

RECEIVED
Jan 06 2023
SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Kershaw County

R. Ferrell Cothran, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

JAMES W. OWENS,

APPELLANT.

APPELLATE CASE NO. 2022-001458

MOTION TO HOLD APPEAL IN ABEYANCE AND
REMAND FOR RECORD RECONSTRUCTION

Pursuant to Rule 240 of the South Carolina Appellate Court rules, undersigned counsel requests an order requiring the parties to reconstruct Appellant's trial originally held before the Honorable R. Ferrell Cothran from September 16th to 20th, 2013. While this motion is pending, Appellant asks this Court to hold in abeyance the time for filing his initial brief of appellant and designation of matter.

In support of his motion, Appellant would present the following:

1. The undersigned represents Appellant in his appeal before this Court.

2. The transcript from Appellant's trial cannot be produced or ascertained by the Court Reporter, Bonnie Kelly. (See Attachment A, Transcript Request documents, and Retired Court Reporter e-mail dated November 8, 2022).
3. In order to allow for meaningful appellate review, the record must be reconstructed.

PROCEDURAL HISTORY

4. Appellant was indicted by a Kershaw County grand jury for first degree criminal sexual conduct with a minor, two counts of lewd act on a minor child, and two counts of degree criminal sexual conduct with a minor. (See Attachment B, Indictments).
5. Appellant's case proceeded to trial before the Honorable R. Ferrell Cothran, Jr., and a jury from September 16th to 20th, 2013, and was found guilty. (See Attachment C, Sentence Sheets; and Attachment D, Public Index Sheets).
6. On September 20, 2013, trial counsel for Appellant filed a Motion for New Trial. (See Attachment E, Motion for New Trial).
7. On September 27, 2021, the trial court filed its order denying trial counsel's Motion for New Trial. (See Attachment F, Order Denial of Motion for New Trial).
8. Appellant received written notice of entry of the trial court's Order on October 3, 2021. Notice of Appeal was served and filed on October 10, 2021, and received by this Court on October 13, 2021. (See Attachment G, Notice of Appeal and Proof of Service).

9. The office of Appellate Defense attempted to obtain the transcript from the now retired court reporter. Unfortunately, Appellant's transcript was no longer available. (See Attachment A).

ARGUMENT

When a trial transcript has been lost or destroyed, the Court may remand a case for record reconstruction, or vacate the conviction and sentence and remand for a new trial if meaningful appellate review is not possible. See Koon v. State, 358 S.C. 359, 367, 595 S.E.2d 456, 460 (2004); overruled on other grounds by State v. Gentry, 363 S.C. 93, 610 S.E.2d 494 (2005); Whitehead v. State, 352 S.C. 215, 574 S.E.2d 200 (2002); Deaton v. Leath, 279 S.C. 82, 84, 302 S.E.2d 335, 336 (1983); China v. Parrott, 251 S.C. 329, 162 S.E.2d 276 (1968); Dolive v. J.E.E. Developers, Inc., 308 S.C. 380, 383, 418 S.E.2d 319, 321 (Ct. App. 1992); State v. Ladson, 373 S.C. 320, 325, 644 S.E.2d 271, 273-274 (Ct. App. 2007). Remand for record reconstruction is appropriate in instances where “a reconstructed record on appeal would allow for meaningful appellate review.” State v. Ladson, 373 S.C. 320, 325, 644 S.E.2d 271, 274 (Ct. App. 2007) (internal quotations omitted)

In Deaton, supra, the defendant's convictions were set aside and a new trial had where the court reporter's equipment malfunctioned and there was no transcript of the trial court proceedings in the case from which to base an appeal. Citing Deaton, this Court denied a request for reconstruction in State v. Serrette, 375 S.C. 650, 652-653, 654 S.E.2d 554, 555 (Ct. App. 2007) where the reason for the lack of transcript was due to the defendant's absence for a ten-year period. As the Serrette Court explained was, the matter

there was “not a situation where the court reporter’s equipment malfunctioned at trial leading to a loss of the trial transcript.”

However, in the case at bar presents a different scenario. Here, Appellant was not at fault for any of the difficulties in obtaining the transcript; rather, the transcript is not available from the court reporter due to matters outside Appellant’s control. Appellant was not absent at any point, and trial counsel timely filed both the post-trial Motion for a New Trial, as well as the Notice of Appeal after a copy of the trial court’s Order denying the motion was received. Thus, the lack of a transcript is not due to Appellant’s conduct.

Yet, the entire trial transcript cannot be produced. Therefore, a reconstructed transcript of his trial is necessary for appellate counsel to represent him effectively, and for this Court to give meaningful appellate review of his conviction. Accordingly, Appellant respectfully requests for an Order remanding the matter to the trial court to reconstruct the trial record. Additionally, Appellant further requests that the Order remanding this matter contain language permitting the trial court the option to conclude that the record cannot be reconstructed with the specificity to support meaningful appellate review. See Ladson, 373 S.C. at 326, 644 S.E.2d at 274 (“It is simply unrealistic and unreasonable to think that a trial judge and counsel can—under these circumstances—reconstruct a proper record that will permit meaningful appellate review, especially in light of our issue preservation rules.”).

Finally, Appellant asks this Court to hold the time for filing his Initial Brief of Appellant in abeyance while this motion is pending. The undersigned discovered this predicament early and endeavored to prepare this motion before taking any extensions in Appellant’s case.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Breen R. Stevens", written over a horizontal line.

Breen R. Stevens
Appellate Defender
South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1235

January 6, 2023

RECEIVED

Jan 06 2023

SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Kershaw County

R. Ferrell Cothran, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

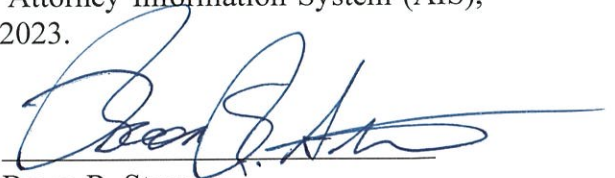
JAMES W. OWENS,

APPELLANT.

APPELLATE CASE NO. 2022-001458

CERTIFICATE OF SERVICE

Pursuant to Rule 262(a)(3) and Rule 262(c)(3), SCACR, the undersigned hereby certifies a true copy of the Motion to Hold Appeal in Abeyance and Remand for Record Reconstruction in the above-referenced case has been served upon William M. Blicht, Jr., Esquire, at the primary e-mail address listed in the Attorney Information System (AIS), which is wblitch@scag.gov, this 6th day of January, 2023.



Breen R. Stevens
Appellate Defender
S.C. Commission on Indigent
Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1330

ATTORNEY FOR APPELLANT

Attachment A



SCCID

SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE

Division of Appellate Defense
1330 Lady Street, Suite 401
Columbia, South Carolina 29201-3332
Post Office Box 11589
Columbia, South Carolina 29211-1589
Telephone: (803) 734-1330
Facsimile: (803) 734-1345

Robert M. Dudek, Chief Appellate Defender
Wanda H. Carter, Deputy Chief Appellate Defender

November 07, 2022

Ms. Bonnie H. Kelly (Retired)
Circuit Court Reporter
1220 Senate Street
Columbia, SC 29201

Dear Ms. Kelly:

Please provide us with the following transcript:

The State v. James W. Owens

Case #: 2012--GS-28-1241;1242;1243;
2013-GS-28-831; 832

Appellate Case No. 2022-001458

County: Kershaw

Date of Trial: Sept 16-20, 2013

Presiding Judge: R. Ferrell Cothran

Pursuant to the SC Court Reporter's Manual, please number the lines on the paper from 1-25 and include any and all recorded motions (pretrial and post-trial). Consecutive numbering of pages must be used throughout all volumes regardless of the number of volumes involved. Additionally, please transcribe the **jury selection** and the State and defense counsel's **opening and closing arguments** and include the **jury strike sheet**. Please be sure to include **headers** and a **complete index** including a **listing of exhibits**. **Please, do not include keyword indexing.**

If you are aware of any co-defendants, additional transcripts, or if the Attorney General's Office has already requested a transcript, please let us know.

