THE STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
COUNTY OF ANDERSON) FOR THE TENTH JUDICIAL CIRCUIT

State of South Carolina) Warrant No. 2024-A04-101-01842
) Indictment No. 2025-GS-04-01795

vs.) **Order**
) **Transferring Case to Family Court**

Michael Jaedyn Smith)

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This matter came before this Court, on December 2, 2025, on Mr. Smith's motion to transfer this matter from General Sessions Court to Family Court. Charles Grose represented Mr. Smith, and Derek Polsinello repressed the State. For the reasons set forth below, this Court finds and concludes this motion should be granted and this matter transferred to the Family Court.

FINDINGS OF FACT

The State charged Mr. Smith with one count of second-degree criminal sexual conduct with a minor. The arrest warrant[1] alleges:

> That between January 1, 2017 and July 14, 2017 in the County of Anderson, one Michael Jaedyn Smith did engage in sexual battery by penetrating the anus of a minor child several times with his penis with the victim being between eleven and fourteen years old and the defendant being more than three years older than the victim.

Mr. Smith's date of birth is January 31, 2001. This Court, accordingly, finds that Mr. Smith turned sixteen years old on January 31, 2017. Additionally, Mr. Smith was twenty-three years old when he was arrested on or about September 16, 2024 and twenty-four years old when he was indicted on August 19, 2025.

[1] Mr. Smith also argues that the timeframes in the arrest warrant cannot be correct based on his investigation. This Court cannot resolve this argument without taking testimony. For the purposes of this motion, this Court accepts the allegations of the arrest warrant, including the time frame. Based on the allegations, this Court finds and concluded that this motion should be granted.

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CONCLUSIONS OF LAW

Mr. Smith contends S.C. Code Ann. §§ 63-19-20(1) and 63-19-1210(1) require this Court to transfer this case to the Family Court because he was a child at the time of the alleged offense. The State argues jurisdiction is proper in the Court because Mr. Smith did not meet the definition of a child at the time of the alleged offense.[2] Resolution of this motion is a matter of statutory interpretation. "An elementary and cardinal rule of statutory construction is that courts must ascertain and effectuate the actual intent of the Legislature." *State v. McGrier*, 378 S.C. 320, 328, 663 S.E.2d 15, 19 (2008). "When a statute is penal in nature, it must be strictly construed against the State and in favor of the defendant." *Nelson v. Ozmint*, 390 S.C. 432, 436, 702 S.E.2d 369, 371 (2010) (citing *State v. Blackmon,* 304 S.C. 270, 273, 403 S.E.2d 660, 662 (1991)).

S.C. Code Ann. § 63-19-1210(1) provides:

> If, during the pendency of a criminal or quasi-criminal charge against a child in a circuit court of this State, it is ascertained that the child was under the age of eighteen years at the time of committing the alleged offense, it is the duty of the circuit court immediately to transfer the case, together with all the papers, documents, and testimony connected with it, to the family court of competent jurisdiction, except in those cases where the Constitution gives to the circuit court exclusive jurisdiction or in those cases where jurisdiction has properly been transferred to the circuit court by the family court under the provisions of this section.

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[2] The State relies on *State v. Graham*, 340 S.C. 352, 354, 532 S.E.2d 262, 263 (2000), which involved the statutory interpretation of "the definition of "child" in § 20-7-390, [that] exclude[d] those persons sixteen years of age who are charged with Class A, B, C, or D felonies or felonies punishable by a maximum term of imprisonment of 15 years or more." Although *Graham* applied the correct statutory interpretation at the time, this motion involves a statute that was after *Graham* and requires a current statutory interpretation. This Court also notes that the General Assembly moved the Children's Code from Title 20 to Title 63 of the South Carolina Code in 2008. 2008 S.C. Act. No. 361.

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S.C. Code Ann. § 63-19-1210(3) further provides, "When an action is brought in a circuit court which, in the opinion of the judge, falls within the jurisdiction of the family court, he may transfer the action upon his own motion or the motion of any party."

