STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Florence County

Honorable D. Craig Brown, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

VANCE ROSS,

APPELLANT

APPELLATE CASE NO 2017-001045

INITIAL BRIEF OF APPELLANT

KATHRINE H. HUDGINS
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1330

ATTORNEY FOR APPELLANT

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STATEMENT OF ISSUES ON APPEAL

1. Did the trial judge err in refusing to quash as unconstitutionally overbroad and vague an indictment alleging seven counts of criminal sexual conduct with a minor between February 1, 2013, and July 31, 2014, because the lack of specificity within the time frame failed to provide sufficient notice and the time frame was not narrowed as much as possible?

2. Did the trial judge err in refusing to grant a directed verdict of acquittal on one of the two counts of criminal sexual conduct involving oral sex with Minor #1 when the State failed to present any evidence that there was more than one instance of oral sex involving Minor #1?

STATEMENT OF THE CASE

In January of 2016, the Florence County Grand Jury indicted Appellant, Vance Ross, for eight counts of criminal sexual conduct with a minor first degree and one count of criminal sexual conduct with a minor third degree, indictment #2016-GS-21-00122. On April 17, 2017, Appellant proceeded to jury trial on counts three through nine of the indictment before the Honorable D. Craig Brown. Thurmond Brooker represented Appellant at trial. David Richardson prosecuted the case. The jury found Appellant not guilty of count seven but guilty of the remaining six counts. Judge Brown sentenced Appellant to concurrent life sentences on each count. A timely notice of intent to appeal was filed on April 27, 2017. This appeal follows.

ARGUMENTS

1. **The trial judge erred in refusing to quash as unconstitutionally overbroad and vague an indictment alleging seven counts of criminal sexual conduct with a minor between February 1, 2013, and July 31, 2014, because the lack of specificity within the time frame failed to provide sufficient notice and the time frame was not narrowed as much as possible.**

Prior to trial Appellant moved to quash the indictment based on State v. Baker, 411 S.C. 583, 769 S.E.2d 860 (2015). (Tr. pp. 31-61). In finding the indictments unconstitutionally overbroad in Baker, the South Carolina Supreme Court discussed the constitutional and statutory requirements of an indictment and wrote: "An indictment is a critical document in criminal defense preparation that is grounded in constitutional and statutory principles. *See* S.C. Const. art. I, § 11 ("No person may be held to answer for any crime the jurisdiction over which is not within the magistrate's court, unless on a presentment or indictment of a grand jury of the county where the crime has been committed...."); S.C.Code Ann. § 17–19–10 (2014) ("No person shall be held to answer in any court for an alleged crime or offense, unless upon indictment by a grand jury...."). " 411 S.C. at 588-89, 769 S.E.2d at 863.

The indictment in the present case contained nine counts. The State did not proceed on counts one and two. Counts three, eight and nine involve Minor #2 and counts four, five, six and seven involve Minor #1. Appellant was found not guilty of count seven. All seven counts begin with the following language, "That Vance Ross did in Florence County, State of South Carolina, between the dates of February 1, 2013, and July 31, 2014, willfully and unlawfully commit the crime of Criminal Sexual Conduct with a Minor in the First Degree by engaging in sexual battery with a minor who is less than eleven (11) years of age, to wit: . . ." (R. p. **). The individual counts then read as follows:

Count Three: Victim Minor #2, whose date of birth is ****, by putting his penis inside of her mouth, in violation of Section 16-3-655(A)(1), S.C Code of Laws, 1976, as amended.

Count Four: Victim Minor #1, whose date of birth is ****, by putting his penis inside of her mouth, in violation of Section 16-3-655(A)(1), S.C Code of Laws, 1976, as amended.

Count Five: Victim Minor #1, whose date of birth is ****, by putting his penis inside of her mouth, in violation of Section 16-3-655(A)(1), S.C Code of Laws, 1976, as amended.

Count Six: Victim Minor #1, whose date of birth is ****, by putting his penis inside of her vagina and mouth, in violation of Section 16-3-655(A)(1), S.C Code of Laws, 1976, as amended.

Count Seven: Victim Minor #1, whose date of birth is ****, by putting his penis inside of her vagina, anus and mouth, in violation of Section 16-3-655(A)(1), S.C Code of Laws, 1976, as amended.

Count Eight: Victim Minor #2, whose date of birth is ****, by putting his penis in her vagina, in violation of Section 16-3-655(A)(1), S.C Code of Laws, 1976, as amended.

