

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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S.C. SUPREME COURT

Certiorari to Beaufort County

Honorable Eugene C. Griffith, Circuit Court Judge

JUSTIN E. WATTS,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2023-000395

APPENDIX

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1 In the Court of General Sessions for the
2 State of South Carolina, County of Beaufort

3

4 Case No.: 2017GS0700075

5 State of South Carolina,

6 Case No.: 2017GS0700076

7 Plaintiff(s),

8 vs. TRANSCRIPT OF RECORD

9 Justin Elliott Watts,

10 Defendant(s).

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16 February 12, 2018

17 Beaufort, South Carolina

18

19 BEFORE:

20 The Honorable Carmen T. Mullen

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1 PROCEEDINGS

2 MS. MILES: May it please the Court, Your Honor.
3 This is State of South Carolina versus Justin Watts.
4 Indictments 2017GS0700075 and 00076. I'm Bethany Miles
5 with the Attorney General's Office representing
6 Mr. Watts. Ms. Trasi Campbell with the public
7 defender's office. Mr. Watts was initially charged
8 with one count of sexual exploitation of a minor first
9 degree, one count of criminal sexual conduct with a
10 minor second degree, and one count of criminal
11 solicitation of a minor. In an effort to work out a
12 plea, he is pleaing to one count of criminal
13 solicitation with a minor and one count of criminal
14 sexual conduct second degree -- or criminal sexual
15 conduct with a minor second degree.

16 THE COURT: Okay. Is there any recommendation
17 from the State?

18 MS. MILES: Your Honor, the State is not making a
19 specific recommendation to a number of years. We would
20 request a substantial active sentence, which we will go
21 into at the proper time.

22 Thereupon,

23 JUSTIN ELLIOTT WATTS

24 was called as a witness, having been first duly sworn,
25 was examined and testified as follows.

1 THE COURT: Sir, who are you here on behalf of?

2 MR. WATTS: Justin Watts.

3 THE COURT: Thank you, sir. If you would, there
4 will be an opportunity for you to speak on his behalf,
5 but if you would at this time just go ahead and take a
6 seat. But I will be happy to hear from you, sir, in
7 just a little bit. Okay? Thank you.

8 (Pause.)

9 THE COURT: Is he waiving presentment on both
10 counts, Ms. Campbell?

11 MS. CAMPBELL: He is.

12 THE COURT: To begin with, Mr. Watts, you have the
13 right to have these indictments presented to the grand
14 jury. The grand jury is made of 18 people, 12 would
15 have to decide that more likely than not that you are
16 guilty of this charge to bring them into my courtroom.
17 I want to make sure that you understand and appreciate
18 that you are waiving that right. Do you understand
19 that, sir? You understand that you are waiving that
20 right; is that correct?

21 THE DEFENDANT: Yes, ma'am.

22 THE COURT: All right, sir. And you wish to go
23 forward and have me hear your case today?

24 THE DEFENDANT: Yes, ma'am.

25 THE COURT: All right, sir. To begin,

1 Ms. Campbell, does the State have adequate evidence to
2 prove your client's guilt on both these charges beyond
3 a reasonable doubt?

4 MS. CAMPBELL: Yes, they do.

5 THE COURT: Sir, I want to make sure that you
6 understand that you are, and I need to know from you
7 that you are pleading guilty to criminal sexual conduct
8 with a minor in the second degree and criminal
9 solicitation of a minor; is that correct sir?

10 THE DEFENDANT: Yes, ma'am.

11 THE COURT: Ms. Campbell, he understands that the
12 possible sentence for criminal sexual conduct with a
13 minor, second degree, is up to 20 years in prison. And
14 criminal solicitation of a minor is up to 10 years in
15 prison; is that correct?

16 MS. CAMPBELL: He does.

17 THE COURT: And he understands that I could run
18 those consecutive if I chose to and he could be looking
19 at 30 years in prison on this; is that correct?

20 MS. CAMPBELL: That's correct.

21 THE COURT: And does he have any other prior
22 convictions that would make him eligible or susceptible
23 to the violent predator act in any way?

