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SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Lexington County
Honorable Walton J. McLeod, IV, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

ANDRES F. POSSO,

APPELLANT

APPELLATE CASE NO. 2022-001396

RECORD ON APPEAL

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1 State of South Carolina) In the Court Of General Sessions
2 County of Lexington) Indictment No.: 2020-GS-32-01168
3 State of South Carolina,) 01240
4 Plaintiff,)
5 vs.) Transcript of Proceedings
6 Andres F. Posso,) Via Webex
7 Defendant.)
8 _____)

9
10 May 12, 2022

11 Lexington, South Carolina

12 BEFORE:

13 The Honorable Walton J. McLeod, IV, Judge.
14

15 APPEARANCES:

16
17 Leanna McMenamin, Assistant State Solicitor
18 Attorney for the State/Plaintiff

19 Jason Chehoski, Assistant Public Defender
20 Attorney for the Defendant

21 ALSO PRESENT:

22 Andres F. Posso
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GUILTY PLEA

3

Certificate of Reporter

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EXHIBITS

NO. DESCRIPTION

ID EVDS.

NONE

1 Thereupon, the following proceedings were had,

2 THE COURT: Good afternoon. Please be seated. You
3 ready to call this case?

4 MS. McMENAMIN: The State is ready to proceed, Your
5 Honor.

6 THE COURT: All right. Let's go.

7 THE CLERK: Andres Posso, indictment number
8 2020-GS-32-01168, the State versus Andres Posso. He's
9 indicted for criminal sexual conduct with a minor third
10 degree, pleading as charged. The indictment has been
11 true billed. On indictment 2020-GS-32-01240, the State
12 versus Andres Posso, he's indicted for criminal sexual
13 conduct with a minor second degree. He is pleading to
14 criminal sexual conduct with a minor third degree,
15 waiving presentment to the grand jury, and is represented
16 by Mr. Chehoski.

17 Thereupon,

18 ANDRES F. POSSO

19 after having been first duly sworn, testified as follows,

20 THE COURT: Mr. Chehoski, have you had a chance to
21 discuss these charges with your client?

22 MR. CHEHOSKI: Yes, Your Honor.

23 MS. McMENAMIN: Would you unmute, Your Honor. I
24 apologize.

25 THE COURT: Unmute me?

1 MS. McMENAMIN: Yes, unmute.

2 THE COURT: All right. Mr. Chehoski, have you had a
3 chance to discuss these charges with your client?

4 MR. CHEHOSKI: Yes, sir.

5 THE COURT: He's aware of the nature of the charges
6 and potential punishments?

7 MR. CHEHOSKI: Yes, sir.

8 THE COURT: And he's indicated a desire to enter a
9 plea today?

10 MR. CHEHOSKI: Yes, Your honor, under North Carolina
11 versus Alford.

12 THE COURT: Are there any other negotiations that
13 have transpired leading up to this plea?

14 MR. CHEHOSKI: Yes, Your Honor. Mr. Posso is, I
15 believe, charged with under nine indictments, two for
16 criminal sexual conduct with a minor second degree, seven
17 for criminal sexual conduct with a minor third degree.
18 As a result of negotiations between us and the State, the
19 State is dismissing seven indictments and they have also
20 agreed to recommend a cap of eight years.

21 THE COURT: All right. Just so I pronounce it
22 correctly, Posso?

23 MR. POSSO: Posso.

24 THE COURT: Posso. Mr. Posso, the charge of
25 criminal sexual conduct with a minor in the third degree,

1 that sentence carries a potential sentence of up to 15
2 years. Do you understand that?

3 MR. POSSO: Yes, sir.

4 THE COURT: And the other charge, criminal sexual
5 conduct with a minor third degree also carries a
6 potential sentence of up to 15 years. Do you understand
7 that?

8 MR. POSSO: Yes, sir.

9 THE COURT: Now, you also understand based upon what
10 you just heard from your attorney that there's a
11 recommendation of a cap of eight years?

12 MR. POSSO: Yes, sir.

13 THE COURT: You understand that is a recommendation
14 and I'm not bound by it, but that is a recommendation?

15 MR. POSSO: Yes, sir.

16 THE COURT: Do you understand that you have a right
17 to remain silent, but you give up that right in order to
18 enter a plea today?

19 MR. POSSO: Yes, sir.

20 THE COURT: Do you understand that you have a right
21 to a jury trial where your attorney can assert defenses
22 on your behalf, confront the State's witnesses and the
23 State would have to prove their case against you beyond a
24 reasonable doubt, but by entering a plea here today
25 you're giving up those jury trial rights?

1 MR. POSSO: Yes, sir.

2 THE COURT: As to indictment 2020-GS-32-01168, do
3 you understand you have a right to have an indictment in
4 that case presented to the Lexington County Grand Jury,
5 but by entering a plea today you're giving up that
6 right?

7 MR. POSSO: Yes, sir.

8 THE COURT: Mr. Posso, have you had a chance to
9 discuss this case with your attorney?

10 MR. POSSO: Yes, sir.

11 THE COURT: Has your attorney answered all of your
12 questions?

13 MR. POSSO: Yes.

14 THE COURT: Do you have any additional questions for
15 your attorney at this time?

16 MR. POSSO: Uhm, the only question that I had was
17 about --

18 THE COURT: For him. For him.

19 MR. POSSO: I'm sorry. It's about the --

20 THE COURT: Well, ask him, if you're asking him a
21 question. I don't mean to confuse you. I just don't
22 want you to ask me. Just ask your attorney. You can
23 mute it yourself over there.

24 MR. CHEHOSKI: I just have to hold it down.

25 THE COURT: Yeah. All right. Mr. Posso, are you

1 satisfied with your attorney's representation services?

2 MR. POSSO: Yes.

3 THE COURT: Okay. Are you under the influence of
4 any drugs or medications that would prevent you from
5 understanding what we're talking about today?

6 MR. POSSO: No, sir.

7 THE COURT: Okay. Now, we'll come back to this
8 again, but it's my understanding you want to enter this
9 plea pursuant to North Carolina versus Alford; is that
10 correct?

11 MR. POSSO: Yes, sir.

12 THE COURT: Do you understand that that will be
13 treated as a conviction on your record and expose you to
14 the same sentencing as if you were to plead straight
15 up?

