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S.C. SUPREME COURT

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

---

Certiorari to Cherokee County

Honorable H. Steven DeBerry IV, Circuit Court Judge

---

JOBE S. HAMES,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO 2021-001089

---

APPENDIX

---

WANDA H. CARTER  
Deputy Chief Appellate Defender

ALAN WILSON  
Attorney General

South Carolina Commission on Indigent  
Defense  
Division of Appellate Defense  
PO Box 11589  
Columbia, SC 29211-1589  
(803) 734-1330

CHELSEY MARTO  
Assistant Attorney General  
1000 Assembly Street, Room 519  
Columbia, SC 29201

ATTORNEYS FOR RESPONDENT

ATTORNEY FOR PETITIONER

**INDEX**

INDEX ..... i

GUILTY PLEA TRANSCRIPT DATED DECEMBER 12, 2018.....1

APPLICATION FOR POST-CONVICTION RELIEF .....22

RETURN.....34

POST-CONVICTION RELIEF HEARING TRANSCRIPT DATED AUGUST 2, 2021.....46

ORDER OF DISMISSAL.....88

INDICTMENT AND SENTENCE SHEET .....102

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF GENERAL SESSIONS
COUNTY OF CHEROKEE	)	
	)	
THE STATE OF SOUTH CAROLINA	)	
	)	TRANSCRIPT OF RECORD
-vs-	)	2018-GS-11-01538
	)	
JOBE SAMUEL HAMES,	)	DECEMBER 12, 2018
	)	GAFFNEY, SOUTH CAROLINA
DEFENDANT.	)	

B E F O R E:

THE HONORABLE R. KEITH KELLY, JUDGE.

A P P E A R A N C E S:

ADRIENNE BARRY, ASSISTANT SOLICITOR  
ATTORNEY FOR THE STATE

MICHAEL BERRY, ASSISTANT PUBLIC DEFENDER  
ATTORNEY FOR THE DEFENDANT

PROBATION AGENT MONICA LAWYER  
APPEARING FOR THE PROBATION DEPARTMENT

MICHAEL R. WATTS  
CIRCUIT COURT REPORTER

INDEX

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

WITNESSES

PAGE

(NO WITNESSES CALLED)

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22  
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24  
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EXHIBITS

NO.	DESCRIPTION	ID.	EV.
S-1	PRE-INTERROGATION WAIVER FORM FOR JOBE HAMES		13
S-2	CD		13
S-3	POLYGRAPH REPORT		13
S-4	STATEMENT OF JOBE HAMES		13

1 (PROCEEDINGS, DECEMBER 12, 2018)

2 (Pre-Interrogation Waiver Form for Jobe Hames  
3 marked as State's Exhibit No. 1 for identification).

4 (CD marked as State's Exhibit No. 2 for  
5 identification).

6 (Polygraph Report marked as State's Exhibit No. 3  
7 for identification).

8 (Statement of Jobe Hames marked as State's Exhibit  
9 No. 4 for identification)

10 MS. BERRY: Jobe Hames.

11 THE CLERK: Please raise your right hand.

12 JOBE SAMUEL HAMES, having been first duly sworn,  
13 testified as follows:

14 THE DEFENDANT: Yes, ma'am.

15 THE CLERK: You can put your hand down.

16 THE COURT: Solicitor.

17 MS. BARRY: May it please the court, Your Honor,  
18 before you is Jobe Samuel Hames. He is before you on  
19 Indictment 2018-GS-11-1538. That is an indictment for  
20 criminal sexual conduct in the first degree. He is waiving  
21 presentment to the Grand Jury and pleading without any  
22 negotiations or recommendations.

23 He is here with his attorney Mr. Michael Berry.

24 And the State will be dismissing Indictment

25 2017-GS-11-1617, which an indictment for criminal sexual

1 conduct with a minor in the first degree.

2 THE COURT: Sir, you are Mr. Jobe Samuel Hames?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: Mr. Hames, you are in custody. Have  
5 you taken any medication or substance that interferes with  
6 your ability to think clearly?

7 THE DEFENDANT: No, sir.

8 THE COURT: You know what you are doing here  
9 today?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: The government says in the Indictment  
12 2018-1538 that you did, in Cherokee County, South Carolina,  
13 between the dates of March 30 of 2013 and January 3 of 2017  
14 engage in a sexual battery with the victim, I'm going to use  
15 initials here, that being B.P., and as such sexual battery  
16 was accomplished by use of aggravated force in violation of  
17 state law.

18 That matter has not been presented to the Grand  
19 Jury. I understand that you desire to waive presentment to  
20 the Grand Jury, is that true?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: You are pleading without negotiations  
23 or recommendation.

24 It is violent and it is most serious for future  
25 sentencing purposes.

1 Sir, criminal sexual conduct in the first degree  
2 carries from zero to thirty years. Do you understand that?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: Mr. Hames, there are certain rights  
5 that you have to waive and give up in order to enter a plea  
6 to this indictment.

7 Sir, you have the right to put twelve jurors in  
8 that box and try your case. I don't know if you know, I  
9 don't know if you have been in the courtroom all morning,  
10 but the jury I qualified yesterday, they are coming in  
11 today. You can be a trial up. Do you want a trial by jury?

12 THE DEFENDANT: No, sir.

13 THE COURT: You have the right to remain silent  
14 under the State Constitution and the Federal Constitution.  
15 Do you waive that right?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: You have the right to -- you have the  
18 right to call witnesses to testify, and you have the right  
19 to confront witnesses who testify against you. Do you waive  
20 that right?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: And, sir, you have the right to have  
23 this indictment presented to the Grand Jury. They sit over  
24 here. That's why there is so many chairs in that box. Do  
25 you waive that right?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: Mr. Hames, understanding your rights  
3 and having waived each of them, how do you offer to plead to  
4 the Indictment 1538?

5 THE DEFENDANT: Guilty.

6 THE COURT: Do you offer to plead guilty because  
7 you are guilty?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: Do you plead guilty freely?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: Intelligently?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Voluntarily?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: Did anyone force you or threaten you  
16 or make you come here to enter a plea?

17 THE DEFENDANT: No, sir.

18 THE COURT: Sir, have you had sufficient time to  
19 speak with Mr. Berry?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: Did he answer all of your questions?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: Are you satisfied with his services?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: Sir, has he done everything that he

1 can to help you?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: Did he refuse to do anything to help  
4 you?

5 THE DEFENDANT: No, sir.

6 THE COURT: Do you need any more time to talk to  
7 him?

8 THE DEFENDANT: No, sir.

9 THE COURT: Solicitor?

10 MS. BARRY: Thank you, Your Honor.

11 On January the 3rd of 2017 Erica Barber with the  
12 Department of Social Services contacted the Cherokee County  
13 Sheriff's Office in reference to the victim being sexually  
14 assaulted by his uncle. She was provided this information  
15 from Ashley Rodriguez, who is a cousin of the victim's  
16 mother.

17 Ashley stated that the victim and his brothers  
18 came to stay with her a couple Saturdays prior to the victim  
19 disclosing to her and he had asked to talk to her. She  
20 asked him if he was all right and he said that -- he asked  
21 her if it was right for uncles to touch their nephews  
22 wee-wee. She asked him if he meant his private areas and he  
23 stated yes. He said that his uncle Jobe had been putting  
24 his private parts inside of him since he was six years old.  
25 He said that when this would happen his Uncle Jobe would

1 tell him everything is going to be okay and to just be  
2 quiet. He stated it hurt when he would do this and it made  
3 him want to kill himself.

4 The victim was then sent to the Children's  
5 Advocacy Center. During that interview the victim became  
6 very uncomfortable when the interviewer began to ask him  
7 about the what the defendant would do to him. The interview  
8 had to be ended early based off of the victim becoming  
9 upset. The victim is autistic, Your Honor, so the  
10 conditions of the room, coupled with the fact that he did  
11 not want to talk about what happened to him caused him to  
12 become upset and they had to cancel that interview.

13 They did reschedule the interview and he did  
14 disclose that the defendant would touch his private parts  
15 under his clothes. This happened on more than one occasion,  
16 more than one occasion at the defendant's house, in the  
17 defendant's bedroom on his bed, in the hallway, in the  
18 bathroom, and in his parents room.

19 On June the 16th of 2017 officers spoke with the  
20 victim's mother, who was this defendant's sister. She and  
21 her husband were living with the defendant at [REDACTED] Milo  
22 Drive, which is the Open Air Mobile Home Park here in  
23 Cherokee County where all of the incidents took place.

24 She stated that all of this came to light when one  
25 night she heard the victim and the defendant talking and a

1 bad feeling came over here. She stated when she went to bed  
2 the victim was asleep on the couch and was not supposed to  
3 be in bed with the defendant. She went into the defendant's  
4 bedroom and saw the victim with his underwear down and the  
5 defendant was buckling his belt. She stated the victim's  
6 penis was hard. She said she confronted the defendant and  
7 he ran out of the house.

8 She spoke to the victim and he stated that the  
9 defendant told him if he told anyone what was happening, the  
10 police would put his parents and grandparents in jail, and  
11 the victim told her the defendant touched his private parts  
12 and put his fingers inside of his bottom.

13 The victim -- I mean, excuse me, the victim's  
14 mother told her husband, who confronted this defendant. He  
15 denied it. He then asked the victim in front of this  
16 defendant if he had ever touched him and he said "yes, lots  
17 of times."

18 The defendant was questioned initially on February  
19 the 18th of 2017, and he stated to law enforcement that he  
20 never touched the victim, other than to discipline him. He  
21 was then scheduled for a polygraph. They couldn't do the  
22 polygraph at that time because the defendant stated that he  
23 suffered from seizures, so they had to get him medically  
24 cleared before they did another polygraph.

25 The second polygraph occurred on May the 30th of

1 2017. He was asked if he touched the victim in a sexual  
2 manner and if he touched the victim in a sexual manner at  
3 his house. He stated no both times and deception was  
4 indicated.

5 He was then advised of the results of that  
6 polygraph and told the examiner that on one occasion while  
7 wrestling with the victim he accidentally put his mouth on the  
8 victim's penis. He told the examiner that he had  
9 masturbated in the presence of the victim and while the  
10 victim slept next to him in the same bed. He told the  
11 examiner that he had had several dreams about the victim  
12 that were sexual in nature. He described one of the dreams  
13 as starting out with him having sex with a woman. Then it  
14 changed to him having sex with a hermaphrodite. Then it  
15 changed to him having sex with his nephew, the victim. He  
16 stated he woke up naked next to the victim who was looking  
17 at him in an uneasy way.

18 The defendant then spoke with law enforcement  
19 again. He stated there was another incident where the  
20 victim was getting out of the shower and was wrapped in a  
21 towel. The defendant snatched the towel away from the  
22 victim and wrestled him to the bed playing with him. He  
23 stated he was blowing on the victim's belly and the victim's  
24 penis accidentally went into his mouth.

25 Your Honor, as I stated earlier, the victim is

1 autistic in this case. I have met with this victim. It was  
2 in the best interests of this victim to keep him off of the  
3 stand to testify in front of twelve strangers about what a  
4 family member had done do him. We discussed the offer of  
5 reducing it to criminal sexual conduct in the first degree  
6 and they were in agreement with that.

7 The victim's grandmother is here. She's standing  
8 to my right. At this point I don't know if she wishes to  
9 address Your Honor, but I will have Your Honor ask her that  
10 at the appropriate time, but based off of all of the  
11 circumstances it was the State's decision to reduce it to  
12 the criminal sexual conduct in the first degree, Your Honor.

13 He does have a criminal history, if you would like  
14 to hear it at the appropriate time.

15 THE COURT: I do, please.

16 MS. BARRY: From 2011, driving under the  
17 influence, first offense.

18 2013, burglary in the third degree, first offense,  
19 and malicious injury to property to obtain metals.

20 2014, shoplifting.

21 And 2016, DUS.

22 Oh, Your Honor, I do have four exhibits to enter  
23 in.

24 The first exhibit is the defendant's initial  
25 statement to law enforcement where he stated nothing

1 happened.

2 The State's second exhibit is the interview done  
3 by the Children's Advocacy Center of the victim.

4 State's Exhibit 3 is the polygraph where deception  
5 was indicated.

6 And State's Exhibit No. 4 is the defendant's  
7 statement discussing his dreams, the victim coming out of  
8 the shower, and his penis accidentally going into his mouth.

9 I would like to enter them at this time.

10 THE COURT: Any objection?

11 MR. BERRY: No objection, judge.

12 (Whereupon, State's Exhibit No. 1 was entered into  
13 the record as evidence).

14 (Whereupon, State's Exhibit No. 2 was entered into  
15 the record as evidence).

16 (Whereupon, State's Exhibit No. 3 was entered into  
17 the record as evidence).

18 (Whereupon, State's Exhibit No. 4 was entered into  
19 the record as evidence)

20 THE COURT: Sir, did you hear what the solicitor  
21 told me?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: Is that accurate?

24 THE DEFENDANT: Most of it.

25 THE COURT: Well, is it accurate that you

1 committed criminal sexual conduct in the first degree on the  
2 victim?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: The court accepts your plea as being  
5 freely, intelligently and voluntarily given.

6 Mr. Berry.

7 MR. BERRY: Thank you, judge.

8 And there is a probation violation as well. It  
9 was actually scheduled last term of court before Judge Cole.  
10 We informed him that we were actually going to do this plea  
11 in front of Your Honor this month, so we saved the plea to  
12 do today.

13 THE COURT: Do you want me to -- I don't want to  
14 rush you. Do you want me to get that first?

15 MR. BERRY: Yes, sir.

16 THE COURT: Okay. Agent?

17 PROBATION AGENT LAWTER: Your Honor, I have the  
18 violation report for that.

19 THE COURT: All right. Sir, I have an 1106 here  
20 and I understand from your lawyer it was before Judge Cole,  
21 but it was continued to today. So have you had a chance to  
22 review this with your lawyer?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: Okay. Is it true what they say in  
25 here?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: He admits the violation.

3 Mr. Berry.

4 MR. BERRY: Yes, sir, judge, and on that probation  
5 it was a youthful offender sentence on that case, judge.

6 Mr. Hames had been employed and had been paying  
7 towards the probation.

8 Quite honestly the most important thing that I see  
9 on that probation case was his failure to report in March of  
10 2017. I will just tell you that was during the pendency of  
11 this investigation that was going on, so Mr. Hames was  
12 obviously more concerned with this case, as he should have  
13 been, judge.

14 I will tell you that this is my oldest jail case.  
15 Mr. Hames has been incarcerated in the Cherokee County  
16 detention center for 562 days. After today I believe that  
17 the majority of my cases in the jail will be less than six  
18 months old.

19 And these cases are not easy. They are not easy  
20 to come to resolutions on, and Your Honor says it quite  
21 often in sentencing that there are no winners in these types  
22 of cases and certainly that's the situation that we find  
23 ourselves in today.

