









STATE THOMAS HENRY INDICTMENT/CASE#: 2018-GS-10-04815  
 VS. BROWN, JR

**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	\$ _____
§14-1-211 (A)(2)(DUI Surcharge)	\$100	\$ <u>100.00</u>
§56-5-2995 (DUI Assessment)	\$12	\$ _____
§56-1-286 (DUI Breath Test)	\$25	\$ _____
§14-1-212 (Law Enforce. Funding)	\$25	\$ <u>25.00</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	\$ <u>3.75</u>
<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	\$ _____
<b>TOTAL</b>		\$ <u>128.75</u>

Clerk of Court/Deputy Clerk: Faith Roosom  
 Court Reporter: Krystal Smith

Presiding Judge: [Signature]  
 Judge Code: 2157  
 Sentence Date: 06/01/2022

DHL/0344840  
WITNESSES

Isle Of Palms Police Department

AGENCY CASE NUMBER

2018-917

ARREST WARRANT NUMBER

2018A1011100119

DATE OF ARREST

06/25/2018

ACTION OF GRAND JURY

**TRUE BILL**

*Jennifer Lucas*  
Foreperson of Grand Jury

9/25/18  
Date:  
SEP 25 2018

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2018-GS-10-04815

The State of South Carolina

County of Charleston

COURT OF GENERAL SESSIONS

SEPTEMBER TERM 2018

THE STATE

VS.

THOMAS HENRY BROWN, JR

B/M DOB:

Indictment for

CRIMINAL SOLICITATION OF A MINOR

SC Code: § 16-15-0342

CDR Code: 2999

**FILED**

9/27/2018 11:27:36 AM

JULIE J. ARMSTRONG

CLERK OF COURT

**RECEIVED**  
FEB 22 2023  
SC Court of Appeals

STATE OF SOUTH CAROLINA  
COUNTY OF CHARLESTON

INDICTMENT

At a Court of General Sessions, convened September 2018, the Grand Jurors of Charleston County present upon their oath:

CRIMINAL SOLICITATION OF A MINOR

That in Charleston County, South Carolina, on or about June 2, 2018, the Defendant, Thomas Henry Brown Jr, while eighteen years of age or older, did knowingly contact, communicate with, or attempt to contact or communicate with, the victim, Dymond Settles, a person who was under the age of eighteen, or the defendant reasonably believed was under the age of eighteen, for the purpose of, or with the intent of persuading, inducing, enticing, or coercing the victim to engage or participate in a sexual activity as defined in SC Code Section 16-15-375(5) or a violent crime as defined in SC Code Section 16-1-60, or with the intent to perform a sexual activity in the presence of the victim. This is in violation of Section 16-15-342 of the South Carolina 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.

  
DEBORAH HERRING-LASH  
ASSISTANT SOLICITOR

ARREST WARRANT

2018A1011100119

STATE OF SOUTH CAROLINA

[X] County/ [ ] Municipality of

Charleston

THE STATE against

Thomas Henry Brown, Jr

Address: [REDACTED]

Phone: [REDACTED] SSN: [REDACTED]

Sex: M Race: [REDACTED] Height: 5 7 Weight: 165

DL State: SC DL #: [REDACTED]

DOB: [REDACTED] Agency ORI #: SC0100500

Prosecuting Agency: Isle Of Palms Police Department

Prosecuting Officer: Louise Hardy - 0121

Offense: Minor / Criminal solicitation of a minor

Offense Code: 2999

Code/Ordinance Sec: 16-15-0342

This warrant is CERTIFIED FOR SERVICE in the [ ] County/ [ ] Municipality of

The accused is to be arrested and brought before me to be dealt with according to the law.

(L.S.)

Signature of Judge

Date: [REDACTED]

RETURN

A copy of this arrest warrant was delivered to defendant THOMAS HENRY BROWN JR on 06/25/2018

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

General Sessions Charleston County Judicial Center 100 Broad Street, Suite 106 Charleston, SC 29401

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

[X] County/ [ ] Municipality of

Charleston

Personally appeared before me the affiant Louise Hardy who

being duly sworn deposes and says that defendant Thomas Henry Brown, Jr

did within this county and state on or about 6/2/2018 violate the criminal laws of the

State of South Carolina (or ordinance of [X] County/ [ ] Municipality of Charleston )

in the following particulars:

DESCRIPTION OF OFFENSE: Minor / Criminal solicitation of a minor

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

See Attached Affidavit

Signature of Affiant

STATE OF SOUTH CAROLINA

[X] County/ [ ] Municipality of

Charleston

Affiant's Address 30 J.C. Long Boulevard Isle Of Palms, SC 29451-

Affiant's Telephone

RECEIVED FEB 22 2023 SC Court of Appeals

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 6/2/2018 defendant Thomas Henry Brown, Jr

did violate the criminal laws of the State of South Carolina (or ordinance of

[X] County/ [ ] Municipality of Charleston ) as set forth below.

DESCRIPTION OF OFFENSE: Minor / Criminal solicitation of a minor

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable Sworn to and subscribed before me

on 6/19/2018

Signature of Issuing Judge Thomas E Lynn (L.S.)