16 MR. POSSO: Yes, sir.

17 THE COURT: Okay. Madam Solicitor, I think we can
18 move into the factual allegations.

19 MS. McMENAMIN: Thank you, Your Honor.

20 THE COURT: I believe that's where we are. Yeah.

21 MS. McMENAMIN: Okay.

22 MR. CHEHOSKI: It's your courtroom, Judge.

23 THE COURT: Well, you gave me a look like we were
24 leaving something out so I wanted to make sure we
25 weren't.

1 MS. McMENAMIN: Thank you, Your Honor.

2 THE COURT: Because this is an Alford plea, I'm
3 getting into the factual allegations sooner than I
4 ordinarily would.

5 MS. McMENAMIN: Yes, Your Honor. That makes sense.
6 Thank you. The defendant, Andres Posso, as you know,
7 Your Honor, he was arrested on two counts of criminal
8 sexual conduct with a minor in the second degree and one
9 count of criminal solicitation of a minor on September
10 25th of 2019, the victims being his daughters Minor1
11 , Minor2 and his niece Desiree P. He was
12 straight indicted, Your Honor, on six additional counts
13 of csc with a minor in the third degree. The victim in
14 all of those counts being his daughter Minor2 . The
15 defendant is pleading to two counts of csc with a minor
16 in the third degree, and the other indictments will be
17 dismissed.

18 This, Your Honor, began with the oldest daughter
19 Minor1. The defendant began sexually assaulting her when
20 she was nine years old and their family was living in
21 Florida so this would have been in 2008. More
22 specifically, Your Honor, the defendant began this by
23 touching Minor1 in a sexual manner, having her touch him
24 in a sexual manner and forcing her to perform acts of
25 fellatio on him as well. Minor1 was sort of trained to

1 know that if he asked her touch his leg, this meant she
2 was supposed to touch his penis. Several of these
3 incidents involved her cousin Desiree who was a witness
4 to these and then whenever they moved to South Carolina,
5 Your Honor, it continued.

6 Now, it continued every year they lived in Florida.
7 It continued when they got to South Carolina. They moved
8 to South Carolina, Your Honor, to Lexington specifically
9 in February of 2014. They did have a few different
10 addresses while they lived here, but they were all in
11 Lexington County, [REDACTED] Mineral Springs Road, [REDACTED] Oak
12 Drive, and their final residence was at [REDACTED] Bentley
13 Drive. Again, all here in Lexington, all in Lexington
14 County.

15 So they moved here to Lexington in February of 2014
16 and the abuse continues. Minor1 would disclose that at
17 this time she was around 14. She eventually turned 15
18 that year and the defendant continued to touch her
19 inappropriately under and above, over and under clothing
20 and she was supposed to touch him as well in a sexual
21 manner, Your Honor. This would include the penis, the
22 vagina and the child's breasts. The defendant also began
23 forcing Minor1 to have sexual intercourse with him when
24 they moved to South Carolina. She did recall at least
25 three times this occurring at the Bentley Drive address,

1 their final home. The assault would typically start in
2 the shower across the hall from her room and in the
3 defendant's bedroom.

4 These assaults, whether it was sexual intercourse,
5 fellatio or masturbation with the victim being forced to
6 touch the defendant or him touching her including her
7 breasts and vagina would always occur when it was just
8 the two of them alone in the home while her mother Karen
9 was at work and her sister Minor1 was at school or
10 cheerleading or something of that nature. This would
11 continue on until 2019 until Minor1 was 19 years old.

12 Now, all of this came to light, Your Honor, when the
13 youngest daughter Minor2 disclosed what was going
14 on to a teacher and counselor at her school. That was
15 April 2nd of 2019. She was 15 years old then and
16 disclosed that the defendant had been sexually assaulting
17 her since the young age of nine, just like her sister.
18 She was aware that he had been assaulting Minor1. They
19 only had a brief conversation once about it, but she was
20 aware. Minor2 would disclose all of that to law
21 enforcement that same day at school and later on through
22 her forensic interview. She would tell them that her
23 father began touching her in a sexual manner and forcing
24 her to touch him in a sexual manner at the age of nine
25 while they lived in Florida. That would have been in

1 2012, Your Honor.

2 She would describe how she experienced continuous
3 sexual abuse at the hands of him while living there and
4 when they moved to South Carolina in 2014. She would
5 have been 10 turning 11 that year. While living in
6 Lexington the defendant would force Minor2 to touch his
7 penis and perform acts of masturbation. She recalls he
8 would put his hand over her hand when this was happening
9 and she stated stuff would come out of his penis. The
10 defendant would touch her breasts and vagina as well both
11 over and under clothing. She would also disclose that
12 the abuse progressed after moving to Lexington and she
13 was forced to masturbate the defendant on numerous
14 occasions and also perform acts of fellatio.

15 Similar to Minor1, the defendant taught Minor2 that
16 when he made a certain noise during a sexual act, that
17 meant she did it or that she had reached her goal.
18 Again, similarly to Minor1, Minor2 was also forced to
19 engage in sexual acts with her father when it was just
20 the two of them at the home when her mother was away and
21 her sister was away. Most of these incidents occurred in
22 the defendant's bedroom, Your Honor, on his bed, but she
23 did recall multiple times that he walked in on her while
24 she was showering or one occasion he called her to the
25 bathroom when he was taking a shower and wanted them to

1 be together in the shower.

2 Your Honor, to make sure that I'm getting the
3 specific times correct for the indictments, I know that
4 for Minor1, for her indictment, that when they moved in
5 February 2014, she would have been again 14 turning 15
6 and she did describe that the same touching of the
7 defendant and the defendant touching her continued to
8 occur in Lexington County. With Minor2, the younger of
9 the two, in 2014 she said when they moved here, that was
10 the first time the defendant touched her vagina under
11 clothes. That was something specific she recalled, and
12 that in 2018 that was the last time she remembered
13 touching his penis. She disclosed at the school that day
14 that it was last year and that she was 14. She
15 remembered that and that it was at their Bentley Drive
16 address. She remembered it happening one day after
17 school being called into his bedroom.

18 Now, on April 2nd, Your Honor, when this came to
19 light at the school, the defendant was informed to come
20 to that location. Law enforcement was present. DSS was
21 present. DSS is the one that advised the defendant of
22 what was then allegations, what was being alleged. They
23 advised him that the girls would need to stay with
24 another family member, they could not come home with him.
25 The mother was out of town for work at the time.