24 Judge, I have talked with Mr. Hames on many, many  
25 occasions and actually represented him on the case that he's

1 on probation for.

2 I will tell you that in my interactions with Jobe  
3 that it's evident just in conversation with him that his  
4 intelligence is delayed. He was in special education  
5 classes all throughout school. He had IEP's, tutors, all  
6 throughout grade school in Gaffney, the school district,  
7 judge.

8 He and his family have both reached out to me  
9 about mental health evaluations. Quite honestly, you know,  
10 I have spent hours with Jobe and the conversations that I  
11 have had with him I didn't feel that competency was an  
12 issue. I do believe that he's been able to assist in his  
13 defense. He knows the roles of all of the players in the  
14 court system, so I did not have an evaluation done.

15 Quite honestly there are people who I believe are  
16 far worse off competently that have come back from the  
17 Department of Mental Health that have been deemed to be  
18 competent, so I did not feel that that was necessary in this  
19 case. And after consulting with Mr. Hames, I believe that  
20 he agreed with me as well, just given the standards that DMH  
21 looks at for competency in court proceedings, judge.

22 Again, I do think that Jobe is developmentally  
23 delayed. He has worked in the past, managed his own  
24 affairs, but in conversations with him he is very simple  
25 minded. I'll tell that to the court.

1           One other thing that I would say is that over the  
2 course of our conversations he's always expressed a desire  
3 to have mental health counseling, and part of that stems  
4 from he being victimized himself as a child by an older  
5 brother, and I don't want any of this to sound like excuses  
6 or justifications for what's being done. I do want the  
7 court to know, though, that he has acknowledged what he's  
8 done is wrong.

9           Again, we saved this plea for this term of court.  
10 He's been on the docket several months. We have been trying  
11 to resolve the case. We had the probation case and we  
12 honestly wanted to put this in front of Your Honor.

13           Judge, again, the facts of this case are tough. I  
14 do believe that Mr. Hames has always been a plea. We have  
15 never talked about going to trial in this case from day one,  
16 562 days ago to now. He has never wanted to put the  
17 juvenile minor through the burden of a trial. He's always  
18 admitted to me what he did, as he did to police as well. I  
19 think in his simple-minded way initially when he said  
20 nothing happened, he was trying to think of some way out of  
21 this and then kind of wised up to it and admitted to some of  
22 the actions that he had done.

23           Judge, given the time that he served in jail, I'm  
24 going to ask the court to consider an active sentence of  
25 somewhere between ten and twelve years in this case in the

1 Department of Corrections. Give him that active sentence  
2 again. I don't think he's ever been into the Department of  
3 Corrections before.

4 And, judge, he will have to go on the sex offender  
5 registry. We have had long conversations about that,  
6 because that would follow him for the rest of his life and  
7 he knows that there are monetary obligations, check-in  
8 requirements with the sex offender registry. And failure by  
9 him to do any of that could result in further criminal  
10 consequences for him.

11 So we are asking the court to consider a sentence  
12 suspended to the service of an active sentence of somewhere  
13 between ten and twelve years in this case.

14 And, again, he has been in jail for 562 days as of  
15 today, judge.

16 THE COURT: Mr. Hames, I'm happy to hear from you,  
17 if you would like to speak, sir.

18 THE DEFENDANT: Yes, sir.

19 Your Honor, the only thing I can add to that is I  
20 just -- I apologize for what's happened and it's not even  
21 about me apologizing to you or anybody else. It's for me  
22 making this right to my family and the victim concerned in  
23 this case and I have not had the opportunity to do that as  
24 soon as possible.

25 THE COURT: Thank you.

1 Ma'am, would you like to speak?

2 TERESA OWENS: My name is Teresa Owens.

3 THE COURT: Yes, ma'am.

4 TERESA OWENS: I'm the grandmother to the little  
5 fellow.

6 I wasn't going to say anything, but I don't  
7 feel -- I'm sorry but I don't feel twelve years is enough  
8 because this little fellow has got to live with this now.  
9 And even though he's -- at the moment he's not showing a lot  
10 of stress or anything over it, but what's down the road, you  
11 know? I just don't feel that's right, I'm sorry, because  
12 he's going to have to live a lifetime of feeling how all of  
13 this happening. You know, his mind registers anything on  
14 it.

15 He went from a little boy who didn't find any  
16 strangers to a little boy who will pretty much not have  
17 anything to do with a stranger because he's scared to death  
18 now. He won't have anything to do with his other uncles  
19 that's on his daddy's side of the family, because he's  
20 just -- he's too nervous.

21 He doesn't discuss -- I mean, we don't bring it up  
22 and we don't know that -- I don't think that giving him  
23 twelve years -- if was to get out in twelve years that that  
24 would help my grandson, because he would go all the way back  
25 through with what happened and that's not right for him

1 either.

2 I'm sorry for the things that's happened to Mr.  
3 Jobe, for his life and all, I hate that for him, but my  
4 grandson has got to be the number one case right now for me  
5 and I don't think that's appropriate time for him.

6 THE COURT: Thank you so much.

7 Mr. Hames, this court has never not dealt harshly  
8 with people who harm children. This case you harmed not  
9 only a child, but a special needs child.

10 2018-1538, you are confined to the State  
11 Department of Corrections for twenty-five years.

12 I'll give you credit for your 562 days.

13 Terminate the probation.

14 Best of luck to you.

15 PROBATION AGENT LAWTER: Your Honor, could I get a  
16 civil judgment for the restitution?

17 THE COURT: Yes.

18 PROBATION AGENT LAWYER: Thank you.

19 (END OF REQUESTED TRANSCRIPT OF RECORD)

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CERTIFICATE

I, the undersigned, Michael R. Watts, Official Court Reporter for the Seventh Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and the evidence introduced in the trial of the captioned case, relative to appeal, in the Court of General Sessions for Cherokee County, South Carolina, on the 12th day of December, 2018.

I do further certify that I am neither of kin, counsel nor interest to any party hereto.

September 20, 2019

  
\_\_\_\_\_

Michael R. Watts  
Circuit Court Reporter

STATE OF SOUTH CAROLINA )

County of Cherokee )

Jobesamule Hames 378511 )

Full name and prison number (if any) of Applicant )

v. )

State of South Carolina )

IN THE COURT OF COMMON PLEAS

19CP-110636

APPLICATION FOR  
POST-CONVICTION RELIEF

BRANNEY W. MCBEE

2019 SEP 12 AM 11:05

FILED IN OFFICE OF  
CLERK OF COURT  
CHEROKEE COUNTY, S.C.

INSTRUCTIONS - READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention Lee Correctional Institution  
990 Wisacky Hwy. Bishopville S.C. 29010 F3 2240B
2. Name and location of Court which imposed sentence Gaffney County  
Courthouse
3. Name(s) of co-defendant(s) (if any) no
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
  - (a) 2018-GS 11-1538
  - (b) CSCST

The date upon which sentence was imposed and the terms of the sentence:

(a) 12-12-18

(b) 30 yrs

(c)

6. Check whether a finding of guilty was made:

(a) after a plea of guilty ✓

(b) after a plea of not guilty

(c) after a plea of nolo contendere

7. Did you appeal from the judgment of conviction or the imposition of sentence?

no I didnt

8. If you answered "yes" to (7), list:

(a) the name of each Court to which you appealed:

i. N/A

ii.

iii.

(b) the result in each such Court to which you appealed:

i. N/A

ii.

iii.

(c) the date of each such result:

i. N/A

ii.

iii.

(d) if known, citations of any written opinion or orders entered pursuant to such results:

i. ~~No for Appellate Review~~ JH

ii.

iii.

9. If you answered "no" to (7), state your reasons for not so appealing:

(a) Not for Appellate Review

(b)

(c) N/A

10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

(a) Ineffective Assistance of Counsel

(b) failure to Investigate facts of the case

(c) Sentenced errors Mental Health 14 Amendment Due Process

11. State concisely and in the same order the facts which support each of the grounds set out in (10):

(a) Ineffective Assistance of Counsel

(b) failure to Investigate facts of the case

(c) Sentenced errors Mental Health 14 Amendment Due Process

12. Prior to this application have you filed with respect to this conviction:

(a) any petition in a State Court under South Carolina Law? no

(b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? no

(c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? no

(d) any other petitions, motions or applications in this or any other Court? no

13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:

(a) the specific nature thereof:

i. N/A

ii. |

iii. |

iv. |

(b) the name and location of the Court in which each was filed:

i. N/A

ii. |

iii. |

iv. |

(c) the disposition thereof:

- i. NA
- ii.
- iii.
- iv.

(d) the date of each such disposition:

- i. NA
- ii.
- iii.
- iv.

(e) if known, citations of any written opinions or orders entered pursuant to each such disposition:

- i. N/A
- ii.
- iii.
- iv.

14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

NO I have not

15. If you answered "yes" to (14) identify:

(a) which grounds have been presented:

- i. N/A
- ii.
- iii.

(b) the proceedings in which each ground was raised:

- i. N/A
- ii.
- iii.

16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:

- (a) No I have not
- (b) \_\_\_\_\_
- (c) \_\_\_\_\_

17. Were you represented by an attorney at any time during the course of:

- (a) your arraignment and plea? yes I WAS
- (b) your trial, if any? no
- (c) your sentencing? yes I WAS
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? no
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed?  
no

18. If you answered "yes" to one or more parts of (17), list:

- (a) the name and address of each attorney who represented you:
  - i. Mr. Micheal A. Berry "Attorney"  
118 Willis Plaza P.O. Box 8008 Gaffney S.C. 29341
  - ii. \_\_\_\_\_
  - iii. \_\_\_\_\_
- (b) the proceedings at which each such attorney represented you:
  - i. Plea and Sentence
  - ii. \_\_\_\_\_
  - iii. \_\_\_\_\_

State clearly and briefly on each line the facts in this application:

Sentence reduced  
\_\_\_\_\_  
\_\_\_\_\_

20. Are you now under sentence from any other court that you have not challenged?

no  
\_\_\_\_\_  
\_\_\_\_\_

STATE OF SOUTH CAROLINA )  
County of Cherokee )

VERIFICATION

I, Jobe Hames, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

Jobe Hames  
\_\_\_\_\_

SWORN to and subscribed before me this 9  
day of Sept, 2019.

John Eastlund (L.S.)  
Notary Public

My Commission Expires: 3/3/2026

APPLICATION TO PROCEED WITHOUT PAYMENT  
OF COSTS AND AFFIDAVIT  
IN SUPPORT THEREOF

I, JOBB HAMES, hereby apply for leave to  
proceed in this action without prepayment of fees or costs or security therefor. In support of my  
application I declare under penalty of perjury that the following facts are true:

- (1) I am the applicant in this action and I believe I am entitled to redress.
- (2) Because of my poverty I am unable to pay the costs of said proceeding or give security thereof.

JOBB HAMES  
Applicant

SWORN or affirmed to and subscribed before me this

9 day of Aug., 2019.

[Signature]  
Notary Public

My Commission Expires: 3/3/2024

● 19CP-110636

Ineffective Assistance <sup>of</sup> Counsel

Sentenced errors

Mental Health

Failure to Investigate facts of the case

14 Amendment Due Process

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CLERK OF COURT  
CHEROKEE COUNTY, S.G.

2019 SEP 12 AM 11:05

BRANDY W. MCBEE

30  
State concisely and in the same order the facts which supports each of the ground set out.

.. Ineffective Assistance of Counsel

1. Failure to Investigate facts of the case satisfied prejudicial

.. Appicant plea was involuntary due to his mental incompetence alleges his counsel was ineffective for failing to request a mental health examination.

1. Bishop v. United State 350 U.S. 961, 76 S. Ct 440 100 L.Ed 835 (1956)  
Due Process prohibits the conviction of A person who mentally incompetent.

3. State v. Jackson 290 S.C. 435 437 351 SE 2d 167 197  
Sentenced errors

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CLERK OF COURT  
CHEROKEE COUNTY, S.C.  
2019 SEP 12 AM 11:05  
BRANDY W. MCBEE

State concisely the grounds on which you base your allegation that you are being held in custody unlawfully.

1. Ineffective Assistance of Counsel

1. Failure to Investigate facts of the case "Satisfied prejudicial"

3. Appicant plea was involuntary due to his mental incompetence alleges his counsel was ineffective for failing to request a mental health examination.

. Bishop v. United State 350 U.S. 961, 76 S.Ct 440 100 L.Ed 835 (1956)  
Due Process prohibits the conviction of a person who mentally incompetent.

i. State v. Jackson 290 S.C 435 437 351 SE 2d 167 197  
Sentenced errors

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CHEROKEE COUNTY, S.C.  
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32  
SC Code Ann 19-7-60 Process to Compel Attendance  
of Criminal Applicant Witness Subpoena

1. Micah E. Hames
2. Martha Hames
3. Faye Wheelchel

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CHEROKEE COUNTY, S.C.  
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BRANDY W. MCBEE



STATE OF SOUTH CAROLINA

Exhibit A

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Cherokee
STATE VS.
Jobe Samule Hames

INDICTMENT/CASE#: 2018-GS-11-1538
A/W#: Direct Indictment
Date of Offense: 3/30/2013 - 1/3/2017
S.C. Code § 16-03-0655(A)(1); 16-03-0
CDR Code #: 0385

AKA:
Race: WHITE Sex: M Age: 25
DOB: -1993 SS#:
Address: Milo Dr
City, State, Zip: Blacksburg, SC 29702
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 TO: Sex/Criminal sexual conduct - First degree (0-30 years)

CONVICTED OF or PLEADS

in violation of § 16-03-0652 of the S.C. Code of Laws, bearing CDR Code # 0160
NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC w/minor 1st or Levyl Act) §17-25-45

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

ATTEST: BARRY, ADRIENNE E. 101671 SC Bar#
Defendant: Jobe HAMES
Attorney for Defendant: Berry, Michael 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 SCDoc. 562 days

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 (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: \$ days/hours Public Service Employment

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 (Public Def/Probation) \$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, 3% to County (if paid in installments) \$ 3.75

TOTAL \$128.75

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:

Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees.

Clerk of Court/ Deputy Clerk: Brandi McBe
Court Reporter: Mike Watts

Presiding Judge: Keith Kelly
Judge Code: 2165
Sentence Date: 12/12/18

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE SEVENTH JUDICIAL CIRCUIT
COUNTY OF CHEROKEE	)	
Jobe Samuel Hames,	)	Case No.: 2019-CP-11-00636
S.C.D.C. No. 378511,	)	
	)	
Applicant,	)	
	)	<b>RETURN AND MOTION FOR A MORE</b>
v.	)	<b>DEFINITE STATEMENT</b>
	)	<b>(Counsel Appointed)</b>
State of South Carolina,	)	
	)	
Respondent.	)	

FILED IN OFFICE OF  
 CLERK OF COURT  
 CHEROKEE COUNTY, S.C.  
 2019 NOV 12 AM 8:49  
 RANDY W. HCBEE

In response to the application for post-conviction relief filed by Jobe Samuel Hames (Applicant) on September 12, 2019, Respondent would show this Court:

**I. PROCEDURAL HISTORY**

Applicant is confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Cherokee County Clerk of Court. Applicant waived presentment to the grand jury an indictment for criminal sexual conduct, first degree (2018-GS-11-01538). Michael Berry, Esq. represented Applicant, and Adrienne Barry, Esq., of the Seventh Circuit Solicitor's Office, prosecuted the case. On December 12, 2018, Applicant pled guilty as indicted. The Honorable R. Keith Kelly sentenced Applicant to imprisonment for a term of 25 years. Applicant did not appeal his plea or sentence.

