

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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**Jan 08 2026**

**SC Court of Appeals**

Appeal from Charleston County  
Court of General Sessions

The Honorable Alison Lee, Circuit Court Judge

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Appellate Case No. 2024-001118

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THE STATE .....Respondent,

v.

CURTIS LEMON .....Appellant.

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**RECORD ON APPEAL**

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CHELSEY F. MARTO, ESQUIRE  
S.C. Bar # 104191

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Legal Counsel SC Bar #65483

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ATTORNEYS FOR APPELLANT

ATTORNEY FOR RESPONDENT

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

IN THE COURT OF GENERAL SESSIONS  
 INDICTMENT/CASE#: 98-GS-10-1814  
 A/W#: F576997  
 Date of Offense: 1-9-98  
 S.C. Code § : 16-3-652  
 CDR Code #: D111610

SENTENCE

PLEA  TRIAL

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

TO: Criminal Sexual Conduct 1st  
 in violation of § 16-3-652 of the S.C. Code of Laws, bearing CDR Code # 0111610

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

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

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

ATTEST:

\_\_\_\_\_  
 Solicitor Defendant Attorney for Defendant

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

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

SPECIAL CONDITIONS:

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

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

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

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

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

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

98-01-MJM-00187

DOCKET NO. 1998-GS-10-1814

WITNESSES

The State of South Carolina

JOHN BURNETT AND/OR

County of Charleston

KEITH HAIR

COURT OF GENERAL SESSIONS

GORDON, CPD

MARCH TERM 1998

*Connelly*

THE STATE

vs.

ARREST WARRANT NUMBER

CURTIS JEROME LEMON

F 576997

JANUARY 14, 1998

ACTION OF GRAND JURY

TRUE BILL

*D. Henry*

Foreperson of Grand Jury

MAR 2 1998

VERDICT

Indictment for

CRIMINAL SEXUAL CONDUCT  
FIRST DEGREE

Foreperson of Petit Jury

Date:

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF CHARLESTON )

INDICTMENT FOR  
CRIMINAL SEXUAL CONDUCT FIRST DEGREE

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

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

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

  
ASSISTANT SOLICITOR

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

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

SENTENCE

PLEA  TRIAL

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

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

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

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

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

ATTEST:

\_\_\_\_\_  
 Solicitor Defendant Attorney for Defendant

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

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

CONCURRENT or  CONSECUTIVE to sentence on: \_\_\_\_\_

SPECIAL CONDITIONS:

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

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

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

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

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

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

98-01-MJM-00187

DOCKET NO. 1998-GS-10-1815

**The State of South Carolina**

County of Charleston

**COURT OF GENERAL SESSIONS**

**MARCH TERM 1998**

**THE STATE**

vs.

**CURTIS JEROME LEMON**

**WITNESSES**

JOHN BURNETT AND/OR

KEITH HAIR

GORDON, CPD

*Connelly*

**ARREST WARRANT NUMBER**

F 576996

JANUARY 14, 1998

**ACTION OF GRAND JURY**

**TRUE BILL**

*Da Henry*  
Foreperson of Grand Jury  
MAR 2 1998

**VERDICT**

**Indictment for**

**MURDER**

Foreperson of Petit Jury

Date:

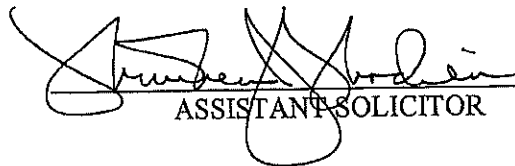
STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF CHARLESTON )

INDICTMENT FOR  
MURDER

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

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

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

  
ASSISTANT SOLICITOR

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STATE OF SOUTH CAROLINA \* GENERAL SESSIONS  
 \*  
 COUNTY OF CHARLESTON \* TRANSCRIPT OF RECORD  
 \*  
 -----X  
 STATE OF SOUTH CAROLINA, \*  
 \*  
 State, \*  
 \*  
 vs. \* Case No. 1998-GS-10-01814  
 \* 1998-GS-10-01815  
 CURTIS LEMON, \*  
 \*  
 Defendant.\*  
 -----X

November 13, 2023

B E F O R E:

The Honorable Deadra Jefferson, Presiding Judge

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

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

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

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I N D E X

DESCRIPTION

PAGE

Proceedings

3

E X H I B I T S

(None.)

