transferred to multiple items or

1 people. It is not just the one item?

2 A. It is possible, yes, especially if it is a liquid  
3 and it's not -- it's still wet. It's easy -- transfers  
4 easier than a dry sample.

5 Q. Okay. And part of your job, you are a scientist,  
6 correct?

7 A. Yes, ma'am.

8 Q. And as a scientist in doing your job, you are  
9 supposed to be neutral?

10 A. That's correct.

11 Q. And you made us some basic information that you do  
12 not know what actually may happened, correct?

13 A. That is correct. That's not my job.

14 Q. So you can't say for sure how DNA (inaudible)?

15 Q. No, I can only tell you the DNA (inaudible). I  
16 can't tell you how or when it happened.

17 MS. FORD: Beg the Court's indulgence?

18 THE COURT: Uh-uh.

19 MS. FORD: No further questions.

20 MS. FRIERSON: Briefly, Your honor.

21 REDIRECT EXAMINATION

22 BY MS. FRIERSON:

23 Q. Ms. Herrera, I believe Ms. Ford just asked about  
24 transfer and you said it can transferred multiple times?

25 A. That's correct.

1 Q. That -- can you say that -- is that possible not  
2 (inaudible)?

3 A. I don't really know. It is possible. I don't  
4 know how often that would happen. I think it would be more  
5 probable if it's liquid like blood I transfer -- I'm bleeding  
6 and I transfer it to a bottle and you grab the bottle and  
7 touch my blood and we'd go with your hands. But I can't tell  
8 you how probable a dry state would be or anything like that.

9 Q. So you think Ms. Ford example of a (inaudible)  
10 leaving behind (inaudible) or lot of that amount, would it be  
11 more probable for it to transfer of that was so wet versus  
12 dry?

13 A. I would believe so.

14 MS. FRIERSON: Thank you. No further questions, Your  
15 Honor.

16 THE COURT Anything else? All right. Thank you much  
17 (Video stops)

18 UNKNOWN JUROR: Can we get our notebooks?

19 THE COURT: Yeah. Sure. Stop real quick, please.

20 THE COURT: It's going to take you take a minute  
21 because they're -- do you have any clean ones by any chance?  
22 Or do you want your old ones? Do you need the old ones,  
23 madam? Because this's going to take a minute to allot them.  
24 I mean, they -- they're not marked with their names on or  
25 (inaudible), right?

1 THE BAILIFF: This is your numbers.

2 THE COURT: They do have their numbers on them?

3 THE BAILIFF: Yes.

4 THE COURT: Oh, okay. Well, then great. We'll just go  
5 get them. Thanks. That makes it easier. We'll -- we'll get  
6 your -- we'll get your notebooks. Sure.

7 All right. You can just give them to him and they'll  
8 -- they'll be in charge of ---

9 THE BAILIFF: Your Honor, (inaudible) 12 because  
10 everybody will have a number.

11 THE COURT: Well, let's start with the numbers and  
12 we'll go from there.

13 All right. All set? Okay. Good deal. We'll hit  
14 play.

15 (Video plays)

16 THE COURT: All right. Ladies and gentlemen, we've  
17 replay the entirety of those two portions that you requested.  
18 We will let you retire about your jury room to continue your  
19 deliberations.

20 (Jury exits room)

21 THE COURT: Okay. We will be at ease. Thank you very  
22 much.

23 (Off the record)

24 THE COURT: Okay. I called you all back in here  
25 because one of the bailiffs came to my office and indicated

1 that he was told by the foreman that they reached a verdict,  
2 but it wasn't unanimous. So I said, well he didn't have any  
3 paper in his hands or anything like that. And I said, well,  
4 you just need to have them reduce whatever it is they need to  
5 communicate to a note and give it to me. And so he went back  
6 and relayed that back and so I anticipated a note coming  
7 forth and it has not. So that's what happened.

8 So I'm sorry, I didn't mean to get everybody back in  
9 the room. I don't know my advice will be at ease, but I  
10 probably would not go far because I either anticipated note  
11 or something else soon. Okay. All right.

12 THE BAILIFF: (Inaudible), Your Honor.

13 THE COURT: Oh, okay.

14 All right. So we'll mark this as the next Court's  
15 exhibit.

16 (Court's Exhibit 9 was marked for identification.)

17 THE COURT: All right. This has been marked Court's 9  
18 and it reads, "We are 10 to 2 guilty; not unanimous. The two  
19 of the 12 say not enough evidence to prove penetration," it's  
20 what the note says. So, I will obviously read the Allen  
21 charge regarding unanimity and the requirement of that for a  
22 verdict. Unless there's any objection or exception from the  
23 State or the Defense?

24 MS. FRIERSON: None from the State, Your Honor.

25 MS. FORD: No, Your Honor.

1           THE COURT: Okay. So you can bring them in. Thank  
2 you.

3           (Jury enters room)

4           THE COURT: All right. Thank you all very much. Have  
5 a seat everybody. We received your note. Appreciate that.  
6 At this point, given that there is an additional charge I'm  
7 going to read you, so listen carefully. Ladies and  
8 gentlemen, when you have or you have stated that you have  
9 been unable to agree on a verdict in this case, as I  
10 instructed you earlier, the verdict of the jury must be  
11 unanimous. Meaning all of you must agree. When the matter  
12 is in dispute, it isn't always easy for even two people to  
13 agree. So when 12 people have to agree, it becomes even more  
14 difficult. In most cases, absolute certainty cannot be  
15 reached or expected.

16           However, you have a duty to make every reasonable  
17 effort to reach a unanimous verdict. In doing this, you  
18 should consult with one another, express your own views and  
19 listen to the opinions of your fellow jurors. Tell each  
20 other how you feel and why you feel that way. Discuss your  
21 differences with open minds.

22           Although the verdict of the jury must be unanimous,  
23 every one of you has the right to your own opinion. The  
24 verdict you agree to must be your own verdict, the result of  
25 your own convictions. And you should not give up your firmly

1 held beliefs merely to be in agreement with your fellow  
2 jurors. The majority should consider the minority's position  
3 and the minority should consider the majority's position.  
4 You should carefully consider and respect the opinions of  
5 each other and reevaluate your position for reasonableness,  
6 correctness, and impartiality.

7           You must lay aside all outside matters and reexamine  
8 the questions before you based on the law and evidence in  
9 this case. If you do not agree on a verdict in this case, I  
10 must declare a mistrial. In that case, it doesn't mean  
11 anybody wins. It just means that at some future time I'll  
12 try this case with some other jury sitting right where you  
13 are right now, the same participants will come in and the  
14 same lawyers will ask basically the same questions and get  
15 basically the same answers. And we will go through this  
16 whole process again.

17           You were selected in the same manner and from the same  
18 source as any future jury will be. And there is no reason  
19 for me to suppose that the case will ever be submitted to 12  
20 more intelligent, impartial, conscientious, and competent  
21 jurors than you. Or that more or clearer evidence will be  
22 produced on one side or the other. I therefore ask you to  
23 return to your deliberations. Thank you very much.

24           (Jury exits room)

25           THE COURT: All right. We will be at ease once again.

1 (Off the record)

2 THE COURT: All right. Mr. Bailiff, I understand the  
3 jury reached a verdict; is that correct?

4 THE BAILIFF: Yes, ma'am.

5 THE COURT: All right. You can bring them in then.  
6 Thank you very much.

7 (Jury enters room)

8 THE BAILIFF: All jurors present, Your Honor.

9 THE COURT: Thank you so much. All right, Mr. Foreman,  
10 I understand the jury reached a verdict; is that correct?

11 THE CLERK: Correct.

12 THE COURT: Okay. You can pass that form to the  
13 bailiff and they will hand it up to me. All right. Pass  
14 that over to the Court for publication.

15 THE CLERK: The State -- of State of South Carolina vs.  
16 Emeric Tyrone Hamilton; case number 2023-GS-10-04605. As to  
17 the charge of criminal sexual conduct with a minor second  
18 degree; we the jury unanimously find the Defendant guilty.  
19 Signed by Mr. Foreperson, November 29, 2023.

20 THE COURT: Thank you very much. All right. Mr.  
21 Foreman, is that the jury's verdict?

22 THE FOREMAN: Yes.

23 THE COURT: All right. Any post-trial motions before  
24 the jury's excused from the State or the Defense?

25 MS. FRIERSON: None from the State, Your Honor.

1 THE COURT: Any from the Defense?

2 MS. FORD: We would ask the jury to be polled, Your  
3 Honor.

4 THE COURT: Okay. The jury shall, in fact, be polled.  
5 Ladies and gentlemen, this is a jury poll. The clerk of  
6 court will call your jury number and she will ask if that's  
7 your verdict, and if it's still your verdict and you will  
8 just answer yes or no. And we'll proceed. Go ahead.

9 THE CLERK: Ladies and gentlemen of the jury. I'll  
10 call up your number and when I do, please raise your hand.  
11 I'll then ask you each two questions. Please answer, yes or  
12 no.

13 Juror number 133. Is this your verdict?

14 JUROR NUMBER 133: Yes.

15 THE CLERK: Is it still your verdict?

16 JUROR NUMBER 133: Yes.

17 THE CLERK: Juror number 248. Is this your verdict?

18 JUROR NUMBER 248: Yes, it is.

19 THE CLERK: Is this still your verdict?

20 JUROR NUMBER 248: Yes, it is.

21 THE CLERK: Juror number 87. Is this your verdict?

22 JUROR NUMBER 87: Yes.

23 THE CLERK: Is it still your verdict?

24 JUROR NUMBER 87: Yes.

25 THE CLERK: Juror number 55. Is this your verdict?

1 JUROR NUMBER 55: Yes.

2 THE CLERK: Is it still your verdict?

3 JUROR NUMBER 55: Yes.

4 THE CLERK: Juror number 232. Is this your verdict?

5 JUROR NUMBER 232: Yes.

6 THE CLERK: Is it still your verdict?

7 JUROR NUMBER 232: Yes.

8 THE CLERK: Juror number 279. Is this your verdict?

9 JUROR NUMBER 279: Yes.

10 THE CLERK: Is it still your verdict?

11 JUROR NUMBER 279: Yes.

12 THE CLERK: Juror number 236. Is this your verdict?

13 JUROR NUMBER 236: Yes.

14 THE CLERK: Is it still your verdict?

15 JUROR NUMBER 236: Yes.

16 THE CLERK: Juror number 228. Is this your verdict?

17 JUROR NUMBER 228: Yes.

18 THE CLERK: Is it still your verdict?

19 JUROR NUMBER 228: Yes.

20 THE CLERK: Juror number 28. Is this your verdict?

21 JUROR NUMBER 28: Yes.

22 THE CLERK: Is it still your verdict?

23 JUROR NUMBER 28: Yes.

24 THE CLERK: Juror number 94. Is this your verdict?

25 JUROR NUMBER 94: Yes.

1 THE CLERK: Is it still your verdict?

2 JUROR NUMBER 94: Yes.

3 THE CLERK: Juror number 143. Is this your verdict?

4 JUROR NUMBER 143: Yes.

5 THE CLERK: Is it still your verdict?

6 JUROR NUMBER 143: Yes.

7 THE CLERK: Juror number 134. Is this your verdict?

8 JUROR NUMBER 134: Yes.

9 THE CLERK: Is it still your verdict?

10 JUROR NUMBER 134: Yes.

11 THE CLERK: Your Honor, the jury has been polled and  
12 the verdict stand.

13 THE COURT: All right, thank you very much. Any other  
14 motions before I release the jury from the Defense?

15 THE CLERK: No, Your Honor.

16 THE COURT: Okay. All right. Ladies and gentlemen, I  
17 appreciate your service this week. I'm making a comment  
18 never to -- or make it a point to be written -- never --  
19 never to comment on a jury's verdict. And I will not start  
20 tonight. But I will tell you that we certainly appreciate  
21 your time this week and your attention and your punctuality.  
22 And I know it's a late night. The next portion of the trial  
23 we'll move into is, is sentencing. And that's for me.  
24 You're free to leave. If you want to stay, you're welcome  
25 to. But my by no means do you need to and or do you have to.

