

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM LEXINGTON COUNTY
Court of General Sessions

Knox R. McMahon, Circuit Court Judge

Case No.: 2010-GS-32-01876

State of South Carolina, Respondent,

v.

Lexie Dial, III, Appellant.

**Appendix to the
Record on Appeal**

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ERIC RUSSELL IN CAMERA

1 MR. WATERS: I wanted to be sure to note an objec-
2 tion on the record.

3 THE COURT: Yes, sir. All right, I do not -- of
4 course, you have a right to make a record as far as
5 your objections are concerned too.

6 That is correct, Mr. Waters, and you may continue,
7 Mr. Floyd.

8 MR. FLOYD: Thank you, Your Honor.

9 BY MR. FLOYD:

10 Q. Have you had other cases with her in the past?

11 A. Yes, sir.

12 Q. How many, would you say?

13 A. I don't have any idea. We've had cases together,
14 yes.

15 Q. And, in fact, when this case was coming up for a
16 trial back in the fall of last year, around October,
17 isn't it true that the other shaken baby case you and
18 she had together was also about to go to trial?

19 A. If I remember correctly, the previous shaken baby
20 case was in June of 2010, I think, but I'm not a hun-
21 dred percent sure.

22 Q. And when this -- at one point in time, this case
23 was to have been tried last year in October, was it
24 not?

25 A. I believe that's correct.

ERIC RUSSELL IN CAMERA

- 1 Q. Now, did you have a personal relationship with
2 Debra Moore?
- 3 A. When?
- 4 Q. At any time?
- 5 A. Yes.
- 6 Q. And when did that begin?
- 7 A. In October of 2010.
- 8 Q. And that was when this case was getting ready to
9 go to trial?
- 10 A. Again, I don't remember the date it was getting
11 ready to go to trial. I know it was last fall sometime.
- 12 Q. When did you first have contact with her on this
13 particular case?
- 14 A. . .
- 15 Q. On Lexie Dial?
- 16 A. It would have been prior to October, but I don't
17 know when, of 2010.
- 18 Q. And the other shaken baby case was in existence
19 before you arrested Lexie Dial, is that correct?
- 20 A. That's correct.
- 21 Q. And Debra Moore was the prosecutor for that case?
- 22 A. Correct.
- 23 Q. And would you agree with me that you felt as though
24 she would be the prosecutor on this particular case?
- 25 A. There was a chance but it wasn't a guarantee. I

ERIC RUSSELL IN CAMERA

1 had had other cases prosecuted by different Solicitors
2 also.

3 Q. But Debra had prosecuted this type of cases? She
4 was experienced in this type of crime?

5 A. That's correct.

6 Q. Now, this relationship became personal in October
7 of 2010?

8 A. That's correct.

9 Q. But you had feelings for her before that time?

10 A. No, I wouldn't say that.

11 Q. Are you saying that out of the blue this happened?

12 A. I'm sorry.

13 Q. Are you saying out of the blue this happened?

14 A. I don't know if you'd say out of the blue.

15 Q. Can you tell us the first date that you had personal
16 feelings about her?

17 A. I can say it started in October of 2010. I can-
18 not give you a date.

19 Q. How long had you been working with her on cases?

20 A. I have been in major crimes since '02. I don't
21 know when she came to the Solicitor's Office, but sev-
22 eral years.

23 Q. Would you say that your friendship with her began
24 to develop over that period of time?

25 A. Yeah, we were friends.

ERIC RUSSELL IN CAMERA

- 1 Q. You were friends?
- 2 A. Yes.
- 3 Q. And the more cases you worked with her, you got to
4 be friendlier?
- 5 A. I wouldn't --- I guess that would be true up to a
6 point. When we first met, we didn't know each other,
7 and then we became friends and remained friends until
8 -- like I said, until October.
- 9 Q. And you left your wife and . . .
- 10 A. I'm sorry.
- 11 Q. Then you left your wife and . . .
- 12 A. We were already separated, yes.
- 13 Q. Was that because of this relationship?
- 14 A. Yes.
- 15 Q. Well, you certainly wanted to put together a good
16 case if she was the prosecutor?
- 17 A. I wanted to put together a good case, no matter
18 who the prosecutor was, sir.
- 19 MR. FLOYD: Give me just a moment, please.
- 20 THE COURT: Yes, sir.
- 21 MR. FLOYD: I have no further questions.
- 22 THE COURT: Thank you very much, Mr. Floyd.
23 Mr. Waters, any Redirect?
- 24 MR. WATERS: Just a few on Redirect.
- 25 REDIRECT EXAMINATION

1 A. Correct.

2 Q. Prior to October of 2010, was your relationship
3 with Debra Moore anything more than professional
4 friends?

5 A. No, that was it. Coworkers and friends.

6 Q. Nothing beyond that prior to October of 2010?

7 A. Absolutely not, no. Nothing prior to October of
8 2010.

9 Q. And was any consideration -- did your relationship
10 with Debra Moore have any effect or -- any effect what-
11 soever on the confession you took from Lexie in this
12 case?

13 A. None whatsoever. Like I said, I didn't know if
14 she was going to be assigned the case at that time.

15 Q. And did Lexie Dial write this of his own free
16 volition and in his own hand?

17 A. He did.

18 Q. Without any threats or without you telling him what
19 to say, or anything like that?

20 A. That's correct.

21 MR. WATERS: I have nothing further, Your Honor.

22 THE COURT: Recross, Mr. Floyd?

23 MR. FLOYD: Just briefly.

24 RECROSS EXAMINATION

25 BY MR. FLOYD:

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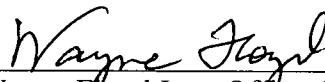
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CERTIFICATE OF COUNSEL

Appellant's Counsel certifies that this Appendix to the Record on Appeal contains all material requested by the Court of Appeals by letter dated April 8, 2013.



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April 15, 2013


CERTIFICATE OF SERVICE

This is to certify that the undersigned, Michelle M. Wash, Paralegal to Wayne Floyd, Esquire, has this 17th day of April 2013, served the **APPENDIX TO THE RECORD ON APPEAL**.

- Hand delivering a copy hereof.
- Depositing a copy hereof in the United States mail postage prepaid
- Certified Mail (Return Receipt Requested).
- Facsimile Transmission.

upon:

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