1 The defendant then through his brother obtained a
2 ticket to Columbia. Records obtained from Expedia show
3 that the defendant's brother Alejandro Posso purchased a
4 one way ticket to Cali, Columbia for the defendant that
5 same afternoon at 5:23 p.m. on April 2nd, 2019. The
6 records from Expedia show that the ticket was a one way
7 ticket flying out of Columbia, South Carolina at 3:00
8 a.m. the next morning April 3rd. The defendant did not
9 return to the United States until September 25th, 2019.
10 My understanding is his return was for a family wedding.
11 He was detained at the airport and brought back to South
12 Carolina.

13 Your Honor, that is the extent of the facts from the
14 State in this case. I do know that our victims Minor2
15 and Minor1 and their mother Karen are all logged on and
16 would like to address the Court later at the appropriate
17 time.

18 THE COURT: Very well. Mr. Posso, did you hear the
19 State's allegations?

20 MR. POSSO: Yes, sir.

21 THE COURT: Did you understand them?

22 MR. POSSO: Yes, sir.

23 THE COURT: All right. Do you believe the State can
24 produce sufficient evidence to prove your guilt of the
25 charges beyond a reasonable doubt and if you went to

1 trial, a jury would most probably find you guilty?

2 MR. POSSO: With the jury probably being
3 prejudicial, is that what you mean?

4 (Defendant having a private conversation with his
5 attorney.)

6 MR. POSSO: Yes, sir.

7 THE COURT: Okay. So you believe that a jury would
8 most probably find you guilty?

9 MR. POSSO: Yes, sir.

10 THE COURT: Okay. You're entering this plea
11 pursuant to North Carolina versus Alford?

12 MR. POSSO: Yes, sir.

13 THE COURT: Are you doing this freely and
14 voluntarily?

15 MR. POSSO: Yes, sir.

16 THE COURT: Are you doing this knowingly and
17 intelligently?

18 MR. POSSO: Yes, sir.

19 THE COURT: Has anyone forced you, threatened you,
20 or coerced you to enter into this plea?

21 MR. POSSO: No, sir.

22 THE COURT: Has anyone offered or promised you
23 anything in exchange for entering this plea?

24 MR. POSSO: No, sir.

25 THE COURT: And you're aware that these charges will

1 be violent offenses under South Carolina law?

2 MR. POSSO: Yes, sir. That was explained to me.

3 THE COURT: Mr. Posso, you have ten days to appeal
4 this plea, but you must do so in writing to this Court.
5 Did you understand that?

6 MR. POSSO: Yes, sir.

7 THE COURT: I'll accept the plea. I find there's a
8 substantial factual basis for the plea. The defendant's
9 decision to enter a plea pursuant to North Carolina
10 versus Alford has been freely, voluntarily, knowingly,
11 and intelligently made. He's had the advice of counsel,
12 of a competent attorney with whom which he is satisfied.
13 Victim impact.

14 MS. McMENAMIN: Yes, Your Honor. If you will give
15 me just a moment to get everybody set up. And while
16 we're doing that, Your Honor, may I approach with an
17 order for booking and fingerprinting?

18 THE COURT: Yes.

19 MR. McMENAMIN: I'll hand you the document and
20 explain that later. I just didn't want to forget to pass
21 it up. State your name for the record first, then speak
22 to the Judge and let him know what you wanted him to know
23 today, okay?

24 THE COURT: Is she muted? She's muted.

25 Minor2 : Hi. My name is Minor2 . I am

1 18 years old. These past three years have been brutal
2 for not only me, but for my mom and my sister. As we
3 continue to suffer in silence, we find ourselves at peace
4 with this. As you know, my mom had no knowledge of this
5 so you can only imagine how she felt hearing that her two
6 daughters were abused by the one person who was supposed
7 to love and protect them. That is a father, not this
8 sick man who only cared about himself. A man who was
9 supposed to protect our innocence yet took it away from
10 us at a young age.

11 I'm tired of this and I'm tired of feeling sorry for
12 myself and I won't anymore. I'm tired of seeing my
13 sister having to be forced to grow up and try to protect
14 me from him and I see that she's struggling internally
15 and I hope that this will soon come to an end, but these
16 things take time. Having to find a father figure has
17 been hard, but luckily we have family who did not desert
18 us and did absolutely everything they can to welcome us
19 after being apart for many years and that's more than the
20 Posso family can say. How can you leave with yourselves
21 knowing that your nieces, granddaughters and
22 God-daughters have lived through what your brother and
23 son have put us through and yet still choose to pick his
24 side? That is a very cowardice thing to do.

25 Throughout this I have been forced to get over and I

1 was also put in therapy which has led me to lose myself
2 and the energetic bubbly kid that I used to be. I was
3 forced to pretend to be this happy kid who had the best
4 mom and dad while unfortunately only half of this
5 statement is true. He is not a good man or even close to
6 one. He is a coward who expressed how, if I wanted him
7 out of my life, that I could have just told him so I
8 didn't have to ruin his life. He chose to live with what
9 he's done to his daughter and there's no one to blame but
10 himself.

11 I have learned that this will not define me and will
12 never define who I am. It took some time, but I will
13 finally come to peace knowing that something will finally
14 happen to give us relief and security. I hope that one
15 day he can look himself in the mirror and realize that he
16 lost the greatest gift that God will ever give to him,
17 two beautiful daughters and a hard working successful
18 beautiful wife and mother.

19 He has lost and we finally don't have to suffer
20 anymore. He is the one that has to live with what he has
21 done for the rest of his life. This has made us stronger
22 because this made us realize that we don't need anyone
23 else but ourselves, three strong and independent women.
24 We will not suffer in silence anymore and we ask that the
25 correct and appropriate punishment is set into place.

1 Thank you.

2 Minor1 : Hello. My name is Minor1 . I'm
3 23 years old. I have had to deal with this overwhelming
4 pain and torture for much of my life. I wanted to be
5 able to consider living a normal life with no worries. I
6 truly want to close this chapter in my life and not have
7 to look back on this any longer, and I know these past
8 couple of years have been really hard and have
9 drastically affected my mom and my sister. All I want is
10 to ever just think about rebuilding a normal family and a
11 normal life and just to start a happier life with them.

12 I had to live in silence and fake happiness for a
13 lot of my life and I simply just want my mom and my
14 sister to not have to deal with this constant heartache
15 and trauma that I've had to deal with. So I'm here today
16 to say that I support whatever decision that the Court
17 decides because regardless it means that this man will
18 forever be out of our lives.