1 So you're free to leave.

2 I'll additionally, I'll tell you if anybody wants to  
3 talk to you about the trial, you're welcome to talk to them,  
4 but you don't have to, by any means. Sometimes the different  
5 offices will send you letters in the mail and ask you for  
6 feedback. Again, you can give it if you want, but you  
7 certainly don't have to. And so thank you all for your time.  
8 You're free to free to go if you wish.

9 The solicitor's office have a sentencing sheet  
10 prepared?

11 MS. FRIERSON: We need to go get it.

12 THE COURT: Get that done asap.

13 MS. FRIERSON: Yes, I can.

14 THE COURT: Thanks. We'll move to the sentencing  
15 portion. At this point in time, I've been handed the  
16 sentencing sheet as to indictment 2023-GS-1004605; criminal  
17 sexual conduct with minor, second degree. The jury has now  
18 convicted Mr. Emeric Tyron Hamilton of this offense. I'll  
19 hear from the State and then we'll hear from the Defendants  
20 after that.

21 Ms. Frierson, I'm happy to hear from you as well as any  
22 victim impact.

23 MS. FRIERSON: Thank you, Your Honor. May I please the  
24 Court.

25 Mr. Hamilton, as you know, has been convicted of this

1 crime that carries anywhere from up to 20 years. His record  
2 dates back to 1993. But since then, he has had multiple drug  
3 charges, trespassing, driving under suspension, possession of  
4 crack, false information, simple assaults, resisting arrest,  
5 probation violations, assault and battery seconds. I -- I  
6 can list them all out, but like I said, it goes from 1993 to  
7 2008. I -- I will say that I believe that the absolutely  
8 horrendous, sloppy, and brutal rape of **Minor**  
9 on April 19, 2018, is by far the worst thing on his record.

10 This caused tremendous heartache to **Minor**. She's now  
11 lived through this trial, was strong to testify despite the  
12 attacks on her credibility, which the State does understand  
13 Ms. Ford has a job to do. But nonetheless, it's upsetting to  
14 -- to victims to hear just adding insult to injury when they  
15 are so happy to tell the -- the truth about what happened.  
16 And I don't know if **Minor** would like to speak or address  
17 the Court? She has sat here throughout this trial, only  
18 having to leave during her forensic interview. It was a lot  
19 for her to hear what I believe she recognized as pain in her  
20 11-year-old voice after such an egregious assault. And as a  
21 result, Your Honor, we believe that -- well, before I ask for  
22 that, as you know, from having done this for a while in -- in  
23 this arena, the criminal world, oftentimes the crimes are  
24 against children are not this. It's a family member. It's a  
25 close personal friend.

1           And you've probably heard me tell juries like, no one  
2           wants to believe that this happens in their own home. They  
3           want to believe it's a scary man down the street. Well, this  
4           Defendant is the scary man and he deserves every bit of 20  
5           years for taking away her innocence when she was 11. Thank  
6           you, Your Honor.

7           THE COURT: Ms. Ford, happy to hear from you.

8           THE COURT: Thank you, Your Honor. May I please the  
9           Court?

10          I -- I first do want to say, and I have told the  
11          solicitor this, but my client is a very simple man. I don't  
12          know how else to say it. I had him evaluated by Dr.  
13          Mulberry. When I've met with him on numerous occasions over  
14          the past few years, it's clear, it's sort of similar, quite  
15          honestly, to talking to **Minor**. You can just, you get a  
16          feel.

17          You can tell that something that they're IQ is perhaps  
18          lower. I'd got his school records and there wasn't much  
19          there because he was born in the early seventies. So, and  
20          mostly went to the school in the eighties. I don't think  
21          during that time period. They looked after kids like they do  
22          now and doing the constant evaluations. But I -- I did have  
23          multiple attorneys actually who had come in to try to talk to  
24          him about the case. And I wasn't asking their opinion on  
25          what they thought about his IQ or anything, but multiple

1 attorneys were like, have you had had him evaluated? So I  
2 did do that in an abundance of caution. I had Dr. Mulberry  
3 meet with him and he basically said, I understand where  
4 you're coming from. He believes he's competent. It's a very  
5 low threshold, especially for people who are slower as  
6 opposed to have like a mental illness like schizophrenia who  
7 are hearing voices, for example.

8 But I -- I say that because when I have clients who  
9 perhaps are a bit slower, it is more difficult for them to  
10 get past certain things. And one thing, in this case that  
11 was alleged, and **Minor** has admitted, and I don't think this  
12 is in dispute, that she did lie about the circumstances  
13 around how things happened. She had admitted, or she had  
14 said initially that he dragged her off the street, made it  
15 sound like a kidnapping of some sort or something like that.  
16 And I bring this up because he was very fixated on that.

17 She has admitted she lied. Nobody, you know, we --  
18 nobody here knows what happened, but she and my client. But  
19 I -- I just, I don't know if how she testified on the stand  
20 is exactly what happened either. And I -- I'm not saying  
21 that lightly. I think that, and there -- this was a long  
22 time ago, as you've heard, there have been other issues with  
23 other people. I -- we would just put forth that she did lie.  
24 And because of my client has his disabilities and by  
25 disabilities, I use that. I don't -- again, he doesn't have

1 a documented past, but just for me and my other colleagues  
2 and Dr. Mulberry talking to him, I do believe he's slower.  
3 And he was just so fixated on that, Your Honor. And that's  
4 what led to a trial. There was an offer of a cap of 10. And  
5 because of that fixation, he did not take that offer.

6 The solicitor's told you a bit about his record, but as  
7 you heard, he doesn't -- he has primarily drug charges and  
8 some magistrate municipal type of charges. He does not have  
9 a bad record. He's never been to prison, Your Honor, because  
10 it -- it's always been clear he has substance abuse issues.  
11 As you've heard in the trial, he was quite intoxicated when  
12 this happened. And he had actually had a brother who died --  
13 who was murdered back in 2015. And even though his substance  
14 abuse issues started well before then, you know, that has  
15 been especially difficult for he and his family to deal with.  
16 And, you know, that hasn't made it easy with the substance  
17 abuse issues.

18 So we think that is like, basically he wasn't totally  
19 all with it that evening, Your Honor. And he has zero  
20 history of anything like this. He has been out of jail for  
21 over three years. He hasn't been in any more trouble. He  
22 has the support of his family. His dad is here, Your Honor,  
23 behind me. His mother has been here throughout the trial.  
24 I've always -- she's been my go-to contact. She's a very  
25 sweet, dear lady. Emeric's dad has a painting business and

1 so Emeric's worked with him primarily in that painting  
2 business for 20 years. Emeric's also like opened his -- or  
3 had his own landscaping type of work that he's done. So he's  
4 a -- a hard worker, Your Honor. He has served a total of 34  
5 days in jail, between the initial month he did in jail and  
6 then the three days he's been in currently.

7 But we would ask you to consider there was initially  
8 that offer of a CAP of 10, which we understand he didn't take  
9 it. And of course **Minor** did have to go to trial, but we  
10 would ask you to at least consider the fact that because of  
11 his mental issues and the fixation of certain things that  
12 admittedly were not true, that's why he ended up going to  
13 trial. He also has a great fear, understandably, of being a  
14 sex offender for the rest of his life. You know, that  
15 weighed really heavily on him. While it's not technically  
16 considered punishment, I think in reality, I think probably  
17 almost every single person would consider that horrible  
18 punishment. And I just said that he's had a great fear of  
19 that -- that consequence. You know, and that led to him  
20 going to trial as well.

21 But we would ask you to consider his lack of a  
22 significant record, his -- the fact that he's never been in  
23 prison before. So it obviously is going to be a really big  
24 deal. We would ask you to consider all of that and grant him  
25 a sentence of under 20 years, Your Honor. Thank you.

1           THE COURT: All right. I know difficult sometimes  
2           tenuous in this position. Did he want to speak? Do you  
3           know? He can (inaudible).

4           THE DEFENDANT: Yeah, I'm sorry. I -- I made a  
5           mistake, but I don't know if I was right or wrong because of  
6           the lies, but I just didn't think that I would give it for  
7           the perjury. I was just telling my lawyer I didn't want to  
8           just give my rights up to somebody who actually lied because  
9           I didn't know her. She already said I didn't know her, so.

10          THE COURT: Okay.

11          THE DEFENDANT: I just, you know, got to deal with it.  
12          I just hope you don't give me -- like she -- she was saying,  
13          you know, if the jury comes they -- they may find you -- you  
14          can do the a long time. So everything she said, I liked the  
15          way she talked. I liked the way the solicitor talked. I  
16          just didn't know that it would, you know, get the series on  
17          me. And I thought that juries would understand me, but I  
18          guess they didn't. I thank God. Still trusting God, you  
19          know, hope it gets better.

20          Like, I was always scared to rape somebody, like how  
21          she said, oh yeah, you did that. But my life was always  
22          like, you go to jail for that. They might rape you and kill  
23          you. I was basically scared of her dad all through my whole  
24          times after this charge, is because I didn't want to get  
25          hurt. I had to fight several dudes. I was in the streets.

1 Some people call you molesters, you perverts.

2 So I never wanted this type of charge, but you know,  
3 I'm found guilty. I like to (inaudible) everybody in the  
4 courtroom. No disrespect. I have to deal what I have to  
5 deal with, because I figure Ms. Mary, she did a good job.  
6 Ms. Mary, right here, and everybody in the courtroom, but  
7 everybody got their own feelings towards how it went down.  
8 And my feelings was that I didn't actually do it, but I'm  
9 still wrong. As in it doesn't matter. It's just the age.  
10 And I can understand what the lawyers solicitors say to make  
11 me feel like the worst feller for doing that, but only real  
12 people know I'm not that type of feller, that would ever do  
13 that again.

14 And I thought, you know, she lied and said she was  
15 thinking, I just got out of jail. I thought all of the semen  
16 and all that was -- was wrong, because I know it was wrong.  
17 Because I don't -- I can't even see how you was close and the  
18 semen travel like that because all you could see (inaudible)  
19 toilet or sheet, but I didn't do anything, man. And I'm  
20 stuck. I'm more stuck. But yes, I got to deal with life.  
21 That's a hurtful feeling.

22 People in county jail waiting on me to say (inaudible)  
23 be there, but I guess not, because the jurors didn't see it.  
24 So I got to deal with what I got to deal with in life, man.  
25 I hope I don't get chill or hurt back there. Or have to hurt

1 somebody, get more time. But like Mr. Tom said you want to  
2 see your family and your friends. I was fixing up my house  
3 and trying to do real things and stay out of trouble with  
4 this young lady because I know I was facing time, so I just  
5 thought I could have, you know, like people say take it to  
6 trial. You ain't did it like that. She committing perjury.  
7 She -- she ain't -- she's doing the wrong thing on you. You  
8 can beat it.

9           So I -- I guess I listened to certain people, as in  
10 what they was telling me or they don't have the right -- they  
11 just judging you because they called you on the case and  
12 that's why they put you in there. And all the -- the people  
13 who was testing, they was saying, I mean I'm just trying to  
14 talk to the judge because I'm going, man. I don't got no  
15 long life. I'm already 50 and my life was messed up, too.  
16 But I don't want to go overboard, but I just want her to get  
17 help.

18           THE COURT: Okay.

19           THE DEFENDANT: And me, you know, I hope I can get out  
20 one day and hope you don't sentence me too much time.

21           THE COURT: All right. Alright. Well, I appreciate  
22 hearing from you and appreciate hearing from the attorneys.  
23 Obviously, you know, when you get to go through a trial, you  
24 get a lot more information about a case and how things  
25 transpired versus when I'm hearing a guilty plea and I hear

1 about a case for about three to five minutes, I have to make  
2 a decision. So you all (inaudible) ways strongly with me.

3 THE DEFENDANT: Can I ask you one more thing? Excuse  
4 me. Excuse me.

5 THE COURT: Can you ask me something? Maybe. I don't  
6 know if I can answer, but I guess you can ask. Go ahead.

7 THE DEFENDANT: No, they would say like, if you have  
8 one person to say, you did it, it was guilty. So you -- you  
9 could just, if it's four or five people, you still can change  
10 to see if everybody come to one conclusion?

