

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM DARLINGTON COUNTY

J. Michael Baxley, Circuit Court Judge

RECEIVED

MAY 16 2013

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

KRISTOPHER WILMONT BERRY,

APPELLANT

Appellate Case No. 2011-198246

SUPPLEMENTAL RECORD ON APPEAL

DAYNE C. PHILLIPS
Appellate Defender

ALAN WILSON
Attorney General

CARMEN V. GANJEHSANI
Appellate Defender

CHRISTINA J. CATOE
Assistant Attorney General

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

Office of the Attorney General
PO Box 11549
Columbia, SC 29211
(803) 734-3727

Attorneys for Appellant

Attorneys for Respondent

INDEX

INDEX.....i
PAGE 86 OF THE TRIAL TRANSCRIPT.....1
PAGE 98 OF THE TRIAL TRANSCRIPT.....2

1 MR. CANNARELLA: Yes, sir.

2 MS. BURCH: Yes, Your Honor.

3 THE COURT: All right. Now, one of those is State's 5,
4 which is the camera pictures that are in dispute. I assume
5 that is not in evidence?

6 MR. CANNARELLA: That is just marked.

7 MS. BURCH: Right. But we are not stipulating to
8 Exhibit 5. We are waiting on the Court to rule.

9 THE COURT: All right. For the State 1 through 4, and
10 then 6 through 254 in evidence without objection, Mr.
11 Cannarella?

12 MR. CANNARELLA: Yes, 6 through 254. Yes, sir. I am
13 not stipulating to any nude photographs, I can tell you that.

14 THE COURT: All right. We will take up the issue of
15 Exhibit 5, at a later time.

16 MS. BURCH: Thank you, Your Honor.

17 WHEREUPON, STATE'S EXHIBIT
18 NUMBER 1 THROUGH 4 AND 6 THROUGH
19 254 WERE MARKED AND ADMITTED
20 INTO EVIDENCE WITHOUT OBJECTION.

21 THE COURT: All right. We are told that our last juror
22 has just arrived. So, let's bring in the jury, please.

23 BAILIFF: All right, sir.

24 THE COURT: Thank you.

25 (Whereupon, the jury enters the courtroom

1 law enforcement.

2 Now, throughout the course of the investigation, I want
3 to talk to you about something else that was also learned.
4 You will hear Kayla testify, and the evidence will show, and
5 it will be corroborated in the text messages that the
6 defendant kissed Kayla Johnson. Got her alone in the office
7 portion of the gym just a few days before the phone was found
8 and kissed her. Now, when I say kissed, I'm not talking about
9 smooch, a peck kiss, or a kiss on the forehead, but what we
10 would call a French kiss, and everybody knows what that is.
11 And it is that reason the defendant is also charged with a
12 lewd act on a minor.

13 Now, I want to back up a little bit and talk about how
14 Kayla knew the defendant, Kristopher Berry in this case. She
15 had known him for several years. She was actually friends
16 with his children. He coached her at the Gymnastic Center in
17 Hartsville. And I want you to understand how important
18 gymnastics was in her life. It was a huge part of her life.
19 It was her thing. You know, some kids play football, some
20 girls go to cheerleading, or different sports, but gymnastics
21 was her thing. She loved it. She was really good at it. She
22 spent hours practicing a week. She spent hours upon hours at
23 that gym with Kris Berry, which was a huge time and monetary
24 sacrifice for her parents. They went to meets and
25 competitions on weekends. Kayla was one of the better

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Supplemental Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability, with the August 13, 2007, order from the South Carolina Supreme Court entitled "Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings."

May 16th, 2013



Carmen V. Ganjehsani
Appellate Defender

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

ATTORNEY FOR APPELLANT

RECEIVED
MAY 16 2013
SC Court of Appeals

ORIGINAL

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Darlington County

J. Michael Baxley, Circuit Court Judge

RECEIVED

MAY 16 2013

SC COURT of Appeals

THE STATE,

RESPONDENT,

V.

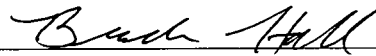
KRISTOPHER WILMONT BERRY,

APPELLANT

Appellate Case No. 2011-198246


CERTIFICATE OF SERVICE

I certify that a true copy of the Supplemental Record on Appeal in the above referenced case has been served upon Christina J. Catoe, Esquire, at Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, this 16th day of May, 2013.



Brandon Hall
Administrative Specialist

SUBSCRIBED AND SWORN TO before me
this 16th day of May, 2013.

 (L.S.)
Notary Public for South Carolina

My Commission Expires: October 2, 2013.