Count Nine: Victim Minor #2, whose date of birth is ****, by putting his penis in her vagina, in violation of Section 16-3-655(A)(1), S.C Code of Laws, 1976, as amended.

(R. p. **). There is no other reference in the counts of the indictment as to when during the eighteen month time frame the alleged acts occurred.

Appellant argued that the indictment lacked the specificity required by Baker. (Tr. p. 47, lines 9-20; p. 49, lines 8-15; p. 52, line 17 – p. 53, lines 1-12). Appellant argued that the counts of the indictment could not be distinguished from one another. (Tr. p. 40, lines 4-17). Appellant referenced double jeopardy (Tr. p. 37, lines 3-6) and argued, "And then, of course, is is that if he is acquitted – if he is equally acquitted of two or four of these offenses, then, of course, the question then becomes is is that if he's acquitted of Count 5, Count 6, Count 7, Count 8, you know, then is there sufficient enough information where he can recognize what he has been acquitted of or the Court can make a determination with what he has been acquitted of?

Absolutely none whatsoever." (Tr. p. 41, lines 3-10). Additionally, Appellant argued that the time frame alleged had not been narrowed as much as possible. (Tr. p. 46, lines 8-21).

The judge denied the motion to quash the indictment stating:

> While the Court in Baker certainly drew the line on a six-year time limit, the Court did not overrule -- and I won't say a per se two-year or per se three-year timeline. The Court did say that these cases are to be looked at by looking at the entire surrounding circumstances existing pretrial to determine whether or not the defendant has been prejudiced, whether or not he's been taken by surprise, and hence unable to combat the charges against him.
>
> The defendant was indicted for each of these charges and offenses back in January of 2016, and I do not believe that it would be appropriate for this Court to quash those indictments in light of the fact that State v. Wade, State v. Tumbleston -- I believe those are still good law and the Court drew a hard and fast line, so to speak, on a six-year limit. But your objection is so noted.

(Tr. p. 61, lines 4-17). The trial judge erred. Neither the time frame alone nor the amount of time from indictment until trial alone is dispositive in determining the sufficiency of the indictment. The test as to the sufficiency of the indictment, as discussed below, centers on notice with specificity and considers a variety of factors including the timing of indictment, whether the circumstances of the case warrant an expanded time frame, length of the expanded time frame and whether the time frame was narrowed a much as possible. The indictment in the present case lacks the minimum specificity required in order to be sufficient. The lack of specificity within the expanded time frame of the counts of the indictment failed to provide sufficient notice.

In Baker the Court relied on language from State v. Gentry, 363 S.C. 93, 610 S.E.2d 494 (2005) in addressing the sufficiency of an indictment writing:

> If a defendant raises a timely challenge to the sufficiency of an indictment, the reviewing court is charged with: determining whether (1) *the offense is stated with sufficient certainty and particularity* to enable the court to know what judgment to pronounce, and *the defendant to know what he is called upon to answer* ***and***

> *whether he may plead an acquittal* or conviction thereon; and (2) whether it apprises the defendant of the elements of the offense that is intended to be charged. Gentry, 363 S.C. at 102–03, 610 S.E.2d at 500 (emphasis added). "In determining whether an indictment meets the sufficiency standard, the trial court must look at the indictment with a practical eye in view of all the surrounding circumstances." State v. Tumbleston, 376 S.C. 90, 97, 654 S.E.2d 849, 853 (Ct.App.2007). In doing so, "one is to look at the 'surrounding circumstances' that existed pre-trial, in order to determine whether a given defendant has been 'prejudiced,' i.e., taken by surprise and hence unable to combat the charges against him." State v. Wade, 306 S.C. 79, 86, 409 S.E.2d 780, 784 (1991).

State v. Baker, 411 S.C. 583, 589, 769 S.E.2d 860, 863-64 (2015), reh'g denied (Apr. 9, 2015).

The indictment in the present case lacks the certainty and particularity to know what Appellant was called upon to answer to each count **and** whether he may have plead an acquittal or conviction thereon. Without some distinguishing factor, for example a location, the offenses in these counts are not stated with sufficient certainly and particularity to enable the Appellant to know the accusations and determine if he has a defense to one or more counts or if he should plead guilty to some counts and demand a jury trial on the others. Without more specificity, the six counts upon which Appellant was convicted and the one count upon which he was found not guilty would not bar a subsequent prosecution.