11 THE COURT: That's probably a question you got to ask  
12 your attorneys. I'm not going to give you legal advice.

13 THE DEFENDANT: All right.

14 THE COURT: They won't want me to do that.

15 THE DEFENDANT: I apologize.

16 THE COURT: That's okay. I don't mind (inaudible)  
17 asking questions, but I just can't always answer them.

18 THE DEFENDANT: Right.

19 THE COURT: At any rate, you know, our legislature  
20 contemplates special protection for folks who are young. And  
21 you know, I understand that the victim is 17 now. She's not  
22 a grown woman at this point in time. And I understand the  
23 characterizations that have been made of her, potentially,  
24 some of her different abilities versus some other folks who  
25 were sort of typically cognitively developed.

1           But I would -- I would -- in my mind, I think those  
2 folks deserve even a higher degree of protection in society.  
3 And where are we if we sort of excuse behavior against those  
4 who are more potentially cognitively deficient than others.  
5 And I don't, you know, I'm not a therapist; I'm not a  
6 psychiatrist, but I can't imagine that the situation that she  
7 went through, that the Defendant's been convicted of has --  
8 has helped at all, and her struggles to -- to succeed  
9 academically or -- or otherwise.

10           So obviously, these are serious cases. I -- I  
11 appreciate the reference that the State has made an offer. I  
12 make it a point never to punish someone for exercising their  
13 right to (inaudible). And I never will do that. And that's  
14 never my intent. I judge the -- the crime that was  
15 committed. I don't judge the person.

16           And the sentence on this charge will be 20 years, get  
17 credit for 34 days (inaudible).

18           (THERE BEING NOTHING FURTHER, THIS HEARING CONCLUDED AT  
19 8:59 P.M.)

20

21

22

23

24

25



## Interview Between

Interviewer: Maddie Dodds

Interviewee: Minor

## Case:

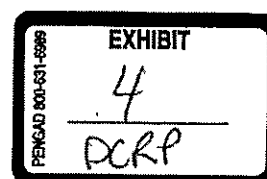
State v. Emerie Hamilton

File Name:

VTS\_01\_1.VOB

Conducted On

April 27, 2018



Transcribed By: Always On Time

## Disclaimer:

Although we strive to have accurate transcriptions for every case, due to accents, audio levels, and other reasons, we cannot guarantee the accuracy of this transcription.

1 MADDIE DODDS: Today's date is April 27, 2018.

2 Child to be interviewed is **Minor**. Interviewer is

3 Maddie Dodds. [pause] [leaves room]

4 [parties enter room] @2:18

5 MADDIE DODDS: Hey there. I'm going to write my  
6 name on the board just to help you to remember. My name is  
7 Maddie. Can you please write your name and your age on your  
8 side of the board?

9 **Minor**: [writes on board]

10 MADDIE DODDS: 11 years old. All right, have a seat  
11 sweetie. So, my job is to listen and to talk with kids about  
12 safety and about their life. And so, today that's what we're  
13 going to do. We're going to talk all about your life and all  
14 about your safety. (redacted)

15

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1 MADDIE DODDS: Okay. Can you use your words?

2 **Minor**: What that is?

3 MADDIE DODDS: So, that's the next thing I was going  
4 to tell you about. I am making a video of us talking. So,  
5 there's a video camera behind that mirror. Okay? It can see  
6 us, it can hear us, it's making a recording of us. I do that  
7 with everybody I meet with. Every kid I meet with I do—I make  
8 the video, just because it's part of my job. Do you have  
9 questions about that?

10 **Minor**: [shakes head yes]

11 MADDIE DODDS: What's your question?

12 **Minor**: [shakes head no]

13 MADDIE DODDS: No, you don't have questions. Okay.  
14 So, when we're talking, **Minor**, like I said, I'm going to be  
15 asking you some questions. If I ever ask you a question that  
16 you don't know the answer to, don't make up any guesses. Just  
17 say, I don't know. All right? If I ever say anything  
18 confusing, tell me that, so I can say it in a different way, a  
19 better way. Or if I get something wrong, you can correct me.  
20 All right? So, it's okay for you to correct me. Like if I  
21 said you were 13, what would you say?

22 **Minor**: I was 11.

23 MADDIE DODDS: You're 11. Yeah. So, correct me  
24 just like that if I get something wrong. Okay? Let's see.

25

1 Well, tell me—I want to get to know you a little bit before we  
2 start talking. So, tell me what you like to do for fun.

3 **Minor** : Play with my brothers.

4 MADDIE DODDS: What do you like to do with your  
5 brothers?

6 **Minor** : Play football with them. Run around.

7 MADDIE DODDS: Tell me about the last time you  
8 played football with your brothers.

9 **Minor** : I played football with my brother.  
10 With his friend. I don't remember.

11 MADDIE DODDS: Okay.

12 **Minor** : The last week ago, with his friend  
13 and me and my brother.

14 MADDIE DODDS: Okay. What else do you like to do  
15 for fun besides play football?

16 **Minor** : I like to play with my sister.

17 MADDIE DODDS: What do you guys like to play?

18 **Minor** : I like to drive her electric scooter.

19 MADDIE DODDS: You like to what?

20 **Minor** : Drive her electric scooter.

21 MADDIE DODDS: Drive her scooter. Okay. Okay.

22 Tell me about that.

23 **Minor** : I asked her that I like to drive  
24 around or stuff.

25

1 MADDIE DODDS: Okay, well, **Minor**, did you go to  
2 school yesterday?

3 **Minor**: [shakes head yes]

4 MADDIE DODDS: You did. Tell me about school  
5 yesterday. Walk me through it step by step, starting with  
6 when you arrived at school. What's the first thing that  
7 happened when you got there yesterday?

8 **Minor**: Did my morning work.

9 MADDIE DODDS: Okay.

10 **Minor**: Then I eat my breakfast. And then my  
11 teacher do morning meetings.

12 MADDIE DODDS: That's what your teacher does what?

13 **Minor**: Morning meetings.

14 MADDIE DODDS: Morning meeting, tell me about  
15 morning meeting yesterday.

16 **Minor**: Well, we sat on the carpet and  
17 listened to her.

18 MADDIE DODDS: Okay. Tell me about what you guys  
19 did yesterday in the morning meeting.

20 **Minor**: Well, she-when I raise my hand, we  
21 ask a question.

22 MADDIE DODDS: Okay. What happened after that?

23 **Minor**: Then after we finished morning  
24 meeting, we do our group's math.

25

1 MADDIE DODDS: Tell me about your math class  
2 yesterday.

3 **Minor**: [inaudible]

4 MADDIE DODDS: All right. Then what?

5 **Minor**: That's it?

6 MADDIE DODDS: Okay. Let's see, Uh, let's see

7 **Minor**. Well then tell me about—I want to know about your  
8 day so far. So, what's the first thing that happened when you  
9 woke up this morning?

10 **Minor**: I had want to go to school.

11 MADDIE DODDS: Hm?

12 **Minor**: I had want to go to school.

13 MADDIE DODDS: You didn't want to go to school this  
14 morning?

15 **Minor**: I did.

16 MADDIE DODDS: You did? Okay. So, what's the first  
17 thing you did when you woke up?

18 **Minor**: Asked my momma if she's gonna take me  
19 to school.

20 MADDIE DODDS: Then what happened?

21 **Minor**: She said, no, because I gotta come  
22 here.

23 MADDIE DODDS: Okay.

24 **Minor**: But before I get mad.

25

1 MADDIE DODDS: And tell me what you know about  
2 coming here.

3 Minor [shakes head no]

4 MADDIE DODDS: Okay, did someone talk to you about  
5 coming here?

6 Minor: My mom.

7 MADDIE DODDS: Okay. What did she say?

8 Minor: She said you gotta come here.

9 MADDIE DODDS: Okay. All right, Minor. Let's  
10 see. Well, tell me who you live with.

11 Minor: Mom.

12 MADDIE DODDS: Mom.

13 Minor: Brother. Sister. And me.

14 MADDIE DODDS: Tell me their names.

15 Minor: Michael.

16 MADDIE DODDS: Michael.

17 Minor: Michelle.

18 MADDIE DODDS: Michelle. And you?

19 Minor: Uh huh.

20 MADDIE DODDS: Make sure I spell it right. And  
21 Minor. Okay. Who takes care of you?

22 Minor: Mom.

23 MADDIE DODDS: What does she do to take care of you?

24 Minor: Feed me.

25 MADDIE DODDS: Uh huh.

1           Minor [REDACTED] :   And buy me stuff.

2           MADDIE DODDS:       Okay. Whose job is it to cook your

3 food?

4           Minor [REDACTED] :   Mom.

5           MADDIE DODDS:       Or clean your clothes?

6           Minor [REDACTED] :   Mom.

7           MADDIE DODDS:       Okay. All right. What are the rules

8 at your house?

9           Minor [REDACTED] :   No rules.

10          MADDIE DODDS:       No rules? Are there things that

11 you're supposed to do or not supposed to do at your house?

12          Minor [REDACTED] :   [shakes head yes]

13          MADDIE DODDS:       Tell me about that.

14          Minor [REDACTED] :   We don't really be home.

15          MADDIE DODDS:       Hm?

16          Minor [REDACTED] :   We don't really be home.

17          MADDIE DODDS:       No? Tell me about that.

18          Minor [REDACTED] :   We be at our granny's house every

19 day.

20          MADDIE DODDS:       Oh, okay. Okay. Well, tell me about

21 the rules at granny's house.

22          Minor [REDACTED] :   I can't go nowhere.

23          MADDIE DODDS:       Okay. What happens, Minor [REDACTED], when

24 you get in trouble? What usually happens when you get in

25 trouble?

1       Minor [REDACTED]:     Punishment.

2       MADDIE DODDS:        Okay. Tell me all about punishment.

3       Minor [REDACTED]:     I get punishment for a week.

4       MADDIE DODDS:        What is punishment?

5       Minor [REDACTED]:     I don't know.

6       MADDIE DODDS:        Okay. You said you get punishment

7 for a week. So, what happens for a week when you get

8 punishment? [pause] Okay. Tell me about the last time you

9 got in trouble.

10      Minor [REDACTED]:     Nothing.

11      MADDIE DODDS:        Okay. You know, sometimes kids talk

12 to me about getting—when they get in trouble, they get a

13 spanking or a beating or a whooping. Has there ever been a

14 time you've gotten one of those?

15      Minor [REDACTED]:     [shakes head no]

16      MADDIE DODDS:        Okay. Has there ever been a time,

17 Minor [REDACTED], that a grown-up, an adult has hurt your body?

18      Minor [REDACTED]:     [shakes head no]

19      MADDIE DODDS:        Okay. Well, I'm going to ask you

20 more questions about your body and your body's safety. Okay?

21 What do you call the private places on your body?

22      Minor [REDACTED]:     [shrugs]

23      MADDIE DODDS:        Okay, what does a doctor call them?

24      Minor [REDACTED]:     Private part.

25

1 MADDIE DODDS: Private part? Okay. Point on your  
2 body to where your private part is, so I can make sure I'm  
3 understanding.

4 **Minor**: [points to body part]

5 MADDIE DODDS: Okay. Okay. Has there ever been a  
6 time someone's done something to your private part?

7 **Minor**: [shakes head yes]

8 MADDIE DODDS: Yeah, tell me about that.

9 **Minor**: I got raped.

10 MADDIE DODDS: You got raped? Okay. Tell me  
11 everything about that.

12 **Minor**: The man he—he picked me up and  
13 grabbed me and bring me in his house and took off my clothes  
14 and had sex with me.

15 MADDIE DODDS: Okay. You said he picked you up and  
16 grabbed you and brought you in his house and took off your  
17 clothes and had sex with you?

18 **Minor**: [shakes head yes]

19 MADDIE DODDS: Okay. So, **Minor**, I want to make  
20 sure I understand everything that happened, okay? So, like I  
21 was asking you to walk me through things step by step, just  
22 like that I want to talk about this. So, you said he picked  
23 you up, tell me everything that happened right before he  
24 picked you up.

25 **Minor**: I was walking.