SCCID **prefers** that all transcripts are sent via **certified mail**. If you choose to send transcripts electronically, you must use the SC Department of Technology's file transfer service at <https://scfiledrop.sc.gov>. New users click the register button to sign up for the service. For assistance with registration or passwords, contact the SC Department of Technology Service Center at 803-896-0001, option 2.

To ensure prompt payment, please sign and complete the enclosed form and include the original criminal case number (indictment number) where the space is provided.

Sincerely,

s/Della White
Administrative Coordinator

cc: S. C. Court of Appeals
Attorney General's Office

Transcript Request Form

Pursuant to Rule 207 and 607 of the South Carolina Appellate Court Rules, the transcribed paper copy is the official record of court proceedings. You may request a transcript by completing this form and emailing it to the Court Reporter and to South Carolina Court Administration at transcripts@sccourts.org. Click [here](#) for instructions on how to find the court reporter's email and mailing addresses. Once the court reporter receives your request, it will be processed pursuant to Rule 207 and 607 of the SCACR. Rule 607(h) governs the fees for transcripts, which are not provided for free or at reduced rates to any party. Please send by mail a money order or certified bank check to the court reporter in order to obtain the transcript. Some court reporters may accept personal checks. Please check with the court reporter to see if this option is available. Once your request is received, you will receive a copy of this form with the bottom portion completed. Please promptly submit your payment in order for the transcript to be provided. If you need to cancel the transcript request for any reason, you are responsible for paying for the pages of the transcript that have already been completed at the time of the cancellation.

Requestor's Information			
Full Name Della White	Phone Number 803-734-1330	Email Address dwhite@sccid.sc.gov	
Mailing Address 1330 Lady Street, Suite 401	City Columbia	State SC	Zip Code 29201
Transcript Information			
Docket Number	Case Caption (i.e. State v. John Doe or Smith v. Smith) The State v. James W. Owens		
Date(s) of Proceeding Sept 16-20, 2013	Circuit X Family	County Kershaw	
Presiding Judge R. Ferrell Cothran	Expedited Yes No X		
Court Reporter(s) Ms. Bonnie H. Kelly	Opposing Counsel		

Requestor's Signature: Della White
(Typed name will serve as signature)

Date: 11/07/2022

Note: If you are ordering a transcript pursuant to Rule 207(a)(1), SCACR, you must contemporaneously furnish all parties, the Office of Court Administration, and the clerk of the appellate court with copies of all correspondence with the court reporter.

For Court Reporter Use Only			
Full Name _____	Date Received _____	Email Address _____	
Notice of Estimate to Requestor Party			
Date: _____ Number of Pages: _____ Estimated Amount _____			
Mailing Address for Payment _____	City _____	State _____	Zip Code _____

Stock, Chris

From: Bonnie Kelly <bonniekelly21@gmail.com>
Sent: Tuesday, November 8, 2022 10:23 AM
To: White, Della
Subject: [External] Re: The State v. James Owens

I've got nothing. I'm so sorry. Ct. Adm. might have something if I typed a transcript for it. If not, there would not be anything to my knowledge. IF Ct. Adm DOES give you a transcript, PLEASE let me know. They are notorious for not paying CR's copy rates, especially those like me who have retired.

Hope all's well with you and yours! I am typing from home if y'all ever need anyone to help with your work. I've done some things for the Office of Indigent Defense in Georgia over the last couple of years.

B.



Sender notified by ___
[Mailtrack](#)



On Tue, Nov 8, 2022 at 9:50 AM Bonnie Kelly <bonniekelly21@gmail.com> wrote:

Hey. Would I have already prepared a transcript, if you know? Otherwise, no Ct. Rtr. keeps records over five years on anything unless it's a death penalty case. I'll check through my transcripts to see what I can find, too.

Bonnie.



Sender notified by ___
[Mailtrack](#)

On Tue, Nov 8, 2022 at 9:39 AM White, Della <dwhite@sccid.sc.gov> wrote:

Good morning,

Hope you are well and enjoying retirement. I wanted to reach out to you to see if you possibly had your records from a hearing that was before Judge R. Ferrell Cothran, Jr on September 16-20, 2013 for the above case in Kershaw Co.

Please let me know if you do not mind. I appreciate any help you may have.

Thank you so much.

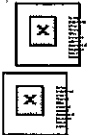
Della White

South Carolina Commission on Indigent Defense

1330 Lady Street

Columbia, South Carolina 29201

This communication and any attachment thereto is intended only for use by the addressee(s) named herein, and may contain legally privileged and/or confidential information. If you are not the intended recipient of this e-mail, you are hereby notified that any dissemination, utilization, distribution or copying of this e-mail, and any attachments thereto, is strictly prohibited. If you have received this e-mail in error please notify the Commission on Indigent Defense immediately and permanently delete the original and any copy of any e-mail and any printout thereof. SCCID may be reached by using the email address of the sender, or at 803-734-1343.



Attachment B

WITNESSES

(S) S Knafelc – Kershaw County Sheriff

DOCKET NO. 2012-GS-28-1241

The State of South Carolina

County of

Kershaw

AMENDED

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I hereby appear in my own proper person and plead guilty to the within indictment or to

COURT OF GENERAL SESSIONS

AUGUST TERM 2012

K98

Defendant

THE STATE

vs.

James Walter Owens

Witness:

C.C.C. PLS. AND G.S.

ACTION OF GRAND JURY
TRUE BILL

For person of Grand Jury

SEP 11 2013

VERDICT

FILED FOR RECORD
2013 SEP 11 PM 1:16
JOYCE McDONALD
CLERK OF COURT
KERSHAW COUNTY, S.C.

AMENDED Indictment for
CRIMINAL SEXUAL CONDUCT WITH
MINOR, 1ST DEG

SC Code: 16-03-0655(A)(1)

CDR Code: 0385

Foreperson of Petit Jury
Date:

STATE OF SOUTH CAROLINA)
)
COUNTY OF KERSHAW)

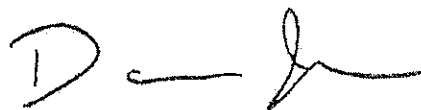
INDICTMENT

At a Court of General Sessions, convened on SEPTEMBER 11, 2013, the Grand Jurors of Kershaw County present upon their oath:

CRIMINAL SEXUAL CONDUCT WITH A MINOR
FIRST DEGREE

That James Walter Owens did in Kershaw County, State of South Carolina, on or between October 18, 2006 and October 17, 2007, willfully and unlawfully commit the crime of Criminal Sexual Conduct with a Minor in the First Degree by engaging in sexual battery with a minor who is less than eleven (11) years of age, to wit: ALEXIS ANDERSON, whose date of birth is 10/18/1996, in violation of Section 16-03-655(A)(1), [formerly Section 16-3-655(1)], 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.



DAN JOHNSON, SOLICITOR

WITNESSES

(S) S Knafelc - Kershaw County Sheriff

DOCKET NO. 2012-GS-28-1242

The State of South Carolina

County of

Kershaw

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I hereby appear in my own proper person and plead guilty to the within indictment or to

COURT OF GENERAL SESSIONS

AUGUST TERM 2012

K98

ARREST WARRANT NUMBER

2012A2810100098

Defendant

THE STATE

vs.