24 MS. CAMPBELL: Not that I'm aware of. I am sure
25 that the Attorney General would let us know if that is

1 the case.

2 MS. MILES: Yes, ma'am, Your Honor. He has no
3 previous convictions. It is my understanding that
4 anything over 90 days goes through that process and
5 they weed out however they do.

6 THE COURT: I just want to make sure that he
7 understands that is a possible repercussion of this
8 plea, down the road, if anything else were to occur.

9 MS. CAMPBELL: I have discussed that civil
10 proceeding with him in detail, yes.

11 THE COURT: I appreciate that. Sir, I want to
12 make sure that you understand that you are pleading
13 guilty to these charges and when you do that you are
14 waiving your constitutional rights to a jury trial. A
15 jury trial, obviously, will be 12 people sitting in a
16 jury that would hear all of the facts presented by the
17 State. And then Ms. Campbell, your attorney, would
18 have the opportunity to cross-examine those witnesses
19 and present witnesses in your defense.

20 When you plead guilty you are waiving all of those
21 rights. You are coming forward, you are telling me
22 that you are guilty, you are waiving the right to
23 remain silent and you are telling me that you are in
24 fact guilty. And I want to make absolutely sure that
25 that's what you wish to do. Is that correct, sir?

1 THE DEFENDANT: Yes, ma'am.

2 THE COURT: All right. Sir, are you satisfied
3 with how Ms. Campbell has represented you?

4 THE DEFENDANT: Yes, ma'am.

5 THE COURT: Has she done everything that you have
6 asked her to do?

7 THE DEFENDANT: Yes, ma'am.

8 THE COURT: Have you understood all of your
9 conversations with her?

10 THE DEFENDANT: What I haven't understood she
11 cleared up. Yes, ma'am.

12 THE COURT: Okay. So, you have been able to have
13 a good conversation with her and if there was something
14 that you didn't understand you could ask her; is that
15 correct?

16 THE DEFENDANT: Yes, ma'am.

17 THE COURT: And she would be able to clarify it;
18 is that correct?

19 THE DEFENDANT: Yes, ma'am.

20 THE COURT: How far did you go in school?

21 THE DEFENDANT: I was very close to getting an
22 associate degree in literary arts, English major.

23 THE COURT: From what school, sir?

24 THE DEFENDANT: It was an on-line.

25 THE COURT: Okay.

1 THE DEFENDANT: University of Alaska, Sitka.

2 THE COURT: Okay. Sir, do you suffer from any
3 mental or physical problem that would prevent you from
4 understanding what we are doing here today?

5 THE DEFENDANT: No.

6 THE COURT: Okay.

7 THE DEFENDANT: Ma'am.

8 THE COURT: I just want to make sure that you
9 comprehend and understand. Obviously if you almost
10 have an associates degree you are an intelligent man.
11 I just want to make sure that you appreciate what we
12 are doing. And you understand you are entering a
13 guilty plea; do you understand all of that?

14 THE DEFENDANT: Yes, ma'am.

15 THE COURT: All right, sir, thank you. Sir, you
16 have ten days from today's date to appeal this guilty
17 plea and the sentence of this Court. If you can't
18 afford an attorney for an appeal one will be appointed
19 for you at no cost to you, but you must request it. Do
20 you understand that?

21 THE DEFENDANT: Yes, ma'am.

22 THE COURT: Okay. Thank you. Attorney General.

23 MS. MILES: May it please the Court, Your Honor.

24 THE COURT: Yes, ma'am.

25 MS. MILES: In August of 2016 law enforcement was

1 contacted by the father of a 14-year-old victim who
2 located sexually explicit conversations between his
3 daughter and the then-37-year-old defendant. The
4 victim admitted to the conversations and disclosed that
5 earlier in August the defendant had traveled from his
6 home in Savannah, Georgia to meet her on a road where
7 they engaged in sexual activity in his car. The victim
8 disclosed that on August 2nd the defendant had
9 contacted her after she posted on the Whisper app. The
10 post included the fact that she was 14 years of age.