Thomas E Lynn

Judge Code: 7103

Judge's Address 1189 Sweetgrass Basket Pkwy, Suite 300

Mount Pleasant, SC 29465

Judge's Telephone (843)856-1205

Issuing Court: [X] Magistrate [ ] Municipal [ ] Circuit

ORIGINAL

ORIGINAL

ORIGINAL

BAIL set by

Judge Bligen  
on 6.25.18  
Type and Amount: \$ 25 000 SW  
Name of Surety: \_\_\_\_\_

PRELIMINARY HEARING held by

Judge \_\_\_\_\_  
on \_\_\_\_\_  
Defendant Attorney: \_\_\_\_\_  
Decision: \_\_\_\_\_

DISPOSITION before

Judge \_\_\_\_\_  
on \_\_\_\_\_  
by \_\_\_\_\_  
(indicate jury trial, bench trial, plea, nol. pros., etc.)  
Disposition: \_\_\_\_\_  
Sentence: \_\_\_\_\_

JURORS

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

WITNESSES

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Telephone: \_\_\_\_\_

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Telephone: \_\_\_\_\_

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Telephone: \_\_\_\_\_

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Address: \_\_\_\_\_  
Telephone: \_\_\_\_\_

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Telephone: \_\_\_\_\_

CODEFENDANTS

\_\_\_\_\_  
\_\_\_\_\_



BY \_\_\_\_\_  
JULIE J. ARMSTRONG  
CLERK OF COURT  
2018 JUN 29 PM 4:13

FILED

JUN 19 2018

STATE OF SOUTH CAROLINA  
COUNTY OF CHARLESTON  
CITY OF ISLE OF PALMS

OCA 18-917

WARRANT # 2018A1011102119

AFFIDAVIT

Personally appeared before me, a magistrate of this County, one Detective Louise Hardy who, first being duly sworn, deposes and says that:

THOMAS HENRY BROWN, JR.  
DOB :

did within this County and State on the 2<sup>nd</sup> day of June, 2018 violate the criminal laws of the State of South Carolina in the following particulars:

CRIMINAL SOLICITATION OF A MINOR  
16-15-342

The affiant states that there is probable cause to believe that the defendant named above did commit the crime(s) set forth, and that such probable cause is based on the following facts:

That on June 2, 2018, Thomas Henry Brown, Jr., hereafter referred to as defendant, while on Palm Blvd., near 23<sup>rd</sup> Ave., in the City, County and State aforesaid, did commit the offense of violation section 16-15-342 of the South Carolina State Code of Laws, 1976 as amended, CRIMINAL SOLICITATION OF A MINOR, in that he did willingly, unlawfully and feloniously solicit a female victim, 11 yoa, to engage in sexual activity (oral intercourse).

Facts to establish the aforesaid are that on the afternoon of June 2, 2018, the defendant accompanied his girlfriend and her niece, the minor victim [REDACTED], on a beach excursion near 23<sup>rd</sup> Ave. At the conclusion of the trip, as victim and defendant were packing up the vehicle, the defendant grabbed the victim by her arm and asked "can you suck my dick?" The victim pulled away from the defendant and all parties left the area.

The above is true and believable based on the observation and investigation of Detective Sgt. S. Baldrick and Detective D. Tarr. Victim [REDACTED] is also a witness to prove the same in such case made and provided against the peace and dignity of the State of South Carolina.

Sworn to and Subscribed before me  
on this 19th day of June, 2018

Thomas E. Lynn

Signature of Judge

Affiant [Signature]  
Isle of Palms Police Dept.  
30 J C Long Blvd.  
Isle of Palms, SC 29451  
(843) 886-6522

RECEIVED

FEB 22 2023

SC Court of Appeals

810Z 6 1 NUP

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

STATE OF SOUTH CAROLINA

vs.

THOMAS HENRY BROWN JR.,

DEFENDANT.

IN THE COURT OF GENERAL SESSIONS

NINTH JUDICIAL CIRCUIT

STATE'S TRIAL BRIEF

Arrest Warrant #2018A1011100119

Indictment # 2018-GS-10-04815.

Solicitor: Kelsey Ruben Davis, Bar No. 103019  
Address: 101 Meeting St. Suite 400, Charleston, SC 29401  
Phone: (843) 958-1900  
E-mail: davisk@scsolicitor9.org

Defendant's Attorney: Rodney Davis, Bar No. 12396  
Address: 101 MEETING STREET, SUITE 500 CHARLESTON, SC 29401  
Phone: (843) 958-5137  
E-mail: rdavis@charlestoncounty.gov

FILED  
2022 MAY 25 AM 11:52  
JULIE J. ARMSTRONG  
CLERK OF COURT

MOTION HEARING REQUESTED

FORM MOTION, NO HEARING REQUESTED  PROPOSED ORDER/CONSENT ORDER

**SECTION I: Hearing Information**

Nature of Motion: State's Trial Brief

Estimated Time Needed: Trial 1.5 Days

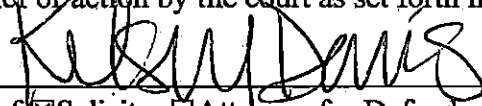
Court Reporter Needed:  YES  NO

**SECTION II: Motion/Order Type**

Written motion attached

Form Motion/Order

I hereby move for relief or action by the court as set forth in the attached proposed order.



Signature of  Solicitor  Attorney for Defendant

5/25/22

Date submitted

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

STATE OF SOUTH CAROLINA

vs.