James Walter Owens

ACTION OF GRAND JURY

TRUE BILL

William Marks

Foreperson of Grand Jury AUG 22 2012

Date:

VERDICT

Indictment for
LEWD ACT ON MINOR CHILD

SC Code: 16-03-0654

CDR Code: 0162

Foreperson of Petit Jury

Date:

FILED FOR RECORD
2012 AUG 22 PM 4:41
JOYCE McDONALD
CLERK OF COURT
KERSHAW COUNTY, S.C.

C.C.C. PLS. AND G.S.

Witness:

STATE OF SOUTH CAROLINA)
COUNTY OF KERSHAW)

INDICTMENT

At a Court of General Sessions, convened on AUGUST 22, 2012,
the Grand Jurors of Kershaw County present upon their oath:

LEWD ACT ON A MINOR CHILD

That James Walter Owens, being over fourteen years of age {or state specific age}, did in Kershaw County on or about January 1, 2012, willfully and lewdly commit a lewd or lascivious act upon or with the body of a child, less than sixteen (16) years of age, to wit: SAVANNA ANDERSON, age: 12, with the intent of arousing, appealing to, or gratifying the lust or passions or sexual desires of said defendant or of the victim, including but not limited to: RUBBING HER BREAST UNDER HER CLOTHES AND ATTEMPTING TO RUB HER GENITAL AREA, in violation of Section 16-15-0140, 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.



DAN JOHNSON, SOLICITOR

WITNESSES

(S) S Knafelc - Kershaw County Sheriff

DOCKET NO. 2012-GS-28-1243

The State of South Carolina

County of

Kershaw

After being fully advised as to my legal rights, I hereby waive presentation to the Grand Jury.

Defendant

I hereby appear in my own proper person and plead guilty to the within indictment or to

COURT OF GENERAL SESSIONS

AUGUST TERM 2012

K98

ARREST WARRANT NUMBER
2012A2810100099

Defendant

THE STATE

Witness:

C.C.C. PLS. AND G.S.

ACTION OF GRAND JURY

James Walter Owens

TRUE BILL

William Morris

Foreperson of Grand Jury Date: AUG 22 2012

VERDICT

Indictment for
LEWD ACT ON MINOR CHILD

SC Code: 16-03-0654

CDR Code: 0162

Foreperson of Petit Jury
Date:

JOYCE McDONALD
CLERK OF COURT
KERSHAW COUNTY, S.C.

2012 AUG 22 PM 4: 41

FILED FOR RECORD

STATE OF SOUTH CAROLINA)
)
COUNTY OF KERSHAWS)

INDICTMENT

At a Court of General Sessions, convened on AUGUST 22, 2012,
the Grand Jurors of Kershaw County present upon their oath:

LEWD ACT ON A MINOR CHILD

That James Walter Owens, being over fourteen years of age, did in Kershaw County on or about January 1, 2010, willfully and lewdly commit a lewd or lascivious act upon or with the body of a child, less than sixteen (16) years of age, to wit: MADYSON ANDERSON, age: 9, with the intent of arousing, appealing to, or gratifying the lust or passions or sexual desires of said defendant or of the victim, including but not limited to: RUBBING HER STOMACH AREA AND ATTEMPTING TO SLIDE HIS HANDS UNDER HER CLOTHES AROUND HER GENITAL AREA, in violation of Section 16-15-0140, 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.



DAN JOHNSON, SOLICITOR

WITNESSES

(S) S Knafele

- Kershaw County Sheriff

DOCKET NO. 2013-GS-28-0831

The State of South Carolina

County of

Kershaw

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

hereby appear in my own proper person and plead guilty to the within indictment or to

COURT OF GENERAL SESSIONS

SEPTEMBER TERM 2013

79

DP00037

Defendant

THE STATE vs.

Witness:

C.C.C. PLS. AND G.S.

ACTION OF GRAND JURY
TRUE BILL

JAMES WALTER OWENS

Forfeiture of Grand Jury

Date:

SEP 11 2013

VERDICT

FILED FOR RECORD
2013 SEP 11 PM 1:16
JOYCE McDONALD
CLERK OF COURT
KERSHAW COUNTY, S.C.

Indictment for
CRIMINAL SEXUAL CONDUCT WITH
MINOR, 2ND DEG (age 11 -14)

SC Code: 16-03-0655

CDR Code: 0396

Forfeiture of Petit Jury
Date:

STATE OF SOUTH CAROLINA)
COUNTY OF KERSHAW)

INDICTMENT

At a Court of General Sessions, convened on September 11, 2013,
the Grand Jurors of Kershaw County present upon their oath:

CRIMINAL SEXUAL CONDUCT WITH A MINOR
2ND DEGREE

That JAMES WALTER OWENS did in Kershaw County, State of South Carolina, on and/or between October 18, 2007 and October 18, 2010, willfully, unlawfully and feloniously engage in sexual battery with a minor who was at least fourteen (14) years or less but who was at least eleven (11) years of age, to wit: ALEXIS ANDERSON, whose date of birth is October 18, 1996, all in violation of Section 16-03-655, 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.



DAN JOHNSON, SOLICITOR

CLERK OF COURT
KERSHAW COUNTY
COURT HOUSE
COLUMBIA, SOUTH CAROLINA
SEP 11 2013

WITNESSES

(S) S Knafelc

- Kershaw County Sheriff

DOCKET NO. 2013-GS-28-0832

The State of South Carolina

County of

Kershaw

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I hereby appear in my own proper person and plead guilty to the within indictment or to

ARREST WARRANT NUMBER

DP00038

COURT OF GENERAL SESSIONS

SEPTEMBER 11 TERM 2013

79

Defendant

THE STATE
vs.

James Walker Owens

Witness:

C.C.C. PLS. AND G.S.

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date:

SEP 11 2013

VERDICT

FILED FOR RECORD
2013 SEP 11 PM 1:16
JOYCE McDONALD
CLERK OF COURT
KERSHAW COUNTY, S.C.

Indictment for
CRIMINAL SEXUAL CONDUCT WITH
MINOR, 2ND DEG (age 14-16)

SC Code: 16-03-0655

CDR Code: 0396

Foreperson of Petit Jury

Date:

STATE OF SOUTH CAROLINA)
)
COUNTY OF KERSHAW)


INDICTMENT

At a Court of General Sessions, convened on September 11, 2013,
the Grand Jurors of Kershaw County present upon their oath:

CRIMINAL SEXUAL CONDUCT WITH A MINOR
2ND DEGREE

That James Walter Owens did in Kershaw County, State of South Carolina, on or between October 18, 2010 and April 30, 2012, willfully, unlawfully and feloniously engage in sexual battery with a minor who was at least fourteen (14) years or less but who was less than sixteen (16) years of age, to wit: Alexis Sierra Anderson, whose date of birth is October 18, 1996, and the defendant was in a position of familial, custodial, or official authority to coerce the victim to submit or is older than the victim in violation of Section 16-03-655 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.


KERSHAW COUNTY
SOUTH CAROLINA
SEP 11 2013 4:09 PM
DAN JOHNSON, SOLICITOR

Attachment C

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Kershaw
STATE VS. James Walter Owens

INDICTMENT/CASE#: 2012-GS-28-1241
A/W#: 2012A2810100097
Date of Offense: 4/30/2012
S.C. Code § : 16-03-0655(A)(1)
CDR Code #: 0385

AKA:
Race: WHITE Sex: M Age: 39
DOB: SS#:
Address:
City, State, Zip:
DL#: SID#:

SENTENCE SHEET

*CDL Yes No CMV Yes No Hazmat Yes No
In disposition of the said indictment comes now the Defendant who was CONVICTED OF or PLEADS
TO: Sex / Criminal sexual conduct with or Attempt- victim under 11 yrs of age - First degree

in violation of § 16-03-0655(A)(1) of the S.C. Code of Laws, bearing CDR Code # 0385
NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC w/minor 1st or Lewd Act) §17-25-45

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury.
The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST: SIMPSON, NICOLE SC Bar# 77500 Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center,
for a determinate term of 25 days/months/years or under the Youthful Offender Act not to exceed years
and/or to pay a fine of \$; provided that upon the service of days/months/years 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.

