

STATE OF SOUTH CAROLINA

vs.

ANDRES FERNANDO POSSO,

Defendant.

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Indictment No(s): 2020-GS-32-01240
2020-GS-32-01168

RECEIVED

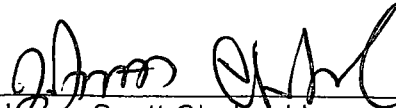
OCT 03 2022

SC Court of Appeals

RULE 203(B) EXPLANATION

Pursuant to Rule 203(B)(iv), the undersigned asserts that he does not have a good faith basis to believe that any issues are properly before the Court of Appeals, and the undersigned did not object to the sentence or file a motion to reconsider the sentence. Nevertheless, the undersigned consulted with the Appellant about his right to appeal, and after consultation, the undersigned has filed the instant appeal at the request of the Appellant because the Sixth Amendment requires counsel to follow the Appellant's request. See *Frazer v. South Carolina*, 430 F.3d 696, 706 (4th Cir. 2005) ("A defendant has a right to pursue a direct appeal, even if frivolous, which counsel must assist as 'an active advocate on behalf of his client.'" (quoting *Anders v. California*, 386 U.S. 738, 744 (1967))).

Respectfully submitted,



Jason Scott Cheloski
Tri-County Public Defender
202 East Main Street
Lexington, South Carolina
(803) 785-8873

Lexington, South Carolina
September 27, 2022

comp of & yrs = rec.

oto 15 yrs

STATE OF SOUTH CAROLINA)
 COUNTY OF Lexington)
 STATE)
 VS.)
Andres Fernando Posso)
 AKA:)
 Race: Hispanic Orig Sex: M Age: 45)
 DOB: _____ SS#: _____)
 Address: _____)
 City, State, Zip: _____)
 DL#* _____ SID# _____)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2020 - GS - 32 - 01240

AW#: 20-STR-00044
 Date of Offense: 2/1/2018
 S.C. Code §: 16-03-0655(C)
 CDR Code #: 3661

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SENTENCE SHEET
SC Court of Appeals

*CDL Yes No CMV Yes No Hazmat Yes No

In disposition of the above indictment comes now the Defendant who was CONVICTED OF or PLEADS ALFORD

TO: Sex / Criminal sexual conduct with minor, 3rd degree - Commit/Attempt Lewd act (victim under 16 yrs & actor over

In violation of § 16-03-0655(C) of the S.C. Code of Laws, bearing CDR Code # 3661

NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS § 17-25-45
 (CSC w/minor 1st or CSC w/minor 3rd)

The charge is: As indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury. _____ (def.'s initials)

The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST:
S. McNeenamin 102991 [Signature] [Signature] 69350
 Solicitor SC Bar # Defendant Attorney for Defendant SC Bar #

WHEREFORE, the Defendant is committed to the State Department of Correction County Detention Center,

for a determinate term of 8 days/months/years/Time Served Youthful Offender Act not to exceed _____ years
 and/or to pay a fine of \$____; provided that upon the service of _____ days/months/years/Time Served and or payment
 of \$____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

The sentence shall run CONCURRENT or CONSECUTIVE to sentence on: _____

The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by SCDOC.
343 days/months
 To include time spent on monitored house arrest prior to trial and sentencing.
 The Defendant Shall be Released from County Detention Center.

Pursuant to 18 U.S.C. § 922 and § 16-25-30 it is unlawful for a person convicted of a violation of § 16-25-20 or § 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

A TRUE COPY
[Signature]
 Lex. Co. C.C.P., G.S. & F.C.

STATE VS.

Andres Fernando Posso

INDICTMENT/CASE#:

2020 - GS - 32 - 01240

SPECIAL CONDITIONS:

PTUP after _____ months/years

And Other Terms Listed Below:

- Substance Abuse Counseling Completion of GED Random Drug/Alcohol Testing
- Attend Voc. Rehab. Or Job Corp No Contact with Victim Domestic Violence Intervention Program
- Mental Health Counseling May serve W/E beginning: _____
- Sex Offender Registry pursuant to S.C. Code § 23-3-430 Public Service Employment _____ days/hours
- Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.
- Other: _____