THOMAS HENRY BROWN JR.,

DEFENDANT.

IN THE COURT OF GENERAL SESSIONS

NINTH JUDICIAL CIRCUIT

STATE'S TRIAL BRIEF

Arrest Warrant #2018A1011100119

Indictment # 2018-GS-10-04815

Criminal Solicitation of a Minor

THE HONORABLE JUDGE HOCKER,

Appearances:

For the State: Kelsey Ruben Davis, Assistant Solicitor

Debbie Herring-Lash, Assistant Solicitor

For the Defendant: Rodney D. Davis, Esquire

Lyndsay J. Luthringer, Esquire

FILED  
2022 MAY 25 AM 11:50  
JULIE J. ARMSTRONG  
CLERK OF COURT  
BY RL

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b. Motion to Exclude Evidence of Other Sexual Assaults

c. Motion for Admission of Statements under §17-23-175.

d. Motion to Include Evidence under Rule 404 (b) SCREE

e. Motion to include evidence of other bad acts as part of the Res Gestae of the case.

D. Proposed Witnesses

## **1. STATEMENT OF THE CASE**

### **A. Procedural History:**

On June 3, 2018 a report came into Isle of Palms police department regarding this case. The patrol officer on duty returned the call to Shelia Simmons. She reported these incidents that occurred on June 2, 2018. Officer Molino asked her to send him an email with the information and he sent this to investigations. Detective Tarr was assigned and she referred the victim to DNLCC for an interview. This interview was done on June 11, 2018, and warrants were done for Criminal Solicitation of A Minor on June 25, 2018.

### **B. Factual Summary**

The defendant was living with the aunt of the victim. On June 1, 2018 the victim went to spend the weekend with her aunt and cousins at the motel room the defendant shared with her aunt. The next day, Saturday, they all went to the beach. When they left the beach, the defendant approached the victim and asked her to perform oral sex (not in these exact words). The victim pulled away but said nothing to anyone. They went back to the motel, showered, and then went to a cookout/bonfire to meet some friends in Colleton County. The victim went to the car to get some candy and the defendant once again solicited her. She left and went back to the bonfire. After arriving back at the motel, she texted her mom that she needed to tell her something. She asks her mom to have the aunt bring her home first thing the next morning. She arrived home upset and told her mom what had happened. This was reported to law enforcement and they set up a forensic interview for the child. A warrant was taken out for Criminal Solicitation of a Minor.

### **C. Evidentiary Issues**

#### **1. State's Motions in Limine**

**a. Compliance with Rape Shield**

Pursuant to South Carolina Code Section 16-3-659.1 (I), the State moves to ensure that all references or any line of inquiry regarding sexual activity or reports of sexual assault regarding the victim, \_\_\_\_\_ in compliance with the "Rape Shield Statute" be prohibited. This includes, but is not limited to references made during summation, argument, or witness examination. The State knows of no other reports of sexual assault or actual sexual assaults regarding this victim but wishes to prevent inferences that could be driven from argument or inquiries in violation of the Statute. Furthermore, pursuant to South Carolina Code Section 16-3-659.1 (2), before any such evidence which defense believes is an exception to the law can be presented, the Statute requires notice be given to the State and such evidence be proffered before the Court and reviewed in camera.

**b. Motion in Limine to Exclude Evidence of Other Sexual Assaults**

The State moves to prohibit any reference or line of inquiry by counsel regarding sexual assaults upon the victim, reference shall include, but not limited to any inquiry by counsel and/or any reference by counsel during summation, argument or any witness examination which alleges any reference to sexual assaults upon this victim. Furthermore, pursuant to State, v., Boiter, 302 S.C.381, 396 SE.2d 364 1990; the State requests notice and that any such evidence be proffered before the Court. In addition, that an in-camera review be made by the Court to determine the relevance and admissibility of such evidence.

**c. Motion for Admission of out of court statements by victim pursuant to 17-23-175**

The state may move to admit the taped statements made by victim, \_\_\_\_\_ after she testifies in court and is subject to cross examination. Pursuant to the statute, the state will present evidence to the Court that \_\_\_\_\_ was under the age of twelve (12) when she

had a forensic interview at the Lowcountry Children's Center, administered by a trained forensic interviewer, Stephanie McKee. Furthermore. Evidence will be presented that this statement was taped, it was given in response to questioning during an investigative interview, and that the totality of circumstances surrounding the making of the statement provide particularized guarantees of trustworthiness. The State will request an in camera review by the Court for consideration of the following factors in support of said evidence pursuant to 17-23-175(B): (1) whether the statement was elicited by leading questions, (2) whether the interviewer was trained in conducting investigative interviews of children, (3) whether the statement contains a detailed account of the offense, (4) whether the statement has internal coherence, and (5) the sworn testimony of any participant which may be determined necessary by the Court.