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 the State Department of Corrections.
The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered PTUP
Total: \$ plus 20% fee: \$
Payment Terms:
Set by SCDPPPS

Recipient:

Table with 2 columns: Description and Amount. Includes items like § 14-1-206 (Assessments 107.5 %), § 14-1-211(A)(1) (Conv. Surcharge) \$100, § 14-1-211(A)(2) (DUI Surcharge) \$100, § 56-5-2995 (DUI Assessment) \$12, § 56-1-286 (DUI Breath Test) \$25, Proviso 47.9 (Public Def/Prob) \$500, § 14-1-212 (Law Enforce. Funding) \$25, § 14-1-213 (Drug Court Surcharge) \$150, § 50-21-114(BUI Breath Test Fee) \$50, § 56-5-2942(J) (Vehicle Assessment) \$40/ea, Proviso 90.5 (SCCJA Surcharge) \$5, 3% to County (if paid in installments) \$, TOTAL \$133.90

days/hours Public Service Employment
Obtain GED
Attend Voc. Rehab. or Job Corp.
May serve W/E beginning
Substance Abuse Counseling
Random Drug/Alcohol testing
Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ beginning
\$ paid to Public Defender Fund
Other:

RECEIVED

OCT 13 2012

SC Court of Appeals

Appointed PD or appointed other counsel, § 47.12 requires \$500 be paid to Clerk during probation.

Clerk of Court/ Deputy Clerk: James M. Donald
Court Reporter: Bennie H. Kelly
SCCA/217 (03/2011)

Presiding Judge: [Signature]
Judge Code: 21414
Sentence Date: 9-20-12

STATE OF SOUTH CAROLINA

COUNTY OF Kershaw
STATE VS.

James Walter Owens

AKA:

Race: WHITE Sex: M Age: 39

DOB: SS#:

Address: 5

City, State, Zip:

DL#: SID#:

*CDL Yes No CMV Yes No Hazmat Yes No

In disposition of the said indictment comes now the Defendant who was

TO: Sex / Lewd Act, committing or attempting lewd act upon child under 16 (June 4, 1996)

in violation of § 16-15-0140 of the S.C. Code of Laws, bearing CDR Code # 2468
NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC w/minor 1st or Lewd Act) §17-25-45

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury.
The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST: SIMPSON, NICOLE 77500 Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center,
for a determinate term of 10 days/months/years or under the Youthful Offender Act not to exceed years
and/or to pay a fine of \$; provided that upon the service of days/months/years 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.

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 the State Department of Corrections.
The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered PTUP
Total: \$ plus 20% fee: \$
Payment Terms:
Set by SCDPPPS
Recipient:

Table with 3 columns: Description, Amount, Total. Includes items like § 14-1-206 (Assessments 107.5%), § 14-1-211(A)(1) (Conv. Surcharge), § 14-1-211(A)(2) (DUI Surcharge), § 56-5-2995 (DUI Assessment), § 56-1-286 (DUI Breath Test), Proviso 47.9 (Public Def/Prob), § 14-1-212 (Law Enforce. Funding), § 14-1-213 (Drug Court Surcharge), § 50-21-114 (BUI Breath Test Fee), § 56-5-2942(J) (Vehicle Assessment), Proviso 90.5 (SCCJA Surcharge), 3% to County (if paid in installments), TOTAL \$133.90

Clerk of Court/ Deputy Clerk:
Court Reporter:
SCCA/217 (03/2011)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2012-GS-28-1242
A/W#: 2012A2810100098
Date of Offense: 1/1/2012
S.C. Code § : 16-15-0140
CDR Code #: 2468

SENTENCE SHEET

CONVICTED OF or PLEADS

Mandatory GPS(CSC w/minor 1st or Lewd Act) §17-25-45

Attorney for Defendant SC Bar#

County Detention Center,
years
and/or payment

§ 24-13-40 to be calculated and applied

PTUP
days/hours Public Service Employment
Obtain GED
Attend Voc. Rehab. or Job Corp.
May serve W/E beginning
Substance Abuse Counseling
Random Drug/Alcohol testing
Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ beginning
\$ paid to Public Defender Fund

RECEIVED

OCT 13 2012

SC Court of Appeals

Appointed PD or appointed other counsel, § 47.12 requires \$500 be paid to Clerk during probation.

Presiding Judge:
Judge Code: 2144
Sentence Date: 9-20-13

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Kershaw
STATE VS.
James Walter Owens

INDICTMENT/CASE#: 2012-GS-28-1243
A/W#: 2012A2810100099
Date of Offense: 1/1/2010
S.C. Code § : 16-15-0140
CDR Code #: 2468

AKA:
Race: WHITE Sex: M Age: 39
DOB: SS#:
Address:
City, State, Zip:
DL#: SID#:

SENTENCE SHEET

*CDL Yes No CMV Yes No Hazmat Yes No
In disposition of the said indictment comes now the Defendant who was CONVICTED OF or PLEADS
TO: Sex / Lewd Act, committing or attempting lewd act upon child under 16 (June 4, 1996)

in violation of § 16-15-0140 of the S.C. Code of Laws, bearing CDR Code # 2468
NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC w/minor 1st or Lewd Act) §17-25-45

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury.
The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST: SIMPSON, NICOLE 77500 Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center,
for a determinate term of 10 days/months/years or under the Youthful Offender Act not to exceed years
and/or to pay a fine of \$; provided that upon the service of days/months/years 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.
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 the State Department of Corrections.
The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered PTUP
Total: \$ plus 20% fee: \$
Payment Terms:
Set by SCDPPPS
Recipient:

Table with 3 columns: Description, Rate, Total. Includes items like § 14-1-206 (Assessments 107.5%), § 14-1-211(A)(1) (Conv. Surcharge), § 14-1-211(A)(2) (DUI Surcharge), § 56-5-2995 (DUI Assessment), § 56-1-286 (DUI Breath Test), Proviso 47.9 (Public Def/Prob), § 14-1-212 (Law Enforce. Funding), § 14-1-213 (Drug Court Surcharge), § 50-21-114 (BUI Breath Test Fee), § 56-5-2942(J) (Vehicle Assessment), Proviso 90.5 (SCCA Surcharge), 3% to County (if paid in installments), TOTAL \$133.90.

days/hours Public Service Employment
Obtain GED
Attend Voc. Rehab. or Job Corp.
May serve W/E beginning
Substance Abuse Counseling
Random Drug/Alcohol testing
Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ beginning
\$ paid to Public Defender Fund
Other:

RECEIVED

OCT 13 2022

Appointed PD or appointed other counsel, § 47.12 requires \$500 be paid to Clerk of Appeals during probation.