19 KAREN POSSO: Hi. My name is Karen Posso and I just
20 want to say that the amount of painful, emotional and
21 physical that my kids have had to endure for the last few
22 years cannot be measured with a number and we simply ask
23 that the maximum sentence be given to him without any
24 hesitation since he had none while he abused our two
25 daughters. I ask this Court to consider the proof that

1 has been provided and really ask yourselves if this is
2 the type of individual that we want out on the streets
3 with our kids, someone who time after time had only shown
4 that he only cares about himself. Not only is he an
5 abuser, but he's a thief who stole the most important
6 thing that our kids have, their innocence without any
7 regards to them. I simply ask that we keep him off the
8 streets, a selfish dangerous man who had no regard to our
9 own children. Will he have any for anyone else's?

10 I come to you not as a bitter woman or ex-wife, but
11 rather as a mother who is still trying to rebuild what
12 was left of a family, who takes one day at a time to take
13 care of her children and I try to mitigate their pain
14 that has been harbored for so long. The last year has
15 really taken a total on my kids' mental health. They
16 don't feel safe anywhere. The level of the severe
17 anxiety and scrutiny and the level of insecurity that we
18 have had to go through because he is out, has really
19 affected our everyday lives. My daughters and I want,
20 but more importantly, we need to feel safe, a feeling
21 that we haven't had in a very long time. We need and
22 want to be able to live with our heads high and not look
23 over our shoulders wondering if he's ever going to show
24 up to hurt us as retaliation. Thank you so much.

25 MR. McMENAMIN: Thank you very much, ladies. If you

1 can mute again.

2 THE COURT: All right. Anything further from the
3 State?

4 MR. McMENAMIN: Your Honor, I'd just like to say
5 briefly, these are three very strong women, these three
6 women to have gone through so much and stuck together and
7 stuck with this as long as they have is just amazing and
8 I ask that you really consider what the victims are
9 asking for and not just the allegations, but how this has
10 impacted them and that it will continue to impact them
11 for years to come. Again, they're strong and they're
12 going to go on to lead really great lives in spite of
13 this, but this is something that's going to be carried
14 with them for a really long time. Thank you.

15 THE COURT: Thank you. Mr. Chehoski.

16 MR. CHEHOSKI: Thank you, Your Honor. Mr. Posso
17 stands before you, 45 years old. He's originally from
18 Columbia and I'll get to that as far as the flight issue
19 in a moment. He came to the United States when he was
20 nine years old. He is a permanent resident. When he
21 arrived in the United States, he initially lived in
22 Queens, New York and he lived there until he was 18 years
23 old. He met Karen when they were 16 and got married
24 eventually in 2003. Again, they have the two children
25 who are the alleged victims in this case.

1 Your Honor, we spoke in chambers about the time that
2 Mr. Posso has served. He is entitled to 343 days that he
3 spent in Lexington County from September 25th, 2019 to
4 September 2nd, 2020. Your Honor, under 24-13-430 it's
5 also under your discretion he can be given 617 days for
6 the time that he spent on monitored house arrest. On May
7 20th, 2020 Judge Addy issued the order setting bond and I
8 believe both conditions that he was placed on house
9 arrest and he was, the house arrest was monitored by GPS.
10 So, Your honor, that would be a total that we're asking
11 for of 960 days time served.

12 Further, Your Honor, if I may approach, I have
13 a letter from One King Bail Bonds that detail that Mr.
14 Posso was a model client doing everything to the letter
15 not just in the spirit of the order, but to the letter of
16 the order. Not one time did I hear any complaint either
17 directly from the bonding company or - from the bonding
18 company through the State as to any violations, which in
19 light of the allegations here I'm certain would have
20 resulted in a motion to revoke bond. Not once, Your
21 Honor, in the 617 days since his release.

22 Your Honor, in these cases there are no winners.
23 Mr. Posso is here before you accepting a punishment for a
24 crime that destroyed a family. I have no doubt that
25 Minor 1, Minor 2 , and Karen are strong. I have no doubt

1 that they will thrive and my heart is saddened for the
2 pain that they've had to go through. However, Your
3 Honor, my duty is to my client, and I have found
4 Mr. Posso to be respectful, humble and a model client
5 under extraordinary conditions of a global pandemic since
6 I've been representing him.

7 Again, I began representing him in early October of
8 2019 after I was assigned the file and I believe
9 beginning in May of 2020 the State was starting to look
10 at putting this case on the trial docket and we had video
11 meetings every week and he never once missed a meeting,
12 he never once left any topic of conversation uncovered.
13 We talked about every single thing, every single aspect
14 of his life. Your Honor, this again, I think the
15 strength of the State's case would have been more than
16 sufficient enough for the jury to find a guilty verdict.
17 Even with that, Mr. Posso comes here to court and is
18 accepting responsibility.

19 After he was released, Your Honor, there was
20 absolutely no problems communicating. Whether it was by
21 email, text message, phone calls, any time I needed to
22 speak with him, any time I called him, he answered. Any
23 time I sent him an e-mail, a response would be back at
24 worst within a couple hours, oftentimes though
25 immediately. Your Honor, these are the kind of clients

1 that make my job easy no matter how hard the case is.

2 Your Honor, as you heard, the family dynamic was a
3 little bit untraditional as Karen was the primary bread
4 winner. While Mr. Posso did work, in getting work
5 records he worked at a pawnshop. His last employment
6 before these charges came about were at the Palmetto
7 State Armory. After he was released on bond, he
8 initially got a job at Wendy's and then shortly moved to
9 Papparoni's and two letters from both the general manager
10 and the owner regarding the kind of employee Mr. Posso
11 is. If I may approach (proffering.)

12 THE COURT: Very well.

13 MR. CHEHOSKI: Your Honor, to address the flight
14 issue, as I mentioned before, when Mr. Posso was aware of
15 disclosure, it's my understanding that he was given an
16 ultimatum to get some money and leave the house. Your
17 Honor, he couldn't go to a nearby relative's house
18 because they had children. He couldn't go, again, I
19 don't think he felt like he could go to a hotel or a
20 place like that and while I guess unorthodox, as his
21 family is originally from Columbia, that's where he went,
22 but I think under the - when a person is in crisis, you
23 go to your family. You go to your parents. That's where
24 his parents were, Your Honor. I'm not making it right.
25 I'm just saying it's understandable and certainly given

1 that it's in a foreign country, that doesn't help our
2 case, but in trying to explain it. There is also a
3 medical issue that he felt would be better resolved in
4 Columbia than here.