RESTITUTION: Deferred Def. Waives Hearing Ordered

Total \$ _____ plus 20% fee: _____ \$ _____

Payment Terms: _____ Set by SCDPPPS

Recipient: _____

***Fine:**

Fine may be pd. in equal consecutive weekly/monthly pmts. of	\$ _____	Beginning	_____	\$ _____
\$14-1-206 (Assessments 107.5%)				\$ _____
\$14-1-211 (A)(1)(Conv. Surcharge)			\$100	\$ <u>100</u>
\$14-1-211 (A)(2)(DUI Surcharge)			\$100	\$ _____
\$56-5-2995 (DUI Assessment)			\$12	\$ _____
\$56-1-286 (DUI Breath Test)			\$25	\$ _____
\$14-1-212 (Law Enforce. Funding)			\$25	\$ <u>25</u>
\$14-1-213 (Drug Court Surcharge)			\$150	\$ _____
\$34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)			\$41	\$ _____
\$50-21-114 (BUI Breath Test Fee)			\$50	\$ _____
\$56-5-2942(J) (Vehicle Assessment)			\$40/ea	\$ _____
3% to County (if paid in installments)			TBD	\$ _____
<input type="checkbox"/> Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees			\$500	\$ _____
<input type="checkbox"/> § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund			TBD	\$ _____
TOTAL				\$ <u>125.00</u>

Clerk of Court/Deputy Clerk:
Court Reporter:

Lina Comer
Steve LeBlanc

Presiding Judge:
Judge Code:
Sentence Date:

Walsh
2765
5-12-2022

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OCT 03 2022

SC Court of Appeals

WITNESSES

DOCKET NO. 2020GS3201240

Law Enforcement Case #: 19006293

The State of South Carolina
County of Lexington

LMC

ARREST WARRANT NUMBER

COURT OF GENERAL SESSIONS

20-STR-00044

JULY TERM 2020

THE STATE

vs.

ACTION OF GRAND JURY

Andres Fernando Posso

TRUE BILL

Chad E. ...
Foreperson of Grand Jury
Date: 7/13/20

CDR #: 3661

VERDICT

Indictment for

Criminal Sexual Conduct With a Minor -
3rd Degree

§ 16-03-0655(C)

Foreperson of Petit Jury
Date:

S.R. Hubbard III, SOLICITOR

A TRUE COPY
[Signature]
Lex. Co. C.C.G.P., G.S. & F.C.


STATE OF SOUTH CAROLINA)
)
COUNTY OF LEXINGTON)
)
)

INDICTMENT FOR
Criminal Sexual Conduct With a Minor - 3rd
Degree
§ 16-03-0655(C)

At a Court of General Sessions, convened on July 13, 2020, the Grand Jurors of Lexington County present upon their oath:

That **Andres Fernando Posso**, date of birth November 11, 1976, being a person over fourteen years of age, did in Lexington County, South Carolina, on or about February 1, 2018 to September 1, 2018, willfully and lewdly commit or attempt to commit a lewd and lascivious act upon or with the body, or its parts, of a child under sixteen years of age, with the intent of arousing, appealing to, or gratifying the lust or passions or sexual desires of himself or of the child, to wit: touching of a sexual nature involving a child, **Andrea Posso**, date of birth September 25, 2003, furthermore, the said child was under the age of sixteen years during the time of these offenses, in violation of Section 16-3-655(C), S.C. Code of Laws, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


ASSISTANT SOLICITOR

Comp of 8 yrs = rec.

Oct 15 yrs

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Lexington

STATE

INDICTMENT/CASE# 2020 - GS - 32 - 01168

VS.

Andres Fernando Posso

AW#: 2019A3210201862

Date of Offense: 2/1/2014

S.C. Code §: 16-03-0655(b)(1)

CDR Code #: 0398

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OCT 03 2022

AKA: _____
Race: Hispanic Orln Sex: M Age: 45
DOB: _____ SS#: _____
Address: _____
City, State, Zip: _____
DL# _____ SID# _____

SENTENCE SHEET

SC Court of Appeals

*CDL Yes No CMV Yes No Hazmat Yes No

In disposition of the above indictment comes now the Defendant who was CONVICTED OF or PLEADS NOT GUILTY

TO: Sex / Criminal sexual conduct with minor, 3rd degree - Commit/Attempt Lewd act (victim under 16 yrs & actor over 14 y

In violation of § 16-03-0655(C) of the S.C. Code of Laws, bearing CDR Code # 3661

NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS § 17-25-45

(CSC w/minor 1st or CSC w/minor 3rd)

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury. AP (def.'s initials)

The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST:

X. McMenamin 102991 [Signature] [Signature] BA 350
Solicitor SC Bar # Defendant Attorney for Defendant SC Bar #

WHEREFORE, the Defendant is committed to the State Department of Correction County Detention Center,

for a determinate term of 8 days/months/years/Time Served Youthful Offender Act not to exceed ___ years

and/or to pay a fine of \$____; provided that upon the service of ___ days/months/years/Time Served and or payment of \$____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

The sentence shall run

CONCURRENT or CONSECUTIVE to sentence on: _____

The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by SCDOC.

