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Feb 26 2021

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM PICKENS COUNTY
Court of General Sessions
Donald Hocker, Circuit Court Judge

Appellate Case No. 2019-001477

The State, Respondent

v.

Brandon Jerome Clark, Appellant.

Appendix to Record on Appeal

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Trial Transcript.....1

 Redacted Victim

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Certificate of Counsel

1 THE COURT: Just in camera concerning her
2 understanding of -- of being honest on the stand, and
3 those sorts of things. And I'll -- again, I'll allow you
4 to do the questioning.

5 MS. MCCALL: Certainly. Okay.

6 Thank you, Your Honor.

7 We will get her here. She's just down in our office.
8 So she'll be up in just a moment.

9 THE COURT: Okay.

10 MS. MCCALL: I just wanted to avoid the jury having
11 to go out and come right back.

12 THE COURT: Right.

13 (Pause.)

14 MS. MCCALL: Your Honor, are you ready for --

15 THE COURT: I am. Just have [REDACTED] come on up.

16 MS. MCCALL: The State calls Miss [REDACTED] [REDACTED] to
17 the stand.

18 THE CLERK: Okay. If you could, come around over
19 here.

20 And I'm going to get you to place your left hand on
21 the Bible and raise your right.

22 WHEREUPON,

23 [REDACTED] [REDACTED] [REDACTED]
24 after first having been duly sworn, testified as follows:

25 THE COURT: All right. Solicitor.

1 MS. MCCALL: Thank you, Your Honor.

2 DIRECT EXAMINATION

3 BY MS. MCCALL:

4 Q Miss [REDACTED] what is your full name?

5 A [REDACTED]

6 Q And how old are you, [REDACTED]

7 A Seven.

8 Q Do people call you "[REDACTED]" sometimes?

9 A Yeah.

10 Q Is it okay if I call you "[REDACTED]"

11 A Yes.

12 Q Okay. And how -- what grade in school are you in?

13 A Now, I'm in second grade.

14 Q Okay. And when do you start school?

15 A Tomorrow.

16 Q Tomorrow.

17 Okay. And, Miss [REDACTED] you just had to promise to
18 tell the truth. Do you remember that?

19 A Yes.

20 Q Do you know what the difference between a truth and a
21 lie is?

22 A Yes.

23 Q Okay. And are there consequences if we don't tell
24 the truth sometimes?

25 A Yes.

1 MS. MCCALL: Your Honor, at this time, the State
2 presents Miss ██████████ ██████████ as the victim in this case to
3 testify. And we assert that she is competent to --

4 THE COURT: All right. Let -- let me just ask a
5 couple questions. And then if Ms. Barwick wants to ask a
6 few questions concerning competency only.

7 EXAMINATION

8 BY THE COURT:

9 Q ██████████ do you know the difference between what is
10 right and what is wrong?

11 A Yes.

12 Q And do you know that it's right to tell the truth and
13 wrong to tell a lie?

14 A Yes.

15 Q And what happens if you -- if you were to tell a lie
16 today?

17 A I don't know.

18 Q Okay. Well, do you think you'd get into trouble?

19 A Yes.

20 Q Okay. And if I let you testify today, will you tell
21 the truth?

22 A Yes.

23 THE COURT: All right. Ms. Barwick, anything you
24 would like to ask as it relates to competency?

25 MS. BARWICK: Yes, Your Honor.

CROSS-EXAMINATION

1
2 BY MS. BARWICK:

3 Q [REDACTED] is that how you go by your name?

4 A Yeah.

5 Q Okay. [REDACTED] you said you understood the
6 consequences if you tell a lie. What does "consequence"
7 mean?

8 A I don't know.

9 Q Okay. And so if you told a lie, what would happen?

10 A I would get in trouble.

11 Q What kind of trouble?

12 A Big trouble.

13 Q What -- what kind of things would happen? What does
14 trouble mean?

15 A It means that you would probably go to jail. Or if
16 you were a kid, you would probably get a spanking.

17 Q Okay. And you understand what we're here about today
18 is -- is pretty important; right?

19 A Yes.

20 Q Okay. And if you weren't to tell the truth here
21 today, what do you think would happen?

22 A I would get a spanking.

23 THE COURT: What was the last answer, [REDACTED] What did
24 you -- what was your last answer?

25 THE WITNESS: I would get a spanking by my daddy.

1 BY MS. BARWICK:

2 Q Okay. If I told you what the word -- if I asked
3 you -- what does excited utterance mean?

4 A I don't know.

5 Q Okay. And then if I told you that I am wearing a red
6 dress today, what would you think about that?

7 A It would probably be pretty.

8 Q Yeah.

9 What -- if I told you that my hair is black, what
10 would you say?

11 A That it's pretty.

12 Q Okay. Would you correct me?

13 A I don't know.

14 Q Okay. So if somebody says something that's not true,
15 especially if it's an -- if an adult says something that's
16 not true, would you feel comfortable correcting them?

17 A No.

18 MS. BARWICK: Okay. No further questions.

19 THE COURT: Okay. I'm going to find that ██████████
20 ██████████ is competent to testify as a witness in this case.

21 We're going to take your testimony in just a little
22 bit. So, ██████████ if you want to step down.

23 MS. BARWICK: Judge, I would just ask that no one
24 talks to her about her testimony between now and then.

25 THE COURT: Right. Right.

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CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for Appellant certifies that this Appendix to the Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Appendix to the Record on Appeal complies to the best of my ability with 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.”

Respectfully submitted,

/s/ Cameron Jane Blazer

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This 26th Day of February, 2021