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

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

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

4 MS. HOLMES: Mr. Lemon is out in the hallway, Your  
5 Honor. He will be coming in.

6 THE COURT: Is he represented? I have Chelsey  
7 Marto?

8 MS. MARTO: Yes, ma'am.

9 (Pause in the proceedings.)

10 THE COURT: Is there a reason the defendants are not  
11 in the courtroom, why they go have to hunt and look for  
12 them?

13 MS. MARTO: Judge, I spoke with him earlier today.  
14 He was right outside in the hallway.

15 THE COURT: Is he not out there now?

16 THE BAILIFF: He's checking.

17 THE COURT: Okay. Thank you.

18 MS. HOLMES: Yeah, I saw him sitting out in the  
19 hallway earlier.

20 MS. MARTO: Yeah, I spoke to him earlier, Your  
21 Honor.

22 (Pause in the proceedings.)

23 THE COURT: Is this a CSP case?

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

25 THE COURT: This is Curtis Lemon, represented by

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

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

5 THE COURT: On both offenses?

6 MS. HOLMES: And voluntary manslaughter.

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

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

12 THE COURT: What's the judge code?

13 MS. MARTO: Judge Rawls, Your Honor.

14 MS. HOLMES: Judge Rawls? Okay.

15 THE COURT: Sentenced by Judge Rawls.

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

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

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

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

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

25 THE COURT: Thank you, ma'am.

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

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

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

10 MS. MARTO: No, Your Honor.

11 Your Honor --

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

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

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

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

25 THE COURT: Yep, mm-hmm.

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

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

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

6 THE COURT: Mm-hmm.

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

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

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

20 THE COURT: Okay.

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

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

25 Go ahead. I'm listening.

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

2 THE COURT: Did you find it?

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

4 MS. HOLMES: It does look like Judge.

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

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

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

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

16 THE COURT: And Ms. Chelsey?

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

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

19 MS. MARTO: Yes.

20 THE COURT: Your last name is Marto?

21 MS. MARTO: My last name is Marto.

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

24 Ms. Marto, mm-hmm?

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

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

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

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

10 THE COURT: Mm-hmm.

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

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

18 MS. MARTO: I understand.

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

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

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

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

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

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

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

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

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

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

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

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

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

1 THE COURT: Yeah.

2 MS. MARTO: But as --

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

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

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

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

11 THE COURT: Is it?

12 MS. MARTO: I thought it was.

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

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

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

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

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

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

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

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

7 I'm sorry; I'm listening.

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

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

13 MS. MARTO: I understand. I understand.

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

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

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

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

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

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

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

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

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

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

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

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

1 at all.

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

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

7 MS. HOLMES: Yes.

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

11 THE DEFENDANT: Can I --

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

15 THE DEFENDANT: Could I --

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

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

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

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

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

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

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

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

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

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

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

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

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

14 Yes, ma'am?

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7 THE COURT: Sure.

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

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

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

17 THE COURT: Is that your understanding?

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

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

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

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

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

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

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

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

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

17 THE COURT: Yes, ma'am.

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

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

1 issues in SCDC.

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

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

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

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

15 MS. MARTO: Yes, Your Honor.

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

18 MS. MARTO: Sure.

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

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

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

23 THE COURT: I'm listening.

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

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

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

10 MS. MARTO: Yes, Your Honor.

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

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

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

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

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

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

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

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

9 THE COURT: Ms. Holmes?

10 MS. HOLMES: Yes, Your Honor.

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

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

23 THE COURT: Has he complied with the GPS?

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

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

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

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

9           MS. MARTO: Nothing further, Your Honor.

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

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

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

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

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

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

8           MS. MARTO: Thank you, Your Honor.

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

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

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

17           MS. HOLMES: Thank you, Your Honor.

18           (Pause in the proceedings.)