11 Shortly after contacting the minor the defendant
12 began asking her for full body pictures. The victim
13 sent a face picture so he was aware of the fact that he
14 was indeed speaking with a minor. The defendant refers
15 to himself as master and speaks of entering into a
16 dominant/submissive sexual relationship with the minor.
17 The next day he begins speaking to her about coming to
18 her house to meet up with her to engage in that
19 relationship.

20 In addition to the conversations, the defendant
21 requested numerous images of child pornography from the
22 victim. He requested photos of her breasts and vagina,
23 very graphically directing her as to what angle to take
24 the photos, what body parts to accentuate, and what to
25 wear or not wear for the photos.

1 Less than a week after they began chatting the
2 defendant traveled from his home in Georgia and met the
3 victim on a nearby street where they engaged in oral
4 sex. Messages between the two afterward confirmed that
5 that sexual encounter did occur.

6 The defendant was interviewed and admitted to
7 talking to the minor female on line after knowing she
8 was 14 years of age. He admitted to receiving photos
9 of the minor. He states that he has a very dominant
10 personality and was seeking submissive females to be
11 sex slaves. He stated that -- or he identified the
12 minor female as a troubled young female who was in need
13 of a positive person in her life. But admitted that
14 that didn't happen and that he very quickly got, quote,
15 nasty when speaking with her. He also admitted to
16 traveling to South Carolina to meet up with her.

17 THE COURT: Where did this occur, allegedly?

18 MS. MILES: A road nearby the victim's home. She
19 walked from her home and he traveled from Georgia.

20 THE COURT: Where does she live, in the city of
21 Beaufort, or Hilton Head, or where does she live?

22 MS. MILES: In the county of Beaufort.

23 MS. CAMPBELL: Bluffton.

24 MS. MILES: Bluffton. Not super familiar with the
25 whole area. Thank you. Your Honor, that is all of the

1 facts that the State has. At the appropriate time
2 myself, the investigator, and the victim's father would
3 like to address sentencing.

4 THE COURT: Okay. Well, I am happy to hear from
5 the investigator now and the victim's father right now.
6 That is fine.

7 MS. MILES: Okay.

8 INVESTIGATOR REYNOLDS: Good morning, Your Honor.
9 I am Investigator Reynolds from the Sheriff's Office.

10 THE COURT: Yes, sir.

11 INVESTIGATOR REYNOLDS: I was the investigator and
12 ultimately the arresting officer in this case. And
13 while going through this case I just wanted to point
14 out a couple of things that became very obvious very
15 quickly. This relation -- this on-line relationship
16 went from, essentially, an anonymous relationship
17 through this Whisper app to a sexual crime within a
18 matter of six days. During that time it was made very
19 clear on the front end by the 14-year-old victim that
20 she was in fact 14.

21 And in that interim of six days there was some
22 conversation that was captured in the forensic
23 examination of their phone in which the defendant was
24 asking her if she was law enforcement or had anyone
25 else in the family that was law enforcement because he

1 didn't want to be walking into like a sting or a trap
2 or something like that. So, that to me seems like he
3 was very well aware that what he was getting himself
4 involved with was illegal and frowned upon, obviously.

5 And I believe that the victim, as put forth by the
6 Attorney General's Office, was a vulnerable young
7 female and the defendant took advantage of her
8 emotional immaturity in his case. And while we are
9 here today obviously to determine the future of Mr.
10 Watts, I would just ask that the Court bear in mind the
11 future of the 14-year-old victim who is still
12 undergoing therapy and whatnot as she was forced to
13 rebuild her life again.

14 THE COURT: Thank you, sir. Thank you for being
15 here.

16 MS. MILES: Mr. Flood.

17 MR. FLOOD: I am Steven Flood, I am the victim's
18 father.

19 THE COURT: Yes, sir.

20 MR. FLOOD: Everything that I know about this
21 person, he knew beforehand, before any of this, before
22 they met, he knew how old she was. He was deceitful
23 about it. And I request that he gets the maximum
24 sentence and serves consecutively, not concurrently,
25 for both charges.