**II. STATEMENT OF THE FACTS**

The underlying facts of the crime for which Applicant is incarcerated were articulated by the State during the plea proceeding as follows:

On January the 3<sup>rd</sup> of 2017, Erica Barber with the Department of Social Services contacted the Cherokee County Sheriff's Office in reference to the victim being sexually assaulted by his uncle. She was provided this information from Ashley Rodriguez, who is a cousin of the victim's mother.

Ashley stated that the victim and his brothers came to stay with her a couple Saturdays prior to the victim disclosing to her and he had asked to talk to her. She asked him if he was all right and he said that – he asked her if it was right for uncles to touch their nephews wee-wee. She asked him if he meant his private areas and he stated yes. He said that his uncle Jobe had been putting his private parts inside of him since he was six years old. He said that when this would happen his Uncle Jobe would tell him everything is going to be okay and to just be quiet. He stated it hurt when he would do this and it made him want to kill himself.

The victim was then sent to the Children's Advocacy Center. During that interview the victim became very uncomfortable when the interviewer began to ask him about the [sic] what the defendant would do to him. The interview had to be ended early based off of the victim becoming upset. The victim is autistic, Your Honor, so the conditions of the room, coupled with the fact that he did not want to talk about what happened to him caused him to become upset and they had to cancel that interview.

They did reschedule the interview and he did disclose that the defendant would touch his private parts under his clothes. This happened on more than one occasion, more than one occasion at the defendant's house, in the defendant's bedroom on his bed, in the hallway, in the bathroom, and in his parents room.

On June the 16<sup>th</sup> of 2017 officers spoke with the victim's mother, who was this defendant's sister. She and her husband were living with the defendant at [address omitted] here in Cherokee County where all of the incidents took place.

She stated that all of this came to light when one night she heard the victim and the defendant talking and a bad feeling came over [her]. She stated when she went to bed the victim was asleep on the couch and was not supposed to be in bed with the defendant. She went into the defendant's bedroom and saw the victim with his underwear down and the defendant was buckling his belt. She stated the victim's penis was hard. She said she confronted the defendant and he ran out of the house.

She spoke to the victim and he stated that the defendant told him if he told anyone what was happening, the police would put his parents and grandparents in jail, and the victim told her the defendant touched his private parts and put his fingers inside of his bottom.

The victim – I mean, excuse me, the victim’s mother told her husband, who confronted this defendant. He denied it. He then asked the victim in front of this defendant if he had ever touched him and he said “yes, lots of times.”

The defendant was questioned initially on February the 18<sup>th</sup> of 2017, and he stated to law enforcement that he never touched the victim, other than to discipline him. He was then scheduled for a polygraph. They couldn’t do the polygraph at that time because the defendant stated that he suffered from seizures, so they had to get him medically cleared before they did another polygraph.

The second polygraph occurred on May the 30<sup>th</sup> of 2017. He was asked if he touched the victim in a sexual manner and if he touched the victim in a sexual manner at his house. He stated no both times and deception was indicated.

He was then advised of the results of that polygraph and told the examiner that on one occasion while wrestling with the victim he accidentally put his mouth on the victim’s penis. He told the examiner that he had masturbated in the presence of the victim and while the victim slept next to him in the same bed. He told the examiner that he had several dreams about the victim that were sexual in nature. He described one of the dreams as starting out with him having sex with a woman. Then it changed to him having sex with a hermaphrodite. Then it changed to him having sex with his nephew, the victim. He stated he woke up naked next to the victim who was looking at him in an uneasy way.

The defendant then spoke with law enforcement again. HE stated there was another incident where the victim was getting out of the shower and was wrapped in a towel. The defendant snatched the towel away from the victim and wrestled him to the bed playing with him. He stated he was blowing on the victim’s belly and the victim’s penis accidentally went into his mouth.

Your Honor, as I stated earlier, the victim is autistic in this case. I have met with this victim. It was in the best interests of this victim to keep him off of the stand to testify in front of twelve strangers about what a family member had done to him. We discussed the offer of reducing it to criminal sexual conduct in the first degree and they were in agreement with that.

The victim’s grandmother is here. She’s standing to my right. At this point I don’t know if she wishes to address Your Honor, but I will have Your Honor ask her that at the appropriate time, but based off of all the circumstances it was the State’s decision to reduce it to the criminal sexual conduct in the first degree, Your Honor.

(Tr. 8-12). Upon inquiry by the Court, Applicant confirmed “most” of the above articulated facts. (Tr. 13-14).

### III. CURRENT APPLICATION

In his post-conviction relief application, Applicant alleges he is being held unlawfully for the following reasons:

1. “Ineffective Assistance of Counsel”
  - a. “failure to Investigate the facts of the case”
  - b. “Sentenced errors”
  - c. “Mental Health”
  - d. “14 Amendment Due Process”

It is not entirely clear whether Applicant intended to frame the allegations restated above as 1.b.- as ineffective assistance of counsel or otherwise. Because claims for post-conviction relief generally need to be framed in the context of ineffective assistance of counsel, Respondent liberally construes the allegations to all be framed as such. Applicant requests relief as follows:

- “Sentence reduced”

Attached to and incorporated herein are the records of the Cherokee County Clerk of Court regarding the subject conviction, Applicant’s records from the South Carolina Department of Corrections, the plea transcript, and the current application for relief. Respondent reserves the right to amend this Return upon receipt of relevant information.

### IV. RESPONSE TO ALLEGATION OF INEFFECTIVE ASSISTANCE OF COUNSEL

#### Ineffective Assistance of Plea Counsel, Generally

Applicant’s allegations of ineffective assistance of counsel are without merit. In a PCR action, Applicant bears the burden of proving the allegations in his application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, Applicant must prove that “counsel’s conduct so undermined the proper functioning of the adversarial process that [it] cannot be relied upon as having produced a

just result.” Strickland v. Washington, 466 U.S. 668, 686 (1984); Butler, 286 S.C. at 442, 334 S.E.2d at 814.

In evaluating allegations of ineffective assistance of counsel, the reviewing court applies the two-pronged test outlined in Strickland. First, Applicant must prove that counsel’s performance was deficient. Strickland, 466 U.S. at 686; Cherry v. State, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989). Under this prong, the court measures an attorney’s performance by its “reasonableness under prevailing professional norms.” Cherry, 300 S.C. at 117, 386 S.E.2d at 625 (quoting Strickland, 466 U.S. at 690). The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Butler, 286 S.C. at 442, 334 S.E.2d at 814. “Counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment.” Id. (citing Strickland, 466 U.S. at 690). “When counsel focuses on some issues to the exclusion of others, there is a strong presumption that he [or she] did so for tactical reasons rather than through sheer neglect.” Yarborough v. Gentry, 540 U.S. 1, 5 (2003) (citing Strickland, 466 U.S. at 690). The Court, in determining deficiency, must affirmatively entertain the range of possible reasons counsel may have had for proceeding as they did. Cullen v. Pinholster, 563 U.S. 170, 196 (2011); Harrington v. Richter, 562 U.S. 86, 109-10 (2011). “[E]ven if an omission is inadvertent, relief is not automatic. The Sixth Amendment guarantees reasonable competence, not perfect advocacy judged with the benefit of hindsight.” Yarborough at 6; see also Murphy v. Davis, 901 F.3d 578, 592 (5th Cir. 2018) (“[C]ounsel’s performance need not be optimal to be reasonable.”). Applicant must overcome this presumption to receive relief. Cherry, 300 S.C. at 118, 386 S.E.2d at 625.

Second, counsel's deficient performance must have prejudiced Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. "The prejudice analysis requires the court deciding the ineffectiveness claim to consider the totality of the evidence before the judge or jury." United States v. Basham, 789 F.3d 358, 371-72 (4th Cir. 2015) (quoting Elmore v. Ozmint, 661 F.3d 783, 858 (4th Cir. 2011)).

In the context of a guilty plea, Applicant must show that there is a reasonable probability that, but for counsel's alleged errors, he/she would not have pleaded guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 59 (1985). Because a guilty plea is a solemn, judicial admission of the truth of the charges against an individual, the PCR applicant's right to contest the validity of such a plea is usually, but not invariably, foreclosed. See Blackledge v. Allison, 431 U.S. 63, 73-74 (1977) ("Solemn declarations in open court carry a strong presumption of verity. The subsequent presentation of conclusory allegations unsupported by specifics is subject to summary dismissal, as are contentions that in the face of the record are wholly incredible."). Statements made during a guilty plea should be considered conclusively, unless an Applicant presents valid reasons why he or she should be allowed to depart from the truth of his statements. Dalton v. State, 376 S.C. 130, 137-38, 654 S.E.2d 870, 874 (Ct. App. 2007) (citing Crawford v. United States, 519 F.2d 347, 350 (4th Cir. 1975)).

#### **Failure to Investigate**

Applicant's claim that Counsel was ineffective in failing to adequately investigate his case is without merit. In order to prevail upon a claim that counsel did not adequately prepare or investigate a case, an applicant must present evidence of what counsel could have discovered or what other defenses applicant could have requested counsel develop and present had counsel

been more prepared. Harris v. State, 377 S.C. 66, 75-76, 659 S.E.2d 140, 145-46 (2008) (citing Jackson v. State, 329 S.C. 345, 353-54, 495 S.E.2d 768, 772 (1998)). Furthermore, an applicant must also present evidence to show how the discoverable matters or defenses would have resulted in a different outcome. Id. (citing Davis v. State, 326 S.C. 283, 288, 486 S.E.2d 747, 749 (1997); Skeen v. State, 325 S.C. 210, 214, 481 S.E.2d 129, 132 (1997)). Mere speculation as to how the alleged lack of preparation prejudiced an applicant is not sufficient to support a grant of relief. Id., 377 S.C. at 75, 659 S.E.2d at 145 (citing Glover v. State, 318 S.C. 496, 498, 458 S.E.2d 538, 540 (1995)).

Applicant does not identify what, if anything, Counsel could have investigated and discovered that would have reasonably compelled him not to accept the State's plea offer and instead proceed to trial. To the contrary, the evidence articulated by the State at the plea proceeding reflects a very strong prosecution case founded in part on multiple confessions by Applicant. Respondent denies Applicant is entitled to relief by way of this allegation.

#### **Failure to Correct Sentencing Errors**

Applicant's claim regarding alleged sentencing errors is without merit. "Criminal sexual conduct in the first degree is a felony punishable by imprisonment for not more than thirty years, according to the discretion of the court." S.C. Code Ann. § 16-3-652(2).

Applicant does not indicate what, if any, errors were made in sentencing by the plea court. A review of the plea transcript reflects the plea court orally pronounced a sentence of 25 years, and wrote the same on the sentencing sheet. The sentence is within the statutory range. Respondent denies Applicant is entitled to any relief by way of this allegation.

### **Mental Health**

Applicant's statement of the issue is inadequate to facilitate any response by Respondent. Accordingly, Respondent moves for a more definite statement as set forth in Section VI, below.

### **Due Process**

Applicant's statement of the issue is inadequate to facilitate any response by Respondent. Accordingly, Respondent moves for a more definite statement as set forth in Section VI, below.

### **Conclusion and Action Requested**

Applicant can satisfy neither requirement of the Hill test. However, the allegation of ineffective assistance of counsel probably raises questions of fact that the record does not conclusively refute. Accordingly, Respondent respectfully requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 265, 305 S.E.2d 247, 248 (1983) ("Where an application for post-conviction relief alleges specific instances of ineffective assistance of counsel which are not conclusively refuted by the record before the lower court, a question of fact is raised which can only be resolved by an evidentiary hearing.").

### **V. RESPONSE TO REQUEST FOR SENTENCE REDUCTION**

In his prayer for relief, Applicant requests the Court (verbatim) "Sentence reduced". This relief is unavailable in a post-conviction relief action. If this Court finds a defect in the original proceedings, the appropriate relief would be a new trial on the original indictments. Gilstrap v. State, 252 S.C. 625, 168 S.E.2d 88 (1969); see also Smith v. State, 413 S.C. 194, 195, 775 S.E.2d 696, 696 (2015) ("We now clarify the proper remedy is a new trial.") Grant v. MacDougall, 244 S.C. 387, 391, 137 S.E.2d 270, 272 (1964) (relief of absolute release not available). Where an applicant seeks only relief to which he or she is not entitled, "it is not incumbent upon [the] court to pass upon what relief, if any, he [or she] might, perchance, be

entitled to.” Young v. State, 250 S.C. 476, 479, 158 S.E.2d 764, 765 (1968). For these reasons, if the application is not otherwise amended before the evidentiary hearing to reflect a desire for appropriate relief, Respondent would respectfully request this Court engage in a *thorough* colloquy with Applicant to apprise him of the relief available in a PCR. If at the evidentiary hearing Applicant indicates no desire in appropriate relief but a desire to proceed, Respondent will at that time move to dismiss the application.

#### VI. MOTION FOR MORE DEFINITE STATEMENT

Respondent also hereby moves for a more definite statement. The Uniform Post-Conviction Procedure Act requires the Applicant to "specifically set forth the grounds upon which the application is based." S.C. Code Ann. § 17-27-50. It is incumbent upon Applicant, *through counsel*, to amend his application where necessary to set forth *specific facts* upon which his allegations are based. See Rule 71.1(d), SCRPC ("Counsel shall insure that all available grounds for relief are included in the application and shall amend the application if necessary."); see also Coardes v. State, 262 S.C. 493, 497, 206 S.E.2d 264, 265 (1974) ("[M]ere allegations of incompetency or ineffectiveness of counsel will not ordinarily suffice as grounds for a new trial under the Post-Conviction Procedure Act. The bare assertion by the appellant that he was deprived of adequate and effective assistance of counsel is insufficient."). Where an applicant fails to adequately set forth the grounds upon which he seeks relief, the court may at any time prior to entry of judgment "issue orders for amendment of the application or any pleading or motion[.]" S.C. Code Ann. § 17-27-70(a); see also Rule 12(e), SCRPC (permitting a circuit court judge to require a more definite statement when vague or ambiguous pleadings are filed).

Applicant has failed to set forth any facts to "support each ground" or to explain with any specificity the facts upon which his claims are based. Namely, Respondent requires a more definite statement of Applicant's claims regarding his mental health and due process rights.

Therefore, Respondent requests that Applicant be required to amend his application to set forth specifically the grounds on which his claims are based.