1 MADDIE DODDS: Okay.

2 Minor : And he just grabbed me and picked me  
3 up and take me in his house and put me on his bed and take off  
4 my clothes and he just raped me.

5 MADDIE DODDS: Okay.

6 Minor : And the house was so dark and he  
7 locked in. His homeboy was trying to get in there, but he  
8 locked the door on us.

9 MADDIE DODDS: Okay. So, I'm going to ask you more  
10 about all of that, but I want to start at the beginning. So,  
11 you said you were walking. Tell me about where you were  
12 walking.

13 Minor : To my grandmama.

14 MADDIE DODDS: You were walking to your grandmama's?  
15 Okay. So, you said you were walking to your grandmother's,  
16 and what's the very next thing that happened?

17 Minor : He just grabbed me.

18 MADDIE DODDS: He grabbed you? Tell me about him.

19 Minor : I don't know.

20 MADDIE DODDS: Okay, tell me everything about—did he  
21 say anything when he grabbed you?

22 Minor : [shakes head yes]

23 MADDIE DODDS: Okay, what did he say?

24 Minor : He said, do you smoke drugs? Do I  
25 smoke? And I said no.

1 MADDIE DODDS: He said, do you smoke? Okay. Tell  
2 me about what he looked like. Describe it to me so I can  
3 picture it in my mind.

4 [Minor]: Bald head, a little bit of beard, and  
5 I don't know if he got tattooed or not because the house was  
6 so dark.

7 MADDIE DODDS: Okay. You said with a bald head and  
8 a little bit of beard? Okay. Okay. So, you said you were  
9 walking to your grandmother's and he said, do you smoke drugs?  
10 Or do you smoke?

11 [Minor]: [shakes head yes] And I said, no.

12 MADDIE DODDS: And you said no. Then what's the  
13 very next thing that happened?

14 [Minor]: He was drinking alcohol.

15 MADDIE DODDS: He was drinking alcohol?

16 [Minor]: [shakes head yes]

17 MADDIE DODDS: Tell me how you know he was drinking  
18 alcohol.

19 [Minor]: Because I saw the beer.

20 MADDIE DODDS: You saw the beer? Tell me what you  
21 saw.

22 [Minor]: And I smell, and he kissed me.

23 MADDIE DODDS: And he kissed you? Okay, where did  
24 he kiss you?

25 [Minor]: On my lips.

1 MADDIE DODDS: Okay.

2 **Minor**: And he kissed me on my pinky cheeks.

3 MADDIE DODDS: Huh?

4 **Minor**: He kissed me on my butt.

5 MADDIE DODDS: Okay. Okay. So, you said that you

6 were walking to your grandmother's and he came up and asked

7 you if you smoked and you said you saw beer and you smelled-

8 **Minor**: I smelled alcohol.

9 MADDIE DODDS: You smelled alcohol and then he

10 kissed you on your lips. Okay. What's the very next thing

11 that happened?

12 **Minor**: That's when he lift me up. I went to

13 the bathroom, but I went out the house.

14 MADDIE DODDS: Say that again.

15 **Minor**: He went to the bathroom and I went

16 out the house.

17 MADDIE DODDS: Okay. So, tell me about how you got

18 from walking to in the house. How did that happen?

19 **Minor**: He picked me.

20 MADDIE DODDS: He picked you? Okay. Was he saying

21 anything when he did that?

22 **Minor**: [shakes head no]

23 MADDIE DODDS: Okay. So, he picked you up, then

24 what?

25 **Minor**: Walked me in the house.

1 MADDIE DODDS: Okay. Okay. Then what happened?

2 [Minor]: He took off his clothes and took off  
3 my clothes.

4 MADDIE DODDS: Okay. Tell me about the house.

5 [Minor]: The color?

6 MADDIE DODDS: Tell me everything you saw and heard  
7 in the house.

8 [Minor]: I ain't heard—I didn't hear anything,  
9 but the house was junky.

10 MADDIE DODDS: It was junky? Okay.

11 [Minor]: With a lot of clothes.

12 MADDIE DODDS: A lot of clothes? Okay.

13 [Minor]: And beer cans.

14 MADDIE DODDS: Okay. And tell me about where you  
15 were in the house.

16 [Minor]: In his room.

17 MADDIE DODDS: In his room. How do you know it was  
18 his room?

19 [Minor]: Cause he picked me up and walked me  
20 there.

21 MADDIE DODDS: Okay. Was he saying anything when he  
22 walked you in his room?

23 [Minor]: [shakes head yes]

24 MADDIE DODDS: Tell me about what he was saying.

25 [Minor]: He asked me, do I smoke?

1 MADDIE DODDS: Okay. Did he ask you that one time  
2 or more than one time?

3 Minor [REDACTED]: More than one time.

4 MADDIE DODDS: Okay, so he asked you, do you smoke?  
5 What did you say?

6 Minor [REDACTED]: No.

7 MADDIE DODDS: Okay. Then what happened?

8 Minor [REDACTED]: He just took off his clothes and took  
9 off my clothes. But my drawers are still at his house.

10 MADDIE DODDS: Your drawers are still at his house?  
11 Tell me about that.

12 Minor [REDACTED]: My drawers is pink.

13 MADDIE DODDS: They're pink? How do you know  
14 they're still at his house?

15 Minor [REDACTED]: Because I left it.

16 MADDIE DODDS: Okay. So, you said he took off his  
17 clothes and you took off your clothes. What's the next thing  
18 that happened?

19 Minor [REDACTED]: He touched me. I had sex with him.

20 MADDIE DODDS: Okay. I want to make sure I  
21 understand. So, tell me everything that happened when he had  
22 sex with you.

23 Minor [REDACTED]: He didn't use the protection.

24 MADDIE DODDS: He didn't use protection? Okay.

25 Minor [REDACTED]: And that was it.

1 MADDIE DODDS: Okay. Tell me about the sex. Tell  
2 me about that.

3 [Minor]: I was dizzy that time. I don't  
4 remember.

5 MADDIE DODDS: You were dizzy? Okay. Tell me  
6 about—you said that he took his clothes off and he took your  
7 clothes off?

8 [Minor]: The house was dark, I couldn't, can't  
9 see.

10 MADDIE DODDS: Okay. How was your body?

11 [Minor]: [shrugs]

12 MADDIE DODDS: Okay. Tell me everything you could  
13 see.

14 [Minor]: I ain't see nothing. The door was  
15 closed.

16 MADDIE DODDS: The door was closed? Okay. So,  
17 what's the very next thing that happened after he took your  
18 clothes off and his clothes off?

19 [Minor]: That's when his homeboy get me out  
20 the house.

21 MADDIE DODDS: Okay. So, you said that he had sex  
22 with you. Tell me what that means.

23 [Minor]: I don't know.

24 MADDIE DODDS: Okay. So, what was your body doing  
25 and what was his body doing?

1       Minor [REDACTED] : I was dizzy.

2       MADDIE DODDS: You were dizzy, okay. Tell me about  
3 what his body was doing.

4       Minor [REDACTED] : Just having sex with me.

5       MADDIE DODDS: Okay. Was he saying anything when  
6 that was happening?

7       Minor [REDACTED] : [no audible response]

8       MADDIE DODDS: Were you saying anything when that  
9 was happening?

10      Minor [REDACTED] : [shakes head no]

11      MADDIE DODDS: No?

12      Minor [REDACTED] : I told him to get off of me.

13      MADDIE DODDS: You told him, get off of you? Okay.  
14 Where on your body did he have sex with you?

15      Minor [REDACTED] : My private part.

16      MADDIE DODDS: Your private part? Okay. What did  
17 that feel like?

18      Minor [REDACTED] : Hurt.

19      MADDIE DODDS: It hurt? Okay. Did your private  
20 part look any different after that?

21      Minor [REDACTED] : [shakes head no] Uh-uh.

22      MADDIE DODDS: No? Okay. So you said that his  
23 homeboys was banging on the door? Tell me more about that.

24      Minor [REDACTED] : Knock.

25      MADDIE DODDS: Knocking on the door?

1           Minor [REDACTED]:     Knocking on the door and knocking on  
2 the window. But he ignore him.

3           MADDIE DODDS:        Tell me about--were they saying  
4 anything when they were knocking on the door?

5           Minor [REDACTED]:     Uh huh.

6           MADDIE DODDS:        Tell me about that.

7           Minor [REDACTED]:     They said get that girl out the  
8 house. That's a little girl.

9           MADDIE DODDS:        Okay. Did he say anything when that  
10 happened?

11          Minor [REDACTED]:     He ignored them.

12          MADDIE DODDS:        Huh?

13          Minor [REDACTED]:     He ignored them.

14          MADDIE DODDS:        He ignored them? Okay. What's the  
15 next thing that happened?

16          Minor [REDACTED]:     That's it. He opened the door. They  
17 opened the door. He kicked the door and he opened the door.

18          MADDIE DODDS:        Who opened the door?

19          Minor [REDACTED]:     No, I get up and stand up when I  
20 left.

21          MADDIE DODDS:        You got up? Okay. And that's when  
22 you left, tell me about you leaving. How did you leave?

23          Minor [REDACTED]:     The front door.

24          MADDIE DODDS:        Okay.

25          Minor [REDACTED]:     I almost fall in the house.

1 MADDIE DODDS: Okay. Did he say anything when you  
2 left?

3 **Minor**: [shakes head no]

4 MADDIE DODDS: Okay. So, you said you got up, you  
5 almost fell in the house, and you went through the front door?

6 **Minor**: Uh huh.

7 MADDIE DODDS: Okay, then what happened?

8 **Minor**: That's it. My mom, they're trying to  
9 get in touch with my mom. But my mom ran back on the street,  
10 and she found me with the other man.

11 MADDIE DODDS: Tell me about the other man.

12 **Minor**: He tell my mom something nasty  
13 happened your daughter, I gotta tell you.

14 MADDIE DODDS: How come he told her that?

15 **Minor**: Because he's been outside.

16 MADDIE DODDS: Hm?

17 **Minor**: He been, the man been outside.

18 MADDIE DODDS: The man been outside? Okay.

19 **Minor**: That's all—that's when my mom called  
20 the police.

21 MADDIE DODDS: So, tell me more about, you said the  
22 man told your mom something nasty happened to your daughter?

23 **Minor**: Uh huh.

24 MADDIE DODDS: How did the man know that?

25 **Minor**: [shrugs]

1 MADDIE DODDS: How did the man know something nasty  
2 happened?

3 Minor [REDACTED]: [shrugs]

4 MADDIE DODDS: Okay. Where did the man come from?

5 Minor [REDACTED]: Outside.

6 MADDIE DODDS: Outside where?

7 Minor [REDACTED]: He was outside.

8 MADDIE DODDS: Okay. So, you said you walked out  
9 the front door, what's the very next thing that happened when  
10 you walked out the front door?

11 Minor [REDACTED]: [shrugs]

12 MADDIE DODDS: What did you see when you walked out  
13 the front door?

14 Minor [REDACTED]: People.

15 MADDIE DODDS: People? Okay, tell me about that.

16 Minor [REDACTED]: And a cab.

17 MADDIE DODDS: And a cab?

18 Minor [REDACTED]: And oh, and then he said, you're  
19 getting money. And then he said, he will—he asked me, can I  
20 stay and I said, no.

21 MADDIE DODDS: Who's he?

22 Minor [REDACTED]: The man who raped me.

23 MADDIE DODDS: Okay, he told you he'd give you  
24 money?

25 Minor [REDACTED]: Uh huh. And I said no.

1 MADDIE DODDS: And he asked you, will you stay?  
2 **Minor**: [shakes head yes]  
3 MADDIE DODDS: Okay.  
4 **Minor**: And he said, I'll pay for your cab.  
5 And then he said, he'll give me his phone number.  
6 MADDIE DODDS: Okay.  
7 **Minor**: But I didn't write the number, I  
8 don't remember.  
9 MADDIE DODDS: Huh?  
10 **Minor**: I don't remember what—  
11 MADDIE DODDS: Okay. So, did that happen before you  
12 walked out the house or after you walked out the house or  
13 something else?  
14 **Minor**: Before I walked out the house.  
15 MADDIE DODDS: So, before you—so, you told me that  
16 he raped you and then you said his friends were knocking on  
17 the window. When did he tell you about, tell you he gave you  
18 money?  
19 **Minor**: Before I walk out the door.  
20 MADDIE DODDS: Okay. Tell me everything he said.  
21 **Minor**: That's it.  
22 MADDIE DODDS: Okay. Okay. So, you said, I'll give  
23 you money, I'll pay for your cab, and you said no, then you  
24 walked out the door. What's the very next thing that  
25 happened?