5 That said, Your Honor, again, I just try to put it
6 in a little bit of context that oftentimes when people
7 who are in crises, they go to their closest immediate
8 family, closest in their hearts and that's their parents
9 and that's what he did even though it is in a foreign
10 country.

11 He understands, Your Honor, that these charges are
12 classified as both violent and serious. It's a strike.
13 He will not be eligible for parole until he has served at
14 least one-third of his sentence. Also due to the nature
15 that this is a, that he'll be on the sex offender
16 registry. Right now the statute says that's for life.
17 He will also be subject to electronic monitoring. Right
18 now again, the statute says that that's for life. The
19 earliest he can petition the court to have the electronic
20 monitoring removed is after ten years. I only know that
21 from some experience in having petitioned the court for
22 some fines to have electronic monitoring removed, Your
23 Honor.

24 This is also a sexually violent offense. I
25 explained to Mr. Posso what that means is towards the end

1 of his sentence he will be evaluated to determine the
2 possibility of recidivism. If he is deemed a high risk,
3 he can possibly be committed civilly involuntarily
4 indefinitely.

5 Your Honor, while my personal opinion is I don't
6 think he's a good candidate for that, again, that is an
7 issue to be addressed down the road. Your Honor, present
8 in the courtroom for this plea in support of Mr. Posso is
9 his brother Alejandro and his sister Lisa and his friends
10 Amanda and Summer. I don't know if they want to address
11 the Court.

12 Your Honor, this is a charge and a resolution where
13 there are no winners. Certainly the pain that it
14 inflicted upon these women is devastating, but
15 recoverable and we all pray for that. Mr. Posso is
16 likely going into custody today. I brought up all the
17 issues, Your Honor, regarding house arrest, GPS monitor
18 to show that he knows what's required of him and he meets
19 it to the letter.

20 Your Honor, upon his release I think we can be rest
21 assured that he will abide by the terms just as he's
22 abided by the terms of his bond for the last 600 plus
23 days. I ask the Court to fashion a sentence at less than
24 the maximum of the cap and to give him credit, as I said,
25 for the 960 days that he was in custody and on house

1 arrest, Your Honor. I ask that these sentences run
2 concurrent and I ask for mercy from the Court. Thank
3 you.

4 THE COURT: Does anyone, I don't think anyone wishes
5 to speak. Does your client wish to speak?

6 MR. CHEHOSKI: I do not believe so, Your Honor. Do
7 you want to say anything? Yes, Your Honor, Mr. Posso
8 would like to address the Court.

9 MR. McMENAMIN: May I address something first?

10 MR. CHEHOSKI: Your Honor, we're gonna have, I
11 guess, a little back and forth while Leanna addresses
12 you.

13 MS. McMENAMIN: Just briefly, the State is opposed
14 to credit for the ankle monitor, the time on the house
15 arrest with the ankle monitor. Of course, for any time
16 he did in the detention center he would have credit time
17 served there. That's all from the State, Your Honor.

18 MR. CHEHOSKI: Just again to point out, under
19 24-13-430 the relevant part it says in every case
20 imputing the time served by a prisoner, full credit
21 against the sentence must be given for time served prior
22 to trial and sentencing. Again, I believe that refers to
23 the 343 days and may be given so I believe this says
24 specifically will be in the Court's discretion for any
25 time spent under monitored house arrest. The only reason

1 I bring up monitored house arrest, Your Honor, the order
2 issued by Judge Addy in subsection 2 says that he shall
3 remain on house arrest at his mother's residence in
4 Gaston. There were many amendments to this because just
5 to make sure we complied with all of it, but house arrest
6 shall be monitored by GPS. So he is eligible for the
7 additional 617 days that he was on house arrest, Your
8 Honor.

9 THE COURT: He's eligible in the sense that he has
10 not had any bond violations that would certainly cast a
11 shadow over that order issued.

12 MR. CHEHOSKI: And, Your Honor, it's just, I think,
13 that there - I think it's not only just house arrest but
14 monitored house arrest. He was on monitor and so I think
15 that he's not, while he's not entitled to it, he's
16 eligible for it at the Court's discretion. Mr. Posso.

17 MR. POSSO: Your Honor, I just wanted to say that
18 I have never been a threat to anybody. I continue not to
19 be a threat to anybody.

20 THE COURT: Let me ask you something, Mr. Chehoski.
21 I just want to make sure, I want to give your client the
22 opportunity to speak, but I also want to make sure that
23 he doesn't say anything that is adverse to the plea he's
24 already entered. Do you follow me, Mr. Chehoski?

25 MR. CHEHOSKI: Yes, Your Honor, he does.

1 THE COURT: Okay. All right. You can continue.

2 Thank you.

3 MR. POSSO: And I just want to apologize for
4 anything that brought anything to this point and that
5 affected anybody's lives. That's all.

6 THE COURT: Thank you, sir.

7 MR. CHEHOSKI: Your Honor, I'll just end that he has
8 absolutely no prior record.

9 THE COURT: Okay.

10 MR. McMENAMIN: That is accurate, Your Honor.

11 THE COURT: I'm going to take a short recess, five
12 minutes, and I'll be right back with you.

13 MS. McMENAMIN: Thank you, Your Honor.

14 MR. CHEHOSKI: Yes, Your Honor.

15 (Short break.)

16 THE COURT: Please be seated. Okay. I have unmuted
17 my mic.

18 MR. McMENAMIN: Can we ask them really quickly, Your
19 Honor, just to make sure if they can hear? Karen, can
20 y'all hear the Judge? Can you unmute and let us know if
21 you can hear, Karen?

22 THE COURT: I can hear her.

23 MS. McMENAMIN: You can hear her, Judge?

24 THE COURT: I just turned my volume up so I think I
25 can hear her. Ms. Posso, you can hear me, correct?

1 KAREN POSSO: Yes, sir.

2 THE COURT: All right. I'm gonna turn my volume
3 down. All right. Not a lot to really say. To the
4 victims here, Minor2 , Minor1, and Ms. Posso, I recognize
5 that regardless of the sentence we have here today, I
6 hope you can move forward. I hope this can provide some
7 level of closure for you, but there is no sentence
8 unfortunately that can undo the pain that's occurred here
9 for you so for that I apologize, but to the two victims I
10 can only say, you know, when you spoke, it was part of a
11 victim impact section of this plea and, you know, if I
12 could use another word for it, I hope moving forward you
13 will be survivors. You are survivors. So I hope today
14 is the first day of moving forward for a better tomorrow
15 truly.