In Baker the time frame in the indictment was expanded, right before trial, to cover a six year period. The Court held:

> Given the expansive time frame and lack of specificity as to this time frame, we can only conclude Baker was prejudiced by the defects in the indictments. Although we recognize the difficulty the prosecution faces in identifying exact dates in child sexual abuse cases, the class of criminal case should not translate into an exception that operates to circumvent constitutional and statutory principles.
>
> Accordingly, we hold the trial judge erred in refusing to quash the indictments as the non-specific, six-year period covered in the indictments was unconstitutionally overbroad because it lacked specificity as to when the alleged acts occurred.

Baker 411 S.C. at 592, 769 S.E.2d at 865. The fact that the time frame in the present case is eighteen months, rather than six years, and was not expanded prior to trial does not render the indictment sufficient. The indictment in the present case is insufficient like the indictment in Baker because it lacks the specificity required. The lack of specificity within the expanded time frame did not provide sufficient notice.

According to the minors, the alleged incidents occurred in three general locations: 1.) two hotels; 2.) in a vehicle in the driveway at grandma's house; and 3.) at the park. (Tr. p. 101, lines 11-16; p. 157, lines 7-11). Count three is the only count that alleges oral sex involving Minor #2. According to Minor #2 oral sex took place once at the Thunderbird Motel (Tr. p. 160, lines 11-19) and more than once in the driveway. (Tr. p. 169, lines 10-15). Because of the lack of specificity in count three of the indictment, it is impossible for Appellant to determine if the count applies to the allegation at the Thunderbird Motel or the allegation in the driveway. It is impossible to determine upon which incident the jury based the guilty verdict. S.C. Code Ann. § 17-23-10 provides, "In any plea of autrefois acquit or autrefois convict it shall be sufficient for any defendant to state that he has been lawfully acquitted or convicted, as the case may be, of the offense charged in the indictment." The charge contained in count three of the indictment, however, is nonspecific. Appellant could state that he was previously convicted of count three, pursuant to S.C. Code §17-23-10, but, based on the non-specific nature of the charge in count three, a court in a subsequent prosecution would be unable to determine which incident the jury based the guilty verdict. The State could assert that the count three conviction was for the driveway incidents and nothing would bar a subsequent prosecution for the Thunderbird incident.

Counts four and five of the indictment are identical and both allege only oral sex involving Minor #1. Count six alleges both oral and vaginal sex involving Minor #1. Count seven alleges oral, vaginal and anal sex involving Minor #1. Minor #2 testified that she observed oral sex involving Minor #1 in the driveway. (Tr. p. 169, lines 21-25). A discussed in issue two below, although there are two counts alleging only oral sex with Minor #1, counts four and five, the record only supports one incident of oral sex involving Minor #1. (Tr. p. 169, lines 21-25). Minor #2 testified that she observed anal sex involving Minor #1 at the Howard Johnson Motel. (Tr. p. 164, lines 5-15). Appellant was found not guilty of count seven, the only count alleging anal sex. It is impossible, however, to determine if the jury found Appellant not guilty of the anal allegation contained in count seven or the oral and vaginal allegations contained in count seven.

Minor #1 testified that vaginal sex took place at the Thunderbird Motel (Tr. p. 120, lines 4 – 14) and in the driveway (Tr. p. 108, lines 16-20). Only two of the counts, counts six and seven, allege vaginal sex and Appellant was found not guilty of count seven. Because of the lack of specificity in counts six and seven of the indictment, it is impossible for Appellant to determine if count six, the count of conviction, applies to the allegation at the Thunderbird Motel or the allegation in the driveway. It is impossible to determine upon which incident the jury based the guilty verdict. A court reviewing a double jeopardy claim in a subsequent prosecution would not be able to determine if Appellant was convicted of the Thunderbird Motel allegation or the driveway at grandma's allegation. Equally important, a court reviewing a double jeopardy claim in a subsequent prosecution would not be able to determine what Appellant was found not guilty of in count seven.