**d. 404(b) Motion**

The State will move to admit the sexual solicitation that occurred in Colleton County on the same evening as the Charleston county solicitation. These solicitations occurred in the same manner as the prior. The solicitations involved the same two parties, and Thomas Brown and involved a continuous course of conduct. The solicitations both occurred in the defendant's car just hours apart. The same words were used to solicit the oral sex. The subsequent solicitation is probative to motive, the existence of a common scheme or plan, absence of mistake or accident and intent

**e. Res Gestae**

In addition, the evidence regarding the second solicitation on the same date should be admissible in the alternative pursuant to the Res Gestae doctrine, to explain the context of the crime and to provide the fact finder with a "full presentation" of the surrounding events. See State v. Fletcher, 609 S.E,2d 572 (Ct. App. 2005).0

**D. Potential Witnesses**

The State anticipates its case-in-chief will take 1 1/2 days; the following is a list of potential witnesses. The State anticipates calling the following witnesses:

- 1.
2. Sheila Simmons
3. Monique Williams
4. Zykendra Simmons
5. Thomas Molino IOP Police Department/ Berkeley County Sheriff's Department
6. Dian Tarr IOP Police Department
7. Stephanie McKee Dee Norton Children's Center
8. Mari Bolden
9. Fannie Miller-Lucas

RESPECTFULLY SUBMITTED,

By: Kelsey Ruben Davis

Kelsey Ruben Davis

Assistant Solicitor

NINTH CIRCUIT SOLICITOR'S OFFICE

FILED  
2022 MAY 25 AM 11:51  
JULIE J. ARMSTRONG  
CLERK OF COURT  
BY pc

State's Attachment 1

<b>Description</b>		
<b>Age</b>	11	11
<b>Gender</b>	Female	Female
<b>Relationship</b>	Niece of Girlfriend	Niece of Girlfriend
<b>Time</b>	Afternoon of 06/02/2018	Evening of 06/02/2018
<b>Place</b>	Defendant's Car	Defendant's Car
<b>Act</b>	Request of Oral Sex	Request of Oral Sex
<b>Location</b>	Charleston County	Colleton County



STATE OF SOUTH CAROLINA  
COUNTY OF CHARLESTON

STATE OF SOUTH CAROLINA

vs.

THOMAS HENRY BROWN JR.,

DEFENDANT.

IN THE COURT OF GENERAL SESSIONS  
NINTH JUDICIAL CIRCUIT

**STATE'S WITNESS LIST**

Arrest Warrant #2018A1011100119

Indictment #2018-GS-10-04815

The State may call the following witnesses:

1. \_\_\_\_\_
2. Sheila Simmons
3. Monique Williams
4. Zykendra Simmons
5. Mari Bolden
6. Fannie Miller-Lucas
7. Thomas Molino- BCSO
8. Diane Tarr- IOP PD
9. Stephanie McKee- DNLCC

BY DM  
JULIE J. ARMSTRONG  
CLERK OF COURT

2022 MAY 27 PM 2:31

FILED

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

STATE OF SOUTH CAROLINA

vs.

THOMAS HENRY BROWN JR.,

DEFENDANT.

IN THE COURT OF GENERAL SESSIONS

NINTH JUDICIAL CIRCUIT

STATE'S MOTION IN SUPPORT OF BAD ACTS

Arrest Warrant #2018A1011100119

Indictment # 2018-GS-10-04815

Criminal Solicitation of a Minor

**FILED**  
MAY 25 2022  
JULIE J. ARMSTRONG  
CLERK, C.P. & G.S.

The defendant, Thomas Brown., is currently charged with Criminal Solicitation of a Minor. The victim, \_\_\_\_\_ is the niece of the defendant's former girlfriend.

The State will call the afore mentioned case regarding the solicitation. The State will move to offer evidence of other another solicitation of the same minor that occurred several hours later on the same date, in Colleton County, pursuant to Rule 404(b), SCRE and South Carolina case law. See the States trial brief for facts.

The State contends that the solicitation that occurred in Colleton County is directly related to the solicitation that occurred in Charleston County and meets the factors cited in cases to show common scheme or plan. Evidence of other crimes, 'wrongs, or prior bad acts may be admissible to show "motive, identity, the existence of a common scheme or plan, the absence of mistake or accident, or intent." Rule 404(b), SCRE. See State v. Lyle, 125 S.C. 406, 118 S.E. 803 (1923).

Based on precedent dating back to 1911, South Carolina courts have consistently applied the common scheme or plan exception to sexual assault crimes involving the same two parties. The State relies on extensive South Carolina case law in support of the introduction of the evidence: State v. Richie, 70 S.E. 729 (1911), State v. Whitener 89 S.E.2d 701(1955), State v. Mathis, 597 S.E.2d 872 (2004), State v. Weaverling, 523 S.E.2d 787 (1999), State v. Edwards, 644 S.E.2d 66 (2007), State v. Kirton, 671S.E.2d

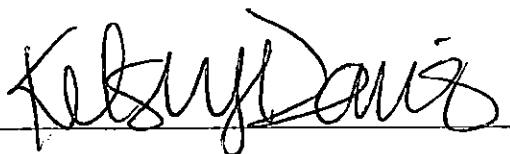
107 (2008) and State v. Clasby, 682 S.E. 2d 892 (2009), State v Tutton, 580 S.E.2d 186 (2003), State v Fonseca, 711 S.E. 2d 906 (2011), and State v Taylor, 731 S.E. 2d 569 (2011), State v Dinkins Opinion No. 5883 filed December 22,2021, Appellate Case No. 2017-002360.

All the above cited cases deal with admitting testimony involving the same parties' cases under the 404(b), SCREE exception. The court stated, "Bad act evidence that is not subject to a conviction must be shown by clear and convincing evidence and should be reviewed under an "any evidence standard" on appeal. State v. Wilson, 345 S.C.1.