#### **VII. ASSERTION OF RIGHTS TO NOTICE OF AMENDMENTS, EXPERTS**

Applicant must specify any claims he intends to raise at the PCR evidentiary hearing. Any claims not specifically laid out in this PCR application or in amendments *will be opposed by the State at an evidentiary hearing* pursuant to §§ 17-27-10 to -160 of the South Carolina Code of Laws and Rule 71.1 of the South Carolina Rules of Civil Procedure. See also Rules 15(a)-(b), SCRCF; Mangal v. State, 421 S.C. 85, 805 S.E.2d 568 (2017). All claims should be made well in advance of the evidentiary hearing. Because Applicant has been appointed an attorney, the attorney, and not Applicant, is the only individual authorized to file amendments to this application. See Rule 11, SCRCF. Pro se filings will not be considered at the PCR hearing. Respondent reserves the right to request that any amendments withheld until the last minute be stricken because of undue prejudice to Respondent. See Rule 15(a), SCRCF.

Pursuant to § 17-27-150 of the South Carolina Code of Laws, Applicant may not invoke formal discovery processes to issue subpoenas or otherwise obtain discovery materials unless granted leave from the Court upon a showing of good cause. Furthermore, Respondent requests that all potential exhibits and materials used to produce potential expert witness testimony be sent to Respondent well in advance of the evidentiary hearing. Respondent reserves the right to request a continuance and oppose witness testimony and exhibits that are withheld until the last minute resulting in undue prejudice to Respondent.

**VIII. GENERAL DENIAL**

Respondent denies each allegation not expressly admitted, qualified, or explained.

**IX. CONCLUSION**

WHEREFORE, Respondent respectfully requests that this Court grant its motion for a more definite statement as set forth in Section VI, above, and thereafter convene an evidentiary hearing on the allegations of ineffective assistance of counsel.

Respectfully submitted,

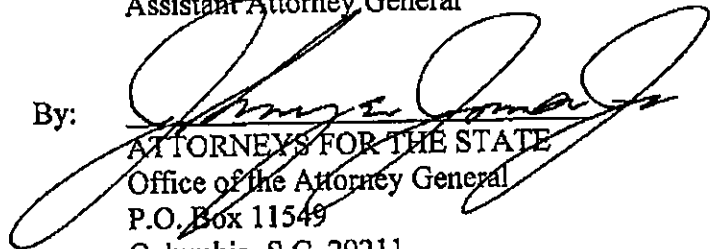
ALAN WILSON  
Attorney General

W. JEFFREY YOUNG  
Chief Deputy Attorney General

MEGAN HARRIGAN JAMESON  
Senior Assistant Deputy Attorney General

JOHNNY ELLIS JAMES JR.  
Assistant Attorney General

By:

  
ATTORNEYS FOR THE STATE  
Office of the Attorney General  
P.O. Box 11549  
Columbia, S.C. 29211

7 Nov, 2019



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STATE OF SOUTH CAROLINA )  
 ) COURT OF COMMON PLEAS NONJURY  
COUNTY OF CHEROKEE )

JOBE HAMES, ) TRANSCRIPT  
 )  
 APPLICANT, ) OF  
 )  
 vs. ) RECORD  
 )  
 THE STATE OF SOUTH CAROLINA, )  
 ) 2019-CP-11-636  
RESPONDENT. )

August 2<sup>nd</sup>, 2021  
Spartanburg, South Carolina

B E F O R E :

THE HONORABLE H. STEVEN DeBERRY, IV, JUDGE.

A P P E A R A N C E S :

RODNEY RICHEY  
ESQ.  
Attorney for the Applicant

WILLIAM RAY  
ASSISTANT ATTORNEY GENERAL  
Attorney for the Respondent

PAMELA E. GREEN  
Circuit Court Reporter

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I N D E X   O F   W I T N E S S E S

WITNESSES

PAGE

JOBE HAMES

Direct examination by Mr. Richey 4

Cross-examination by Mr. Ray 8

Redirect examination by Mr. Richey 14

GENEVA HAMES

Direct examination by Mr. Richey 16

Cross-examination by Mr. Ray 25

MICHAEL BERRY

Direct examination by Mr. Richey 29

Cross-examination by Mr. Ray 33

Redirect examination by Mr. Richey 38

Closing by Mr. Ray 40

Certificate 42

## P R O C E E D I N G S

1  
2  
3 THE COURT: All right. Mr. Ray.

4 MR. RAY: Thank you, Your Honor.

5 May it please the Court.

6 This is the matter of Jobe Samuel Hames versus the  
7 State of South Carolina. It is Case Number  
8 2019-CP-11-00636.

9 Mr. Hames is currently incarcerated at the Department  
10 of Corrections. He waived presentment to the Grand Jury on  
11 indictment for criminal sexual conduct first degree. He was  
12 represented by Mr. Michael Berry, who is here today, and the  
13 solicitor, Adrienne Barry, of the Seventh Circuit  
14 Solicitor's Office prosecuted the case.

15 On December 12<sup>th</sup>, 2018, he appeared before Judge Kelly  
16 and entered a guilty plea as indicted. Judge Kelly then  
17 sentenced Mr. Hames to a term of 25 years imprisonment. He  
18 did not appeal his plea or sentence and he filled this  
19 application on September 12<sup>th</sup>, 2019.

20 In his application he alleged ineffective assistance of  
21 counsel vaguely due to failure to investigate the case,  
22 alleged sentencing errors, mental health issues, and then,  
23 simply put, a Fourteenth Amendment due process violation.

24 The State made its return and moved for a more definite  
25 statement. As of today I do not believe any amendments have

1 been filed. The State's return was filed in November 7<sup>th</sup>,  
2 2019. However, the State is prepared to proceed forward on  
3 the evidentiary hearing today.

4 THE COURT: All right.

5 MR. RICHEY: That's correct, Your Honor.

6 We call Mr. Hames.

7 THE COURT: Mr. -- before we get started, could you  
8 tell me again what he's claiming, ineffective assistance of  
9 counsel, and what were the others?

10 MR. RICHEY: Your Honor, I can tell you that counsel  
11 was ineffective for not seeking a mental evaluation --

12 THE COURT: Okay.

13 MR. RICHEY: -- and that counsel -- his failure to  
14 investigate the facts of the case.

15 THE COURT: Okay. Thank you.

16 DIRECT EXAMINATION

17 BY MR. RICHEY:

18 Q Sir, will you state your name please?

19 A Jobe Hames.

20 Q And, Mr. Hames, you are here today -- are you in the  
21 Department of Corrections right now?

22 A Yes, sir.

23 Q And what are you in there for?

24 THE COURT: I think we need to swear the witness.

25 MR. RICHEY: Okay. I'm sorry. Excuse me, Judge.

Jobe Hames - Direct examination  
By Mr. Richey

1 THE COURT: That's fine.

2 Mr. Hames, how do you say your last name?

3 THE WITNESS: Hames.

4 THE COURT: Hames.

5 All right. If you will, can you stand and raise your  
6 right-hand.

7 JOBE HAMES, being first duly  
8 sworn, testified as follows:

9 THE COURT: Okay. Thank you very much.

10 CONTINUED DIRECT EXAMINATION

11 BY MR. RICHEY:

12 Q Sir, all the previous questions I asked you, they were  
13 truthful, correct?

14 You're in the Department of Corrections, right?

15 A Yes, sir.

16 Q Okay. You filed an application for ineffective  
17 assistance of counsel, correct?

18 A Yes, sir.

19 Q And, and who represented you on your charges?

20 A Mr. Michael Berry.

21 Q Okay. And, and you're asking the Court today to grant  
22 you a new trial.

23 Is that correct?

24 A Yes, sir.

25 Q Okay. Your, your allegation that -- well, let me ask

Jobe Hames - Direct examination  
By Mr. Richey

1 you this one first.

2 You, you had some mental health issues?

3 Have or had.

4 A I was seeking mental health evaluation and also  
5 professional testimony due to---

6 Q well, let me go back and ask you this way.

7 okay. You had some mental health issues in the past,  
8 right?

9 A Yes, sir.

10 Q okay. And you discussed those issues with your  
11 attorney, correct?

12 A Yes, sir.

13 Q And, and you made a request of your attorney based on  
14 those discussions, correct?

15 A Yes, sir.

16 Q And, and what exactly did you ask of him?

17 A Exactly I asked of him to -- that I was seeking mental  
18 health and counseling from like a psychiatrist that can  
19 maybe speak on my behalf.

20 Q okay. And did you request that he do a mental  
21 evaluation?

22 A Yes, sir.

23 Q And what was the response to that?  
24 what did he tell you?

25 A He --.

Jobe Hames - Direct examination  
By Mr. Richey

1 Q What did he say to you?

2 A He told me that he didn't feel it, it would -- that it  
3 wasn't necessary, that he had other clients seem far more  
4 incompetent.

5 Q Okay. So, he, essentially, told you he felt like you  
6 were competent?

7 A Yes, sir.

8 Q Okay. And, and did you agree with that?

9 A In a, in a sense, yes, sir.

10 Q Okay. And so -- but you, you think that, that he  
11 should of had adequate testimony to protect that issue for  
12 you, correct?

13 A Yes, sir.

14 Q And, and your, your mom, she knows about this history  
15 of mental illness you had, correct?

16 A Yes, sir.

17 Q Okay. And you believe, had he done this, then the  
18 outcome of your case would of been different, correct?

19 A Yes, sir.

20 Q Okay. Also you didn't -- and when you say failure to  
21 investigate your case, are you referring to the issues of  
22 getting the mental health situation done?

23 Is that --?

24 A Yes, sir.

25 Q Okay. And you believe that, other than that, you would

Jobe Hames - Direct examination  
By Mr. Richey

1 of had -- you would of had a better outcome if he had did  
2 that?

3 That's your whole issue with this whole situation,  
4 correct?

5 A Yes, sir.

6 Q Okay. Thank you. Answer any questions the attorney  
7 general will have for you.

8 CROSS-EXAMINATION

9 BY MR. RAY:

10 Q Mr. Hames, how many times do you recall meeting with  
11 Mr. Berry?

12 A All together I'm not quite sure cause he represented me  
13 on a previous case that I was on probation for. So, maybe  
14 since I was 20 years old. There's been three or four  
15 occasions I met with him.

16 Q Okay. So, you had a prior relationship with him before  
17 these charges?

18 A Yes, sir.

19 Q Okay. Did you hire him or was he appointed?

20 A He's appointed.

21 Q He was appointed to represent you.

22 And do you recall what y'all discussed during these  
23 meetings?

24 A Just pretty much discussed my past, how I suffered  
25 mental, physical, and sexual abuse as a child myself, and

Jobe Hames - Cross-examination  
By Mr. Ray

1 how I was requesting the State to petition me professional  
2 testimony in my behalf.

3 Q Okay. Now, let me ask you about your mental health  
4 issues.

5 what -- you said you have a mental illness?

6 A I was wanting to get mental health evaluation done  
7 concerning my mental state of mind at the time -- well, the  
8 long term use of using marijuana.

9 Q Okay. Did you -- were you -- have you, have you ever  
10 been diagnosed with a mental illness?

11 A No, sir.

12 Q No.

13 So your, your mental health issues are entirely related  
14 to marijuana use?

15 A Yes, sir.

16 Q Okay. Now, did you understand what your attorney was  
17 doing when he was meeting with you?

18 A For the most part, yeah.

19 Q Okay. So you understood he was representing you and,  
20 and -- on these charges of the criminal sexual conduct?

21 A Yes, sir.

22 Q Okay. And he, he reviewed the consequence you could be  
23 facing, didn't he?

24 A Yes, sir.

25 Q Okay. And you understood that?

Jobe Hames - Cross-examination  
By Mr. Ray

1 A Yes, sir.

2 Q Okay. Now, were you able to help him out at all?

3 A I was able to assist a little bit. If you will allow  
4 me to, I'd like to read what I have wroten down.

5 Q Okay. Go ahead.

6 A I did not appeal from the judgment of conviction or the  
7 imposition of the sentencing. The reason for this being my  
8 lawyer, Michael Berry, did not counsel me that I had the  
9 option to appeal after entering a plea of guilty.

10 Q Okay.

11 A Frazier versus South Carolina, State Post-Conviction  
12 Relief Court. Rejection of petitioner's claims that his  
13 Sixth Amendment right had been violated to ineffective  
14 assistance, assistance of counsel when counsel failed to  
15 consort with him in regard to the possibility of appeal and  
16 as progeny so as to warrant federal habeas relief.

17 Q Okay. Well, just specifically about your, your mental  
18 health issues, do you -- how many times did you discuss that  
19 with him?

20 A Only once.

21 Q Just one time.

22 Okay. In your previous charges, were, were you -- did  
23 he help you out with any mental health issues or --?

24 A No, sir.

25 Q No.

Jobe Hames - Cross-examination  
By Mr. Ray

1           okay. And you understood that you committed a crime by  
2 doing this.

3           Is that correct?

4   A    Yes, sir.

5   Q    Okay. And let me ask you.

6           Did you think you had any defenses to these charges?

7   A    Yes, sir.

8   Q    You did.

9           And did you discuss those with your attorney?

10   A    Yes, sir.

11   Q    Okay. And so did you ever consider going to trial?

12   A    I never did consider it but what I did want was the --  
13 was like someone trained that could explain the  
14 psychological effects of being abused and the long term drug  
15 use --

16   Q    Uh-huh. (Affirmative).

17   A    -- and I was told the prosecution would not allow that,  
18 which I found out that the State should of really appointed  
19 me that opportunity because I was indigent while being in  
20 the county.

21   Q    Okay. So you're saying now today that the State should  
22 of done something, the, the prosecutor essentially?

23   A    Yes, sir.

24   Q    Not your attorney necessarily?

25   A    Yes, sir.

## Jobe Hames - Cross-examination

By Mr. Ray

1 Q Okay.

2 A Cause he did explain to me that he, he discussed that  
3 with the prosecution. The prosecution did not want to --  
4 didn't, didn't want to do that.

5 Q Okay. So, he did reach out to them at the very least  
6 about this issue?

7 A Yes, sir.

8 Q Okay. And now did you ask him questions about what was  
9 going on?

10 A I asked him a few questions. There should of been more  
11 during the time I was in the county. One of my main things  
12 was that I really wish I would of had would of been a copy  
13 of my motion of discovery. I did 562 days in Cherokee  
14 County Detention Center without receiving a copy of my  
15 motion.

16 Q Okay.

17 A And I feel like if I would of had that before going to  
18 Court I would of been able to more effectively prepare  
19 myself.

20 MR. RAY: Okay. Court's indulgence for just one moment  
21 please.

22 (Pause.)