1           Minor [REDACTED] :     Then my mom found me.

2           MADDIE DODDS:         Your mom found you? And you said

3 something about a man. Or people outside?

4           Minor [REDACTED] :     Uh huh.

5           MADDIE DODDS:         Who were the people?

6           Minor [REDACTED] :     His homeboys.

7           MADDIE DODDS:         His homeboys?

8           Minor [REDACTED] :     He just got out of jail.

9           MADDIE DODDS:         Okay, tell me about that.

10          Minor [REDACTED] :     I don't know that man.

11          MADDIE DODDS:         Okay. But you said he just got out

12 of jail?

13          Minor [REDACTED] :     That's what he tell me.

14          MADDIE DODDS:         Who told you that?

15          Minor [REDACTED] :     The man who raped me.

16          MADDIE DODDS:         He told you he just got out of jail?

17          Minor [REDACTED] :     Uh huh.

18          MADDIE DODDS:         Okay. So, you said his homeboys were

19 outside. And you said something about a man telling your mom

20 something nasty happened? Was that man one of his homeboys or

21 something else?

22          Minor [REDACTED] :     Homeboy.

23          MADDIE DODDS:         Okay.

24          Minor [REDACTED] :     He drive cab.

25

1 MADDIE DODDS: He drive a cab, okay. Okay. Then  
2 what happened?

3 Minor [REDACTED]: And that's it.

4 MADDIE DODDS: When he told that to your mom?

5 Minor [REDACTED]: That's it.

6 MADDIE DODDS: Okay. All right, Minor [REDACTED].

7 Minor [REDACTED]: I'm hungry.

8 MADDIE DODDS: You're hungry? Okay. I just have a  
9 few more safety questions, okay? You told me that the house  
10 was dark, but it was junky. You saw clothes and beer cans.  
11 Tell me everything that you saw in the house.

12 Minor [REDACTED]: The only thing I saw is couches.

13 MADDIE DODDS: Okay. Okay. And you said the man  
14 that raped you was bald and had a little bit of a beard.

15 Minor [REDACTED]: Uh huh.

16 MADDIE DODDS: Okay. Okay.

17 Minor [REDACTED]: Because I didn't know, I didn't, I  
18 didn't catch it. I don't know if he got tattooed or not.

19 MADDIE DODDS: Okay.

20 Minor [REDACTED]: It was dark.

21 MADDIE DODDS: Do you know his name?

22 Minor [REDACTED]: My mom know.

23 MADDIE DODDS: Okay. All right, Minor [REDACTED]. All  
24 right. Well, I'm going to ask you a few more questions, okay,  
25 safety questions and then we're all done, all right? And

1 these are different kinds of questions. Besides that, what  
2 you just told me about, (Redacted)

3 has there ever been a time someone's done something to  
4 your private body parts?

5 **Minor [REDACTED]**: Uh-uh.

6 MADDIE DODDS: Okay. Or asked to see your private  
7 body parts.

8 **Minor [REDACTED]**: Uh-uh.

9 MADDIE DODDS: Or shown you their private body  
10 parts.

11 **Minor [REDACTED]**: Uh-uh.

12 MADDIE DODDS: Okay. And you said that his homeboys  
13 were telling him, get her out of the house, that's a little  
14 girl.

15 **Minor [REDACTED]**: [shakes head yes]

16 MADDIE DODDS: Okay. Okay. Has there ever been a  
17 time someone's taken pictures or videos of you with no clothes  
18 on?

19 **Minor [REDACTED]**: [shakes head no]

20 MADDIE DODDS: Or shown you pictures or videos of  
21 people with no clothes on?

22 **Minor [REDACTED]**: [shakes head no]

23 MADDIE DODDS: Okay. (Redacted)

24 has there ever been a time police officers had to come to  
25 your house?

1       Minor [REDACTED]: I don't know.

2       MADDIE DODDS: Don't know?

3       Minor [REDACTED]: I don't go [inaudible] like that.

4       MADDIE DODDS: Okay. Let's see. [pause] All  
5 right, I'm going to take a little break, Minor [REDACTED]. Would you  
6 like to draw on the board?

7       Minor [REDACTED]: [shakes head yes]

8       MADDIE DODDS: Okay, I'll be right back.

9       Minor [REDACTED]: Can you give me a Cheez-It?

10       MADDIE DODDS: Cheez-Its? Okay. [leaves room]

11 25:40-28:16 [enters room] Put those back in there. Put  
12 these back in here. Here you go. All right. I'm going to  
13 sit here.

14       Minor [REDACTED]: I want the blue marker.

15       MADDIE DODDS: Okay. Well, we're not going to use  
16 the marker right now. Okay? Thank you. Where's the black  
17 marker?

18       Minor [REDACTED]: In there.

19       MADDIE DODDS: Okay. Minor [REDACTED], you were telling me  
20 that your mom knows who the man is. What does your mom call  
21 him?

22       Minor [REDACTED]: My granny know his name.

23       MADDIE DODDS: Okay. What does she call him?

24       Minor [REDACTED]: I don't know.

25

1 MADDIE DODDS: How do you know your granny knows his  
2 name?

3 [Minor]: Because he goes to the store every  
4 day.

5 MADDIE DODDS: He goes to the store every day?  
6 Okay. And you said he was bald head and had a little bit of a  
7 beard, what else did he look like? Describe him so I can  
8 picture him in my mind.

9 [Minor]: Age with my mama.

10 MADDIE DODDS: Age of your mama? Okay. [pause]

11 [Minor]: Nothing. I don't know that man.

12 MADDIE DODDS: Did his homeboys call him anything?

13 [Minor]: [no audible response]

14 MADDIE DODDS: Okay. All right. I'll ask you a  
15 couple different questions and then we're all done. What do  
16 you know about drugs and alcohol? Tell me what you know about  
17 drugs.

18 [Minor]: [no audible response]

19 MADDIE DODDS: Has there ever been a time someone  
20 was taking care of you and they smoked something and it made  
21 them act differently? Or they sniffed something with their  
22 nose and it made them act differently? Or took a pill that  
23 wasn't medicine?

24 [Minor]: [shakes head no]

25

1 MADDIE DODDS: Has there ever been a time someone  
2 was taking care of you and they drank something and it made  
3 them act differently?  
4 Minor [redacted]: [shakes head yes]  
5 MADDIE DODDS: Tell me about that.  
6 Minor [redacted]: [pause]  
7 MADDIE DODDS: Okay. Tell me you said, yes, that  
8 that's happened before?  
9 Minor [redacted]: [shakes head yes]  
10 MADDIE DODDS: Okay. Tell me every day did that  
11 happen?  
12 Minor [redacted]: [no audible response]  
13 MADDIE DODDS: Don't know? Tell me about don't  
14 know.  
15 Minor [redacted]: I don't know.  
16 MADDIE DODDS: All right, Minor [redacted]. Is there  
17 anything you're worried about today?  
18 Minor [redacted]: No. I want to go home.  
19 MADDIE DODDS: Okay. Anything you're scared about?  
20 Minor [redacted]: No.  
21 MADDIE DODDS: Okay.  
22 Minor [redacted]: I got anger problem.  
23 MADDIE DODDS: You got anger problem?  
24 Minor [redacted]: Uh huh.  
25 MADDIE DODDS: Tell me about that.

1           Minor [REDACTED]:    Every time somebody get me mad, I'll  
2 be screw with things.

3           MADDIE DODDS:        Every time someone gets you mad,  
4 what?

5           Minor [REDACTED]:    I be screw with things.

6           MADDIE DODDS:        Okay. Well, we're all done. So, I'm  
7 going to erase my side of the board. Can you please raise  
8 your side? And here's your cup.

9           Minor [REDACTED]:    I want some water.

10          MADDIE DODDS:        Uh huh. You can get some water up  
11 front. Uh-oh, got it?

12          [both parties leave room]

13          [end of video]

14

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# The South Carolina Court of Appeals

The State, Respondent,

v.

Emeric Tyrone Hamilton, Appellant.


Appellate Case No. 2023-001884

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## ORDER

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Appellant has filed a motion to remand to the circuit court for reconstruction of the record. The motion is granted and this case is remanded to the Charleston County Court of General Sessions. Counsel for Appellant is ordered to contact counsel for Respondent and the circuit court judge, the Honorable Jennifer McCoy, within ten days of this order to schedule such hearings as the circuit court judge deems appropriate. Counsel for Appellant shall provide an update to the clerk of this court no later than twenty days from the date of this order, with a copy to counsel for Respondent.

  
\_\_\_\_\_  
FOR THE COURT

C.J.

Columbia, South Carolina

cc:

Alan McCrory Wilson, Esquire  
Mark Reynolds Farthing, Esquire  
Gary Howard Johnson, II, Esquire

**FILED**  
**Jul 01 2024**

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2. There is another break in the transcript on November 28, 2023, following the lunch recess at 12:08 p.m. with instruction to return at 1:30 p.m. See Transcript page 137. However, the transcript does not resume until the afternoon of November 29, 2023, during the charge conference and jury charge. See Transcript page 139. Numerous witnesses testified during this missing period and are not transcribed except for testimony that was “read back” to the jury after deliberations started on November 29, 2023, by Christie Harley, Marianne Boehm, and Verona Herrera beginning on page 191 of the transcript (this is during jury deliberation and not when the witnesses testified during trial).

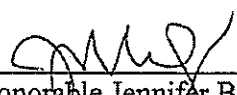
3. In comparing the exhibits on file with the Charleston County Clerk of Court with the produced transcripts, admission and argument concerning the following exhibits are omitted from the record:

4. There is a general absence of time notations regarding jury deliberations. There is no time noted when deliberations began. There is no time noted for the first jury question and response from the Court. There is no time noted for the *Allen* charge and when the final verdict is returned.

The Defendant is hereby ordered to supply a copy of this order to Legal Eagle with a written challenge under Rule 607, SCACR, requesting that Legal Eagle complete a review of all available recording medium to determine if the large portions of the trial that have been omitted are available for transcription. Legal Eagle is requested to provide as complete an explanation for the missing portions of the transcript as possible with notice that such explanation shall be supplied to this Court to determine if additional steps are required to verify whether the omitted material and can be transcribed or if a reconstruction hearing is required. Since some of the material omitted from the transcript was played back for the jury during deliberations, a complete recording may have existed at the time of trial. Legal Eagle should make every attempt to determine if these missing

portions of the hearing have been retained and can be retrieved from its systems for transcription. Counsel for Defendant shall file the Rule 607, SCACR, challenge directed by this Order within ten (10) days of the date of this Order and shall report on the response from Legal Eagle within thirty (30) days of service of the Order and challenge on Legal Eagle.

And it is so Ordered.

  
\_\_\_\_\_  
The Honorable Jennifer B. McCoy  
Circuit Court Judge  
100 Broad Street, Suite 348  
Charleston, S.C. 29401

September 6, 2024.

FILED  
2024 SEP -6 PM 1:11  
JULIE J. ARMSTRONG  
CLERK OF COURT  
BY \_\_\_\_\_

TM 3/08 3

1 STATE OF SOUTH CAROLINA ) IN THE SOUTH CAROLINA CIRCUIT COURT 8  
2 COUNTY OF CHARLESTON ) COURT C.A NO. 2023-GS-10-04605

3

4 The State of South Carolina )

5 )

6 Plaintiff, )

7 Versus )

8 Hamilton, Emeric Tyrone )

9 Defendant. )

10

11 H E A R I N G

12

13 DATE: December 17, 2024

14

15 LOCATION: South Carolina Circuit Court 8

16

17 JUDGE: Jennifer McCoy

18

19 TRANSCRIBED BY: ERIN REILLY

20

21 LEGAL EAGLE

22 Post Office Box 5682

23 Greenville, South Carolina 29606

24 864-467-1373

25 depos@legaleagleinc.com



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EXHIBITS

[Court's Exhibit No. 1]

(THIS TRANSCRIPT MAY CONTAIN QUOTED MATERIAL. SUCH IS  
REPRODUCED AS READ OR QUOTED BY THE SPEAKER.)