The State will show that these solicitations were a continuous course of conduct. The solicitations both occurred in and around the defendant's car. The same words were used, the subsequent solicitation within hours of the first. The defendant, victim and aunt of the victim and her children were all at the beach in Charleston and then went to a cookout in Colleton County.

Proof of a conviction for the other crimes is not required, State v. Blanton, 446 S.E.2d 438, 440 (Ct. App, 1994). The prior act need not be necessary to the State's case in order to be admitted, as this subsequent solicitation is corroboration and important to prove the Charleston solicitation. The subsequent solicitation goes to the intent of the defendant and absent of mistake. This was not a remote event and is logically connected.

Respectfully submitted,



Kelsey Ruben Davis

Assistant Solicitor

NINTH CIRCUIT SOLICITOR'S OFFICE

STATE OF SOUTH CAROLINA )  
COUNTY OF CHARLESTON )

IN THE COURT OF GENERAL SESSIONS  
NINTH JUDICIAL CIRCUIT

MOTION TO OPPOSE CONTINUANCE

Indictment #2018GS1004815

v.  
THOMAS HENRY BROWN )

Charges: CRIMINAL SOLICITATION OF A  
MINOR

Defendant )

BY QJM  
JULIE J. ARMSTRONG  
CLERK OF COURT

2022 JAN -5 PM 2:48

FILED

THE HONORABLE

South Carolina Circuit Court Judge,

Appearances:

For the State :

Debbie Herring-Lash, Assistant Solicitor

For the Defendant:

Rodney Davis, Esquire

The defense has requested a continuance the state opposes this request as

unnecessary and premature

. The defense received counseling notes of the victim as soon as the state received them. They were provided due to the fact the victim discussed the incident with the counselor. The four interviews referred to were from four children present. The victim had said they did not hear anything and were not aware of anything. The interviews just confirmed this. The defense was provided the names and address of these children in the initial discovery on September 4, 2018.

The defense can be heard regarding getting the school records on January 10. These incidents occurred over the summer and the school was not involved. The defense refers to a note the victim "often lies" this was a box checked regarding behaviors at home and the school block was not checked. The mother who reported this will be testifying if the court issues the subpoena the defense should be ready for trial shortly after receiving the records. If there is something in the school records that actually leads to more investigation that would be the time to ask for a continuance.

The State does not plan on doing a 404(b) motion to bring in the prior victim of Criminal Sexual Conduct 2nd. The defense is referring to a second request for oral sex that occurred on the same evening just a few hours later involving this defendant and this victim. The State's Trial Brief addresses this issue. This came up when the defense asks that this incident not be a separate charge. The state has considered this a continuance course of conduct and did not refer the case to Colleton County if the court finds otherwise; we will rethink this decision. The victim discussed this second incident in her interview

and does not give additional information. The defense was provided access to this interview  
in September of 2018

By: Debbie Herring-Lash  
Debbie Herring-Lash  
Assistant Solicitor

BY JMA  
JULIE J. ARMSTRONG  
CLERK OF COURT

2022 JAN -5 PM 2:48

FILED

STATE OF SOUTH CAROLINA

) IN THE COURT OF GENERAL SESSIONS

COUNTY OF CHARLESTON

) FOR THE NINTH JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA

)

)

) Indictment: 2018GS1004815

) Charge: Criminal Solicitation of a Minor

)

)

vs.

)

THOMAS HENRY BROWN, JR.,

)

DEFENSE'S PRE-TRIAL BRIEF

)

Defendant.

)

)

)

STATEMENT OF THE CASE

The case at hand stems from an allegation made from the alleged victim, minor [redacted]; against Thomas Brown, Jr. In short, Settles alleges on June 2, 2018 during a family day at the beach, Mr. Brown, while everyone is loading into the cars, grabs her by the arm and asked, "suck my dick." Present at the beach that Saturday, in addition to [redacted] and Mr. Brown, was Mr. Brown's then-girl friend Monique Williams, her parents Franny and John Lucas, and Monique's children, Zykendra ("Izzy"), Janarius, Saddrius, and Calvin Jr.

Mr. Brown and Monique traveled in his Saturn Vue with all of the children. Franny and John, went in their Ford Explorer, parked behind the Saturn Vue. Leaving the beach and headed to their vehicles, one of Monique's sons yelled that there was a snake in the grass, creating commotion as everyone tried to run from the snake. During this commotion and while getting into the car, that's when [redacted] alleges Mr. Brown grabbed her by the arm asked her to "suck my dick." Everyone then got in the car and left. No one heard Mr. Brown say this, nor saw him grab her arm. [redacted] tells no one, except her mother, Sheila Simmons, the following day. Simmons then contacts the Isle of Palms (IOP) Police Department and tells [redacted] story to Officer Molino. Almost two weeks later, [redacted]

was interviewed by an employee at the Low Country Center June 11, 2018. During the interview, she will not say out loud when Mr. Brown said to her, but indicates he grabbed her, she tried twice to pull away, and then she wrote on the whiteboard what he asked her. IOP Police did not interview any of the adults present at the beach. Arrests warrants were drafted on June 25, 2018, and Mr. Brown subsequently turned himself in to IOP Police.

