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Jan 28 2026
SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Kershaw County

Honorable Robert E. Hood, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

JONATHAN DWAYNE WILSON,

APPELLANT

APPELLATE CASE NO. 2024-002184

ANDERS BRIEF OF APPELLANT

KATHRINE H. HUDGINS
Senior Appellate Defender

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STATEMENT OF ISSUE ON APPEAL

Did the trial judge err in refusing to grant a new trial when the jury deliberated for less than three hours and the State's evidence was not overwhelming?

STATEMENT OF THE CASE

In July of 2018, the Kershaw County Grand Jury indicted Appellant, Jonathan Dwayne Wilson, for criminal sexual conduct with a minor first degree, indictment #2018-GS-28-0958. (R. p. 752). Almost six years later on April 15, 2024, the case was called for jury trial before the Honorable Robert E. Hood. Jason Kirincich represented Appellant. Michael Bradbury and Christa Bell prosecuted the case. On the second day of trial Judge Hood declared a mistrial when a law enforcement officer testified that she offered Appellant a polygraph. (R. p. 347, line 11 – p. 348-350, lines 1-9).

The case was again called for trial before Judge Hood on December 16, 2024. Jason Kirincich again represented Appellant. Michael Bradbury and Christa Bell again prosecuted the case. The jury returned with a verdict of guilty. Judge Hood sentenced Appellant to twenty-five (25) years. A timely notice of intent to appeal was served on December 23, 2024. This appeal follows.

STANDARD OF REVIEW

"A denial of a new trial based on alleged jury misconduct is reviewed for an abuse of discretion." State v. Zeigler, 364 S.C. 94, 108, 610 S.E.2d 859, 866 (Ct. App. 2005).

ARGUMENT

The trial judge erred in refusing to grant a new trial when the jury deliberated for less than three hours and the State's evidence was not overwhelming.

Facts

At trial seven years later, Minor testified that on November 5, 2017, Appellant digitally penetrated her while she was in a bedroom for a sleepover with five other children - her two stepsisters, her brother, her stepbrother and Appellant's son. (R. p. 561, line 1 – p. 562, 563, lines 1-11; p. 591, lines 4-12). At the time the allegation was made Appellant was staying with his cousin, David Parker, the father of three of the children at the sleepover. One of Minor's stepsisters testified that she woke up several times and saw Appellant in the bedroom. (R. p. 593, lines 3-12). The next morning when Minor's dad picked his two children up from the sleepover, Minor talked with her brother and then told her dad what happened. (R. p. 566, lines 4-21). They returned to the house where the sleepover took place and the dad had a physical confrontation with Appellant. (R. p. 601, line 21 – p. 602, lines 1-10). Appellant denied the allegation. (R. p. 609, lines 13-16). Law enforcement was called. (R. pp. 603-604).

On November 27, 2017, an investigator with the Kershaw County Sheriff's office interviewed Appellant. (R. p. 637, lines 4-6). Appellant again denied the allegations. (R. p. 622, lines 8-20). A redacted copy of the forensic interview with Minor was admitted at trial without objection. (R. pp. 625-626). Appellant testified at trial and again denied the allegations. (R. p. 653, line 19 – p. 654, line 1). Appellant testified that Minor's brother was upset the day of the sleepover when Appellant made the boys go outside because they were arguing and fighting. (R. p. 659, line 6 – p. 660, lines 1-5).

Discussion

The State called seven witnesses at trial - three law enforcement officers, Minor and her stepsister, Minor's dad, and Appellant's cousin. The jury was dismissed after the charge at 10:45 AM. (R. p. 730, line 18). The jury returned with a verdict at 1:39 PM, after less than three hours of deliberation. (R. p. 732, line 12). Appellant moved for new trial and argued:

> In light of the seriousness of this case, the jury never knows what the potential penalty is, but they were made aware that it was a very serious case in the grand scheme of things your Honor, with lunch being ordered, having to wait for deliberations - - or wait to deliberate until evidence was provided to them, your Honor, this was a - - very short deliberation for a case of such a serious nature with what we believe is such little evidence. So Your Honor, we do, at this time, make a motion for a new trial.

(R. p. 739, lines 6-14). The trial judge denied the motion for new trial. (R. p. 739, lines 15-22). The trial judge erred.

In State v. Holland, 261 S.C. 488, 498–99, 201 S.E.2d 118, 123 (1973), the South Carolina Supreme Court wrote:

> In State v. Chandler, 126 S.C. 149, 119 S.E. 774, we held in a murder prosecution that the defendant had a fair and impartial trial, though the jury took only nineteen minutes to arrive at a verdict. In the recent case of State v. DeWitt, 254 S.C. 527, 176 S.E.2d 143, we held: "There is no prescribed length of time for a jury to reach a verdict. Such must of necessity be left to the judgment of the jury. Something more must appear, therefore. to warrant interference with a jury's verdict than the mere brevity of their deliberations. 23A C.J.S. Criminal Law s 1368, at page 976."