16 You know, Mr. Posso doesn't have a prior record, but
17 there are some circumstances here that were discussed in
18 the overall presentation. I do need to be up front. I
19 really think that there's been a whole lot of grace shown
20 already in the plea arrangements pleading to a third
21 degree offense down to a second degree offense and with
22 the recommendation of the cap on the sentence so I want
23 to certainly be clear that I think there's been grace
24 shown by the victims and the State, a great deal at this
25 point already.

1 Your attorney told you some of the repercussions of
2 this conviction including the registry and that it was a
3 sexually violent offense, but whenever you do finish your
4 sentence, we hope you will follow the law properly.

5 Mr. Chehoski, I did not give credit for the GPS
6 monitoring, however, you can file a motion to reconsider
7 and brief it more thoroughly. Right now I have that
8 before me. I recognize that's what you want. If you
9 want to discuss it further, that's totally fine, but I'm
10 not doing it today. I did give him credit for 343 days
11 in the Lexington County Detention Center, and on both
12 charges, the criminal sexual conduct with a minor in the
13 third degree, I've given concurrent sentences of eight
14 years. That's all.

15 MR. McMENAMIN: Thank you very much, Your Honor.

16 WHEREUPON, THE HEARING WAS CONCLUDED.

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CERTIFICATE OF REPORTER

(STATE OF SOUTH CAROLINA)
(COUNTY OF LEXINGTON)

I, THE UNDERSIGNED, Steven E. LeBlanc, Sr., R.P.R., and Official Circuit Court Reporter for the Eleventh Judicial Circuit in and for the State of South Carolina, do hereby certify that I reported the proceedings in the before captioned case in the Court of General Sessions in and for the State of South Carolina on the 12th day of May, 2022.

I FURTHER CERTIFY that the forgoing 30 pages constitute a true and accurate record of said proceedings.

I FURTHER CERTIFY that I am neither related, counsel to, nor of interest to any party hereto.

IN WITNESS WHEREOF, I have hereunto set my hand at Lexington County, this 6th day of January, 2023.

By:s/Steven E. LeBlanc

Steven E. LeBlanc, Sr., R.P.R.
Eleventh Circuit Court Reporter
State of South Carolina.

STATE OF SOUTH CAROLINA
COUNTY OF LEXINGTON

IN THE COURT OF GENERAL SESSIONS

Warrant Nos. 2019A3210800397,
2019A3210201861, 62

STATE of SOUTH
CAROLINA,

-v-

ANDRE POSSO,
Defendant.

ORDER SETTING BOND

FILED
2020 MAY 21 AM 8:42
LISA M. COMBER
CLERK OF COURT
LEXINGTON SO

Addy, J.

THIS MATTER CAME BEFORE THE COURT on May 19, 2020 on Mr. Posso's motion to set bond. Due to the current COVID-19 health concern and the suspension of court terms, the bond hearing was held via remote video conferencing with the consent of all concerned. Mr. Posso is charged with Criminal Solicitation of a Minor and two counts of CSC with a Minor, 2nd Degree. Mr. Posso was represented by Jason Chehoski, Esq., and the State was represented by Assistant Solicitor LeAnna McMenammin. Mr. Posso has been in jail roughly eight months without bond. The Court finds as follows.

The Court was given a brief factual overview of the allegations. Of greatest concern to the Court is the allegation that Mr. Posso fled the country when informed of these charges. However, he has no prior criminal history, and the State informed the Court that they would be prepared to try this case in August. Accordingly, the Court orders as follows:

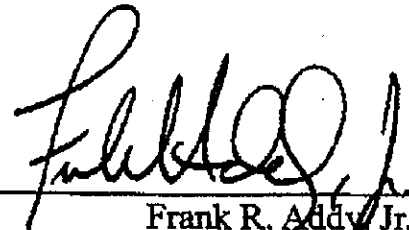
1. If this case remains unresolved as of September 1, 2020, aggregate bond on all the above charges is set in the sum of \$100,000 surety or property. On the first day of each subsequent month, bond shall automatically reduce by \$20,000 if the case remains untried. On December 1, 2020 when the bond becomes \$40,000, it shall remain at that amount.



2. Mr. Posso shall surrender his passport to the Clerk of Court, the Solicitor shall request of Homeland Security that he be placed on the Do Not Fly list, and he shall remain on house arrest at his mothers' residence in Gaston. Exceptions to house arrest shall be gainful employment to be verified by the GPS company, medical or legal meetings, court appearances, and religious services customary to his faith. House arrest shall be monitored by GPS;
3. Mr. Posso is ordered to have no contact of any kind with the alleged victims. He is further ordered to refrain from going onto any property where young children are likely to be present.

The magistrate or city judge may complete the necessary paperwork to effect this order.

IT IS SO ORDERED.



Frank R. Addy, Jr.
Chief Administrative Judge

May 20, 2020
Greenwood, South Carolina

STATE OF SOUTH CAROLINA

vs.

ANDRES FERNANDO POSSO,

Defendant.

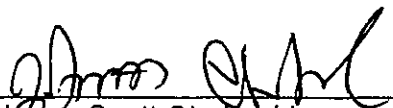
STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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

RULE 203(B) EXPLANATION

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

Respectfully submitted,



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

Lexington, South Carolina
September 27, 2022

STATE OF SOUTH CAROLINA

COUNTY OF LEXINGTON

THE STATE

vs.

ANDRES POSSO
Defendant.

) IN THE COURT OF GENERAL SESSIONS
) ELEVENTH JUDICIAL CIRCUIT


) INDICTMENT NUMBERS:
) 2020GS3201168, 2020GS3201240

) MOTION TO RECONSIDER
) SENTENCE AND REOPEN

TO: LEANNA MCMENAMIN, Assistant Solicitor for the Eleventh Judicial Circuit

PLEASE TAKE NOTICE that the defendant, Andres Posso, by and through his attorney, Jason Scott Chehoski, will move before the Honorable Walton J. McLeod IV as soon as the matter can be heard, to reconsider the sentence imposed on May 12, 2022.