### MOTIONS

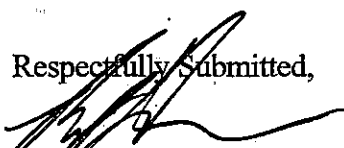
1. Defense's 404(b)/ Lyle Motion to Exclude Testimony of Other Acts (filed 12/13/21)

- a. The State intends to elicit testimony from [redacted] that once in Colleton County for a bonfire (after leaving IOP), Mr. Brown asked her again "suck my dick." The Defense request the Court to prevent the State from introducing such evidence as it is not within the five grounds for admission: intent, motive, identity of the person charged with the commission of the crime on trial, common scheme or plan, or absence of mistake or accident. *State v. Lyle*, 125 S.C. 406, 118 S.E. 803 (1923).

### POTENTIAL WITNESS LIST

1. Jeremy Wheeler (witness for the Lyle motion hearing)
2. Rebecca Hernandez (witness for the Lyle motion hearing)
3. John Lucas
4. Fannie (Miller) Lucas
5. Calvin Simmons, Jr. (Monique Williams's son)
6. Janarius Simmons (Monique Williams's son)
7. Saddruis Simmons (Monique Williams's son)
8. HARRY LONG (PUBLIC DEFENDER INVESTIGATOR)

Respectfully Submitted,

  
Rodney D. Davis  
Assistant Public Defender

STATE OF SOUTH CAROLINA  
IN THE COUNTY OF CHARLESTON

) IN THE COURT OF GENERAL SESSIONS  
) FOR THE NINTH JUDICIAL CIRCUIT  
) Warrant: 2018A1011100119  
) Indictment: 2018-GS-10-04825  
) Charge: Criminal Solicitation of a Minor  
)  
)  
)

STATE OF SOUTH CAROLINA

vs.

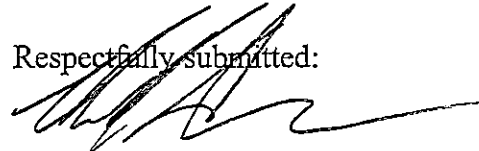
THOMAS HENRY BROWN, JR.,  
Defendant.

) **DEFENSE POTENTIAL WITNESS LIST**  
)  
)  
)

The Defendant through his counsel hereby identifies the following potential witnesses in this case:

1. John Lucas (Monique's Grandfather)
2. Calvin Simmons (Monique's Ex-Husband)
3. Calvin Simmons, Jr. (Monique Williams's son)
4. Janarius Simmons (Monique Williams's son)
5. Saddruis Simmons (Monique Williams's son)
6. Walter Simmons (Shelia's Husband)
7. Charles Settles (Monique's Brother)
8. Precious Settles (Monique's Brother)
9. Walter Simmons, Jr. (Monique's Brother)
10. Passion Settles (Monique's Sister)
11. Jeremy Wheeler
12. Rebecca Hernandez
13. Nariana Hernandez
14. Harry Long, Investigator (Public Defender's Office)

Respectfully submitted:



Rodney D. Davis  
Attorney for Thomas Brown, Jr.

Charleston, SC  
5/30, 2022

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF CHARLESTON )  
 )  
STATE OF SOUTH CAROLINA, )  
 )  
 )  
VS. )  
 )  
 )  
THOMAS HENRY BROWN, JR., )  
 )  
Defendant. )  
\_\_\_\_\_ )

IN THE COURT OF GENERAL SESSIONS  
FOR THE NINTH JUDICIAL CIRCUIT

Warrants: 2018A1011100119  
Indictment: 2018-GS-10-04815  
Charge: Criminal Solicitation of a Minor

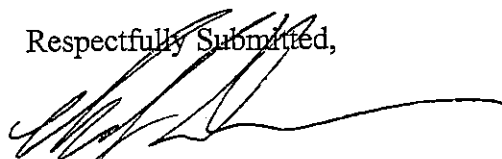
DEFENDANT'S REQUESTED  
VOIR DIRE QUESTIONS

The above-referenced Defendant, through his attorney, requests pursuant to South Carolina Code of Laws § 14-7-1020 that the jury panel be *sworn* prior to voir dire in this case. Counsel believes that there are matters of knowledge and prejudice which could taint the service of individual jurors in this case. Therefore, counsel requests that the following questions be asked of the entire jury panel. The Court asks that jurors respond by standing. Counsel requests that they be identified by name and juror number by the Clerk. Counsel then requests that the Court inquire as to the specific responses of that individual juror outside the presence of the entire panel on the record at the bench.

1. Is any member of the jury panel involved in law enforcement?
2. Is any member of your family or close personal friends or acquaintances employed by law enforcement agencies?
3. Is any member of your family or close personal friends or acquaintances employed in any Solicitor's Office?
4. Do you belong to or contribute to any civic group such as Mothers Against Drunk Driving (M.A.D.D.), People Against Rape (P.A.R.), Citizens Against Violent Crime (CAVE), Darkness to Light (D2L), Dee Norton Lowcountry Children's Center (DNLCC), or the Tri-County Human Trafficking Taskforce?
5. Do you, or does someone close to you belong to any other organizations that deals with sexual abuse or sexual assault?