1 PROCEEDINGS

2 THE COURT: All right. Mr. Hamilton welcome.

3 MR. HAMILTON: Yes, ma'am.

4 THE COURT: All right. It is 10:52 a.m. on December  
5 17th, 2024. For the record, we'll begin, we had a delay this  
6 morning due to some transport confusion apparently at the jail,  
7 but we have Mr. Hamilton with us so we will get started. This  
8 is a hearing regarding the record in this matter on appeal.

9 I think there were six sort of issues defense counsel  
10 wanted to go over with the Court this morning. Before we get  
11 started on those, I'd like all the attorneys present to state  
12 their names and who they represent or did represent at the time  
13 of the trial for the record starting here on the solicitor's  
14 side.

15 MS. FRIERSON: Thank you, Your Honor, may I please  
16 the Court. Lauren Frierson for the State.

17 MR. HARRIS: Nick Harris for the State.

18 THE COURT: All right. Thank you very much.

19 MR. JOHNSON: Your Honor, Gary Johnson for Mr.  
20 Hamilton with appellate defense.

21 THE COURT: Welcome.

22 MS. FORD: Mary Ford, I was the trial counsel for Mr.  
23 Hamilton.

24 THE COURT: Thank you so much. Okay, perfect. Well,  
25 Mr. Johnson, happy to hear from you or Ms. Ford and whatever

1 | actually deem most efficient. We can get started.

2 |           MR. JOHNSON: Yes, Your Honor. So, I supplied all  
3 | parties with a brief summary of the transcript problems by  
4 | date. And I'll just walk through that. Just as a general  
5 | note, this particular transcript had numerous problems that  
6 | arrived at our office. The current version of the transcript  
7 | has addressed a lot of the concerns we looked at the last  
8 | status conference before the bench. There are 458 individual  
9 | notices of inaudible in this transcript. So, approximately one  
10 | per page.

11 |           THE COURT: Say that one more time?

12 |           MR. JOHNSON: Approximately one per page.

13 |           THE COURT: Right.

14 |           MR. JOHNSON: That's obviously not ideal in any  
15 | transcript that --

16 |           THE COURT: Right.

17 |           MR. JOHNSON: -- we have that extensive --

18 |           THE COURT: Sure.

19 |           MR. JOHNSON: -- amount of inaudibles. A good  
20 | portion of those inaudibles are during testimony that's being  
21 | reread to the jury.

22 |           THE COURT: Right.

23 |           MR. JOHNSON: So, that's less of a concern --

24 |           THE COURT: Yeah.

25 |           MR. JOHNSON: -- because it's a duplicate inaudible

1 at best. In addition, when you compare the testimony of Ms.  
2 Bonham, for example, Boehm, versus when it was reread it adds  
3 inaudible. So, you can fill in the blank by just going back  
4 through the trial transcript itself when she testified in-  
5 person.

6 THE COURT: Okay.

7 MR. JOHNSON: In addition, the forensic interview is  
8 played and there's an attempt to transcribe it. I will say  
9 that that portion of the transcript itself has numerous errors.

10 THE COURT: Okay.

11 MR. JOHNSON: And creates a bigger problem than  
12 would've been present if the court reporter had simply noted  
13 audio plays --

14 THE COURT: All right.

15 MR. JOHNSON: -- or video plays.

16 THE COURT: So, this cell phone -- I'm sorry, there's  
17 a noise in the audience. Could y'all take that outside, it's  
18 very distracting. I don't know if it's -- if you're able to.  
19 Thank you. Go ahead, Mr. Johnson.

20 MR. JOHNSON: So, that portion of the transcript is  
21 particularly problematic. There's some references to witnesses  
22 out of line with what was testified to. It doesn't match Ms.  
23 Ford's memory of what the minor said during the interview in  
24 the transcript. So, that portion is problematic but the easy  
25 solution there is to simply say the best evidence is the actual

1 forensic interview itself.

2 THE COURT: Right. Because that was made in exhibit,  
3 just to confirm?

4 MR. JOHNSON: It was.

5 THE COURT: Okay.

6 MR. JOHNSON: It was.

7 THE COURT: And it could always be re-transcribed.

8 MR. JOHNSON: Yes, it can.

9 THE COURT: Obviously somebody who's more keyed into  
10 -- has a better -- a way to listen to it, I suppose.

11 MR. JOHNSON: And we could also challenge the  
12 existing transcript versus the forensic interview and have it  
13 reviewed again. That would be the third chance transcript  
14 challenge for the court reporters here.

15 THE COURT: Okay.

16 MR. JOHNSON: So, that takes care of about 60 percent  
17 of the inaudibles.

18 THE COURT: Right.

19 MR. JOHNSON: Those two -- the reread testimony and  
20 the forensic interview. The vast majority of the rest of the  
21 inaudibles are scheduling, it's referenced to a juror being  
22 sick. It's issues that don't appear to be relevant towards any  
23 matter that was raised. It objected to -- by trial counsel on  
24 either side or a court ruling. There are a few exceptions  
25 which I've noted in the document.

1 THE COURT: Okay.

2 MR. JOHNSON: So, for November 27th, 2023, witness  
3 Dobbs is testifying under cross-examination and she is trying  
4 to explain the importance of not repeating the same question,  
5 not leading the witness and her response has numerous  
6 inaudibles. That is because it was a basis for an objection  
7 that is a particular area of potential concern. The general  
8 context of the transcript indicates that she acknowledges those  
9 areas are a concern. But I do point that out because that is  
10 an area that there was an objection and a ruling by court  
11 regarding the admission of the forensic interview. And those  
12 inaudibles therefore touch on a matter that is preserved and  
13 likely to be reviewed on appeal.

14 THE COURT: Okay. And that's specifically pages 77,  
15 78 and 79?

16 MR. JOHNSON: That is correct, Your Honor.

17 THE COURT: Is that correct? Okay. And I mean, I've  
18 obviously gone through there, noted all the inaudibles. Happy  
19 to hear from the State if there's any response there or  
20 anything else you want to chime in with?

21 MS. FRIERSON: Yes, Your Honor. In reviewing it  
22 seems like there is a bit of back and forth where the context  
23 is there in terms of whether the questions -- for example, on  
24 page 78, line 2. Based on reading the back-and-forth questions  
25 and answers before it would seem as though suggestive or

1 leading would be what would be there. Obviously, there's no  
2 way without that being there but I feel like if you take it in  
3 totality the same questions are asked ironically in different  
4 ways to Ms. Dodds [phonetic] and the answers continue to  
5 present themselves in ways that are consistent, just worded  
6 differently.

7           And so, if you take it as a whole, the context and  
8 the overall takeaway is that they don't do multiple interviews.  
9 They don't do that because they can be suggestive or leading.  
10 They do not repeat the same question over and over, it's just  
11 asked and answered in different --

12           THE COURT: Right.

13           MS. FRIERSON: -- ways.

14           THE COURT: Different ways. Okay. You know, the  
15 only other thing I could think of would be -- and I mean I  
16 don't want to belabor any of this any further that might be  
17 helpful would be if we had the actual take.

18           MR. JOHNSON: Okay.

19           THE COURT: Potentially.

20           MR. JOHNSON: Well, and --

21           THE COURT: Listen --

22           MR. JOHNSON: -- selected portions --

23           THE COURT: -- together.

24           MR. JOHNSON: Yes. And selected portions of the --  
25 rather than tell the court reporter legally here to review all

1 400 and --

2 THE COURT: Right.

3 MR. JOHNSON: -- 76 pages. If we specifically  
4 challenge specific pages and lines that may result in a better  
5 rendition.

6 THE COURT: Right. If they're really honed in on  
7 just very brief instances, I think you would get a better  
8 result. So, I think that would probably be -- Step 1, would be  
9 to resubmit to them these very specific and narrowed down  
10 transcript issues with the inaudibles. Perhaps with an ear  
11 toward making them make sense on these narrow lines here.

12 And then if that was not successful then maybe as a  
13 backup to that maybe they could have somebody come into our  
14 next meeting together if we have to have one, hopefully not,  
15 and bring it -- you know, bring the recording with them and  
16 we'll play it in court. And -- you know, if it's an issue with  
17 our accent sometimes I know I've got one that is a little  
18 different -- you know, maybe -- you know, we'll see. I mean, I  
19 don't know, but that --

20 MR. JOHNSON: I'll say that Ms. Ford is the most  
21 culpable of the inaudible.

22 THE COURT: I don't know. Well, you know, if it's  
23 just a volume issue, for example, or an accent or something  
24 like that maybe somebody --

25 MR. JOHNSON: I think a targeted request to the court

1 reporter not --

2 THE COURT: Yeah.

3 MR. JOHNSON: -- we don't like 476 pages, do your  
4 job.

5 THE COURT: Yeah. I think --

6 MR. JOHNSON: Rather than could you please review  
7 page, in this example 78 and 79 --

8 THE COURT: I think you're right.

9 MR. JOHNSON: -- of the transcript compare that to  
10 the audio.

11 THE COURT: Let's start there. Okay.

12 MR. JOHNSON: In addition, again, on day one, this is  
13 page 95, the Court's ruling has a couple of inaudibles again.

14 THE COURT: Yes.

15 MR. JOHNSON: The similar reference, perhaps a  
16 targeted review of that tape clarifies those. I don't know  
17 that they're choppy enough to cause overly grave concern.

18 THE COURT: I don't think so.

19 MR. JOHNSON: The Court's ruling is there but I do --

20 THE COURT: Yeah. And I tend to say the same thing a  
21 few different ways myself when I -- as you can tell. I -- one  
22 thing, for example, I know in 96, line 6, I didn't say  
23 Direction Statute. I'm sure I said the Rank Shield Statute.  
24 Okay. So, I know for -- off the top of my head I could read  
25 that and I know that's not what I said.

1 MR. JOHNSON: Yes, Your Honor.

2 THE COURT: Okay. But -- and I can tell that  
3 direction came out of somebody's incorrect interpretation of  
4 the rate shield, just -- it sounded like direction apparently.  
5 So, that -- I can tell you right now that's wrong. And then  
6 certainly I have -- you are right two inaudibles in the next  
7 paragraph. I think again, another targeted listening of that  
8 might clear those up.

9 MR. JOHNSON: And I think by common acclimation we  
10 can acknowledge that exfoliation was not what was being said?

11 THE COURT: Yes. My recollection was spoliation not  
12 exfoliation.

13 MR. JOHNSON: Spoliation was what I heard.

14 THE COURT: Spoliation of evidence that would be page  
15 97, line 8 and line 10. Page 97, line 3, I didn't take  
16 anything under oath. I think I probably took it under  
17 advisement but I would have them target page 97 just to confirm  
18 that. And I think your next issue began to arise at page 106.  
19 This had to deal with the CODIS issue and the -- some of that.

20 MR. JOHNSON: Yes, Your Honor.

21 THE COURT: Right. And I took a lot -- I took a look  
22 because this was in some of my ruling. On page 106, lines 14  
23 through 17, only specifically line 16 coming in during the  
24 course of testimony that's my ruling not, not. "That's my  
25 ruling, which takes us to what next? Would have been me asking

1 a question. I think it needs a question mark at the end of  
2 that sentence instead of a period.

3 MR. JOHNSON: Okay.

4 THE COURT: Okay. That's my recollection but they  
5 can look at that more carefully. But my recollection was that  
6 I said, that's my ruling, which takes us to what next? And then  
7 they -- Ms. Frierson went into the next issue. But were there  
8 more inaudibles in here? Let's see. What was your other issue  
9 with this?

10 MR. JOHNSON: Your Honor, what I -- it's just the  
11 phrasing that's my ruling and you've addressed it.

12 THE COURT: Yeah. I think that was a little --

13 MR. JOHNSON: Instead of, that's not ruling.

14 THE COURT: Right. It's that's my -- and I think if  
15 you just pretend there's a comma after the word ruling and  
16 there -- question mark at the end of the sentence?