1 THE COURT: Thank you, sir.

2 MS. MILES: Your Honor, the State does believe
3 that a substantial active sentence is appropriate in
4 this case. The defendant was 37 years old at the time
5 of these crimes. He contacted the victim after knowing
6 she was only 14 years of age. In their conversations
7 she discussed house rules for the upcoming middle
8 school year, and yet the defendant continues to engage
9 in sexually explicit conversations with her. He
10 himself pointed out that she was a troubled young girl,
11 and she is. And that was pointed out by him. But
12 rather than make a positive impact in her life, he
13 decided to direct her to manufacture child pornography
14 images of herself, talked to her about wanting her to
15 be a sex slave for him, and then ultimately traveled
16 and engaged in sexual activity with a 14-year-old girl.
17 And we would just ask that he be held accountable for
18 those actions.

19 THE COURT: Is there any proof provided or
20 anything in this case that when she sent those pictures
21 of herself that they were distributed in any way?

22 MS. MILES: We have no knowledge that they were
23 distributed anywhere from the defendant.

24 THE COURT: Okay. Your investigator is back there
25 waving his hand. So, yes, sir?

1 INVESTIGATOR REYNOLDS: The evidence contained was
2 from her phone, which was only her half of the
3 conversation. The phone that was used by the defendant
4 unfortunately had been destroyed. It was a throw away
5 and it was not feasible to retrieve the information
6 during this investigation.

7 THE COURT: All right. Thank you, sir.

8 MS. MILES: Thank you, Your Honor.

9 THE COURT: Okay, thank you. Does he have a prior
10 record?

11 MS. MILES: None that the State is aware of, Your
12 Honor.

13 THE COURT: Okay. He is 38; is that correct?

14 MS. MILES: He would be 38 now, I believe, yes.

15 THE COURT: Mr. Watts, you admit that you are
16 guilty of criminal sexual conduct with a minor, second
17 degree, and criminal solicitation of a minor, sir?

18 THE DEFENDANT: Yes.

19 THE COURT: All right. I do find a substantial
20 factual basis for this plea and that your decision to
21 plead guilty has been made freely, voluntarily,
22 knowingly and intelligently with consent of competent
23 counsel with whom you are satisfied. I am going to
24 accept your guilty plea.

25 Ms. Campbell, I'm happy to hear from you. I am

1 happy to hear from Mr. Watts' father as well as Mr.
2 Watts and anyone else who wants to speak on his behalf.

3 MS. CAMPBELL: May it please the Court, Your
4 Honor.

5 THE COURT: Yes, ma'am.

6 MS. CAMPBELL: I will speak briefly. And then I
7 know that my client's father, mother and former wife --
8 they have since divorced, since this case began to my
9 understanding, are here. And one or all of them may
10 wish to speak briefly to the Court. And then my client
11 has a statement that he would like to read to the Court
12 as well.

13 So, when I first met Justin and we delved into the
14 whole situation with the Whisper application, you know,
15 they are always coming out with new applications for
16 the phones and the Internet. And so if Your Honor is
17 unfamiliar with the Whisper application, I just felt
18 that it was important to let you know that when you go
19 on this application you do sign the understanding that
20 you are putting out there that you are 18 years old.
21 Subse -- and then her -- the young girl in this case,
22 who at the time was 14, would have done that.

23 And admittedly in her statements to law
24 enforcement, was engaged in a number of different
25 on-line relationships with men through this Whisper

1 application and I think clarified or classified for the
2 Attorney General's office and the investigators that
3 she used this application as a way to relieve her
4 stress. And so she found it somehow helpful to herself
5 to discuss and be on this website with these gentlemen.

6 My client has admitted his guilt. Once he found
7 out that she was 14 years old he continued that on-line
8 relationship and then moved it to a
9 meeting-in-real-life situation, which he did. Also
10 when I met with my client it became clear to me that he
11 did suffer from some sort of -- not a mental illness,
12 but something was not quite right. And you know Your
13 Honor had signed an order and I had Dr. Donna Watts
14 speak with him and provide a report for me, which I'll
15 be happy to make a copy in the record in this case.