Counts eight and nine are identical and both allege only vaginal sex involving Minor #2. Minor #2 testified that vaginal sex took place more than once but less than five times at the Thunderbird Motel. (Tr. p. 160, line 20 – p. 161, line 1). Minor #2 testified that vaginal sex took place more than once but less than five times in the driveway at her grandma's house. (Tr. p. 170, lines 10-17). Because of the lack of specificity in counts eight and nine of the indictment, it is impossible for Appellant to determine if the counts apply to the allegations at the Thunderbird only, or the allegations in the driveway only or one of each. A court reviewing a double jeopardy claim in a subsequent prosecution would not be able to determine if Appellant was convicted of the Thunderbird Motel allegations or the driveway at grandma's allegations.

Tumbleston and Wade both challenged the sufficiency of the indictment based on expanded time frames. Appellant's challenge involves the expanded time frame and the lack of specificity in the counts of the indictment. This lack of specificity within the expanded time frame did not provide sufficient notice. The lack of specificity within the expanded time frame made it impossible for Appellant to know what charges he must defend against and impossible for a subsequent court to determine upon what conduct Appellant was convicted and acquitted barring subsequent prosecution.

In Tumbleston, the defendant moved to quash the indictments as insufficient because the indictments failed to allege the specific time of each offense intended to be charged. Tumbleston was indicted on four counts of criminal sexual conduct with a minor and one count of attempting a lewd act on a minor. Each indictment for criminal sexual conduct with a minor alleged a different sexual act: fellatio, cunnilingus, digital penetration and sexual intercourse. Tumbleston was found guilty of two counts of criminal sexual conduct with a minor and lewd act. The jury acquitted Tumbleston of indictment #2005-GS-10-807 alleging fellatio. The judge directed a verdict of not

guilty on indictment #2005-GS-10-809 alleging digital penetration. Finding the indictments sufficient, this Court in Tumbleston wrote:

> Time is not a material element of either first-degree criminal sexual conduct with a minor or committing a lewd act on a minor. *See* S.C.Code Ann. §§ 16-3-655, 16-15-140 (2003 and Supp.2006). The State is not required to denote the precise day, or even year, of the accused conduct in an indictment charging criminal sexual conduct. Thompson, 305 S.C. at 501, 409 S.E.2d at 423. Indeed, indictments for a sex crime that allege offenses occurred during a specified time period are sufficient **when the circumstances of the case warrant considering an extended time frame.** Nicholson, 366 S.C. at 574, 623 S.E.2d at 103; . . .

376 S.C. at 101–02, 654 S.E.2d at 855 (emphasis added). The Court in Tumbleston found that the circumstances of the case warranted the broader time frame writing, "The stealth and repetitive nature of the alleged conduct compels identification of the broader time period. The victim is a young child, whom one cannot reasonably expect to recall the exact dates of the sexual abuse. B.J. verified the abuse began while she was in kindergarten, and she ensured the end of the abuse when she disclosed the offenses to her mother." Tumbleston, 376 S.C. at 102, 654 S.E.2d at 855 (Ct. App. 2007).

In the present case, Appellant does not argue that the indictment must allege the specific time of each offense. Instead, Appellant argues that because the State sought an eighteen month time frame, the State should be required to show that the circumstances of the case warrant considering an extended time frame. No such showing was made. Additionally, each indictment in Tumbleston alleged a different sexual act during the extended time frame. No such distinction was made in the counts of the indictment in present case. Without some distinguishing factor, for example a location, the offenses in these counts are not stated with sufficient certainly and particularity to enable Appellant to know what he is called upon to answer and whether he may plead an acquittal or conviction. Even if the Court had found that the circumstances of the case

warranted an expanded time frame, the lack of specificity within the expanded time frame of the counts in the indictment did not provide sufficient notice.

In Wade the defendant urged the Court to adopt a *per se* rule that a two year time period alleged in an indictment is unconstitutionally overbroad. The South Carolina Supreme Court declined to adopt a *per se* rule and instead viewed the sufficiency of the indictment from a practical standpoint, with all the circumstances of the particular case in mind. In Wade the Court wrote:

> **In this case, the indictment time span was narrowed as much as possible under the circumstances.** The victim was eight years old at the time of trial. She testified that the sexual offense occurred on only one occasion. She was unable to pinpoint the exact date on which this offense took place. The defendant testified that he was in the vicinity of the victim at relatively few times. The defendant lived in Athens, Georgia for much of the time of the indictment period. He claimed that from March to May of 1984, he returned to North Augusta (where the victim resided) one night a week to visit his wife and children. After this, the defendant testified that he returned to North Augusta only four times through December of 1985. The first was Christmas Day in 1984; the second was over the July Fourth weekend in 1985; the third was a one day visit in August of 1985; and the fourth was for a wedding in October of 1985.