Respectfully submitted,


Jason Scott Chehoski
Tri-County Public Defender
Eleventh Circuit Public Defender's Office
202 E. Main St.
Lexington, SC 29072
(803) 785-8873

Lexington, South Carolina
Date: May 13, 2022

2022 MAY 13 PM 2:53
LISA M. COMER
CLERK OF COURT
LEXINGTON SC

FILED

RECEIVED

OCT 12 2022

SC Court of Appeals

FILED

STATE OF SOUTH CAROLINA)
COUNTY OF EDGEFIELD)

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

THE STATE)

CASE NO: 2020-GS-32-01240

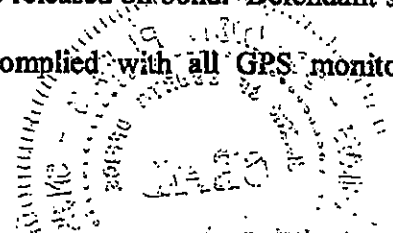
vs.)

ANDRES FERNANDO POSSO)
Defendant.)

ORDER DENYING DEFENDANT'S)
MOTION TO REOPEN SENTENCE)

This matter comes before the Court upon the Defendant's Motion to Reopen Sentence ("the Motion") for Defendant Andres Fernando Posso ("Defendant") on Case No. 2020-GS-32-01240. Defendant plead pursuant to *Alford* before this Court on May 12, 2022 to two (2) counts of Criminal Sexual Conduct with a Minor, 3rd Degree and was sentenced to an eight (8) year active sentence, as per the recommendation of Assistant Solicitor LeAnna McMenamin with the Eleventh Circuit Solicitor's Office. On May 13, 2022, Defendant's counsel, Jason Chehoski with the Eleventh Circuit Public Defender's Office, filed the Motion pursuant to S.C. Code, § 24-13-40. After receiving written submissions from the parties addressing their respective arguments, the matter was taken under advisement by the Court.

As a brief factual background, when informed of the allegations underlying this conviction, Defendant fled the country. Upon return, Defendant was arrested and spent roughly eight (8) months in jail without bond. On May 19, 2020, Judge Addy issued an Order Setting Bond for Defendant, placing him on GPS monitored house arrest while released on bond. Defendant spent six-hundred seventeen (617) days on house arrest and complied with all GPS monitoring conditions during that time.



A TRUE COPY

[Handwritten Signature]

Lex. Co. C.C.C.P., G.S. & F.G.

77 12/20/16 1:33:11

SSW 11 100

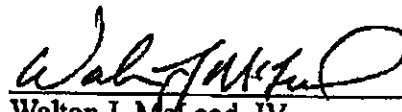
also go to trial for

Pursuant to the Motion, Defendant asks this Court to give him time served credit for the six-hundred seventeen (617) days he spent on house arrest. Defendant argues that, due to the COVID-19 pandemic, he was placed on house arrest rather than remaining in custody during the pendency of his criminal charges, and therefore, he should be given credit for that time. The State, on the other hand, maintains that Defendant should not be given credit for his time on house arrest, contending Defendant already received the benefit of having seven (7) counts of Criminal Sexual Conduct with a Minor and one (1) count of Criminal Solicitation of a Minor dismissed, as well as a recommendation of a cap of eight (8) years in exchange for his plea.

In *State v. Higgins*, the South Carolina Court of Appeals held that the South Carolina “legislature only intended to allow credit for time served in a penal institution” and affirmed a trial court’s refusal to afford credit to the defendant for “the time served on house arrest while he was released on bond.” 357 S.C. 382, 386, 593 S.E.2d 180, 182 (Ct. App. 2004).

After considering the arguments of counsel and the applicable statutes and case law, the Court holds that Defendant is not entitled to time served credit for the six-hundred seventeen (617) days he spent on house arrest while released on bond. Pursuant to the discretion afforded by SCRCrimP, Rule 29, the Court rules on this Motion on the briefs submitted by the parties without oral argument. The Court, therefore, orders Defendant’s Motion is hereby DENIED.

IT IS SO ORDERED.



Walton J. McLeod, IV
Presiding Judge
Eleventh Judicial Circuit

Lexington, South Carolina
September 23, 2022

A TRUE COPY

Lex. Co. C.C.C.P., G.S. & E.C.

Criminal Sexual Conduct with a minor Third degree

I HEREBY WAIVE MY RIGHT TO GRAND JURY PRESENTMENT
 DEFENDANT _____
 DATE 5/13/22
 WITNESS _____

DOCKET NO. 2020GS3201168

The State of South Carolina

County of Lexington

COURT OF GENERAL SESSIONS

JULY TERM 2020

THE STATE

vs.

Andres Fernando Posso

CDR #: 0397

Indictment for

Criminal sexual conduct with a minor - 2nd degree

§ 16-03-0655(B)(2)

S.R. Hubbard III, SOLICITOR

WITNESSES

Lexington County Sheriffs Department

Michael J Hart

Law Enforcement Case #: 19006293

LMC

ARREST WARRANT NUMBER

2019A3210201862

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury _____
Date: 7/13/22

VERDICT

Foreperson of Petit Jury _____
Date: _____

STATE OF SOUTH CAROLINA)
)
COUNTY OF LEXINGTON)
)

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

§ 16-03-0655(B)(2)

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

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

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



ASSISTANT SOLICITOR

DOCKET NO. 2020GS3201240

The State of South Carolina
County of Lexington

COURT OF GENERAL SESSIONS
JULY TERM 2020

THE STATE

vs.

Andres Fernando Posso

CDR #: 3661

Indictment for

Criminal Sexual Conduct With a Minor -
3rd Degree

§ 16-03-0655(C)

S.R. Hubbard III, SOLICITOR

WITNESSES

Law Enforcement Case #: 19006293

LMC

ARREST WARRANT NUMBER
20-STR-00044

ACTION OF GRAND JURY

TRUE BILL

Chad E. King
Foreperson of Grand Jury

Date: 7/13/20

VERDICT

Foreperson of Petit Jury
Date:

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

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

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

That **Andres Fernando Posso**, date of birth [REDACTED], 1976, being a person over fourteen years of age, did in Lexington County, South Carolina, on or about February 1, 2018 to September 1, 2018, willfully and lewdly commit or attempt to commit a lewd and lascivious act upon or with the body, or its parts, of a child under sixteen years of age, with the intent of arousing, appealing to, or gratifying the lust or passions or sexual desires of himself or of the child, to wit: touching of a sexual nature involving a child, Minor 2, date of birth [REDACTED] 2003, furthermore, the said child was under the age of sixteen years during the time of these offenses, in violation of Section 16-3-655(C), S.C. Code of Laws, 1976, as amended.