This Court, therefore, must look to the definition of a "child." S.C. Code Ann. § 63-19-20(1) currently provides:

> "Child" or "juvenile" means a person less than eighteen years of age. "Child" or "juvenile" does not mean a person seventeen years of age or older who is charged with a Class A, B, C, or D felony as defined in Section 16-1-20 or a felony which provides for a maximum term of imprisonment of fifteen years or more. However, a person seventeen years of age who is charged with a Class A, B, C, or D felony as defined in Section 16-1-20 or a felony which provides for a maximum term of imprisonment of fifteen years or more may be remanded to the family court for disposition of the charge at the discretion of the solicitor. An additional or accompanying charge associated with the charges contained in this item must be heard by the court with jurisdiction over the offenses contained in this item.

The General Assembly adopted this version of section 63-19-20(1) by 2016 S.C. Act 268, § 2. "This act [took] effect on July 1, 2019." *Id.*, § 12. The Savings Clause of this Act provides, "After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any ***pending . . . criminal prosecution . . . existing as of the effective date of this act***." *Id.*, § 11 (emphasis added). Even though the prior version of this section contained a different definition of "child,"[3] the current definition of a "child" applies. There was not a criminal prosecution pending against Mr. Smith at the time the current version of section 63-19-20(1) became effective, meaning the savings clause does not operate to allow this prosecution to occur in the circuit court.[4]

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[3] Prior to this amendment, section 63-19-20(1) provided, "'Child' or 'juvenile' does not mean a person sixteen years of age or older who is charged with a Class A, B, C, or D felony as defined in Section 16–1–20 or a felony which provides for a maximum term of imprisonment of fifteen years or more."

THEREFORE, IT IS ORDERED that this matter is transferred from the Court of General Sessions to the Family Court of Anderson County. The Clerk of Court for the Court of General Sessions shall transfer the court file in this matter to the Clerk of Court for the Family Court.

IT IS SO ORDERED.

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R. Lawton McIntosh
Presiding Judge, Tenth Judicial Circuit

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[4] *See*, e.g., *State v. Varner*, 310 S.C. 264, 265, 423 S.E.2d 133, 133 (1992) ("the common law requires that a convicted criminal receive the punishment in effect at the time he is sentenced, unless it is greater than the punishment provided for when the offense was committed"); *State v. Lewis*, 321 S.C. 146, 149, 467 S.E.2d 265, 267 (Ct. App. 1996) ("the indictment was defective because it charged Lewis with a felony under the amended statute as opposed to a misdemeanor under the version in effect at the time of the crime and his indictment. Because this defect was apparent from the face of the indictment"). This Court, accordingly, concluded that Mr. Smith is entitled to the benefit of the change in the law that occurred before he was arrested and indicted.

Additionally, this Court is aware that "[t]ime is not a material element of . . . criminal sexual conduct with a minor." *State v. Tumbleston*, 376 S.C. 90, 101, 654 S.E.2d 849, 855 (Ct. App. 2007). The current motion involves jurisdiction, and this Court does not have jurisdiction over an offense committed when Mr. Smith was a juvenile.

STATE OF SOUTH CAROLINA **COUNTY OF ANDERSON**	)	**IN THE COURT OF GENERAL SESSIONS** **TENTH JUDICIAL CIRCUIT**
STATE OF SOUTH CAROLINA	)	
vs.	)	Indictment No.: 2025-GS-04-01795
MICHAEL J. SMITH, DEFENDANT.	)	**ORDER**

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State's motion to reconsider order transferring case to family court is denied without necessity of a formal order. If formal order is requested, order is to be completed by Ernest C. Grose Jr..

IT IS SO ORDERED.

R. Lawton McIntosh
Presiding Judge
Tenth Judicial Circuit

May 1, 2026
Anderson, South Carolina

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