Clerk of Court/ Deputy Clerk: [Signature]
Court Reporter: [Signature]
SCCA/217 (03/2011)

Presiding Judge: [Signature]
Judge Code: 2144
Sentence Date: 9-20-13 209m

STATE OF SOUTH CAROLINA

COUNTY OF Kershaw
STATE VS. James Walter Owens

AKA:
Race: WHITE Sex: M Age: 39
DOB: SS#:
Address:
City, State, Zip:
DL#: SID#:

*CDL Yes No CMV Yes No Hazmat Yes No

In disposition of the said indictment comes now the Defendant who was CONVICTED OF or PLEADS
TO: Sex / Criminal sexual conduct with minor, or Attempt - victim 11 to 14 yrs of age inclusive - Second deg

in violation of 16-03-0655(B)(1) of the S.C. Code of Laws, bearing CDR Code # 0396
NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC w/minor 1st or Lewd Act) 17-25-45

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury.
The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST: Solicitor SC Bar# 77500 Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center,
for a determinate term of 18 days/months/years or under the Youthful Offender Act not to exceed years
and/or to pay a fine of \$; provided that upon the service of days/months/years 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.

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 the State Department of Corrections.
The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code 17-25-135.

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

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered PTUP
Total: \$ plus 20% fee: \$
Payment Terms:
Set by SCDPPPS

Recipient:

Table with 3 columns: Description, Amount, Total. Includes items like 14-1-206 (Assessments 107.5%), 14-1-211(A)(1) (Conv. Surcharge), 14-1-211(A)(2) (DUI Surcharge), 56-5-2995 (DUI Assessment), 56-1-286 (DUI Breath Test), Proviso 47.9 (Public Def/Prob), 14-1-212 (Law Enforce. Funding), 14-1-213 (Drug Court Surcharge), 50-21-114 (BUI Breath Test Fee), 56-5-2942(J) (Vehicle Assessment), Proviso 90.5 (SCCJA Surcharge), 3% to County (if paid in installments), TOTAL \$133.90.

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2013GS2800831
A/W#: 2013GS2800831
Date of Offense: 10/18/2010
S.C. Code 16-03-0655(B)(1)
CDR Code #: 0396

SENTENCE SHEET

CONVICTED OF or PLEADS

in violation of 16-03-0655(B)(1) of the S.C. Code of Laws, bearing CDR Code # 0396
NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC w/minor 1st or Lewd Act) 17-25-45

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury.
The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST: Solicitor SC Bar# 77500 Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center,
for a determinate term of 18 days/months/years or under the Youthful Offender Act not to exceed years
and/or to pay a fine of \$; provided that upon the service of days/months/years 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.

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 the State Department of Corrections.
The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code 17-25-135.

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

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered PTUP
Total: \$ plus 20% fee: \$
Payment Terms:
Set by SCDPPPS

Recipient:

Table with 3 columns: Description, Amount, Total. Includes items like 14-1-206 (Assessments 107.5%), 14-1-211(A)(1) (Conv. Surcharge), 14-1-211(A)(2) (DUI Surcharge), 56-5-2995 (DUI Assessment), 56-1-286 (DUI Breath Test), Proviso 47.9 (Public Def/Prob), 14-1-212 (Law Enforce. Funding), 14-1-213 (Drug Court Surcharge), 50-21-114 (BUI Breath Test Fee), 56-5-2942(J) (Vehicle Assessment), Proviso 90.5 (SCCJA Surcharge), 3% to County (if paid in installments), TOTAL \$133.90.

Presiding Judge Judge Code: 2144 Sentence Date: 9-20-13

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OCT 13 2012
SC Court of Appeals

Clerk of Court/ Deputy Clerk Court Reporter: SCCA/217 (03/2011)

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Kershaw
STATE VS.

James Walter Owens

INDICTMENT/CASE#: 2013-GS-28-0832

A/W#: DP00038

Date of Offense: 4/30/2012

S.C. Code § : 16-03-0655(B)(1)

CDR Code #: 0396

AKA:

Race: WHITE Sex: M Age: 39

DOB: SS#:

Address:

City, State, Zip:

DL#: SID#:

*CDL Yes No CMV Yes No Hazmat Yes No

In disposition of the said indictment comes now the Defendant who was

TO: Sex / Criminal sexual conduct with minor, or Attempt - victim 14 to 16 yrs of age inclusive - Second

in violation of § 16-03-0655 of the S.C. Code of Laws, bearing CDR Code # 0396

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

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

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

ATTEST: SIMPSON, NICOLE SC Bar# 77500 Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center, for a determinate term of 18 days/months/years or under the Youthful Offender Act not to exceed years and/or to pay a fine of \$; provided that upon the service of days/months/years 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.

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 the State Department of Corrections.

The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered PTUP days/hours Public Service Employment

Total: \$ plus 20% fee: \$ Obtain GED

Payment Terms: Attend Voc. Rehab. or Job Corp.

Set by SCDPPPS May serve W/E beginning

Recipient: Substance Abuse Counseling

*Fine: Random Drug/Alcohol testing

§ 14-1-206 (Assessments 107.5 %) Fine may be pd. in equal, consecutive weekly/monthly

§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100.00 pmts. of \$ beginning

§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$

§ 56-5-2995 (DUI Assessment) \$12 \$

§ 56-1-286 (DUI Breath Test) \$25 \$

Proviso 47.9 (Public Def/Prob) \$500 \$

§ 14-1-212 (Law Enforce. Funding) \$25 \$ 25.00

§ 14-1-213 (Drug Court Surcharge) \$150 \$

§ 50-21-114(BUI Breath Test Fee) \$50 \$

§ 56-5-2942(J) (Vehicle Assessment) \$40/ca \$

Proviso 90.5 (SCCJA Surcharge) \$5 \$ 5.00

3% to County (if paid in installments) \$ 3.90

TOTAL \$ 133.90

Clerk of Court/ Deputy Clerk Court Reporter: SCCA/217 (03/2011)

SENTENCE SHEET

CONVICTED OF or PLEADS

Presiding Judge Judge Code: Sentence Date: 9-20-13

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SC Court of Appeals Appointed PD or appointed public defender § 47.12 requires \$500 be paid to Clerk during probation.

Attachment D



Kershaw County Fifth Judicial Circuit Public Index



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[South Carolina Judicial Department Home Page](#)
[SC.GOV Home Page](#)

Switch View					
The State of South Carolina VS James Walter Owens					
Case Number:	2012A2810100097	Court Agency:	General Sessions	Filed Date:	07/24/2012
Case Type:	Criminal-Clerk	Case Sub Type:			
Status:	Disposed	Assigned Judge:	Clerk Of Court C P, G S, And Family Court	Disposition Judge:	Cothran, Ralph Ferrell Jr
Disposition:	Trial Guilty				
Disposition Date:	09/20/2013	Date Received:	07/23/2012	Arrest Date:	07/20/2012
Law Enf. Case:	2012-07-03329	True Bill Date:	08/22/2012	No Bill Date:	
Prosecutor Case:		Indictment Number:	2012GS2801241	Waiver Date:	
Probation Case:					

Case Parties							
<small>Click the <input checked="" type="checkbox"/> icon to show associated parties.</small>							
Name	Address	Race	Sex	Year Of Birth	Party Type	Party Status	Last Updated
<input checked="" type="checkbox"/> Kirincich, Jason D.	1121 Broad St Camden SC 290203623				Defendant Attorney		07/26/2012
<input type="checkbox"/> Knafelc, S	821 Ridgeway Rd. Lugoff SC 29078				Officer		07/24/2012
<input checked="" type="checkbox"/> Owens, James Walter	52 Hubb Kelly Road Cassatt SC 29032	White	M	1974	Defendant		09/20/2013
<input type="checkbox"/> Simpson, Nicole Marie	1701 Main St Columbia SC 29201				Solicitor		02/25/2013

Charges			
Name	Charge Code - Charge Description	Original Charge Code - Original Charge	Disposition Date
Owens, James Walter	0385-Sex / Criminal sexual conduct with or Attempt- victim under 11 yrs of age - First degree	0385-Sex / Criminal sexual conduct with or Attempt- victim under 11 yrs of age - First degree	09/20/2013