16 But just briefly, you know, she finds that he is
17 on an Autism spectrum, has very little insight into,
18 you know, the nature of his actions; however, that he
19 would not be -- he certainly is competent and he would
20 certainly not meet any criminal responsibility tests
21 where she would make a finding that he was not
22 criminally responsible. But there is a severe lack of
23 insight. Despite his age and despite his attempts
24 on-line to obtain this degree that she notes for us --
25 and if we will just mark that and then we will make

1 that part of the record of the case. Thank you.

2 *(Whereupon, Court's Exhibit No(s). 1 marked for*
3 *identification and received in evidence.)*

4 MS. CAMPBELL: And I would like Your Honor to take
5 that into consideration in fashioning a sentence. And
6 what I would like Your Honor to consider is based on
7 that and based on maybe a continuing need to have some
8 help and supervision for this gentleman is that Your
9 Honor consider a split sentence. Perhaps, you know,
10 when I talked to the Attorney General's Office the
11 number ten was bounced around a little bit in terms of,
12 you know, a significant sentence. So, what I would
13 suggest to the Court is that perhaps a 10-year sentence
14 suspended upon the service of five with credit for time
15 served.

16 He's going to go to the Department of Corrections.
17 It is an 85 percent. One of the indictments is
18 definitely a no-parole offense. And so that is a
19 significant impact upon him. And perhaps have a period
20 of probation where he can have some significant
21 monitoring and assistance upon concluding his term of
22 imprisonment in the Department of Corrections.

23 So, and with that I will turn it over to the
24 family if they would like to address Your Honor about
25 the son and the husband that they knew up until this

1 incident a year and a half or so ago now. Thank you,
2 Your Honor.

3 THE COURT: Thank you. Okay. Yes, Mr. Watts,
4 would you like to say something sir? Yes, sir.

5 MR. WATTS: Justin was raised on a farm and worked
6 very hard to complete his education. He's never been
7 in any trouble before. He doesn't drink or smoke or do
8 any of that. I don't understand how this has happened.

9 THE COURT: Thank you, sir. Anyone else? Yes,
10 ma'am.

11 MS. WATTS: Excuse my nervousness. I am Merilee
12 Watts, I am Justin's mother. He is my second born.
13 Our first child, our son, lives in Alaska where we were
14 raising -- where we raised the boys. He was raised in
15 a rural setting off of the grid therefore he did not
16 have access to computers or any of that stuff for a
17 number of years, until he became an adult actually. He
18 has not been in trouble before. He's a good person.
19 He has a good heart. And he is very funny. He made a
20 terrible mistake, made a horrible decision.

21 I don't want to mitigate the pain that the family
22 is going through because of this decision that our son
23 made. We are older. I am 70. My husband is 78. We
24 may not be here long enough to hug our child again and
25 that is devastating to me. I understand the Court has

1 to provide justice, but please mitigate for the fact
2 that we could use our son's help as we grow older and
3 that we would like to hug him one more time. Thank
4 you.

5 THE COURT: Thank you. Anyone else?

6 MS. CAMPBELL: I think that we might be done. But
7 wait a minute. Yes, ma'am.

8 MS. M. WATTS: I am Marian Watts. I am Justin's
9 wife. We have been together 15 years, married 10. And
10 we have never had any issues, nothing like this ever.
11 He's never been in trouble. He's always been there for
12 me, supported, everything. He made a mistake, a
13 serious mistake. And I believe that he really
14 understands that this one mistake ruined him, a lot.

15 THE COURT: Thank you.

16 MS. CAMPBELL: Judge, from the very moment I
17 started representing Justin, this family came into my
18 office, they sat down with me, we spent a lot of time
19 together. They, they love this son and husband. And
20 as far as, you know, Justin and the community, you
21 know, he's had a life demonstrated of good choices.
22 And he stands before Your Honor with a very bad
23 singular choice with grave consequences for him.

24 And as I said, he does have a statement he would
25 like to read. And I would turn it over to him at this

1 time. Thank you.