306 S.C. at 84, 409 S.E.2d at 783. (emphasis added).

Unlike Wade who was around the minor limited times, Appellant was frequently around the minors during the eighteen month time frame. Additionally, there were multiple allegations in the present case rather than the single allegation in Wade. Although the State was aware that the minors alleged that the incidents took place in three general locations, the State failed to link the locations to a more specific time frame. There is nothing to demonstrate that the State attempted to narrow the time span as much as possible as in Wade.

Petitioner is not asking for a *per se* rule in regard to expanded time frames. Instead, the reading of Baker, in conjunction with Tumbleston and Wade, establishes that expanded time frames may be constitutionally sound only when the circumstances of the case warrant an

expanded time frame, the time frame is narrowed as much as possible and the indictment provides enough detail to provide sufficient notice within the expanded time frame. As noted by the South Carolina Supreme Court in Baker, "It is axiomatic that an indictment must include more than the elements of the charged offense." Baker 411 S.C. at 592, 769 S.E.2d at 865. Expanded unspecified time frames should be the exception instead of the norm, should be justified by special circumstances, should be narrowed as much as possible and must provide enough specifics to provide sufficient notice. The State failed to demonstrate that special circumstances justified the expanded time frame. There is nothing in the present record to indicate that the time span was narrowed as much as possible. The lack of specificity within the expanded time frame did not provide sufficient notice.

2. The trial judge erred in refusing to grant a directed verdict of acquittal on one of the two counts of criminal sexual conduct involving oral sex with Minor #1 when the State failed to present any evidence that there was more than one instance of oral sex involving Minor #1.

At the close of the State's case Appellant moved for a directed verdict of acquittal on all counts. (Tr. p. 287, line 22 – p. 288, 289, 290, 291, lines 1-23). Counsel for Appellant specifically argued:

> I think, Your Honor, it's going to be impossible for both Counts 4 and 5 to survive and, of course, is is that Your Honor may have been keeping better notes than I have with all of my talking is is that there was an issue with respect. To whether or not there was a sexual assault in the mouth by penetration by the penis ad then, of course, is is that even if Your Honor accepts the proposition that the was sexual assault – assault by – penetration in the mouth, then, of course, is is that I think there is no testimony that alleges that it occurred on more than one occasion.

(Tr. p. 288, line 19 – p. 289, lines 1-5). Counts four and five alleged only oral sex with Minor #1. In response, the State acknowledged that it was difficult to get Minor #1 to testify about things happening to her and discussed Minor # 2's testimony about what she observed in reference to Minor #1. (Tr. p. 292, lines 11-18). The State argued:

> The issue I think we have to discern is I can't remember exactly how many times she said she observed that. I know we have Court 4 and Count 5, which are strictly oral penetration allegations. Count 6 is – is vaginal and oral, and Count 7 is vaginal, anal, and oral.
>
> I'm not sure what the Court's notes reflect with respect to Minor #2's testimony this morning about what she observed happened to Minor #1, but I recall at least one event of each that she saw the she said she personally observed happened to Minor #1. So at the very least I would ask the Court to hang Count 7 with respect to Minor #1.

(Tr. p. 292, line 19 – p. 293, lines 1-4).

The judge denied the directed verdict motion. In regard to counts four and five of the indictment the judge stated, "Furthermore, there was testimony that the defendant placed his private in Minor #1's mouth once at the Thunderbird. In addition, Minor #2 testified on direct that the defendant placed his private in Minor #1's mouth one time at grandmom's." (Tr. p. 302, line 24 – p. 303, lines 1-3). The trial judge erred. According to both Minor #1 and Minor #2 Appellant tried but was unsuccessful in putting his penis in Minor #1's mouth at the Thunderbird Motel.

During direct examination of Minor #1 the following took place:

Q: Okay. At any point in the Thunderbird, did he put his private part in your mouth?

A: Yes, sir.

Q: Okay. Tell us about that. Who was – who saw that happen? Who was there when that happened?

A: My sister.

Q: Okay. How did he – did he ask you to do that or did he force you? How did it happen?

A: He had forced me.

Q: Okay. Can you describe it to us? Like, what he actually did?

A: He – he had—he had tried –he had grabbed me. Then he had told me to get down on my knees and then he had tried to put it in my mouth and I had moved it away from my face.