23 Q Do you remember when you pled guilty?

24 Do you remember the day?

25 A I don't remember the exact date, no, sir --

Jobe Hames - Cross-examination  
By Mr. Ray

1 Q okay.

2 A -- not right off the top of my head.

3 Q You wouldn't disagree with me if I told you it was  
4 December 12<sup>th</sup>, 2018, would you?

5 A That sounds about right.

6 Q Okay. And did anybody else, friends, family, anything,  
7 know about any of these mental health issues?

8 A My daddy and -- my daddy and my mama, who is here from  
9 Leath Correctional, have all reached out about things I went  
10 through as a child about, about how like I -- my delayed  
11 intelligence.

12 If you'll allow me to read from my transcript?

13 Q Well, before you do that, just one more question for  
14 you.

15 You said that your friends and family member reached  
16 out about your delayed intelligence or---

17 A Yes, sir.

18 Q ---those issues?

19 Did they reach out to Mr. Berry?

20 A Yes, sir.

21 Q They did.

22 Okay. State has no further questions, Your Honor.

23 THE COURT: All right.

24 MR. RICHEY: One question.

25 REDIRECT EXAMINATION

Jobe Hames - Redirect examination  
By Mr. Richey

1 BY MR. RICHEY:

2 Q You were gonna read from your transcript line -- Page  
3 16, Line 20 through 25.

4 Is that correct?

5 A I'm gonna start at Page 16.

6 Q Right.

7 A Starting at Line 2 and ending at Line 4. I will tell  
8 that in my -- this is my -- Michael Berry speaking. I will  
9 tell you that in my interactions with Jobe that it's  
10 evident, just in conversations with him, that his  
11 intelligence is delayed. It stops at Line 4. On -- pick  
12 back up at Line 8. He and his family have both reached out  
13 to me about mental health evaluation. Quite honestly, you  
14 know, I have spent hours with Jobe, and in conversations  
15 that I have had with him, I didn't feel that competency was  
16 an issue.

17 Q Okay. Now, just basically to Page 16 is what you were  
18 referring to, correct?

19 A Yes, sir.

20 Q Being the last part of -- on Line 22 about -- talks  
21 about developmentally delayed, all that. So, Page 16 is  
22 what you want to -- for this Court to consider, correct?

23 A Yes, sir.

24 Q Okay. Thank you.

25 No other questions.

1 THE COURT: And is that the plea transcript?

2 MR. RICHEY: Yes, sir.

3 THE COURT: Okay.

4 MR. RAY: Your Honor, I have a copy of these. I forgot  
5 to hand these up to you if you'd like one.

6 THE COURT: Sure.

7 Do y'all to -- we need to make this a Court's Exhibit  
8 or --?

9 MR. RICHEY: Yes, sir, we -- the, the -- I think this  
10 is all part of the record anyway --

11 MR. RAY: It is.

12 MR. RICHEY: -- or part of the record already. We're  
13 just referring to it.

14 Mr. Hames, if you'd step down. That -- that's good.

15 We'd call Ms. Geneva Hames. Just remain standing and  
16 raise your right-hand and the Judge will ask you some  
17 questions.

18 THE COURT: You're Ms. Hames?

19 THE WITNESS: Yes, sir.

20 THE COURT: All right.

21 GENEVA HAMES, being first duly  
22 sworn, testified as follows:

23 THE COURT: Okay. Thank you. Have a seat.

24 THE WITNESS: Thank you. The ball is on the floor down  
25 there.

Geneva Hames - Direct examination  
By Mr. Richey

1 THE COURT: What is it -- it's fine.

2 Okay. Can you spell your name for us please?

3 THE WITNESS: G-E-N-E-V-A.

4 All three names?

5 THE COURT: First and last is about all.

6 THE WITNESS: Okay. H-A-M-E-S.

7 THE COURT: Okay. Thank you.

8 THE WITNESS: You're welcome.

9 DIRECT EXAMINATION

10 BY MR. RICHEY:

11 Q Ma'am, state your name please?

12 A Geneva Elaine Hames.

13 Q And, Ms. Hames, do you know this gentleman sitting  
14 right here?

15 A Yes, sir, that's my son.

16 Q And what's his name?

17 A Jobe Samuel Hames.

18 Q Okay. And you understand that you've been called as a  
19 witness in his Post-Conviction Relief case because he's  
20 alleged that he had some mental health issues?

21 A Yes, sir.

22 Q And, and being his mother, can you explain to the Court  
23 what issues that you observed that he had?

24 A Jobe is -- Jobe was born with autism and he also has  
25 ADHD, and what I have written from his transcript of record,

Geneva Hames - Direct examination  
By Mr. Richey

1 it is Pages 15 through 20---

2 Q Well, why don't right now -- don't you -- just explain  
3 to us your observation of his condition.

4 Okay. So you said he had ADHD, correct?

5 A And -- yes, sir.

6 Q Okay.

7 A And he's born with autism.

8 Q Do you---

9 A It runs in my family and so does schizophrenia.

10 Q Okay. Did, did you take him to a doctor or  
11 psychiatrist at any point?

12 A No, I mean I did not realize the seriousness of the  
13 issue --

14 Q Yes, ma'am.

15 A -- until some years later.

16 Q Okay. And, and what, what happened to make you  
17 understand the situation?

18 A In all truthfulness, what happened to make me  
19 understand the situation is I been at Leath prison for 15  
20 years. Well, November of -- 6<sup>th</sup> of this year will be 15  
21 years that I've been at Leath Correctional. Now my case and  
22 my charges has absolutely nothing to do with my son's.

23 Q Right.

24 A Ours are many years apart and it has nothing to do one  
25 with the other.

Geneva Hames - Direct examination  
By Mr. Richey

1 Q Right.

2 A But while I'm at Leath prison -- see I've always known  
3 my daddy was crazy.

4 Okay. That's my daddy, Joe Brown Brown---

5 Q Uh-huh. (Affirmative).

6 A ---he was diagnosed as a severe schizophrenic.

7 Q Right.

8 A Well, come to find out, my grandson, Minor 1 , he  
9 was diagnosed with autism. Also a niece and a nephew, a  
10 niece, Shannon, and a nephew, Jessie, he has autism.  
11 They -- the both of them have autism.

12 Now, my son, when he was in grade school, I -- I'm  
13 gonna have to read this because the whole story is in here.

14 Q No, no, we -- well, well, we got---

15 A I would like the chance to read this.

16 Q No, no, we're gonna talk about it. Let's talk about it  
17 first.

18 A Well, it's right here.

19 Q Okay. Well, let me ask---

20 A And see this is taken from---

21 Q Ma'am?

22 Ma'am, hold one.

23 A ---the transcript of record.

24 Q Hold on, ma'am. Ma'am.

25 THE COURT: Hold on.

Geneva Hames - Direct examination  
By Mr. Richey

1 Q What I'm gonna do is I'm gonna ask the questions and  
2 then you answer them. I'll give you sufficient time to  
3 answer them.

4 okay?

5 A okay.

6 Q We got to have a structure a little bit here.

7 okay?

8 A Yes, sir.

9 Q Let me -- ma'am, but how old was your son when you went  
10 to prison?

11 How old was he?

12 Do you remember?

13 A Twelve. I think he was 12.

14 Q So, so, you had sufficient time, from the age of when  
15 he was born, cause you had -- he was not adopted, correct?

16 A No, he's not adopted.

17 Q Okay. So you had a chance to observe him from age zero  
18 to 12 and be around him, correct?

19 A For a number of those years, yes, but --

20 Q Okay.

21 A -- I'm not proud of this but at one time I was an  
22 adulterer. I committed adultery. I was out in the streets  
23 doing drugs.

24 Q Yes, ma'am.

25 A And as far as my mentality then as it should be---

Geneva Hames - Direct examination  
By Mr. Richey

1 Q Well---

2 A ---for quite a number of years I was a mess.

3 Q Okay.

4 A So---

5 Q But---

6 A And, you know, that hurt my whole family, not just  
7 myself.

8 Q So you -- but you were still around your son---

9 A Of course.

10 Q ---enough to observe his -- observe his demeanor and  
11 mental state and all that, correct?

12 A Yes, sir.

13 Q And, and during those observations, that's when you  
14 determined that he suffered from all kinds of schizophrenia.

15 You just knew something wasn't right, correct?

16 A I've always -- I'm gonna tell you, when Jobe was a  
17 baby, I had him in the bathtub, okay, in a baby bathtub over  
18 into a bigger tub, and he wasn't even walking yet. He was  
19 like about six, six and a half months old. And when I tell  
20 you that he was coming out of that tub, I mean he was not  
21 upset. He was not crying and he was laying there and he was  
22 scanning the walls and looking all around, you know, and he  
23 was trying his best to come out of there and he was not  
24 upset. He was not crying.

25 And when he was like about six and a half months old,

Geneva Hames - Direct examination  
By Mr. Richey

1 he was in his walker and he turned around and he kept  
2 pulling until he got to the top and he rolled off -- and he  
3 rolled over and he hit the floor, bap, and then he -- and  
4 it, and it didn't hurt him. I mean like all of these times  
5 he not upset. He's not crying and he pulls himself up on  
6 that walker and then he's pushing it and walking.

7 And me and my husband both, we were like look at that  
8 boy. It was -- you know and I have all -- I have four  
9 children and I have always known that Jobe was different  
10 from the rest of them. I've always known that.

11 when he was in grade school in Northwest Elementary, he  
12 was diagnosed then---

13 MR. RAY: Your Honor?

14 Q Okay.

15 THE COURT: Okay, ma'am.

16 MR. RAY: Judge?

17 Q Okay. Ma'am, let me, let me just -- we got to get some  
18 structure.

19 Let me ask you these questions. One of the things --  
20 you've had a chance to review this transcript, correct?

21 A Yes, sir.

22 Q Okay. And one of the things in this transcript that  
23 bothers you, I guess, or you, you dis, disagree with is on  
24 Page 16 when the lawyer made a decision not to get a mental  
25 evaluation.

Geneva Hames - Direct examination  
By Mr. Richey

1 Is that correct?

2 A Yes, sir.

3 Q And you believe that your son needed that to prepare  
4 his case, correct?

5 A I feel like it would of helped, yes.

6 Q Okay.

7 A Because he was diagnosed, okay, when he -- I do want a  
8 chance to share this. This is -- all of this right here is  
9 from Court. It is his transcript --

10 Q Okay.

11 A -- taken from here and other factual. I have some very  
12 good factual issues and I just want to share them with---

13 Q Ma'am, you can---

14 A ---the Court.

15 Q You're gonna have to -- we, we -- you're gonna have to  
16 testify, not read, okay?

17 So, let's, let's---

18 A Yeah.

19 Q That's why I'm asking you these questions so---

20 A The test---

21 Q ---you could---

22 A The testimony---

23 Q So you can testify.

24 A ---is---

25 Q Hold, hold. I got to ask you questions.

Geneva Hames - Direct examination  
By Mr. Richey

1 A I have a lot of that in here.

2 Q I got to ask you a question first.

3 okay?

4 A Okay.

5 Q All right. Let me ask you a question. You can answer  
6 it.

7 So, you believe, based on this transcript, that your  
8 son should be entitled to a new trial, correct?

9 A Yes, sir.

10 Q Okay. Because it's your position, based off what's in  
11 this transcript, your interaction with your son, that, that  
12 he needed a mental evaluation at the time of his guilty  
13 plea, correct?

14 A Yes, sir.

15 Q And that would of been in his best interest, correct?

16 A Yes, sir, it would also been in his best interest if it  
17 had been acknowledged that he was born with an inherited  
18 mental illness, autism. He also has Attention Deficit Hyper  
19 Disorder. These things he is inherited from me and his  
20 grandmother, Joe Brown Brown, who is full blown  
21 schizophrenic.

22 Q Okay. And you would, you would -- you believe it would  
23 of been in his best interest if you had of been present to  
24 discuss this with the judge too, correct?

25 A Yes, I mean those things of which should of been

Geneva Hames - Direct examination  
By Mr. Richey

1 acknowledged, yes, sir.

2 Q And, and you believe that he'd be in a better position  
3 if you had of been there to offer some of this mitigation,  
4 correct?

5 A Yes, sir.

6 Q Okay. And, and it's your position that -- now did  
7 you -- I, I may of missed this.

8 But did you, did you take him to the doctor for his  
9 autism, autism and this stuff?

10 Did you take him to the doctor?

11 A No, I did not but he was diagnosed in grade school.

12 Q Okay. And was that at the school, the school---

13 A Northwest Elementary in Gaffney, Cherokee County.

14 Q And did you go to any of the conferences at school to  
15 discuss that?

16 A At that time I did not and what I've stated earlier---

17 Q Yes, ma'am.

18 A ---at that time I was doing wrong --

19 Q Right.

20 A -- that my mother-in-law, Martha Hames, she did.

21 Q Okay.

22 A Continuously.

23 Q So there's no doubt in your mind he's suffered from  
24 these conditions?

25 A I know for a fact.

Geneva Hames - Direct examination  
By Mr. Richey

1 Q okay. Thank you. Answer the questions the attorney  
2 would have.

3 A I still want to read this. It's from his transcript.

4 Q okay. We, we have the transcript here.

5 A I want to share what I have.

6 Q okay.

7 A okay. It's testimony---

8 Q Answer the questions of---

9 A ---on his behalf.

10 Q Hold on. Answer the questions the attorney general  
11 will have.

12 CROSS-EXAMINATION

13 BY MR. RAY:

14 Q Ms. Hames, are you close with your son?

15 A I use to be. You know, I use to be very close with him  
16 and still now as much as possible by way of letters.

17 Q okay. And you went to prison in 2006.

18 Is that correct?

19 A Yes, sir.

20 Q okay. And he was -- he got in trouble in 2018 with  
21 this?

22 A Yes, sir.

23 Q okay. So, you weren't talking with him every day at  
24 that point in time, were you, face-to-face?

25 A No, just by way of letters.

## Geneva Hames - Cross-examination

By Mr. Ray

1 Q Okay. And were you aware, when he was a child, was he  
2 taking medication for any mental issues?

3 A You know, when one has a mental illness, often they  
4 will try to self-medicate and Jobe was always fond of  
5 marijuana.

6 Q Was anything prescribed to him?

7 A Not that I know of.

8 Q Okay. Not by a doctor?

9 A I'm not sure if they did that in school or not. My  
10 mother-in-law would know.

11 MR. RAY: Okay. No further questions, Your Honor.

12 THE WITNESS: Now may I please share what I have  
13 pertaining to my son's case?

14 MR. RICHEY: No, ma'am, that's all we have for you.  
15 Thank you.

16 THE COURT: Ms. Hames, could you tell the Court what  
17 you're incarcerated for?

18 THE WITNESS: My charges proceed under the hand of one  
19 is the hand of all --

20 THE COURT: I understand that. I just want to know.

21 THE WITNESS: -- theory.

22 THE COURT: Yes, ma'am.

23 What, what are they?

24 THE WITNESS: Okay. I'm not even the principal in the  
25 charges.

Geneva Hames - Cross-examination  
By Mr. Ray

1 THE COURT: I understand.

2 THE WITNESS: I am not the principal in the charges and  
3 my charges proceed under the hand of one is the hand of all  
4 theory, and Joel Dennis Carter, the one who is the principal  
5 in these charges, that would be grand larceny, assault and  
6 battery with intent to kill, burglary first degree, armed  
7 robbery, and kidnapping, and I didn't do any of it.