6. Have you, or has someone close to you ever been the victim of sexual offense?
7. Have you, or has someone close to you ever been accused of sexual offense?
8. Have you received any special education, training, or attended seminars on the subject of sexual abuse or sexual assault?
9. Have you ever read or heard anything about this case before you came into the courtroom?
10. Have you read or heard anything about it in the newspaper(s) or internet?
11. Have you read or heard anything about it through social media or a website or blog?
12. Have you seen or heard anything about it through television news shows?
13. This case involves an allegation that a minor was solicited for sex. Is there anything about that accusation, in and of itself, that would make it difficult for you accept contrary or conflicting evidence?
14. When a person accuses someone of a sexual offense, do you tend to believe that the story is almost certainly true?
15. Do you believe that people sometimes make false allegations of sexual offenses?
16. Is there a juror who does not understand that the State has the burden of proof and must prove Thomas Brown, Jr. guilty of the crimes for which he is charged, beyond reasonable doubt?

Respectfully Submitted,



---

Rodney D. Davis  
Charleston County Public Defender  
Attorney for Defendant

Charleston, South Carolina

Dated: 5/30/22

STATE OF SOUTH CAROLINA  
COUNTY OF CHARLESTON

IN THE COURT OF GENERAL SESSIONS  
MOTION COVERSHEET

WARRANT/TICKET/

INDICTMENT #'s

2018GS1004815

STATE OF SOUTH CAROLINA

-vs-

Thomas Henry Brown, Jr  
DEFENDANT

Solicitor: <u>Debbie Herring-Lash</u> , Bar No. _____	Defendant's Attorney: <u>Rodney D. Davis</u> , Bar No. <u>12396</u>
Address: <u>101 Meeting St, Suite 400, Charleston, 29401</u>	Address: <u>101 Meeting St, 5th Floor, Charleston, SC 29401</u>
Phone: <u>843-958-1900</u>	Phone: <u>843-958-1850</u>
E-mail: <u>debbie@scsolicitor9.org</u>	E-mail: <u>RDavis@charlestoncounty.org</u>

- MOTION HEARING REQUESTED  
 FORM MOTION, NO HEARING REQUESTED

SECTION I: Hearing Information

Nature of Motion: Lyle Motion

Estimated Time Needed: 15 mins

Court Reporter Needed:  YES /  NO

SECTION II: Motion/Order Type

- Written motion attached  
 Form Motion/Order

I hereby move for relief or action by the court as set forth in the attached proposed order.

[Signature]  
Signature of  Solicitor  Attorney for Defendant

12/13/21  
Date submitted

FILED

2021 DEC 13 PM 3:58

JULIE J. ARMSTRONG  
CLERK OF COURT

RY

STATE OF SOUTH CAROLINA  
COUNTY OF CHARLESTON

STATE OF SOUTH CAROLINA

vs.

THOMAS HENRY BROWN, JR.

Defendant.

IN THE COURT OF GENERAL SESSIONS  
FOR THE NINTH JUDICIAL CIRCUIT

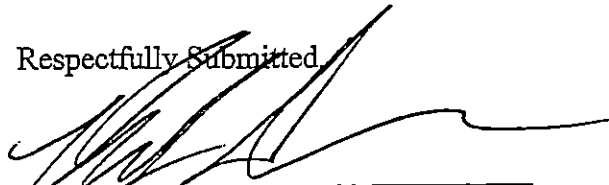
Indictment No.: 2018GS1004815

Charge: Criminal Solicitation of a Minor

**MOTION TO EXCLUDE  
TESTIMONY OF OTHER ACTS**

YOU WILL PLEASE TAKE NOTICE that the Defendant, by and through the undersigned attorney, will move before the Presiding Judge of the Court of General Sessions at the Charleston County Judicial Center, to prevent the State from introducing evidence of other acts of the defendant in violation of S.C.R.E 404(b). This motion is made on the grounds that the Defendant finds such acts to be highly prejudicial if found to be admissible. Under State v. Lyle, 125 S.C. 406, 118 S.E. 803 (1923), the Defendant moves to limit such introduction of prior acts as not being within the five grounds for admission; intent, motive, identity of the person charged with the commission of the crime on trial, common scheme or plan, and absence of mistake or accident.

Respectfully Submitted,



---

Rodney D. Davis  
Attorney for Thomas Henry Brown

Charleston, South Carolina

Dated: 12/13/21

RY  
JULIE J. ARMSTRONG  
CLERK OF COURT  
2021 DEC 13 PM 3:58

FILED

STATE OF SOUTH CAROLINA  
COUNTY OF CHARLESTON

IN THE COURT OF GENERAL SESSIONS  
MOTION COVERSHEET

WARRANT/TICKET/

INDICTMENT #'s

2018A1011100119

STATE OF SOUTH CAROLINA

-vs-

THOMAS HENRY BROWN, JR.  
DEFENDANT

Solicitor: *MOTHER OF ALLEGED VICTIM*  
Sheila Simmons, Bar No. \_\_\_\_\_  
Address:  
275 Huger Street APT F, Charleston, SC 29403  
Phone: \_\_\_\_\_  
E-mail: \_\_\_\_\_

Defendant's Attorney:  
Rodney D. Davis, Bar No. 2395  
Address:  
101 Meeting Street, 5th Floor  
Phone: (843) 958-1850  
E-mail: Rdavis@charlestoncounty.org