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


ASSISTANT SOLICITOR

cap 42 yrs = rec.

oto 15 yrs

STATE OF SOUTH CAROLINA)
 COUNTY OF Lexington)
 STATE)
 VS.)
 Andres Fernando Posso)
 AKA:)
 Race: Hispanic Orig Sex: M Age: 45)
 DOB: [redacted]-1976 SS#: [redacted])
 Address: [redacted] Bentley Dr)
 City, State, Zip: Lexington, SC 29072-7824)
 DL# [redacted] SID# [redacted])

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE# 2020 - GS - 32 - 01168
 A/W#: 2019A3210201862
 Date of Offense: 2/1/2014
 S. C. Code §: 16-03-0655(b)(1)
 CDR Code #: 0396

SENTENCE SHEET

*CDL Yes No CMV Yes No Hazmat Yes No

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

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

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

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

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

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

ATTEST:

[Signature] 102991 [Signature] [Signature] 67350
 Solicitor SC Bar # Defendant Attorney for Defendant SC Bar #

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

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

and/or to pay a fine of \$___; provided that upon the service of ___ days/months/years/Time Served and or payment

of \$___; plus costs and assessments as applicable*; the balance is suspended with probation for _____

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

The sentence shall run

CONCURRENT or CONSECUTIVE to sentence on: _____

The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by SCDOC. 343 days/months

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

The Defendant Shall be Released from County Detention Center.

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

STATE VS. Andres Fernando Posso INDICTMENT/CASE# 2020 - GS - 32 - 01168

SPECIAL CONDITIONS:

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

RESTITUTION: Deferred Def. Waives Hearing Ordered

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

Payment Terms: _____ Set by SCDPPPS

Recipient: _____

*Fine:

Fine may be pd. in equal consecutive weekly/monthly prmts. of \$ _____ Beginning _____

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

Clerk of Court/Deputy Clerk: LISA CORNEAU
Court Reporter: Stew LeBlanc

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

44 comp 15 & yrs = rec.

oto 15 yrs

STATE OF SOUTH CAROLINA)
)
 COUNTY OF Lexington)
)
 STATE)
)
 VS.)
)
Andres Fernando Posso)
)
 AKA:)
 Race: Hispanic Orig Sex: M Age: 45)
 DOB: 1976 SS#: [REDACTED])
 Address: Bentley Dr)
 City, State, Zip: Lexington, SC 29072-7824)
 DL#* [REDACTED] SID# [REDACTED])
)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2020 - GS - 32 - 01240
 A/W#: 20-STR-00044
 Date of Offense: 2/1/2018
 S.C. Code §: 16-03-0655(C)
 CDR Code #: 3661

SENTENCE SHEET

*CDL Yes No CMV Yes No Hazmat Yes No

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

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

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

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

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

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

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

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

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

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

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

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

The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by SCDOC. 343 days/months

To include time spent on monitored house arrest prior to trial and sentencing.
 The Defendant Shall be Released from County Detention Center.

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

STATE VS. Andres Fernando Posso INDICTMENT/CASE#: 2020 - GS - 32 - 01240

SPECIAL CONDITIONS:

PTUP after _____ months/years

And Other Terms Listed Below:

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

RESTITUTION: Deferred Def. Waives Hearing Ordered

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

Payment Terms: _____ Set by SCDPPPS

Recipient: _____

***Fine:**

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

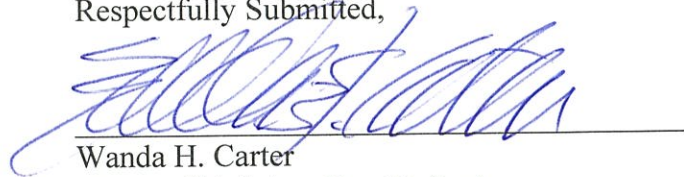
Clerk of Court/Deputy Clerk: Lisa Comer
Court Reporter: Steve LeBlanc

Presiding Judge: Walsh
Judge Code: 2765
Sentence Date: 5-12-2022

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled “Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings.”

Respectfully Submitted,



Wanda H. Carter
Deputy Chief Appellate Defender
South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

ATTORNEY FOR APPELLANT

RECEIVED
Aug 15 2023
SC Court of Appeals

This 15th day of August, 2023.

RECEIVED

Aug 15 2023

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Lexington County

Honorable Walton J. McLeod, IV, Circuit Court Judge

THE STATE,

RESPONDENT

V.

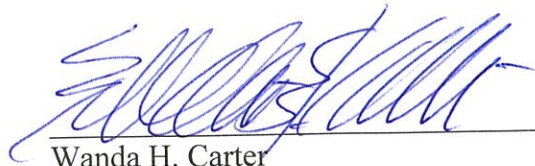
ANDRES F. POSSO,

APPELLANT

APPELLATE CASE NO. 2022-001396

CERTIFICATE OF SERVICE

Pursuant to Rule 262(a)(3) and Rule 262(c)(3), SCACR, the undersigned hereby certifies a true copy of the Record on Appeal in the above-referenced case has been served upon Joshua A. Edwards, Esquire, at the primary email address listed within the Attorney Information System (AIS), this 15th day of August, 2023.



Wanda H. Carter
Deputy Chief Appellate Defender
South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S.C. 29211-1589

ATTORNEY FOR APPELLANT

From: [Leverett, Scott](#)
To: [SC - EDWARDS JOSHUA](#)
Cc: [SC - MUELLER VIRGINIA](#); [Carter, Wanda](#)
Subject: Andres F. Posso - Record on Appeal - Appellate Case No. 2022-001396
Date: Tuesday, August 15, 2023 11:00:00 AM
Attachments: [Andres Posso - Record on Appeal - Appellate Case No. 2022-001396.pdf](#)
[Andres F. Posso - Final Brief of Appellant - Appellate Case No. 2022-001396.pdf](#)

Dear Mr. Edwards,

Attached please find a copy of the Record on Appeal and Final Brief of Appellant in the above referenced case that is being filed today, August 15, 2023, with the Court of Appeals.

-Scott Leverett
Admin. Asst. for Wanda Carter
Appellate Defense