

STATE OF SOUTH CAROLINA)
)
COUNTY OF BERKELEY)
)

IN THE COURT OF GENERAL SESSIONS
FOR THE NINTH JUDICIAL CIRCUIT
INDICTMENT NUMBER: 2016-GS-08-02603
WARRANT NUMBER: 2016A0810400692

STATE OF SOUTH CAROLINA,)
)
Plaintiff,)
)
-versus-)
)
MICHAEL COLUCCI,)
)
Defendant.)
_____)

MOTION TO USE TRANSCRIPT

MARY P. BROWN
CLERK OF COURT
BERKELEY COUNTY, S.C.

2016 SEP 27 PM 4: 00

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Michael Colucci moves this Court to permit the use of transcripts where video or audio recordings are played for the jury at trial.

During the trial of his case, Mr. Colucci may offer to the jury evidence in the form of video or audio recordings. In order to assist the jury in understanding any video or audio recording, Mr. Colucci submits that permitting the jury to utilize transcripts of the video or audio recordings would be extremely helpful to the jury. Courts have routinely permitted the use of such transcripts as an aid to the jury's understanding of video and audio recordings. 23 Am. Jur. Proof of Facts 3d 315, §54.

Finally, we find no error in the court's ruling that the jury could be furnished transcripts of the tapes while listening to the recordings. . . . The stenographer who prepared the transcripts was not an essential witness, because the [person] responsible for their preparation testified to their accuracy. United States v. Rochan, 563 F.2d 1246, 1252 (5th Cir. 1977). The district court properly instructed the jury that if they detected any discrepancy between the transcripts and the tapes, they were to consider as evidence only what they heard on the tapes. The use of typed transcripts as aids to the jury in listening to the tapes is a matter within the sound discretion of the trial judge. United States v. West, 574 F.2d 1131, 1138 (4th

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Cir. 1978); United States v. Hall, 342 F.2d 849, 853 (4th Cir. 1965). The record contains no suggestion that this discretion was abused.

United States v. Long, 651 F.2d 239, 243 (4th Cir. 1981); United States v. Branch, 970 F.2d 1368, 1370-71 (4th Cir.1992) (“Although the district court is charged with making this preliminary [authentication] determination, because authentication is essentially a question of conditional relevancy, the jury ultimately resolves whether evidence admitted for its consideration is that which the proponent claims.”); United States v. Capers, 61 F.3d 1100, 1106-07 (4th Cir.1995); United States v. Collazo, 732 F.2d 1200, 1203 (4th Cir.1984); and United States v. Wilson, 115 F.3d 1185, 1188-89 (4th Cir.1997). See also State v. Winkler, 698 S.E.2d 596, 602 (S.C. 2010) and State v. Hess, 301 S.E.2d 547 (S.C. 1983).

WHEREFORE, Mr. Colucci submits that the Court should exercise its sound discretion and admit transcripts of video and audio recordings.

Respectfully submitted,

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~~October~~ 9/27, 2018.