FILED  
2020 DEC 21 PM 4:24  
JULIE J. ARMSTRONG  
CLERK OF COURT

- MOTION HEARING REQUESTED
- FORM MOTION, NO HEARING REQUESTED

SECTION I: Hearing Information

Nature of Motion: Subpoena of records

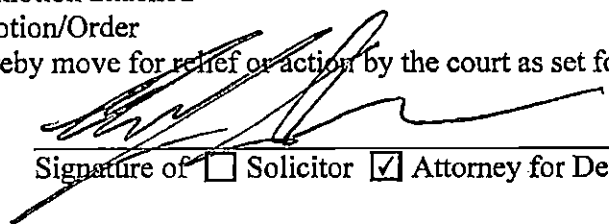
Estimated Time Needed: 15 minutes

Court Reporter Needed:  YES /  NO

SECTION II: Motion/Order Type

- Written motion attached
- Form Motion/Order

I hereby move for relief or action by the court as set forth in the attached proposed order.



Signature of  Solicitor  Attorney for Defendant

12/21/2021  
Date submitted

STATE OF SOUTH CAROLINA  
COUNTY OF CHARLESTON

STATE OF SOUTH CAROLINA

vs.

THOMAS HENRY BROWN, JR.

Defendant

) IN THE COURT OF GENERAL SESSIONS  
) FOR THE NINTH JUDICIAL CIRCUIT

) Warrant No: 2018A1011100119  
) Charge: Criminal Solicitation of a Minor

MOTION FOR ORDER TO ISSUE  
SUBPOENA FOR RECORDS

BY \_\_\_\_\_  
JULIE J. STRONG  
CLERK OF COURT  
2021 DEC 24 PM 4:24

FILED

TO: SHELIA SIMMONS, (MOTHER/ GUARDIAN FOR MINOR VICTIM)

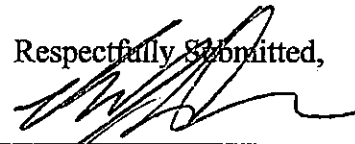
YOU WILL PLEASE TAKE NOTICE that the Defendant through the undersigned attorney, will move before the Court of General Sessions, Ninth Judicial Circuit, on such date and at such time as the Court may provide, for an Order of this Court to Issue a Subpoena for school records covered by Rule 13 of the South Carolina Rules of Criminal Procedure.

The basis for such motion lies in the following:

1. The Defendant is accused of soliciting a minor for oral sex on June 2, 2018; and
2. The sole witness to the alleged criminal activity is the complainant; and
3. The credibility of the complainant is of paramount importance; and
4. Records provided by the State show that the complainant received counseling based on this complaint and other conduct at school since 2015; and
5. Those records show the complainant "often lies", engaged in "inappropriate texting", was routinely assessed for ADHD on the Connors Scale (that among other criteria, factors in compulsive behavior), and had a high frequency of "referrals or disciplines".

It is not clear if these behaviors are innocuous or if they stem from acts of intentional falsehoods. The answer will be found in the school records. Therefore, it is imperative that the Defense obtain these records for review. The Defense moves for an order permitting the issuance of a subpoena to the Charleston County School District for disciplinary records from 2015 to present.

Respectfully Submitted,

  
Rodney D. Davis  
Assistant Public Defender  
Attorney for Defendant

B  
2021 DEC 21 PM 4:24  
JULIE J. ARMSTRONG  
CLERK OF COURT  
pc

FILED

Charleston, South Carolina

Dated: 12/20/21

**FILED**

STATE OF SOUTH CAROLINA ) IN THE COURT OF GENERAL SESSIONS  
COUNTY OF CHARLESTON ) FOR THE NINTH JUDICIAL CIRCUIT

2022 JAN -5 PM 1:00

Warrant Nos.: 2018A1011100119  
Charges: Criminal Solicitation of a Minor

STATE OF SOUTH CAROLINA,  
BY \_\_\_\_\_

vs.

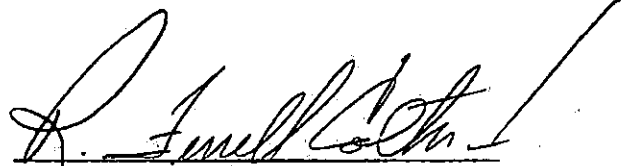
THOMAS HENRY BROWN, JR.,  
Defendant.

**ORDER TO RELEASE SCHOOL RECORDS**

After a hearing on the Defendant's Motion for Order to Issue Subpoena for Records, where the Court heard from the minor's mother, Shelia Simmons,<sup>1</sup> the Solicitor, and Defense Counsel, the Honorable Judge R. Ferrell Cothran, Jr., hereby orders that the Charleston County School District release the following records with the following conditions:

1. All "referrals or disciplines" relating to ~~\_\_\_\_\_~~ from the start of classes in 2015 through December 31, 2018, to Rodney D. Davis of the Charleston County Public Defender's Office; and
2. Upon obtaining the records, Mr. Davis must provide a copy of the records to the Ninth Circuit Solicitor's Office; and
3. The records cannot be disseminated to any other persons, including the Defendant.

IT IS SO ORDERED.

  
The Honorable R. Ferrell Cothran, Jr.  
Presiding Judge, Circuit Court

Charleston, South Carolina  
Dated: 1-5, 2022.

<sup>1</sup> The subject of the school records request is a minor and a "victim" under the definition found in Rule 13 of the South Carolina Rules of Criminal Procedure.