Q: Did – did – did he ever actually get it into your mouth?

A: No.

Q: Never?

A: (Nonverbal response.)

(Tr. p. 119, lines 4-22). Minor #2 testified that Appellant tried to put his penis in Minor #1's mouth at the Thunderbird Motel but Minor #1 did not let him. (Tr. p. 162, lines 6-15).

Both counts four and five of the indictment allege, "That Vance Ross did in Florence County, State of South Carolina, between the dates of February 1, 2013, and July 31, 2014, willfully and unlawfully commit the crime of Criminal Sexual Conduct with a Minor in the First Degree by engaging in sexual battery with a minor who is less than eleven (11) years of age, to wit: Victim Minor #1, whose date of birth is ****, by putting his penis inside of her mouth, in violation of Section 16-3-655(A)(1), S.C Code of Laws, 1976, as amended." There is no evidence that Appellant put his penis in Minor #1's mouth two different times. There is only evidence of one incident of oral sex involving Minor #1. The only evidence came from Minor #2 who testified that she observed oral sex involving Minor #1 while in the driveway at the grandmother's house. (Tr. p. 169, lines 21-25). There is no evidence of oral sex at the

Thunderbird Motel involving Minor #1. The judge should have directed a verdict of acquittal on one of the counts alleging only oral sex, count four or count five.

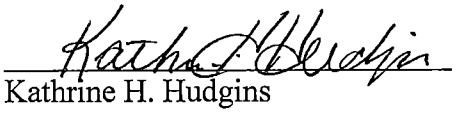
In State v. Larmand, 415 S.C. 23, 29–30, 780 S.E.2d 892, 895 (2015), the South Carolina Supreme Court wrote:

> A defendant is entitled to a directed verdict when the State fails to produce evidence of the offense charged." State v. Walker, 349 S.C. 49, 53, 562 S.E.2d 313, 315 (2002). In reviewing a defendant's motion for a directed verdict, the trial judge is only concerned with the existence of evidence, not with its weight. State v. Butler, 407 S.C. 376, 381, 755 S.E.2d 457, 460 (2014) (citation omitted).
>
> On appeal from the denial of a directed verdict, appellate courts must view the evidence and reasonable inferences in the light most favorable to the State. Id. If there is either any direct evidence or any substantial circumstantial evidence reasonably tending to prove the defendant's guilt, appellate courts must find that the trial judge properly submitted the case to the jury. State v. Cherry, 361 S.C. 588, 593–94, 606 S.E.2d 475, 478 (2004); see also Walker, 349 S.C. at 53, 562 S.E.2d at 315 ("When a motion for a directed verdict is made in a criminal case where the State relies exclusively on circumstantial evidence, the trial judge is required to submit the case to the jury if there is any substantial evidence which reasonably tends to prove the guilt of the accused, or from which his guilt may be fairly and logically deduced." (citation omitted)).

Viewing the evidence in the light most favorable to the State, the State failed to present evidence of oral sex involving Minor #1 at the Thunderbird Hotel. The only evidence of oral sex involving Minor #1 came from Minor #2 who testified that she observed oral sex involving Minor #1 while in the driveway at the grandmother's house. The judge erred in refusing to direct a verdict of not guilty to either count four or count five, the two counts alleging only oral sex with Minor #1.

CONCLUSION

Based on the above argument presented in issue one, this Court should reverse the convictions and sentences. Based on the argument presented in issue two, this Court should reverse and remand for a directed verdict of acquittal on either count four or count five of the indictment.



Kathrine H. Hudgins
Appellate Defender

ATTORNEY FOR APPELLANT

This 7th day of March, 2018.

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Florence County

Honorable D. Craig Brown, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

VANCE ROSS,

APPELLANT

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the Initial Brief of Appellant and Designation of Matter in the above referenced case has been served upon J. Ben Aplin, Esquire, at the Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201; and a copy of the Initial Brief of Appellant and Designation of Matter have been served on Vance Ross, #297223, at Broad River Correctional Institution, 4460 Broad River Road, Columbia, SC 29210, this 7th day of March, 2018.

Kathrine H. Hudgins
Appellate Defender
ATTORNEY FOR APPELLANT

SUBSCRIBED AND SWORN TO before me
this 7th day of March, 2018.

(L.S)
Notary Public for South Carolina
My Commission Expires: July 7, 2027.