8 THE COURT: All right. Thank you, ma'am. I appreciate  
9 it.

10 THE WITNESS: I would like to know why can't I share  
11 this? .

12 MR. RICHEY: That's all the testimony we desire.  
13 Thank you, ma'am.

14 THE WITNESS: Because Mr. Berry brought out some very  
15 important issues and I truly wanted to be able to share.  
16 This right here is so good in my son's defense and I don't  
17 know why I'm not being allowed to share it.

18 THE COURT: We understand that, that document is --  
19 comes from the---

20 MR. RICHEY: No, ma'am, that's all the testimony.

21 THE COURT: ---Court's record.

22 Okay. And we have that.

23 THE WITNESS: Well, I feel that it's really wrong  
24 because what Mr. Berry stated when my son had his guilty --  
25 when he had this plea arraignment, all that Mr. Berry

Geneva Hames - Cross-examination  
By Mr. Ray

1 stated, there is so many issues and situations here that  
2 are---

3 MR. RICHEY: Ma'am?

4 THE WITNESS: ---powerful---

5 MR. RICHEY: We, we---

6 THE WITNESS: ---in my son's case.

7 MR. RICHEY: Ma'am, we don't want any more testimony.  
8 I've discussed with my client. Thank you.

9 THE WITNESS: And, Mr. Berry, he stated Jobe's mental  
10 illness in Court but what I have for my son is very good. I  
11 just feel it's wrong not being allowed to share it. I  
12 worked for -- very hard on my son's case and I'm not being  
13 allowed to share it. I don't understand that.

14 THE COURT: Thank you for being here.

15 THE WITNESS: I'm --.

16 THE COURT: We call Michael Berry.

17 MR. RICHEY: Sir, can you state your name please?

18 THE COURT: Hold on.

19 MR. RICHEY: Oh, I'm sorry.

20 THE COURT: If you will, raise your right-hand.

21 MICHAEL BERRY, being first duly  
22 sworn, testified as follows:

23 THE COURT: Thank you.

24 MR. RICHEY: Apologize, Judge.

25 THE COURT: No problem.

Michael Berry - Direct examination  
By Mr. Richey

1 DIRECT EXAMINATION

2 BY MR. RICHEY:

3 Q Okay. Sir, can you state your name please?

4 A Michael Berry.

5 Q And, Mr. Berry, where are you employed?

6 A I am the deputy public defender in Cherokee County.

7 Q And did you represent Mr. Hames at -- in that capacity  
8 working with the P.D.'s office?

9 A At the time that I represented Mr. Hames I was a -- an  
10 assistant public defender and, since then, I've been  
11 promoted.

12 Q Okay. And, and you've heard the testimony.

13 The issue is here was there any question -- did you  
14 have any question that he had some type of mental health  
15 delay or something in this case?

16 A No, I, I do believe, as I stated during the guilty plea  
17 colloquy, that -- I, I believe I said that he was simple  
18 minded in my opinion, and from what I know from the, the  
19 standards that mental health uses, those are two totally  
20 different things, competency and, you know, high functioning  
21 intelligence.

22 Competency revolves around the defendant's ability to  
23 assist me in the defense of their case, and Mr. Hames and I  
24 met on a number of occasions. At least, looking back at my  
25 records, at least 10 times in preparation to get to

Michael Berry - Direct examination  
By Mr. Richey

1 ultimately the plea after he decided that he did not want to  
2 proceed to trial.

3 And so, during those conversations, I did not feel that  
4 competency was an issue because, again, he had been able to,  
5 during all of those meetings, assist me and he made rational  
6 decisions during those meetings.

7 MR. RICHEY: Okay. Can I approach the witness, Your  
8 Honor, please?

9 THE COURT: Yes, sir.

10 MR. RICHEY: Thank you.

11 I'm gonna give you a copy of the trial transcript and  
12 that's Page 16 I think involved what we've talked about,  
13 this pages, and I'm gonna direct you to Line 22 through 25,  
14 and you say that you think that Jobe is developmentally  
15 delayed.

16 What, what, what -- do you recall what you meant by  
17 that?

18 A Again, I, I think that I may of phrased it wrong at the  
19 time during the plea. But, again, this is a, you know, a, a  
20 serious case and I'm trying to do the best that I can given  
21 the facts that we're working with.

22 I, I believe that I basically meant that Jobe, again,  
23 was simple minded and sometimes, during our meetings, I  
24 would have to repeat things or, you know, I would have to go  
25 into more depth and explain things to him more so than I

Michael Berry - Direct examination  
By Mr. Richey

1 would, you know, another client.

2 But, again, at the conclusion of all of those meetings,  
3 I felt like there was an understanding and I think he  
4 acknowledged that during his testimony that, you know, he  
5 was able to understand what we discussed and talk about.

6 For example, again, as I was going through my notes in  
7 preparation for the hearing, we had filed a bond motion to  
8 be heard by the Court and Mr. Hames was transported to  
9 Court. We met prior to the hearing, discussed the bond  
10 motion, and my notes indicated that he actually decided that  
11 he did not want to go forward cause he didn't feel like it  
12 was going to be beneficial to him. So, he made the decision  
13 on his own to withdraw his bond motion and to continue  
14 building credit toward this charge.

15 Q And what was he charged with?

16 A Originally he was charged with criminal sexual conduct  
17 with a minor in the first degree which would of carried a  
18 sentence of up to life in prison should he have been  
19 convicted.

20 Q And he pled to what?

21 A He pled to criminal sexual conduct in the first degree  
22 which carried up to a maximum of 30 years.

23 Q Okay. And did, did you discuss with him the, the  
24 maximum and minimum sentence he could get?

25 A Oh, yes, I did.

Michael Berry - Direct examination  
By Mr. Richey

1 Q okay. And, and did he understand that?

2 A I'm pretty sure that he did.

3 Q okay. And did he ever tell you he wanted to proceed to  
4 trial?

5 A We discussed trial as I do with all clients. But,  
6 again, I've never forced anyone to plead guilty, forced  
7 anyone to go to trial. So, we would of discussed trial. I  
8 don't recall any strong leanings toward actually going to  
9 trial given the evidence in the case against him.

10 Q And, and in terms of the mental health issue, and, and  
11 on the same page, Line 8, you, you state that he and his  
12 family have both reached out to me about mental health  
13 evaluation.

14 Do you recall what those conversations were with the  
15 family?

16 A Basically. The, the vague kind of statements that have  
17 been made in the Court today that he's, in the past,  
18 suffered from, you know, some mental health condition.  
19 Again, you know, just suffering from a mental health  
20 condition doesn't really equate to competency or even  
21 capacity to conform quite honestly. So, I, I didn't, again,  
22 didn't feel like it was appropriate, during my  
23 representation, to have him evaluated.

24 Q Okay. But that's a request that he had made, correct?

25 A Correct.

Michael Berry - Cross-examination  
By Mr. Ray

1 Q okay. Thank you.

2 CROSS-EXAMINATION

3 BY MR. RAY:

4 Q Mr. Berry, how are you?

5 A I'm well. Thank you.

6 Q How long you been practicing law?

7 A This September will be 10 years.

8 Q Okay. And most of that criminal or --?

9 A All criminal.

10 Q All criminal.

11 A I've been with the Public Defender's Office the  
12 majority of that time. I left for a short period last year  
13 and joined the Solicitor's Office.

14 Q Okay. And so you were appointed to represent  
15 Mr. Hames?

16 A I was.

17 Q Okay. And how -- did -- you previously met with him  
18 from a prior case?

19 A I did. I actually represented him back in 2013 on a  
20 burglary and malicious injury to property charge.

21 Q Okay. Did you believe they're any issues with his  
22 competency back then?

23 A No. And no issues were raised at that time. So, the  
24 first that I really heard about mental health was during my  
25 representation of him on this charge, the criminal sexual

Michael Berry - Cross-examination  
By Mr. Ray

1 conduct charge.

2 Q Okay. Now, as far as simple minded, I take that to  
3 just mean low IQ, lower intelligence?

4 A Precisely.

5 Q Okay. But he was the one who came to you and said he  
6 wanted something to be done, a competency evaluation, or  
7 something like that?

8 A Correct.

9 Q Okay. And you -- am I correct in saying that you just  
10 thought it would be fruitless?

11 A That -- that's right.

12 Q Okay. Now, let me ask you about the evidence against  
13 him.

14 Could you just describe that for us?

15 A So, there was disclosure by his nephew that, on several  
16 occasions, Jobe had sexually assaulted him by, and I can't  
17 remember the exact verbiage, but my understanding was the  
18 nephew was autistic and that Jobe had been -- put his penis  
19 inside of his bottom I think were the terms that he used.

20 Q Okay. And did he -- was he forthcoming about the facts  
21 of this case with you?

22 A We went over his interview with police where he denied  
23 initially that anything had happened. He was given a  
24 polygraph exam and was told that he would -- deception was  
25 detected during a polygraph and then he began opening up to

Michael Berry - Cross-examination  
By Mr. Ray

1 police, made some incriminating statements about his  
2 nephew's penis accidentally going into his mouth and things  
3 of that nature. So, we discussed all of that.

4 Q Okay. So, would you say that that would of been the  
5 basis for your defense for -- had you proceeded to trial,  
6 what would you have gone to trial and defend against these  
7 charges?

8 A I guess, from my recollection, the nephew, again, was  
9 autistic, had made these disclosures. But when he went to  
10 the Children's Advocacy Center, there was -- since I guess  
11 he kind of froze up and he kind of backed up on some of the  
12 allegations that he had made. He still said that, you know,  
13 Uncle Jobe had touched me inappropriately but I think,  
14 during the Child Advocacy interview, he denied that Jobe had  
15 put anything inside of his bottom.

16 So, just inconsistencies in his statement. I think  
17 some of the other evidence would have kind of negated that.  
18 I know that the child's mother actually walked in and she  
19 said that she observed Jobe with his pants down and the, the  
20 child getting out of the bed and they kind of jumped up when  
21 she walked into the room and, you know, she confronted him  
22 at that time and Jobe actually left the house.

23 So there was a lot of evidence against him. So, the  
24 defense I think would of just been on the inconsistencies  
25 and, you know, what the jury actually believed at that

Michael Berry - Cross-examination  
By Mr. Ray

1 point.

2 Q Okay. And did you learn this from him or did you learn  
3 all this information about what happened from the discovery?

4 A would of been both. Obviously I would of re --  
5 reviewed the discovery with him. I generally never ask a  
6 client, you know, did you do it but, you know, is what you  
7 told them true, is there anything that you disagreed with,  
8 is there anything else that you think I should know about  
9 the case to look into, investigate, what have you.

10 Q Okay. And did he ask you questions about the discovery  
11 when you were reviewing it with him?

12 A I'm sure he would have. I don't recall any specific  
13 but, again, you know, I always give them the opportunity to  
14 discuss what's in there. Again, if they disagree with  
15 anything or don't understand something.

16 Q Okay. Now, let me ask you about who reached out to you  
17 or who you might of reached out to, family members, friends  
18 of his?

19 Was it his mother?

20 A I don't believe it was his mother. Again, I think it  
21 was the grandmother who had basically raised Jobe.

22 Q Uh-huh. (Affirmative).

23 A I don't recall if there with other family members that  
24 I spoke with or not. I know that I've represented, you  
25 know, a, a cousin potential, a Micah Hames, and I actually

Michael Berry - Cross-examination  
By Mr. Ray

1 had his number in Jobe's case file as well.

2 But, again, you know it's just we think he should be  
3 evaluated, not really adding anything as far as a defense or  
4 any information about the, you know, victim or, or new  
5 evidence that could of helped us in any way.

6 Q Okay. So you didn't have any medical records or --?

7 A No.

8 Q Okay. Any school records?

9 A No.

10 Q Okay. Okay. Do you agree with your, your client's  
11 decision to enter a guilty plea?

12 A Given the fact that he was charged with a criminal  
13 sexual conduct with a minor in the first degree, which  
14 carries a mandatory minimum sentence which is -- would, I  
15 think, have been significantly longer than what he received,  
16 yes, I do.

17 Q And you said the -- on the bond motion, he was the one  
18 who wanted to withdraw that, made that decision?

19 A That's correct, and I don't have the exact date, but  
20 we, we filed that. I want to say it was Christmas of 2017  
21 if I'm not mistaken. Yeah, cause he was arrested and we  
22 opened our file June of 2017. So, during the December term,  
23 we would of filed that bond and he decided to withdraw.

24 Q Okay. And you -- why did you do that?

25 A Again, you know, just going over the evidence of the

Michael Berry - Cross-examination  
By Mr. Ray

1 case, the bond statute, I probably would advise him -- would  
2 have advised him that, you know, it might of been better if  
3 he built up some more time before he actually came to court.  
4 If it looked like it was gonna be, you know, several more  
5 months to a year or more down the road, we could of  
6 revisited that. But he would of only been in jail about six  
7 months, and, again, you know, on a most serious and violent  
8 offense, judges are somewhat reluctant.

9 Q Okay. Okay. And you have no doubt he understand the  
10 facts of his case?

11 A I don't. I, I think he understood everything. He got  
12 through the plea without any issue or problems. He was able  
13 to answer the questions that the judge had for him, and,  
14 again, other -- aside from him saying I need a mental health  
15 evaluation, I, I really didn't have any clues indicating  
16 that one was warranted.

17 MR. RAY: Okay. No further questions, Your Honor.

18 THE COURT: Thank you.

19 MR. RICHEY: One moment, Your Honor.

20 (Pause.)

21 REDIRECT EXAMINATION

22 BY MR. RICHEY:

23 Q Sir, did you provide a copy of the discovery to  
24 Mr. Hames?

25 A I don't have in my file that I did and routinely I

Michael Berry - Redirect examination  
By Mr. Richey

1 advise against clients having a copy in jail and that is to  
2 protect them.

3 Quite honestly it's been my experience that they tend  
4 to share discovery materials with other inmates and I've had  
5 instances where other inmates will attempt to use things  
6 that they learned in discovery as a bargaining tool in their  
7 own case. So, I always advise against it. If a client  
8 insists on getting a copy of that though, I will provide it  
9 and I actually have them sign a waiver saying that I've  
10 advised that it's against my advice.