343 (days/months)

To include time spent on monitored house arrest prior to trial and sentencing.

The Defendant Shall be Released from County Detention Center.

Pursuant to 18 U.S.C. § 922 and § 16-25-30 It is unlawful for a person convicted of a violation of § 16-25-20 or § 16-25-35 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

TRUE COPY

[Signature]
Lex. 66, C.C.C.P., G.S. & F.C.

SPECIAL CONDITIONS:

- PTUP after _____ months/years
 And Other Terms Listed Below:
- Substance Abuse Counseling Completion of GED Random Drug/Alcohol Testing
 - Attend Voc. Rehab. Or Job Corp No Contact with Victim Domestic Violence Intervention Program
 - Mental Health Counseling May serve W/E beginning: _____
 - Sex Offender Registry pursuant to S.C. Code § 23-3-430 Public Service Employment _____ days/hours
 - Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.
 - Other: _____

RESTITUTION: Deferred Def. Waives Hearing Ordered

Total \$ _____ plus 20% fee: _____ \$ _____

Payment Terms: _____ Set by SCDPPPS

Recipient: _____

*Fine:		\$ _____	Beginning	_____	\$ _____
Fine may be pd. in equal consecutive weekly/monthly prmts. of	\$ _____				\$ _____
§14-1-206 (Assessments 107.5%)					\$ _____
§14-1-211 (A)(1)(Conv. Surcharge)		\$100			\$ 100
§14-1-211 (A)(2)(DUI Surcharge)		\$100			\$ _____
§56-5-2995 (DUI Assessment)		\$12			\$ _____
§56-1-286 (DUI Breath Test)		\$25			\$ _____
§14-1-212 (Law Enforce. Funding)		\$25			\$ 25
§14-1-213 (Drug Court Surcharge)		\$150			\$ _____
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)		\$41			\$ _____
§50-21-114 (BUI Breath Test Fee)		\$50			\$ _____
§56-5-2942(J) (Vehicle Assessment)		\$40/ea			\$ _____
3% to County (if paid in installments)		TBD			\$ _____
<input type="checkbox"/> Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees		\$500			\$ _____
<input type="checkbox"/> § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund		TBD			\$ _____
		TOTAL			\$ 125.00

Clerk of Court/Deputy Clerk: YISA CORNEO
 Court Reporter: Steve LeBlanc

Presiding Judge: Wahy McTel
 Judge Code: 2765
 Sentence Date: 5-12-2022

RECEIVED

OCT 03 2022

SC Court of Appeals

WITNESSES

Lexington County Sheriffs Department

Michael J Hart

Law Enforcement Case #: 19006293

LMC

ARREST WARRANT NUMBER

2019A3210201862

DOCKET NO. 2020GS3201168

The State of South Carolina

County of Lexington

COURT OF GENERAL SESSIONS

JULY TERM 2020

THE STATE

vs.

Andres Fernando Posso

ACTION OF GRAND JURY

TRUE BILL

Charles Hart
Foreperson of Grand Jury

Date: 7/13/20

VERDICT

CDR #: 0397

Indictment for

Criminal sexual conduct with a minor - 2nd degree

§ 16-03-0655(B)(2)

Foreperson of Petit Jury

Date:

S.R. Hubbard III, SOLICITOR

A TRUE COPY
[Signature]
Lex. Co. C.C.C.P., G.S. & F.C.

STATE OF SOUTH CAROLINA)
)
COUNTY OF LEXINGTON)
)


INDICTMENT FOR
Criminal sexual conduct with a minor - 2nd
degree

§ 16-03-0655(B)(2)

At a Court of General Sessions, convened on July 13, 2020, the Grand Jurors of Lexington County present upon their oath:

That **Andres Fernando Posso** did in Lexington County, South Carolina on or about February 1st, 2014 through January 31st, 2015 willfully and unlawfully commit criminal sexual conduct with a minor in the second degree by engaging in sexual battery with a minor who was at least fourteen (14) years of age but who was less than sixteen (16) years of age, to wit: fellatio and/or vaginal intrusion upon or with Haylee Posso, date of birth April 2, 1999, and the Defendant was older than the victim, his date of birth being 11/11/1976, in violation of Section 16-3-655(B)(2), S.C. Code of Laws (1976), as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



ASSISTANT SOLICITOR