Sentencing							
And/Or	Description	Amount	Units	Begin Date	End Date	Completion Date	Consecutive or Concurrent
	SCDC 25 Yrs / Defendant credit time served						

Actions						
Name	Description	Type	Motion Roster	Begin Date	Completion Date	Documents
Kirincich, Jason D.	Notice of Appeal	Filing		10/10/2022-14:23		
Kirincich, Jason D.	Notice/Notice Motion for New Trial	Filing		09/30/2013-15:40		
Owens, James Walter	Active - Non Probation	Filing		09/20/2013-16:10		
Simpson, Nicole Marie	Motion/Reciprocal Discovery	Motion		02/22/2013-15:34	09/20/2013-15:34	

Kirincich, Jason D.	Motion/Motion For Bond Hearing	Motion		01/29/2013-12:17	09/20/2013-12:17
Kirincich, Jason D.	Motion/Motion For Bond Hearing	Motion		08/22/2012-14:12	09/20/2013-14:12
Kirincich, Jason D.	Motion/Discovery	Motion		07/26/2012-16:31	09/20/2013-16:31
Owens, James Walter	Warrant/Case Filed	Filing		07/23/2012-00:00	09/20/2013-00:00

Financials

Summary

Fine/Costs:	\$133.90	Total Paid for fine/costs:	\$0.00	Balance Due:	\$133.90
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Costs

Description	Cost Code	Amount	Charge Action	Disbursed Amount
Fine to State 44%	AFINES	\$0.00		\$0.00
Fine to General Fund	AFNEGF	\$0.00		\$0.00
Victim Services Asm 38.0013% / 5.7831%	ASMVIC	\$0.00		\$0.00
Victim Conviction Surcharge \$100 / \$25	CVSRCH	\$100.00		\$0.00
Law Enforcement Funding Surcharge \$25	LEFSUR	\$25.00		\$0.00
SC Criminal Justice Academy Training	SCCJAT	\$5.00		\$0.00
State Assessment	STAASM	\$0.00		\$0.00
Collection Fee 3%	CFEE3%	\$3.90		\$0.00

Payments

Payment Date	Receipt Number	Entered By	Transaction Type Code	Payment Amount
None				



Kershaw County Fifth Judicial Circuit Public Index



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Switch View

The State of South Carolina VS James Walter Owens

Case Number:	2012A2810100098	Court Agency:	General Sessions	Filed Date:	07/24/2012
Case Type:	Criminal-Clerk	Case Sub Type:			
Status:	Disposed	Assigned Judge:	Clerk Of Court C P, G S, And Family Court	Disposition Judge:	Cothran, Ralph Ferrell Jr
Disposition:	Trial Guilty				
Disposition Date:	09/20/2013	Date Received:	07/23/2012	Arrest Date:	07/20/2012
Law Enf. Case:	2012-07-03329	True Bill Date:	08/22/2012	No Bill Date:	
Prosecutor Case:		Indictment Number:	2012GS2801242	Waiver Date:	
Probation Case:					

Case Parties

Click the icon to show associated parties.

Name	Address	Race	Sex	Year Of Birth	Party Type	Party Status	Last Updated
<input checked="" type="checkbox"/> Kirincich, Jason D.	1121 Broad St Camden SC 290203623				Defendant Attorney		07/26/2012
<input type="checkbox"/> Knafelc, S	821 Ridgeway Rd. Lugoff SC 29078				Officer		07/24/2012
<input checked="" type="checkbox"/> Owens, James Walter	52 Hubb Kelly Road Cassatt SC 29032	White	M	1974	Defendant		09/20/2013
<input type="checkbox"/> Simpson, Nicole Marie	1701 Main St Columbia SC 29201				Solicitor		02/25/2013

Charges

Name	Charge Code - Charge Description	Original Charge Code - Original Charge	Disposition Date
Owens, James Walter	2468-Sex / Lewd Act, committing or attempting lewd act upon child under 16 (June 4, 1996)	3661-Sex / Criminal sexual conduct with minor, 3rd degree - Commit/Attempt Lewd act (victim under 16 yrs & actor over 14 yrs)	09/20/2013

Sentencing

And/Or	Description	Amount	Units	Begin Date	End Date	Completion Date	Consecutive or Concurrent
	SCDC 10 Yrs / Concurrent / Defendant credit time served						

Actions

Name	Description	Type	Motion Roster	Begin Date	Completion Date	Documents
Owens, James Walter	Active - Non Probation	Filing		09/20/2013-16:14		
Simpson, Nicole Marie	Motion/Reciprocal Discovery	Motion		02/22/2013-15:35	09/20/2013-15:35	
Kirincich, Jason D.	Motion/Motion For Bond Hearing	Motion		01/29/2013-12:18	09/20/2013-12:18	

Owens, James Walter	Warrant/Case Filed	Filing		07/23/2012- 00:00	09/20/2013- 00:00	
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Financials

Summary

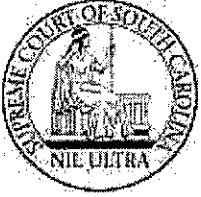
Fine/Costs:	\$133.90	Total Paid for fine/costs:	\$0.00	Balance Due:	\$133.90
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Costs

Description	Cost Code	Amount	Charge Action	Disbursed Amount
Fine to State 44%	AFINES	\$0.00		\$0.00
Fine to General Fund	AFNEGF	\$0.00		\$0.00
Victim Services Asm 38.0013% / 5.7831%	ASMVIC	\$0.00		\$0.00
Victim Conviction Surcharge \$100 / \$25	CVSRCH	\$100.00		\$0.00
Law Enforcement Funding Surcharge \$25	LEFSUR	\$25.00		\$0.00
SC Criminal Justice Academy Training	SCCJAT	\$5.00		\$0.00
State Assessment	STAASM	\$0.00		\$0.00
Collection Fee 3%	CFEE3%	\$3.90		\$0.00

Payments

Payment Date	Receipt Number	Entered By	Transaction Type Code	Payment Amount
None				



Kershaw County Fifth Judicial Circuit Public Index



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Switch View					
The State of South Carolina VS James Walter Owens					
Case Number:	2012A2810100099	Court Agency:	General Sessions	Filed Date:	07/24/2012
Case Type:	Criminal-Clerk	Case Sub Type:			
Status:	Disposed	Assigned Judge:	Clerk Of Court C P, G S, And Family Court	Disposition Judge:	Cothran, Ralph Ferrell Jr
Disposition:	Trial Guilty				
Disposition Date:	09/20/2013	Date Received:	07/23/2012	Arrest Date:	07/20/2012
Law Enf. Case:		True Bill Date:	08/22/2012	No Bill Date:	
Prosecutor Case:		Indictment Number:	2012GS2801243	Waiver Date:	
Probation Case:					

Case Parties							
<small>Click the <input checked="" type="checkbox"/> icon to show associated parties.</small>							
Name	Address	Race	Sex	Year Of Birth	Party Type	Party Status	Last Updated
<input checked="" type="checkbox"/> Kirincich, Jason D.	1121 Broad St Camden SC 290203623				Defendant Attorney		07/26/2012
Knafelc, S	821 Ridgeway Rd. Lugoff SC 29078				Officer		07/24/2012
<input checked="" type="checkbox"/> Owens, James Walter	52 Hubb Kelly Road Cassatt SC 29032	White	M	1974	Defendant		09/20/2013
Simpson, Nicole Marie	1701 Main St Columbia SC 29201				Solicitor		02/25/2013

Charges			
Name	Charge Code - Charge Description	Original Charge Code - Original Charge	Disposition Date
Owens, James Walter	2468-Sex / Lewd Act, committing or attempting lewd act upon child under 16 (June 4, 1996)	3661-Sex / Criminal sexual conduct with minor, 3rd degree - Commit/Attempt Lewd act (victim under 16 yrs & actor over 14 yrs)	09/20/2013