11 Q And you stated you met with him 10 times.

12 Is that correct?

13 A Yes, sir.

14 Q And you have that documented in your file it was 10  
15 times?

16 A I -- so, we use a computer program.

17 Q Yes, sir.

18 A In preparation for the hearing, I went and I looked at  
19 all of the dates.

20 Q Okay. Thank you.

21 A Uh-huh. (Affirmative).

22 MR. RICHEY: No other questions.

23 MR. RAY: Nothing further from the State.

24 THE COURT: All right. Thank you for being here.

25 THE WITNESS: Thank you, Judge.

1 MR. RICHEY: And that would be all from the Applicant,  
2 Your Honor.

3 THE COURT: All right.

4 MR. RAY: State has no other witnesses.

5 THE COURT: All right. All right. Is there anything  
6 further?

7 MR. RICHEY: Nothing, Your Honor.

8 THE COURT: Okay.

9 MR. RAY: I'll be happy to do some -- something in  
10 closing if you'd like but --.

11 THE COURT: I'll leave that up to y'all if y'all want  
12 to close.

13 MR. RAY: Well, Your Honor, the only thing here, I mean  
14 the competency issue, the standard is there has to be a  
15 reasonable probability that he was incompetent at the time  
16 of trial. I haven't -- I don't think that we've seen  
17 evidence supporting that today.

18 As far as failure to investigate, the only thing that's  
19 been offered is what could of been discovered is the  
20 testimony of his mother who wasn't in a position to know him  
21 very well at the time of trial because she was incarcerated.  
22 Certainly wasn't in a position to know what his mental state  
23 or competency was at the time and I don't think he's met  
24 either prong of the deficiency or prejudice.

25 We heard very credible testimony from his attorney that

1 he believed he was competent and had no doubt about it at  
2 the time of his guilty plea.

3 THE COURT: All right.

4 MR. RICHEY: Judge, I've talked to Mr. Hames. We're  
5 gonna rely upon the testimony of record.

6 THE COURT: Okay. I understand.

7 MR. RICHEY: Thank you, Your Honor.

8 THE COURT: Okay. All right. I want to thank y'all  
9 very much. I think I'm gonna take the time to read what's  
10 in the packet and the transcript and we'll let you know as  
11 soon as I have a chance to review everything.

12 MR. RICHEY: Thank you, Your Honor.

13 MR. RAY: Thank you, Your Honor.

14 THE COURT: Yes, sir.

15

16 \* \* \*END OF REQUESTED TRANSCRIPT OF RECORD\* \* \*

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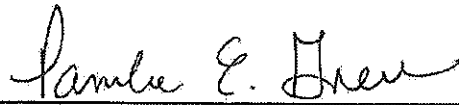
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C E R T I F I C A T E

I, Pamela E. Green, Official Court Reporter for the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of General Sessions for Spartanburg County, South Carolina, on the 2<sup>nd</sup> day of August, 2021.

I do further certify that I am neither of kin, counsel nor interest to any party hereto.

December 6<sup>th</sup>, 2021



PAMELA E. GREEN, Court Reporter

STATE OF SOUTH CAROLINA  
COUNTY OF CHEROKEE

Jobe S. Hames, SCDC No. 378511

Applicant,

v.

State of South Carolina

Respondent.

IN THE COURT OF COMMON PLEAS  
FOR THE SEVENTH JUDICIAL CIRCUIT

Case No. 2019-CP-11-00636

ORDER OF DISMISSAL

FILED IN OFFICE OF  
CLERK OF COURT  
CHEROKEE COUNTY, S.C.

2021 SEP 13 AM 10:38  
BRANDY W. MOORE

This matter comes before the Court by way of an application for post-conviction relief filed by Jobe S. Hames ("Applicant") on September 12, 2019. Respondent made its return on November 7, 2019, requesting an evidentiary hearing. The Court convened an evidentiary hearing into the matter on August 2, 2021. Applicant was present at the hearing and represented by Attorney Rodney Richey. Assistant Attorney General William H. Ray of the South Carolina Attorney General's Office, represented Respondent. Applicant testified on his own behalf at the evidentiary hearing. Applicant's mother, Geneva Hames, and Applicant's plea counsel, Attorney Michael Berry ("Counsel") also testified. The Court had before it Applicant's records from the South Carolina Department of Corrections, a copy of the original plea transcript, the records of the Cherokee County Clerk of Court regarding the subject convictions, and the subject application for post-conviction relief.

Following a thorough review of the record in its entirety and all evidence and testimony presented at the evidentiary hearing, this Court finds Applicant has failed to meet his burden of proof of establishing any constitutional violations and denies this application with prejudice.

NSD/E

## I. PROCEDURAL HISTORY

Applicant is currently confined in the South Carolina Department of Corrections. Applicant waived presentment of an indictment for criminal sexual conduct, first degree (2018-GS-11-01538) to the grand jury. Applicant was represented by Attorney Michael Berry and Assistant Solicitor Adrienne Barry, of the Seventh Circuit Solicitor's Office, prosecuted the case. On December 12, 2018, Applicant appeared before the Honorable R. Keith Kelly and entered a guilty plea, as indicted. Judge Kelly accepted the plea and sentenced Applicant to twenty five years' imprisonment. Applicant did not file a direct appeal of his plea or sentence.

## II. FACTUAL HISTORY

The underlying facts of the crime for which Applicant is incarcerated were articulated by the State during the plea proceeding as follows:

On January the 3<sup>rd</sup> of 2017, Erica Barber with the Department of Social Services contacted the Cherokee County Sheriff's Office in reference to the victim being sexually assaulted by his uncle. She was provided this information from Ashley Rodriguez, who is a cousin of the victim's mother.

Ashley stated that the victim and his brothers came to stay with her a couple Saturdays prior to the victim disclosing to her and he had asked to talk to her. She asked him if he was all right and he said that - he asked her if it was right for uncles to touch their nephews wee-wee. She asked him if he meant his private areas and he stated yes. He said that his uncle Jobe had been putting his private parts inside of him since he was six years old. He said that when this would happen his Uncle Jobe would tell him everything is going to be okay and to just be quiet. He stated it hurt when he would do this and it made him want to kill himself.

The victim was then sent to the Children's Advocacy Center. During that interview the victim became very uncomfortable when the interviewer began to ask him about the [sic] what the defendant would do to him. The interview had to be ended early based off of the victim becoming upset. The victim is autistic, Your Honor, so the conditions of the room, coupled with the fact that he did not want to talk about what happened to him caused him to become upset and they had to cancel that interview.

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They did reschedule the interview and he did disclose that the defendant would touch his private parts under his clothes. This happened on more than one occasion, more than one occasion at the defendant's house, in the defendant's bedroom on his bed, in the hallway, in the bathroom, and in his parents room.

On June the 16<sup>th</sup> of 2017 officers spoke with the victim's mother, who was this defendant's sister. She and her husband were living with the defendant at [address omitted] here in Cherokee County where all of the incidents took place.

She stated that all of this came to light when one night she heard the victim and the defendant talking and a bad feeling came over [her]. She stated when she went to bed the victim was asleep on the couch and was not supposed to be in bed with the defendant. She went into the defendant's bedroom and saw the victim with his underwear down and the defendant was buckling his belt. She stated the victim's penis was hard. She said she confronted the defendant and he ran out of the house.

She spoke to the victim and he stated that the defendant told him if he told anyone what was happening, the police would put his parents and grandparents in jail, and the victim told her the defendant touched his private parts and put his fingers inside of his bottom.

The victim - I mean, excuse me, the victim's mother told her husband, who confronted this defendant. He denied it. He then asked the victim in front of this defendant if he had ever touched him and he said "yes, lots of times."

The defendant was questioned initially on February the 18<sup>th</sup> of 2017, and he stated to law enforcement that he never touched the victim, other than to discipline him. He was then scheduled for a polygraph. They couldn't do the polygraph at that time because the defendant stated that he suffered from seizures, so they had to get him medically cleared before they did another polygraph.

The second polygraph occurred on May the 30<sup>th</sup> of 2017. He was asked if he touched the victim in a sexual manner and if he touched the victim in a sexual manner at his house. He stated no both times and deception was indicated.

He was then advised of the results of that polygraph and told the examiner that on one occasion while wrestling with the victim he accidentally put his mouth on the victim's penis. He told the examiner that he had masturbated in the presence of the victim and while the victim slept next to him in the same bed. He told the examiner that he had several dreams about the victim that were sexual in nature. He described one of the dreams as starting out with him having sex with a woman.

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Then it changed to him having sex with a hermaphrodite. Then it changed to him having sex with his nephew, the victim. He stated he woke up naked next to the victim who was looking at him in an uneasy way.

The defendant then spoke with law enforcement again. HE stated there was another incident where the victim was getting out of the shower and was wrapped in a towel. The defendant snatched the towel away from the victim and wrestled him to the bed playing with him. He stated he was blowing on the victim's belly and the victim's penis accidentally went into his mouth.

Your Honor, as I stated earlier, the victim is autistic in this case. I have met with this victim. It was in the best interests of this victim to keep him off of the stand to testify in front of twelve strangers about what a family member had done to him. We discussed the offer of reducing it to criminal sexual conduct in the first degree and they were in agreement with that.

The victim's grandmother is here. She's standing to my right. At this point I don't know if she wishes to address Your Honor, but I will have Your Honor ask her that at the appropriate time, but based off of all the circumstances it was the State's decision to reduce it to the criminal sexual conduct in the first degree, Your Honor.

(Tr. 8-12). Upon inquiry by the Court, Applicant confirmed "most" of the above articulated facts.

(Tr. 13-14).

### III. CURRENT APPLICATION

In his post-conviction relief application, Applicant alleges he is being held unlawfully for the following reasons:

1. "Ineffective Assistance of Counsel"
  - a. "failure to Investigate the facts of the case"
  - b. "Sentenced errors"
  - c. "Mental Health"
  - d. "14 Amendment Due Process"

At the hearing Applicant's PCR counsel stated that he was going forward on the allegation that Counsel was ineffective for failing to investigate the facts of the case and failing to have a mental evaluation performed prior to the guilty plea hearing.

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#### IV. FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has reviewed the testimony presented at the evidentiary hearing, observed the witnesses presented at the hearing, passed upon their credibility, and weighed the testimony accordingly. Further, this Court has reviewed the records submitted to it by the parties and the legal arguments made by the attorneys. Pursuant to S.C. Code Ann. § 17-27-80, this Court makes the following findings based upon all of the probative evidence presented.

##### A. Ineffective Assistance of Counsel

Applicant's allegations of ineffective assistance of counsel are without merit. In a PCR action, Applicant bears the burden of proving the allegations in his application. *Butler v. State*, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that [it] cannot be relied upon as having produced a just result." *Strickland v. Washington*, 466 U.S. 668, 686 (1984); *Butler*, 286 S.C. at 442, 334 S.E.2d at 814.

In evaluating allegations of ineffective assistance of counsel, the reviewing court applies the two-pronged test outlined in *Strickland*. First, Applicant must prove that counsel's performance was deficient. *Strickland*, 466 U.S. at 686; *Cherry v. State*, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989). Applicant must so prove his factual allegations by a preponderance of the evidence. Rule 71.1(e), SCRPC. Under this prong, the court measures an attorney's performance by its "reasonableness under prevailing professional norms." *Cherry*, 300 S.C. at 117, 386 S.E.2d at 625 (quoting *Strickland*, 466 U.S. at 690). The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. *Butler*, 286 S.C. at 442, 334 S.E.2d at 814. "Counsel is strongly presumed to have rendered adequate

1/30/85

assistance and made all significant decisions in the exercise of reasonable professional judgment.” *Id.* (citing *Strickland*, 466 U.S. at 690). “When counsel focuses on some issues to the exclusion of others, there is a strong presumption that he [or she] did so for tactical reasons rather than through sheer neglect.” *Yarborough v. Gentry*, 540 U.S. 1, 5 (2003) (citing *Strickland*, 466 U.S. at 690). The Court, in determining deficiency, must affirmatively entertain the range of possible reasons counsel may have had for proceeding as they did. *Cullen v. Pinholster*, 563 U.S. 170, 196 (2011); *Harrington v. Richter*, 562 U.S. 86, 109-10 (2011). “[E]ven if an omission is inadvertent, relief is not automatic. The Sixth Amendment guarantees reasonable competence, not perfect advocacy judged with the benefit of hindsight.” *Yarborough*, 540 U.S. at 6; *see also* *Murphy v. Davis*, 901 F.3d 578, 592 (5th Cir. 2018) (“[C]ounsel’s performance need not be optimal to be reasonable.”). Applicant must overcome this presumption to receive relief. *Cherry*, 300 S.C. at 118, 386 S.E.2d at 625.

Second, counsel’s deficient performance must have prejudiced Applicant such that “there is a reasonable probability that, but for counsel’s unprofessional errors, the result of the proceeding would have been different.” *Cherry*, 300 S.C. at 117-18, 386 S.E.2d at 625. “This does not require a showing that counsel’s actions ‘more likely than not altered the outcome,’ but the difference between *Strickland*’s prejudice standard and a more-probable-than-not standard is slight and matters ‘only in the rarest case.’” *Harrington*, 562 U.S. at 111-12 (quoting *Strickland*, 466 U.S. at 697). “The likelihood of a different result must be substantial, not just conceivable.” *Id.* at 112. “The prejudice analysis requires the court deciding the ineffectiveness claim to consider the totality of the evidence before the judge or jury.” *United States v. Basham*, 789 F.3d 358, 371-72 (4th Cir. 2015) (quoting *Elmore v. Ozmint*, 661 F.3d 783, 858 (4th Cir. 2011)).

1180

In the context of a guilty plea, Applicant must show that there is a reasonable probability that, but for counsel's alleged errors, he/she would not have pleaded guilty and would have insisted on going to trial. *Hill v. Lockhart*, 474 U.S. 52, 59 (1985). Because a guilty plea is a solemn, judicial admission of the truth of the charges against an individual, the PCR applicant's right to contest the validity of such a plea is usually, but not invariably, foreclosed. See *Blackledge v. Allison*, 431 U.S. 63, 73-74 (1977) ("Solemn declarations in open court carry a strong presumption of verity. The subsequent presentation of conclusory allegations unsupported by specifics is subject to summary dismissal, as are contentions that in the face of the record are wholly incredible."). Statements made during a guilty plea should be considered conclusively, unless an Applicant presents valid reasons why he or she should be allowed to depart from the truth of his statements. *Dalton v. State*, 376 S.C. 130, 137-38, 654 S.E.2d 870, 874 (Ct. App. 2007) (citing *Crawford v. United States*, 519 F.2d 347, 350 (4th Cir. 1975)).

#### *Failure to Request a Mental Evaluation*

Applicant alleges that counsel was ineffective for failing to have a mental evaluation performed prior to his guilty plea.

"Due process of law prohibits the conviction of a person who is mentally incompetent." *Jeter v. State*, 308 S.C. 230, 232, 417 S.E.2d 594, 595 (1992). An accused is competent to stand trial if he or she has sufficient capability to consult with his or her lawyer with a reasonable degree of rational understanding and have a rational as well as factual understanding of the proceedings. *Id.*, 308 S.C. at 232, 417 S.E.2d at 596. "The focus of a competency inquiry is the defendant's mental capacity; the question is whether he [or she] has the *ability* to understand the proceedings." *Garren v. State*, 423 S.C. 1, 14, 813 S.E.2d 704, 711 (2018) (quoting *Godinez v. Moran*, 509 U.S. 389 (1993)).