17 MR. JOHNSON: Yes, Your Honor.

18 THE COURT: That --

19 MR. JOHNSON: That clarifies it perfectly.

20 THE COURT: That helps. Yeah.

21 MR. JOHNSON: That's why it was noted as a concern of  
22 mine.

23 THE COURT: Yeah.

24 MR. JOHNSON: It's a specific ruling from the bench  
25 and --

1           THE COURT: Correct. I don't blame you. It -- yeah,  
2 sometimes punctuation does a lot. Okay. So, page 109, again,  
3 I'm speaking I said, "Okay. Yeah, I didn't feel like,  
4 inaudible, interrogation but I'm happy to hear from you,  
5 inaudible." My recollection was, I do have recollection as to  
6 this. I believe I said I don't feel like it was a custodial  
7 interrogation, so but I'm happy to hear from you.

8           I don't know. I could have just said on that issue  
9 or at any rate, we can have them listen to that a little more  
10 carefully. And then Ms. Ford begins to talk and that makes  
11 sense too because her responses, it didn't seem like he was in  
12 custody so I'm almost positive I said custodial.

13           MR. JOHNSON: And still that was what my note said,  
14 custodial.

15           THE COURT: Custodial is a strange word, I could see  
16 how somebody might not know what I'm saying. They're not  
17 familiar with the legal terminology maybe but let's have them  
18 listen to that again. That's my recollection. And then page,  
19 the next issue, number 5, dealt with a prior ruling. On page  
20 389, lines 20 through 22. I said, "Okay, overruled. Based on  
21 previous rulings," and I think instead of the word and it was  
22 probably -- you know, and --

23           MR. JOHNSON: And --

24           THE COURT: -- the Court's reliance --

25           MR. JOHNSON: -- just for the benefit of counsel.

1 That's a reference to the email I sent, I believe.

2 THE COURT: Yes, I'm sorry.

3 MR. JOHNSON: From the numbers --

4 THE COURT: It could be correct.

5 MR. JOHNSON: -- which jumped I believe to page --

6 THE COURT: I thought it was 389.

7 MR. JOHNSON: -- four of the document. I'm just ---

8 for reference, we're using the document, not my email, Your  
9 Honor. Sorry.

10 THE COURT: All right.

11 MR. JOHNSON: So --

12 THE COURT: Yeah. Okay. This was -- starts on page  
13 389 of the transcript lines 20 through 22.

14 MR. JOHNSON: Yes, Your Honor.

15 THE COURT: I say, "Okay. Overruled. Based on  
16 previous rulings." If this says in the Court's reliance, I  
17 think it should be, and, the Court's reliance on my -- I'll  
18 admit it over your objection. I don't know what I said. You  
19 know, we'd have to have the court reporter go back and  
20 specifically hone in on that inaudible I don't have a specific  
21 recollection. I could have said interpretation of something, I  
22 could have cited a case.

23 I just don't remember off the top of my head. But I  
24 know that the word in is probably is meant to be and. So,  
25 let's have them listen to that more carefully. And then the

1 next, I think, in your final issue was really again, with the  
2 forensic interview, sort of retranscribing this exhibit.

3 MR. JOHNSON: That's correct, Your Honor, that --

4 THE COURT: We already have on the record. And it is  
5 unfortunate there were 118 inaudible references just in that  
6 testimony. I'm happy to hear from you.

7 MR. JOHNSON: I -- and Your Honor, I'm just going to  
8 -- because my email was a summary of just the remaining issues.  
9 There were some issues that were still from the transcript  
10 itself, which was the document I sent which was the transcript  
11 problems document I sent on Monday. So, if you'll refer to  
12 that.

13 THE COURT: Yes. I'm sorry.

14 MR. JOHNSON: Very quickly.

15 MR. JOHNSON: Yeah. You'll note that on page 3 of  
16 that document, this is the end of day one. There's just an  
17 oddity, that a portion of the transcript is in the wrong place.  
18 I believe that's an easy correction.

19 THE COURT: Okay.

20 MR. JOHNSON: That's for clarity. For day 2, which  
21 is November 28th, 2023 I do not see any substantial errors that  
22 cause concern. The inaudibles are present throughout that I  
23 have reviewed the inaudibles. I don't see any of those as  
24 requiring the Court's attention or challenge the transcript for  
25 any of those particular inaudibles.

1 Day three is a little more problematic and you've  
2 mentioned the issues that forensic interview has caused. And  
3 obviously this court can simply strike that portion of the  
4 transcript. And add a notation that the forensic interview has  
5 been admitted as evidence and it's the best evidence of what  
6 the minor testified to. I do not think a transcript challenge  
7 on them listening to the tape -- of a tape is going to generate  
8 a better-quality transcript than what is already here simply  
9 because of the sheer number of inaudibles. There are errors in  
10 what was actually said based upon memory of counsel. Ms. Ford  
11 and Mr. Hamilton during that portion of the testimony in  
12 particular, things about his grandmother being in the house.  
13 The minor didn't say that, she said she was on her way to her  
14 grandmother's, and because the transcript is inaudible in  
15 portions it looks like the court reporter assumes she talked  
16 about the grandmother --

17 THE COURT: Okay.

18 MR. JOHNSON: -- earlier.

19 THE COURT: Right.

20 MR. JOHNSON: So, there are specific areas where the  
21 transcript is in error there, it's our belief. So, the  
22 solution there would simply be to strike that portion of the  
23 transcript as it's been typed and reference the forensic  
24 interview itself.

25 THE COURT: Okay. Do you have any objection to that?

1 MS. FRIERSON: I wouldn't say I have an objection.  
2 We also have a copy today of what was admitted as Courts 4  
3 which was the transcript that was provided to the jury with the  
4 disclaimer that, you know, this is as best as anybody could do.  
5 But we have that it's already -- it was already admitted at  
6 trial as Court's Exhibit 4. And for purposes of this hearing,  
7 I don't know whether or not it would be appropriate to admit  
8 that, but we do have that available as well.

9 THE COURT: But it was already made in exhibit trial.

10 MS. FRIERSON: Court's Exhibit 4.

11 THE COURT: Okay. Is that right? I just don't  
12 remember that off the top of my head. There was --

13 MS. FRIERSON: And it was --

14 THE COURT: -- actually a transcript that was --

15 MS. FRIERSON: So, I think it was page 349. I have a  
16 transcript, let me see. Yes. So, page 349 begins on line 15.

17 THE COURT: Okay.

18 MS. FRIERSON: Your Honor, has -- "And in conjunction  
19 with the State has prepared some unofficial transcripts for you  
20 to use if you want. You don't have to aid in your viewing of  
21 the video. It would just be one person's typing of the video,  
22 audio portion of it. You don't have to use it and I would  
23 certainly instruct you to rely on what you hear first and  
24 foremost over what the transcript says." And then it goes  
25 through to page 351, line 5, where it says one of these two

1 | will be marked as the next court exhibit.

2 |           THE COURT: Okay.

3 |           MS. FRIERSON: Line 8 that'll be Court's 4. So --

4 |           THE COURT: So, the Court Exhibit it did not get back  
5 | to the jury then?

6 |           MS. FRIERSON: It did not go back with the jury. The  
7 | case law that we relied upon says they can use it as kind of a  
8 | demonstrative. For purposes of being able to hear, and I'm not  
9 | sure if you recall Your Honor, but despite the audio video  
10 | working in preparation, when we actually went to play it in  
11 | front of the jury, there was like this weird lag of the audio  
12 | versus the visual part and so we ended up only playing the  
13 | audio.

14 |           THE COURT: I remember that. Yeah, I remember that.  
15 | And going back through it again this morning, I saw that as  
16 | well in the transcripts. I do recall that. You know, I'm not  
17 | sure that it's necessary to strike it out of the transcript.  
18 | And we have this record today of this proceeding that it seems  
19 | with all of the inaudibles that it's certainly -- you know, I  
20 | think goes without saying that the actual exhibit itself is the  
21 | best evidence. I don't want to strike portions of the record.  
22 | I'm not sure that I have the jurisdiction, if that makes sense  
23 | to start striking records anyway to be honest with you.

24 |           MR. JOHNSON: It's fine, Your Honor. As long as  
25 | there's some notation that portion of the transcript contains

1 | errors not just inaudibles.

2 |           THE COURT: No doubt. And I think, you know,  
3 | certainly I would agree with you that the best reference would  
4 | be the actual tape itself. But I'm not sure I can get in the  
5 | business of striking the record in my own court but that's  
6 | noted. And I do recall now that you say that there was a lag  
7 | and there was -- and it was a little confusing. So, we just  
8 | cut the video and did audio only and -- okay.

9 |           MR. JOHNSON: And the unofficial transcript that the  
10 | solicitor's office has referenced, we don't object to it being  
11 | introduced as court's exhibit today but it has been introduced.

12 |           THE COURT: It was. Yeah, that's right. And it was  
13 | objected to at the time, as I recall.

14 |           MR. JOHNSON: I'll take a copy of that.

15 |           MS. FORD: And Your Honor, I will say, I rewatched  
16 | the interview yesterday. So, when the -- Mr. Johnson is  
17 | talking about my memory, it's actually what I watched  
18 | yesterday. So, it is quite different and that's -- I think  
19 | it's caused Mr. Hamilton some concern.

20 |           THE COURT: I understand.

21 |           MS. FORD: Like for example, the victim was asked how  
22 | he looked and it kind of -- the transcript that we have suggest  
23 | he had tattoos but really she says, I don't know if he had  
24 | tattoos, it was dark. She actually says his name is Emeric but  
25 | she didn't know his name in the video that I watched. She said

1 | it -- she thought her mom did.

2 |           THE COURT: Okay.

3 |           MS. FORD: But that's what it appears to say. I'm  
4 | just saying it appears that the transcript that -- of the  
5 | recording that's in this transcript is quite wrong in some  
6 | area.

7 |           THE COURT: Okay.

8 |           MS. FORD: So, I think that's a concern.

9 |           THE COURT: Certainly -- you know, again, I think  
10 | that the recording itself is the best evidence and that your --  
11 | all of your concerns are valid and properly raised before the  
12 | Court today. And certainly, I'm glad that we -- you know, have  
13 | that as an exhibit, the actual interview itself as an exhibit  
14 | and that's what should be relied upon in moving forward. What  
15 | else?

16 |           MS. FRIERSON: Would, Your Honor, like one as well?

17 |           THE COURT: Okay.

18 |           MR. JOHNSON: And Your Honor, just since we have both  
19 | trial counsel here, that takes me to the jury timing issue,  
20 | which is an outstanding, but I'm not aware of anything else  
21 | that has not been transcribed. Not that the transcription  
22 | doesn't have inaudibles and doesn't have problems that we've  
23 | already noted today. But I would ask if either counsel recalls  
24 | any other portions of the trial that now don't appear in the  
25 | transcript? I'm not aware of any from --

1 THE COURT: I'm not aware of any -- are -- of -- are  
2 the attorneys having gone through?

3 MS. FRIERSON: I'm not aware of any, Your Honor.

4 MS. FORD: I'm not aware of any.

5 THE COURT: Okay.

6 MR. JOHNSON: And that's obviously a formality just  
7 to be sure that there's no other allegation that there's  
8 something else for us to be looking for.

9 THE COURT: Certainly. And I appreciate that. It's  
10 good for us all to have -- to be able to go back and read this.

11 MR. JOHNSON: And the final concern was the Allen  
12 charge. And there's no notation of when the jury began  
13 deliberating, when the jury's questions. Ms. Ford has some  
14 notations about that, but I think Ms. Frierson has detailed  
15 notes about the timing of that. I don't know if the Court has  
16 any notes about that.