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

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

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

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

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

7 MS. MARTO: No, Your Honor.

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

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

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

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

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

23 MS. MARTO: Understood.

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

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

9 MS. MARTO: I understand, Judge.

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

14 MS. HOLMES: Thank you, Your Honor.

15 MS. MARTO: Thank you, Judge.

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

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

CASE NAME/NUMBER: State v. Curtis Lemon

1998-GS-10-01814

DATE OF HEARING: 11/13/23

\*\*\*\*\*

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

*Bobbi Fisher*

/s/ Bobbi Fisher\_\_\_\_\_

Bobbi Fisher, RPR, Court Reporter III

Date Submitted: 9/18/24

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

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

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

December 18, 2023

B E F O R E:

The Honorable Jennifer McCoy, Presiding Judge

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

Kescia Holmes, Probation

Chelsey Marto, Esq.  
Attorney for the Defendant

Recorded by: DCRP Court Monitor Caressa Johnson

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

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I N D E X

DESCRIPTION	PAGE
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E X H I B I T S

(None.)

COURT REPORTER LEGEND

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

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

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

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

4 It is Curtis Lemon.

5 THE COURT: Okay.

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

7 THE COURT: Okay. Got it.

8 (Pause in the proceedings.)

9 THE COURT: How are you?

10 MS. MARTO: Judge, how are you?

11 THE COURT: Fine. Tell me your name.

12 MS. MARTO: Chelsey Marto.

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

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

15 THE COURT: Okay.

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

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

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

19 THE COURT: Solo. Got it.

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

21 THE COURT: Wonderful.

22 How are you, Mr. Lemon?

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

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

25 Department of Probation and Parole has alleged you have

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

4 THE DEFENDANT: Yes, ma'am.

5 THE COURT: Yes, ma'am.

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

9 THE COURT: Mm-hmm.

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

16 THE COURT: Mm-hmm.

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

19 THE COURT: Okay.

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

22 THE COURT: Okay.

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

25 THE COURT: All right.

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

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

6 THE COURT: Okay.

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

12 THE COURT: Okay.

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

14 THE COURT: All right.

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

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

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

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

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

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

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

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

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

8 THE COURT: Back in 1999.

9 MS. HOLMES: Yes, Your Honor.

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

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

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

15 THE COURT: It doesn't matter.

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

18 What would you like to tell me about this?

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

23 THE COURT: Uh-huh.

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

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

4 THE COURT: Right.

5 MS. MARTO: And --

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

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

9 MS. MARTO: Yes, Judge.

10 THE COURT: All right.

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

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

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

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

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

6 MS. MARTO: Yes. Exactly.

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

8 MS. MARTO: Okay.

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

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

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

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

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

19 MS. MARTO: Okay.

20 THE COURT: Thank you so much.

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

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

24 THE COURT: Not necessarily.

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

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

2 Thank you, Judge.

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

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

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CERTIFICATE OF TRANSCRIBER

CASE NAME/NUMBER: State v. Curtis Lemon

1998-GS-10-01814

DATE OF HEARING: 12/18/23

COURT REPORTER/MONITOR: DCRP/Caressa Johnson

\*\*\*\*\*

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

*Bobbi Fisher*

/s/ Bobbi Fisher\_\_\_\_\_

Bobbi Fisher, RPR and Certified Transcriber

Date Submitted: 9/20/24

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 5 State, \*  
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 7 CURTIS LEMON, \*  
 8 Defendant.\*  
 -----X

February 12, 2024

B E F O R E:

The Honorable Allison Lee, Presiding Judge

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

Kescia Holmes, Probation

Chelsey Marto, Esq.  
Attorney for the Defendant

Recorded by: DCRP Court Monitor Maria-Emanuel Klein

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

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

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

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

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

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

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

THE COURT: Thank you.

On behalf of Curtis Lemon is?

MS. MARTO: Chelsey Marto, Your Honor.

THE COURT: Yes, ma'am?

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

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

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

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

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

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

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

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

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

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

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

8 THE COURT: And you are Curtis Lemon?

9 THE DEFENDANT: Yes, ma'am.

10 THE COURT: How old are you, sir?

11 THE DEFENDANT: 66.

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

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

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

16 THE DEFENDANT: Yes, ma'am.

17 THE COURT: Yes, Ms. Marto?

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 supervision.