As to the deficiency prong under *Strickland*, an attorney may reasonably rely upon his or her own perceptions of a defendant in determining whether or not their client should be mentally evaluated. *Jeter*, 308 S.C. at 233, 417 S.E.2d at 596. When establishing *Strickland* prejudice in the context of counsel's failure to request a mental competency evaluation, the applicant need only show a reasonable probability that he was incompetent at the time of the original proceeding. *Garren*, 423 S.C. at 12, 813 S.E.2d at 710 (citing *Ramirez v. State*, 419 S.C. 14, 21, 795 S.E.2d 841, 845 (2017)). As is the case with any other allegation that a defense attorney failed to adequately investigate some matter, an applicant must present some proof of identifiable mental health issues which undermine his or her competency; mere speculation and conjecture by the applicant is insufficient to establish prejudice. *Id.*, 423 S.C. at 13-14, 813 S.E.2d at 711.

An applicant alleging incompetence *in fact* must show by a preponderance of the evidence that he was incompetent at the time of his original proceedings. *Id.*, 423 S.C. at 16, 813 S.E.2d 704, 713; *Hall v. Catoe*, 360 S.C. 353, 358, 601 S.E.2d 335, 338 (2004). If an applicant claims he was rendered incompetent due to medication, he or she must show that his or her mental faculties were so impaired by drugs during the original proceedings that he or she was incapable of full understanding of the proceedings. *Garren*, 423 S.C. at 15, 813 S.E.2d at 712 (quoting *United States v. Truglio*, 493 F.2d 574, 578 (4th Cir. 1974)). "A PCR court must consider 'objective data' about the nature and effect of the medication the defendant had taken and evaluate whether such medication 'had the capability to produce a sufficient effect on his mental faculties to render him incompetent[.]'" *Id.* (quoting *United States v. Damon*, 191 F.3d 561, 565 (4th Cir. 1999)).

Applicant testified at the PCR hearing that he wanted his counsel to have a mental evaluation performed because of issues with his mental health history. He explained that he wanted to be evaluated and to have a psychiatrist present to speak on his behalf at his plea hearing. He

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explained that he told this to his counsel but his counsel did not feel that one was necessary because he had other clients who appeared less competent than him, but nevertheless had been determined fit to stand trial. He explained that if his counsel had requested the evaluation he believes the outcome of the proceedings would have been different. He noted that in his transcript his counsel had expressed concern about his delayed intelligence.

On cross-examination Applicant stated that he had met with counsel three or four times prior to his plea hearing, and that he had been previously represented by his counsel on an unrelated case. He said that he expressed his prior mental issues to his counsel one time, and the issue did not come up during the previous case with his counsel. Applicant also stated that he had never been diagnosed with mental health issues and all his issues related to marijuana use and prior abuse. He also stated that he understood he had committed a crime, had discussed his case and defenses with his counsel, and never considered going to trial.

Applicant's mother, Geneva Hames, was sworn and provided testimony on Applicant's behalf.<sup>1</sup> She explained that Applicant suffered from attention deficit/hyperactivity disorder (ADHD) and was also autistic. She stated that she did not realize how serious his issues were when he was younger and had never taken him to a doctor to receive a diagnosis or treatment for these issues. She indicated that a school Applicant had attended informed her about his mental issues. She stated that mental illness runs in the family, and numerous relatives are autistic. She also explained that her son was twelve-years old when she was incarcerated. She expressed her belief that Applicant is entitled to a new trial and believes that his counsel should have had a mental

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<sup>1</sup> Ms. Hames was convicted of grand larceny, first degree burglary, armed robbery, assault and battery with intent to kill, and kidnapping in November, 2006. She was incarcerated at the time of the hearing, and was present after being transported by the South Carolina Department of Corrections.

N 800

health evaluation and also should have told the Court that he was autistic and had ADHD. On cross-examination she stated that she was incarcerated at the time of Applicant's plea hearing and that her only communication with him at the time was in written letters.

Applicant's counsel testified that while Applicant was "simple minded," he did not believe there were any issues with his competency or mental health. He stated that Applicant had assisted him during their pretrial meetings, appeared competent, and actually made the decision to forgo a bond hearing to accumulate additional credit for time served. He also stated that Applicant understood the charges and sentencing exposure, asked questions about the discovery, and understood the facts of his case. Therefore he believed an evaluation would be fruitless and unwarranted.

This Court finds Applicant's allegation that his counsel was ineffective for failing to have a mental evaluation performed before his plea hearing to be without merit. Applicant has failed to meet his burden of proving that his counsel's performance was deficient. The evidence shows that Applicant was capable to consult with his lawyer about the case. He asked counsel questions about the discovery and helped him develop a defense against the charge. Furthermore, Applicant's understanding of the proceedings is evidenced by his decision to forgo the bond hearing to accumulate more credit for time served, by his unambiguous responses to the plea court's colloquy, and by counsel's testimony that he believed Applicant understood the facts of his case. Applicant may be "simple minded" but that alone did not render him unfit to stand trial due to incompetency, nor did it necessarily obligate counsel to obtain a mental evaluation prior to his plea hearing. Therefore this Court finds that Applicant's counsel's representation was objectively reasonable under the circumstances. As such, Applicant has failed to meet his burden of proving that counsel provided deficient representation.

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Furthermore, Applicant has failed to prove that he was prejudiced by his counsel's performance. The only evidence offered that suggests he was incompetent at the time of trial is his own testimony that he has a problem with marijuana, that he had previously suffered abuse, and his mother's testimony that he has undiagnosed and untreated ADHD and autism. Applicant has presented no credible proof of ADHD or autism because his mother testified that he was not diagnosed because she did not realize how bad it was when he was a child. Even assuming Applicant does suffer from those disorders, his mother's testimony on that point is largely irrelevant because she had been incarcerated for years at the time of Applicant's plea hearing and did not have first-hand knowledge of his mental state at that time. Applicant's testimony that his marijuana use or prior abuse rendered him incompetent is also unpersuasive. There is nothing in the record outside of his self-serving testimony to indicate that these issues were so significant that they rendered him unfit to stand trial. As such, Applicant has failed to meet the burden imposed upon him of showing that he was prejudiced by counsel's failure to request a mental evaluation because there was a reasonable probability that he was incompetent at the time of his plea hearing. Applicant's claims must be denied and dismissed with prejudice.

*Failure to Investigate*

Applicant alleges that his counsel was ineffective for failing to investigate the facts of his case that would have shown he was incompetent.

"[S]trategic choices made after thorough investigation of law and facts relevant to plausible options are virtually unchallengeable; and strategic choices made after less than complete investigation are reasonable precisely to the extent that reasonable professional judgments support the limitations on investigation." *Strickland*, 466 U.S. at 690-91. "In other words, counsel has a duty to make reasonable investigations or to make a reasonable decision that makes particular

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investigations unnecessary." *Id.* at 691. "In any ineffectiveness case, a particular decision not to investigate must be directly assessed for reasonableness in all the circumstances, applying a heavy measure of deference to counsel's judgments." *Id.*

"The reasonableness of counsel's actions may be determined or substantially influenced by the defendant's own statements or actions." *Id.* "Counsel's actions are usually based, quite properly, on informed strategic choices made by the defendant and on information supplied by the defendant." *Id.* "In particular, what investigation decisions are reasonable depends critically on such information." *Id.*

In order to prevail upon a claim that counsel did not adequately prepare or investigate a case, an applicant must present evidence of what counsel could have discovered or what other defenses applicant could have requested counsel develop and present had counsel been more prepared. *Harris v. State*, 377 S.C. 66, 75-76, 659 S.E.2d 140, 145-46 (2008) (citing *Jackson v. State*, 329 S.C. 345, 353-54, 495 S.E.2d 768, 772 (1998)). Furthermore, an applicant must also present evidence to show how the discoverable matters or defenses would have resulted in a different outcome. *Id.* (citing *Davis v. State*, 326 S.C. 283, 288, 486 S.E.2d 747, 749 (1997); *Skeen v. State*, 325 S.C. 210, 214, 481 S.E.2d 129, 132 (1997)). Mere speculation as to how the alleged lack of preparation prejudiced an applicant is not sufficient to support a grant of relief. *Id.*, 377 S.C. at 75, 659 S.E.2d at 145 (citing *Glover v. State*, 318 S.C. 496, 498, 458 S.E.2d 538, 540 (1995)).

Applicant stated that he discussed his prior mental health issues and childhood abuse with his attorney. He stated that his parents were aware of his mental health issues and they had reached out to his counsel about what he went through during his childhood. He did not explain the extent of this childhood abuse.

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Applicant's mother explained that many members of their family have issues with their mental health. Specifically her father was schizophrenic, and her grandson, niece, and nephew, along with Applicant, are autistic.

Applicant's counsel explained that he had received the discovery and reviewed it with Applicant prior to his plea hearing. He stated that he was unaware of any diagnosis of autism or ADHD and had not seen any school records indicating such a diagnosis. He explained that he had spoken with Applicant's grandmother who had raised him, but was not given concrete information about any mental health issues. Instead he was just told vaguely that Applicant was suffering from mental issues at the time.

This Court finds that Applicant's allegation that his counsel failed to properly investigate the facts of his case regarding his mental health and competency to be without merit. Applicant has failed to prove his counsel was deficient because, as described above, no reason necessitating a mental evaluation existed prior to trial. The record shows that counsel did investigate the issue by reaching out to Applicant's family members who would have actually known his mental status at the time of the trial, but he was not given anything compelling or reliable information on that point. Without more, Applicant cannot show that his counsel was obligated under prevailing professional norms to have him evaluated. Applicant has failed to prove that his counsel was deficient for failing to investigate the facts of his case or his mental health issues.

As for prejudice, Applicant has not presented any credible testimony or evidence that counsel's alleged failure to investigate would have uncovered. His mother's testimony is largely irrelevant and incredible because she had not observed Applicant for years before his plea hearing. Likewise, no medical records were presented corroborating any of Applicant's claims. As such, Applicant has failed to show what could have been discovered had counsel further investigated his

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case. He has failed to meet his burden of proving that he was prejudiced by his counsel's performance, the application therefore shall be dismissed and denied with prejudice.

V. CONCLUSION

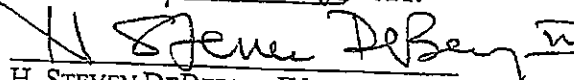
Based on all the foregoing, this Court finds and concludes that Applicant has not established any constitutional violations or deprivations that would require this Court to grant his application. Therefore, this application for post-conviction relief must be denied and dismissed with prejudice.

This Court notifies the Applicant that he must file and serve a notice of appeal within thirty days from the receipt by counsel of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to *Austin v. State*, 305 S.C. 453, 409 S.E.2d 395 (1991), an Applicant has a right to an appellate counsel's assistance in seeking review of the denial of PCR. Rule 71.1(g), SCRCP provides that if the Applicant wishes to seek appellate review, PCR counsel must serve and file a Notice of Appeal on the Applicant's behalf. Your attention is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

IT IS THEREFORE ORDERED:

1. That the application for Post-Conviction Relief must be denied and dismissed with prejudice; and
2. The Applicant must remain in the custody of the South Carolina Department of Corrections.

AND IT IS SO ORDERED this 9<sup>th</sup> day of September 2021.

  
 H. STEVEN DEBERRY, IV  
 Presiding Judge  
 Seventh Judicial Circuit

Florence, South Carolina

**WITNESSES**

Cherokee County Sheriff's Office

**ARREST WARRANT NUMBER**

**DIRECT INDICTMENT**

**ACTION OF GRAND JURY**

Foreperson of Grand Jury  
Date:

**VERDICT**

Foreperson of Petit Jury  
Date:

DOCKET NO. **18-GS-11-01538**

The State of South Carolina

County of Cherokee

Barry Barnette, Solicitor

**COURT OF GENERAL SESSIONS**

Dec 10 2018 TERM

**THE STATE**

vs.

**JOBE SAMULE HAMES**

Indictment for

**CRIMINAL SEXUAL CONDUCT,  
FIRST DEGREE**

SC Code: 16-3-652 (1) (a) (b)  
CDR Code: 160  
Class: FEL-A

A TRUE COPY  
*Brandy W. McBe*  
CLERK OF COURT  
CHEROKEE COUNTY, S.C.



STATE OF SOUTH CAROLINA )  
  )  
COUNTY OF CHEROKEE      )

INDICTMENT

At a Court of General Sessions, convened on Dec 10 2018, the  
Grand Jurors of Cherokee County present upon their oath:

**CRIMINAL SEXUAL CONDUCT, FIRST DEGREE**

That Jobe Samule Harnes did in Cherokee County between March 30, 2013,  
and January 3, 2017, engage in a sexual battery with the victim, Minor 1  
, and such sexual battery was accomplished by the use of aggravated  
force, all in violation of §16-3-652 (1) (a), CODE OF LAWS OF SOUTH CAROLINA,  
(1976), as amended.

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

  
ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Cherokee
STATE VS.
Jobe Samule Hames

INDICTMENT/CASE#: 2018-GS-11-1538
A/W#: Direct Indictment
Date of Offense: 3/30/2013 - 1/3/2017
S.C. Code § : 16-03-0655(A)(1); 16-03-0
CDR Code #: 0385

AKA:
Race: WHITE Sex: M Age: 25
DOB: -1993 SS#:
Address: Milo Dr
City, State, Zip: Blacksburg, SC 29702
DL#: SID#:

SENTENCE SHEET

\*CDL Yes No CMV Yes No Hazmat Yes No

CONVICTED OF or PLEADS

In disposition of the said indictment comes now the Defendant who was
TO: Sex 7 Criminal sexual conduct - First degree (10-30 years)

in violation of § 16-03-0652 of the S.C. Code of Laws, bearing CDR Code # 0160
NON-VIOLENT VIOLENT SERIOUS MOST-SERIOUS Mandatory GPS(CSC §17-25-45 w/minor 1st or Lewd Act)

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: Adrienne Barry 101671 Defendant Berry, Michael SCB80210
BARRY, ADRIENNE E. SC Bar# Defendant Berry, Michael SC Bar# Attorney for Defendant

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 SCDoc. 562 days
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 (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: \$ days/hours Public Service Employment

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) \$100, §14-1-211(A)(2) (DUI Surcharge) \$100, §56-5-2995 (DUI Assessment) \$12, §56-1-286 (DUI Breath Test) \$25, Proviso (Public Def/Probation) \$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(I) (Vehicle Assessment) \$40/ea, 3% to County (if paid in installments) \$3.75.

TOTAL \$128.75

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:

Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees.

Clerk of Court/ Deputy Clerk: Brandon McBeal
Court Reporter: Mike Roberts

Presiding Judge: Keith Kelly
Judge Code: 2165
Sentence Date: 12/12/18

ATTEST COPY
CLERK OF COURT
CHEROKEE COUNTY, S.C.
Brandon McBeal