17 THE COURT: The Court does not, I went back and  
18 checked my law clerk's notes. I don't have anything, certainly  
19 not as to the timestamps nothing that would help with that. I  
20 do have -- the only thing I could find and note this isn't  
21 super helpful, but I have an email that I sent the jury charge,  
22 a copy of the charge prior to closing, I believe at 2:02 p.m.  
23 on Wednesday, November 29th to Ms. Ford, Ms. Frierson I copied  
24 my law clerk. This is just the email itself. So, I'll mark  
25 that out of an abundance of caution. Just -- it's something

1 with a timestamp on it that gives some reference --

2 MR. JOHNSON: Yes, Your Honor.

3 THE COURT: -- to when the process began at least.

4 MR. JOHNSON: And I think Ms. Frierson does have some  
5 notations that she can provide the Court.

6 THE COURT: Good. Well, I'll mark that email,  
7 Court's 1 for today's purposes.

8 **[Document Marked as Court's Exhibit No 1.]**

9 Again, that's all I can give with the timestamp that I  
10 possessed. I think I should not have assumed that a digital  
11 recording would automatically provide timestamps now I know.

12 MR. JOHNSON: It's supposed to, Your Honor, there's  
13 supposed to be notations made about.

14 THE COURT: Sure.

15 MR. JOHNSON: Right.

16 THE COURT: In theory it should. Okay. All right.  
17 Happy to hear from you Ms. Frierson. Did you have some notes  
18 on all that?

19 MS. FRIERSON: Yes, Your Honor. This is just my  
20 notes, I usually refer to whatever the clock is in the  
21 courtroom. At 3:15, I had jury charge, 3:33 p.m. they were --  
22 the jury was taken back. At 4:10, they had a question. At  
23 4:19, we began playing Christy Harley's testimony, 5:26 p.m.  
24 there was a note as Court's Exhibit Number 6. I had the 10  
25 ordered dinner and two did not. Let's see, 6:00 o'clock the

1 jury was back. Someone wanted her -- petite female wanted her  
2 notebook. At 6:14, they were listening to the witness  
3 Herrera's direct. Let's see, her testimony finished at 6:32.  
4 That was the replaying 6:33 Maryanne Bones replaying restarted.

5 And then at 8:06, my notes indicate they reached a  
6 verdict but it was not unanimous, followed by a note. Court's  
7 Exhibit 9. Then I have Allen charge and then I have 8:25  
8 verdict and 8:29 jury poll. And again, those were just me and  
9 my OCD personality looking up at the clock as different things  
10 happen. So, it's based on that and the clock in the courtroom  
11 at the time.

12 THE COURT: Okay. All right.

13 MR. JOHNSON: And Your Honor, I would hate to put Ms.  
14 Ford on the spot, but just to verify her general memory that  
15 the deliberation period was approximately five hours and that  
16 the verdict came back within approximately 20 minutes of the  
17 Allen charge.

18 THE COURT: Does that sound right to you, Ms. Ford?

19 MS. FORD: It does, Your Honor, I don't remember  
20 specifics but that generally sounds right.

21 THE COURT: That tracks along with my memory as well.  
22 And you know, that I emailed y'all the charge approximately  
23 2:00 p.m. We actually charged about an hour later. I mean,  
24 that all tracks with my memory of how the afternoon went. I  
25 think we were probably debating on whether or not to come back

1 | the next day or apply for -- you know, usually given that time  
2 | of day and you know, we went ahead and went forward, obviously.  
3 | And I -- you know, don't have any memory that doesn't agree  
4 | with what Ms. Frierson noted. So, that's super helpful,  
5 | obviously in my mind.

6 |           MR. JOHNSON: And Your Honor, if you -- I could just  
7 | have a moment with Mr. Hamilton.

8 |           THE COURT: Sure, absolutely.

9 |           MR. JOHNSON: And Your Honor, I've spoken to Mr.  
10 | Hamilton that also generally comports with his memory of how  
11 | the jury deliberation ended.

12 |           THE COURT: Okay. All right. Anything else we can  
13 | discuss today with regards to, you know, any of the concerns or  
14 | any other specific issues while we have everybody in the  
15 | courtroom?

16 |           MR. JOHNSON: No, Your Honor. I have some homework  
17 | with the transcriptionist to do.

18 |           THE COURT: Right.

19 |           MR. JOHNSON: I will report back as soon as they  
20 | report back to me.

21 |           THE COURT: Okay.

22 |           MR. JOHNSON: I have no idea how backlogged they are  
23 | currently. They were very quick on the last.

24 |           THE COURT: Good.

25 |           MR. JOHNSON: I do not feel the need for an

1 additional order is necessary. That was very helpful to get  
2 them spurred. I think that they understand that there's a  
3 little microscope.

4 THE COURT: I think so too. And you know, for what  
5 it's worth you know voiced some concerns with the commission on  
6 the profession at our last meeting. No specifics as to this  
7 case but just in general with, you know, some of the digital  
8 reporting and the need for just real -- a real good look at who  
9 we're hiring and making sure that everybody's well versed in  
10 legal terminology and things of that nature when they're going  
11 into these trials.

12 So, my hope is that we don't encounter too many more  
13 of these missteps in the future. But please we'll have them  
14 review more specifically those very fine portions of the  
15 transcript. I'm hopeful that they can clear those up for us.  
16 And if we need to have any other future meetings, just let us  
17 know. Okay?

18 MR. JOHNSON: All right. Thank you, Your Honor.

19 THE COURT: Thank y'all.

20 MS. FRIERSON: Thank you, Your Honor.

21 MR. JOHNSON: And Your Honor at some point there'll  
22 be a small requirement for an order.

23 THE COURT: Yes.

24 MR. JOHNSON: Confirming the transcript is as  
25 accurate as it can be made.

1 THE COURT: That's right.

2 MR. JOHNSON: And no, we're not at that point yet.

3 Be happy to volunteer to prepare that when that time comes.

4 THE COURT: That'd be great. I appreciate it. Thank  
5 you everybody. Happy holidays.

6 MS. FRIERSON: Thank you, Your Honor.

7 THE COURT: Take care.

8 [END OF HEARING]

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CERTIFICATE OF TRANSCRIBER

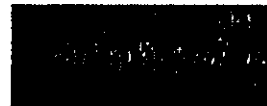
I, ERIN REILLY, a court-approved transcriber, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the South Carolina Circuit Court 8, South Carolina, on the 17th day of, December 2024.

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

January 31st, 2025

ERIN REILLY

TRANSCRIBER





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.

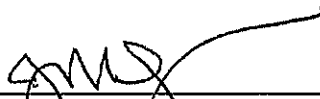
Finally, there is a portion of the transcript that contains numerous errors and inaudible notations: the transcribed version of the forensic interview of the minor. This appears starting on page 351 of the revised transcript and runs through page 368. As the physical copy of the interview was admitted 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.

FILED  
2025 JAN 30 PH 2:30  
JULIE J. ARMSTRONG  
CLERK OF COURT  
BY MK

JBW/4

LBM/0368277  
WITNESSES

DOCKET NO. 2023-GS-10-04605

North Charleston Police Department

The State of South Carolina  
County of Charleston

AGENCY CASE NUMBER

2018-011240

ARREST WARRANT NUMBER

2020A1021000283

DATE OF ARREST

05/18/2020

THE STATE

VS.

ACTION OF GRAND JURY  
**TRUE BILL**

EMERIC TYRONE HAMILTON

B/M DOB: [REDACTED]

*McWhorter*

SEP 12 2023

Foreperson of Grand Jury

Date:

VERDICT

Indictment for

*GUILTY*

CRIMINAL SEXUAL CONDUCT WITH A  
MINOR, SECOND DEGREE

SC Code: § 16-03-0655(B)(1)  
CDR Code: 0396

*Re RD*

Date:

*11/24/23*

Foreperson of Petit Jury  
906

STATE OF SOUTH CAROLINA  
COUNTY OF CHARLESTON

INDICTMENT

At a Court of General Sessions, convened September 2023, the Grand Jurors of Charleston County present upon their oath:

**Criminal Sexual Conduct With A Minor, Second Degree**

That in Charleston County, South Carolina, on or about April 19, 2018, the Defendant, Emeric Tyrone Hamilton, did commit or attempted to commit, a sexual battery to wit: vaginal intercourse upon a minor, Minor [REDACTED], who was fourteen years of age or less but who was at least eleven years of age in violation of Sections 16-3-655(B)(1) 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.

  
\_\_\_\_\_  
LAUREN M. FRIERSON  
ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA )

IN THE COURT OF GENERAL SESSIONS

COUNTY OF CHARLESTON )

STATE )

INDICTMENT/CASE#: 2023-GS-10-04605

VS. )

EMERIC TYRONE HAMILTON )

A/W#: 2020A1021000283

AKA: Tyrone Hamilton, Emeric T Hamilton )

Date of Offense: 04/19/2018

Race: Black Sex: M Age: 50 )

S.C. Code §: 16-03-0655(B)(1)

DOB: [REDACTED] SS#: [REDACTED] )

CDR Code #: 0396

Address: [REDACTED] )

City, State, )

SENTENCE SHEET

Zip: North Charleston, SC 29405-7373 )

DL#\* [REDACTED] SID# SC00796594 )

\*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: Criminal Sexual Conduct With A Minor, Second Degree (0-20)

In violation of § 16-03-0655(B)(1) of the S.C. Code of Laws, bearing CDR Code # 0396

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

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:

	77023		73776
Lauren M. Frierson, Assistant Solicitor	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 20 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 \_\_\_ days/months/years/Time Served 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 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.

34 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.

SPECIAL CONDITIONS:

STATE EMERIC TYRONE INDICTMENT/CASE#: 2023-GS-10-04605  
VS. HAMILTON

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: \_\_\_\_\_

RESTITUTION:     Deferred     Def. Waives Hearing     Ordered

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

Payment Terms: \_\_\_\_\_  Set by SCDPPPS

Recipient: \_\_\_\_\_

*Fine:		\$
Fine may be pd. in equal consecutive weekly/monthly pmts. of	\$ _____	Beginning _____
§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	\$ 3.75
<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	\$ _____
<input type="checkbox"/> § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund	TBD	\$ _____
<b>TOTAL</b>		<b>\$ 128.75</b>

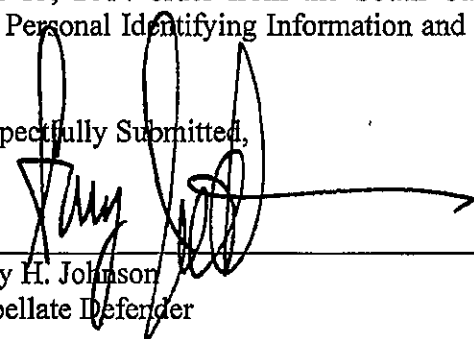
Clerk of Court/Deputy Clerk: Margaret  
Court Reporter: John Cordi

Presiding Judge: [Signature]  
Judge Code: 02764  
Sentence Date: 11/29/2023

**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,



\_\_\_\_\_  
Gary H. Johnson  
Appellate Defender

**RECEIVED**

**Sep 02 2025**

**SC Court of Appeals**

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

ATTORNEY FOR APPELLANT

This 2nd day of September, 2025.

**RECEIVED**

**Sep 02 2025**

**SC Court of Appeals**

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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Appeal from Charleston County

Honorable Jennifer B. McCoy, Circuit Court Judge

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THE STATE,

RESPONDENT,

V.

EMERIC HAMILTON,

APPELLANT

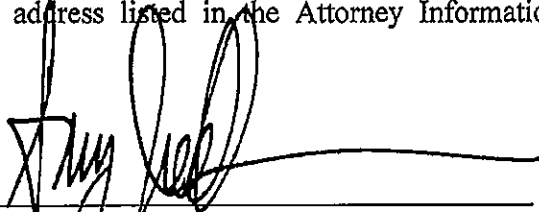
APPELLATE CASE NO. 2023-001884

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CERTIFICATE OF SERVICE

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Pursuant to Rule 262(a)(3) and Rule 262(c)(3), SCACR, the undersigned hereby certifies a true copy of the Record on Appeal in the above-referenced case has been served upon J. Benjamin Aplin, Esquire, at the primary e-mail address listed in the Attorney Information System (AIS), this 2nd day of September, 2025.

  
\_\_\_\_\_  
Gary H. Johnson  
Appellate Defender

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

ATTORNEY FOR APPELLANT