Sentencing							
And/Or	Description	Amount	Units	Begin Date	End Date	Completion Date	Consecutive or Concurrent
	SCDC 10 Yrs / Concurrent / Defendant credit time served						

Actions						
Name	Description	Type	Motion Roster	Begin Date	Completion Date	Documents
Owens, James Walter	Active - Non Probation	Filing		09/20/2013-16:20		
Owens, James Walter	Warrant/Case Filed	Filing		07/23/2012-00:00	09/20/2013-00:00	

Financials**Summary**

Fine/Costs:	\$133.90	Total Paid for fine/costs:	\$0.00	Balance Due:	\$133.90
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Costs

Description	Cost Code	Amount	Charge Action	Disbursed Amount
Fine to State 44%	AFINES	\$0.00		\$0.00
Fine to General Fund	AFNEGF	\$0.00		\$0.00
Victim Services Asm 38.0013% / 5.7831%	ASMVIC	\$0.00		\$0.00
Victim Conviction Surcharge \$100 / \$25	CVSRCH	\$100.00		\$0.00
Law Enforcement Funding Surcharge \$25	LEFSUR	\$25.00		\$0.00
SC Criminal Justice Academy Training	SCCJAT	\$5.00		\$0.00
State Assessment	STAASM	\$0.00		\$0.00
Collection Fee 3%	CFEE3%	\$3.90		\$0.00

Payments

Payment Date	Receipt Number	Entered By	Transaction Type Code	Payment Amount
None				



Kershaw County Fifth Judicial Circuit Public Index



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Switch View					
The State of South Carolina VS James Walter Owens					
Case Number:	2013GS2800831	Court Agency:	General Sessions	Filed Date:	09/11/2013
Case Type:	Criminal-Clerk	Case Sub Type:			
Status:	Disposed	Assigned Judge:	Clerk Of Court C P, G S, And Family Court	Disposition Judge:	Cothran, Ralph Ferrell Jr
Disposition:	Trial Guilty				
Disposition Date:	09/20/2013	Date Received:	09/11/2013	Arrest Date:	09/11/2013
Law Enf. Case:		True Bill Date:	09/11/2013	No Bill Date:	
Prosecutor Case:		Indictment Number:	2013GS2800831	Waiver Date:	
Probation Case:					

Case Parties							
<small>Click the <input checked="" type="checkbox"/> icon to show associated parties.</small>							
Name	Address	Race	Sex	Year Of Birth	Party Type	Party Status	Last Updated
Knafelc, S	821 Ridgeway Rd. Lugoff SC 29078				Officer		09/12/2013
Owens, James Walter	52 Hubb Kelly Road Cassatt SC 29032	White	M	1974	Defendant		09/20/2013

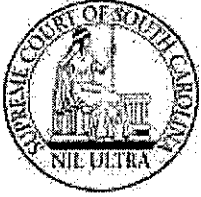
Charges			
Name	Charge Code - Charge Description	Original Charge Code - Original Charge	Disposition Date
Owens, James Walter	0396-Sex / Criminal sexual conduct with minor, or Attempt - victim 11 to 14 yrs of age inclusive - Second deg	0396-Sex / Criminal sexual conduct with minor, or Attempt - victim 11 to 14 yrs of age inclusive - Second deg	09/20/2013

Sentencing							
And/Or	Description	Amount	Units	Begin Date	End Date	Completion Date	Consecutive or Concurrent
	SCDC 18 Yrs / Concurrent / Defendant credit time served						

Actions						
Name	Description	Type	Motion Roster	Begin Date	Completion Date	Documents
Owens, James Walter	Active - Non Probation	Filing		09/20/2013-16:15		

Financials					
Summary					
Fine/Costs:	\$133.90	Total Paid for fine/costs:	\$0.00	Balance Due:	\$133.90
Costs					
Description	Cost Code	Amount	Charge Action	Disbursed Amount	

Fine to State 44%	AFINES	\$0.00		\$0.00
Fine to General Fund	AFNEGF	\$0.00		\$0.00
Victim Services Asm 38.0013% / 5.7831%	ASMVIC	\$0.00		\$0.00
Victim Conviction Surcharge \$100 / \$25	CVSRCH	\$100.00		\$0.00
Law Enforcement Funding Surcharge \$25	LEFSUR	\$25.00		\$0.00
SC Criminal Justice Academy Training	SCCJAT	\$5.00		\$0.00
State Assessment	STAASM	\$0.00		\$0.00
Collection Fee 3%	CFEE3%	\$3.90		\$0.00
Payments				
Payment Date	Receipt Number	Entered By	Transaction Type Code	Payment Amount
None				



Kershaw County Fifth Judicial Circuit Public Index



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[South Carolina Judicial Department Home Page](#)
[SC.GOV Home Page](#)

Switch View					
The State of South Carolina VS James Walter Owens					
Case Number:	2013GS2800832	Court Agency:	General Sessions	Filed Date:	09/11/2013
Case Type:	Criminal-Clerk	Case Sub Type:			
Status:	Disposed	Assigned Judge:	Clerk Of Court C P, G S, And Family Court	Disposition Judge:	Cothran, Ralph Ferrell Jr
Disposition:	Trial Guilty				
Disposition Date:	09/20/2013	Date Received:	09/11/2013	Arrest Date:	09/11/2013
Law Enf. Case:		True Bill Date:	09/11/2013	No Bill Date:	
Prosecutor Case:		Indictment Number:	2013GS2800832	Waiver Date:	
Probation Case:					

Case Parties							
<small>Click the <input checked="" type="checkbox"/> icon to show associated parties.</small>							
Name	Address	Race	Sex	Year Of Birth	Party Type	Party Status	Last Updated
Knafelc, S	821 Ridgeway Rd. Lugoff SC 29078				Officer		09/12/2013
Owens, James Walter	52 Hubb Kelly Road Cassatt SC 29032	White	M	1974	Defendant		09/20/2013

Charges			
Name	Charge Code - Charge Description	Original Charge Code - Original Charge	Disposition Date
Owens, James Walter	0396-Sex / Criminal sexual conduct with minor, or Attempt - victim 11 to 14 yrs of age inclusive - Second deg	0396-Sex / Criminal sexual conduct with minor, or Attempt - victim 11 to 14 yrs of age inclusive - Second deg	09/20/2013

Sentencing							
And/Or	Description	Amount	Units	Begin Date	End Date	Completion Date	Consecutive or Concurrent
	SCDC 18 Yrs / Concurrent / Defendant credit time served						

Actions						
Name	Description	Type	Motion Roster	Begin Date	Completion Date	Documents
Owens, James Walter	Active - Non Probation	Filing		09/20/2013-16:22		

Financials					
Summary					
Fine/Costs:	\$133.90	Total Paid for fine/costs:	\$0.00	Balance Due:	\$133.90
Costs					
Description	Cost Code	Amount	Charge Action	Disbursed Amount	

Fine to State 44%	AFINES	\$0.00		\$0.00
Fine to General Fund	AFNEGF	\$0.00		\$0.00
Victim Services Asm 38.0013% / 5.7831%	ASMVIC	\$0.00		\$0.00
Victim Conviction Surcharge \$100 / \$25	CVSRCH	\$100.00		\$0.00
Law Enforcement Funding Surcharge \$25	LEFSUR	\$25.00		\$0.00
SC Criminal Justice Academy Training	SCCJAT	\$5.00		\$0.00
State Assessment	STAASM	\$0.00		\$0.00
Collection Fee 3%	CFEE3%	\$3.90		\$0.00
Payments				
Payment Date	Receipt Number	Entered By	Transaction Type Code	Payment Amount
None				

Attachment E

beginning of the trial that the State had only amended the Criminal Sexual Conduct with a Minor 1st Degree indictment the week before trial and it became apparent throughout the trial that the minor's age was a real concern for the State. The initial indictment would not have been proper to present a case for Criminal Sexual Conduct with a Minor 1st Degree but it was more consistent with the evidence that the State provided as part of its on-going duty to provide discovery. In asking the court to direct a verdict on the Criminal Sexual Conduct with a Minor 1st Degree charge, Defendant was not asking the court to weigh the evidence that the State presented, but was instead asking the Court to hold the State to a standard that the State must present consistent evidence in a case such as this where age is an element that must be proven before a conviction can be secured. While there was at least some evidence presented by the State, the normal standard to get past a directed verdict motion, the evidence was too confusing and contradictory and therefore insufficient evidence to pass on to a jury.