In the present case there is more than the brevity of the jury deliberations to support the grant of new trial. In the present case the State's evidence was based on the testimony of Minor. Credibility was a key issue for the jury to determine as there was not overwhelming evidence of guilt. There was no physical evidence, no confession, no DNA evidence, and no corroborating evidence. The stepsister's testimony merely placed Appellant in the room with the five other children, including Appellant's son. The present is distinguished from the

murder cases of Holland and Chandler and the grand larceny case of DeWitt [1] where it was clear a crime had been committed and the jury only needed to determine who committed the crime. In the present case the jury had to determine if a crime had been committed at all in addition to determining who committed the crime.

"Surprisingly, no criminal case has been found in which haste or shortness of time taken by a jury in arriving at its verdict was held to amount to reversible error; in a small number of civil cases the contrary conclusion has been reached." 91 A.L.R.2d 1238 (Originally published in 1963) (n. #4 omitted). In a case where there is not overwhelming evidence of guilt or of a crime being committed at all, as in this case, the brief amount of time it took the jury to reach a guilty verdict warrants a new trial. The lack of evidence and brevity of deliberations indicate Appellant did not receive a fair and impartial trial and the verdict was the result of jury misconduct.

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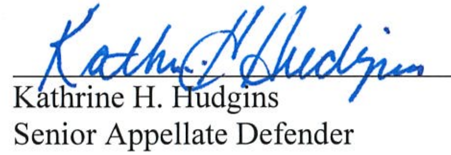
[1] State v. Dewitt, 254 S.C. 527, 176 S.E.2d 143 (1970).

CONCLUSION

Based on the above argument, this Court should reverse the conviction and remand for new trial.



Kathrine H. Hudgins
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This 28th day of January, 2026.

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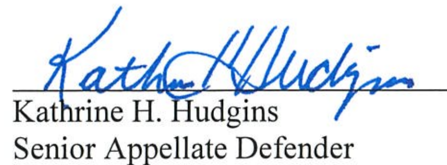
PETITION TO BE RELIEVED AS COUNSEL

Counsel for Jonathan Dwayne Wilson states:

1. She is Senior Appellate Defender for the South Carolina Office of Appellate Defense, and was appointed to represent appellant.
2. She has reviewed the record of appellant's trial before Judge Robert E. Hood, which was held on April 15-16, 2024 & Dec. 16-18, 2024, and, in her opinion, the appeal is without legal merit sufficient to warrant a new trial.
3. She has, pursuant to Anders v. California, 386 U.S. 738, 87 S. Ct. 1396 (1967), briefed an arguable legal issue which arose during the course of the trial.

Wherefore, she asks the Court to relieve her as counsel for Jonathan Dwayne Wilson.

Respectfully Submitted,



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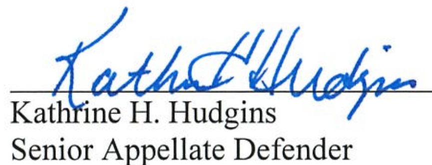
DESIGNATION OF MATTER TO BE INCLUDED IN RECORD ON APPEAL

Appellant proposes the following be included in the Record on Appeal:

(1) True-billed indictment and sentencing sheet;
(2) April 15-16, 2024, Trial transcript pp. 1- 351 ending in mistrial;
(3) December 16-18, 2024, Trial transcript pp. 1-400.

I certify that this designation contains no matter which is irrelevant to this appeal.



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ATTORNEY FOR APPELLANT

This 28th day of January, 2026.

CERTIFICATE OF COUNSEL

The undersigned certifies that to the best of my ability this Anders Brief of Appellant complies with Rule 211(b), SCACR, and 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."

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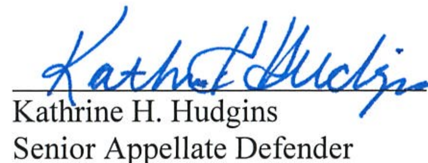
CERTIFICATE OF SERVICE

Pursuant to Rule 262(a)(3) and Rule 262(c)(3), SCACR, the undersigned hereby certifies a true copy of the Anders Brief of Appellant and Designation of Matter in the above-referenced case has been served upon Mark Farthing, Esquire, at the primary e-mail address listed in the Attorney Information System (AIS); and on Jonathan Dwayne Wilson, #273439, at Evans Correctional Institution, 610 Hwy. 9 West, Bennettsville, SC 29512, this 28th day of January, 2026.



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