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

6 MS. HOLMES: Thank you, Your Honor.

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

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

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

16 THE COURT: And, under community supervision --

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

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

24 THE DEFENDANT: That's what --

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

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

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

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

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

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

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

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

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

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

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

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

13          THE DEFENDANT: Yeah.

14          THE COURT: You'll need to --

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

17          THE COURT: Yes, sir.

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

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

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

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

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

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

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

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

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

19 THE COURT: Well, then --

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

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

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

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

5 THE DEFENDANT: I will do the polygraph.

6 THE COURT: All right.

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

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

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

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

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

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

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

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

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

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CERTIFICATE OF TRANSCRIBER

CASE NAME/NUMBER: State v. Curtis Lemon

1998-GS-10-01814

DATE OF HEARING: 2/12/24

COURT REPORTER/MONITOR: DCRP/Maria-Emanuel Klein

\*\*\*\*\*

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

*Bobbi Fisher*

/s/ Bobbi Fisher\_\_\_\_\_

Bobbi Fisher, RPR and Certified Transcriber

Date Submitted: 9/20/24

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F576997

FILED

STATE OF SOUTH CAROLINA  
COUNTY OF CHARLESTON

2024 FEB 13 PM 1:35

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

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

JULIE J. ARMSTRONG  
CLERK OF COURT  
BY MSS

Community Supervision  
REVOCATION ORDER

RECEIVED  
Jul 03 2024  
SC Court of Appeals

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

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

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

This 12 day of FEB, 2024  
Chas.

[Signature]  
Presiding Judge  
gm  
Judicial Circuit

This is to certify that I have received this order.

Offender=s  
Signature

12 Unavailable to sign  
FEB 2024

Witnessed by

[Signature]  
Chas.

F576997

59

FILED

IN THE COURT OF GENERAL SESSIONS

STATE OF SOUTH CAROLINA  
COUNTY OF CHARLESTON

2024 FEB 13 PM 1:35

No. 98 -GS- 10 - 01814  
Count

Community Supervision  
REVOCATION ORDER

STATE

-vs-

CURTIS LEMON

Defendant

00160348

SID #

SCDC# or DOB

JULIE J. ARMSTRONG  
CLERK OF COURT

BY MSS

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

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

RECEIVED

Jul 03 2024

SC Court of Appeals

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

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

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

This 12 day of Feb, 2024  
Chas.

Al Renee Lee  
Presiding Judge  
9th  
Judicial Circuit

This is to certify that I have received this order.

Offender's  
Signature

12 Unavailable to sign  
FEB 2024

Witnessed by

Chas.

FILED

F576997

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

2024 FEB 20 AM 11:00

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

JULIE J. ARMSTRONG  
CLERK OF COURT

v. )

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

Curtis Lemon )  
\_\_\_\_\_)

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

**Argument**

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

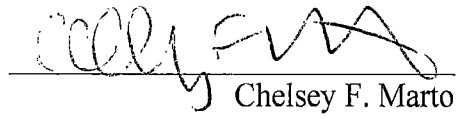
community supervision probation with modified conditions that permit him to avoid counseling and a polygraph test.

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

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

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

supervision violation hearing to take place.



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**For Defendant Curtis Lemon**

February 15, 2024

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

Jul 03 2024

F 576997

STATE OF SOUTH CAROLINA )  
COUNTY OF CHARLESTON )

IN THE COURT OF GENERAL SESSIONS )  
FOR THE NINTH JUDICIAL CIRCUIT )

SC Court of Appeals

State of South Carolina, )

Case No.: 1998-GS-10-1814

v. )

Curtis Lemon. )

**ORDER DENYING MOTION  
FOR RECONSIDERATION**

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

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

**Procedural History**

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

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

1 arb #1

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

### **CSP Procedural History**

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

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

### **Summary of the Arguments**

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

success.

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

**Findings of Fact and Conclusions of Law**

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

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

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

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

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

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

*Id.*

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

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

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

Conclusion

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

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

*Alison R. Lee*

ALISON R. LEE  
Presiding Judge  
Ninth Judicial Circuit

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

FILED

5 *and #5*