In regards to the two Lewd Act on a Minor Charges, Defendant once again asserts that the State failed in any way in its case in chief to establish any intent on behalf of the Defendant or in regards to the two minors. Lewd Act on minor has a specific intent provision on its face and at no time did the State present any evidence as to the Defendant's intent. The two minor children were the only witnesses to the alleged acts and the State did not ask any questions that could lead to any circumstantial evidence of the Defendant's intent to arouse himself or the minor children. This is not an element that could be left up to the jury to infer based on the totality of the case, this was an element for these two charges that the State had to prove beyond a reasonable doubt and the State failed to do that and a directed verdict should have been granted based on the failure to produce any evidence of intent.

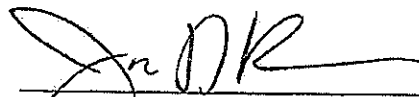
2. There was a misunderstanding by the trial judge of what constituted the official record for the case. The trial judge believed that because the court reporter placed several hand-held style recorders around the courtroom, including the placement of one such recorder on the bench in front of the trial judge, that those recorders were part of the official record. At some point, Ms. Bonnie Kelly, the official court reporter, informed the trial judge, the Assistant Solicitors and Defendant's counsel that the recorders were not part of the official record. Ms. Kelly indicated that she could attempt to incorporate the recorders into the official record but in Defendant's opinion, that could be extremely problematic.

This trial was expected to last no less than four days and ended up taking the whole week. The trial judge and all participants endeavored to move things along as quickly as possible, and part of that included not excusing the jury from the court room during legal arguments but instead holding those hearings in the visual presence of the jury but as quietly as possible at a bench conference. The trial judge told all parties that this was acceptable because it was all on the record. All parties believed that those words were being taken down until later informed by Ms. Kelly

that they were not. A number of objections were heard via bench conference with the understanding that those objections were completely preserved. There is now a real chance that those objections are not properly preserved.

3. During the course of jury deliberation, it became known that the jury was unable to play certain pieces of video evidence in the jury room; specifically, the jury could not play Defendant's recorded interview from the Kershaw County Sheriff's Office. It was decided that the jury would have to come to the courtroom to view the video in the presence of all trial participants. The State and the Defendant were tasked with deciding where to start the video when the jury gave two points of reference that they wanted to watch. Both the State and the Defendant expressed concern with this method and agreed that the proper thing to do was to play the video in its entirety so that nothing would be taken out of context. The trial judge indicated that he would not play the video in its entirety and instead instructed both sides to come to an agreed upon starting point. Defendant believes that this was error and allowed the jury to view the video segments out of context and placed a quasi time limit on jury deliberations as to that matter. Of further concern to Defendant was the discovery after the trial that before Defendant was made aware of the jury's problem playing the video, an intern from the Solicitor's office entered the jury room during deliberations to attempt to correct the problem with the Clerk of Court's laptop. It is unknown whether the intern made any comments on the evidence or if there were any discussions while the intern was in the jury room.
4. Defendant requests an *ex parte* hearing with Judge Cothran or at minimum an *in camera* hearing to discuss some evidence discovered post-trial that may require a separate motion pursuant to Rule 29(b) of the South Carolina Rules of Criminal Procedure.

Defendant requests a hearing to be heard in full regarding these issues and reserves the right to supplement this notice of motion with the addition of relevant case law.



Jason D. Kirincich,
Attorney for Defendant
Kershaw County Public Defender's Office
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Camden, SC 29020
(P) 803-425-7237
(F) 803-425-8807

Camden, South Carolina
September 30, 2013

FILED FOR RECORD
2013 SEP 30 PM 3:45
JOYCE McDONALD
CLERK OF COURT
KERSHAW COUNTY, S.C.

Attachment F

Attachment G

FORM 4
NOTICE OF APPEAL FROM A SENTENCE IMPOSED BY THE COURT
OF GENERAL SESSIONS

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM KERSHAW COUNTY
Court of General Sessions

R. Ferrell Cothran, Jr., Circuit Court Judge

Case No. 2012-GS-28-1241; 1242; 1243
2013-GS-28-831; 832

The State,

Respondent,

v.


James Walter Owens,

Appellant.

NOTICE OF APPEAL

James Walter Owens appeals his conviction and sentence in this case. This appeal is taken from the order of the Honorable R. Ferrell Cothran, Jr., dated September 27, 2021, which denied appellant's motion for a new trial. Appellant received written notice of entry of this order on October 3, 2022.

October 10, 2022


Jason D. Kirincich
1121 Broad Street
Camden, South Carolina 29020
(803) 425-7237
Attorney for Appellant

Other Counsel of Record:
Curtis A. Pauling, III
1121 Broad Street
Camden, SC 29020
803-425-7672
Deputy Solicitor for Kershaw County

FILED FOR RECORD
2022 OCT 10 AM 11:52
JANET C. HASTY
CLERK OF COURT
KERSHAW COUNTY, S.C.

RECEIVED
OCT 13 2022
SC Court of Appeals

**FORM 7
PROOF OF SERVICE OF A NOTICE OF APPEAL**

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM KERSHAW COUNTY
Court of General Sessions

R. Ferrell Cothran, Jr., Circuit Court Judge

Case No. 2012-GS-28-1241; 1242; 1243 and 2013-GS-
28-831; 832

FILED FOR RECORD
2022 OCT 10 AM 11:52
JANET C. HASTY
CLERK OF COURT
KERSHAW COUNTY, S.C.

The State of South Carolina

Respondent,

v.

James Walter Owens,

Appellant.

RECEIVED


OCT 13 2022

SC Court of Appeals

PROOF OF SERVICE

I certify that I have served the Notice of Appeal on The State of South Carolina by personally delivering a copy of it to Deputy Solicitor Curtis A. Pauling, III (Kershaw County), at his office at 1121 Broad Street, Camden, South Carolina 29020 on October 10, 2022.

October 10, 2022


Jason D. Kirincich
1121 Broad Street
Camden, SC 29020
(803) 425-7237
Attorney for Appellant

From: [Stock, Chris](#)
To: [SC - BLITCH WILLIAM](#); [SC - COLLINS CAROLINE](#)
Cc: [Stevens, Breen](#)
Subject: Owens, James - Motion to hold in abeyance and remand for reconstruction - 2022-001458
Date: Friday, January 6, 2023 2:51:00 PM
Attachments: [Owens, James - Motion to hold in abeyance and remand for reconstruction - 2022-001458.pdf](#)

Mr. Blitch,

Please find attached for service the motion to hold in appeal in abeyance and remand for record reconstruction for James W. Owens' appeal which will be filed today with the Court of Appeals.

Thank you.

Chris

Chris Stock
Administrative Assistant
Commission on Indigent Defense
Appellate Division
(803) 734-1330