2 THE COURT: Yes, sir.

3 THE DEFENDANT: Your Honor, I was wrong for what I
4 did. And have thought, If only I had been willing to a
5 see a therapist instead of going on-line or going
6 outside of my marriage I would never have gone on-line
7 in the first place. But I did. Because I was sick in
8 the head, Your Honor. I was sure -- I said a lot of
9 awful things, things I look back on with abhorrence,
10 which make me sick to my stomach.

11 I am many things but that thing I was at that time
12 is not one of them. I swear. However, I did those
13 things and said many things I never meant. And I am
14 and I truly am from the depths of my soul sorry for all
15 of the offenses and pain that I have caused to the
16 Flood family, my wife, her parents and family, my
17 parents and family, and to all of the family friends
18 and people who know me. From the bottom of my heart, I
19 am sorry.

20 I have changed much in my time here. I have gone
21 from a chronically negatively looking -- negative
22 person looking for trouble to becoming much closer to
23 God. I have long since given up the negative that
24 ruled me -- negativity that ruled me before I got
25 locked up. And I have learned to embrace positivity,

1 optimism, and not allow my situation or circumstances
2 to define me.

3 I have been in jail for a year and a month now and
4 have gone this whole time without being in or near a
5 fight, despite countless insults and verbal attacks on
6 me by others, by praying to the Holy Trinity for
7 strength and walking away. I have avoided allowing the
8 constant taunting and bullying I have endured and all
9 other negativity that has come my way to pass me by and
10 on to those who attract it.

11 Also, two programs in here helped me beyond
12 measure. The first was a two-week job works program
13 that will help me get a job once I get out. The second
14 was an eight-week anger management course. It taught
15 me that being much more mindful of what I say and do,
16 to think before I act or speak, to be much more
17 respectful of others in all ways, and to treat others
18 as I would like to be treated. To being much more
19 patient, considerate, understanding and mature.

20 All I seek to do now is spread positivity, help
21 other people, help others who suffer as I have suffered
22 from not -- chronic negativity, self doubt, anxiety and
23 fear. To teach them to maximize their true God-given
24 potential and talent and how to become more patient,
25 understanding, and considerate and respectful of

1 others.

2 I know through and through that I have learned my
3 lesson from my time here and have found my calling as
4 an aspiring motivational speaker. And with God's help
5 I will be able to achieve that goal. So standing here
6 before you today a much-changed man, humbled,
7 repentant, and penitent begging you, please, to have
8 mercy on me, forgive me for what I did, and return me
9 to my parents so that I may help them around their
10 house, spend time with my wife and her very sick
11 mother -- father before he dies, make my apologies to
12 everyone that I have hurt by what I have done, become a
13 contributing member of society again, start my life as
14 a positive person on a mission to spread positivity and
15 help change people's lives for the better by showing
16 them who -- a man who went from a extremely negative
17 mind and being to a motivational speaker who lives to
18 spread positivity to others while being a force of
19 positivity for the rest of my life.

20 Please, Your Honor, give me a chance to prove
21 myself as a man who was sick that has been cured, Your
22 Honor, please. Thank you for your time, ma'am.

23 THE COURT: Thank you. Ms. Campbell, anything
24 else?

25 MS. CAMPBELL: No, Your Honor. That would be all

1 we have. Thank you.

2 THE COURT: On Indictment 2017GS0700075 for
3 criminal sexual conduct with a minor in the second
4 degree, the sentence of this Court is that you be
5 committed to the Department of Corrections for a period
6 of 20 years. On Indictment 2017GS0700076 for criminal
7 solicitation of a minor, the sentence of this Court is
8 that you be committed to the Department of Corrections
9 for a period of 10 years. Those are to run concurrent
10 to each other. And I'm giving you credit for the 396
11 days that you have served. Good luck to you, sir.

12 MS. MILES: Thank you, Judge Mullen.

13 (Proceeding concluded.)

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2 CERTIFICATE

3

4 STATE OF SOUTH CAROLINA:

5 COUNTY OF BEAUFORT:

6 I, MONA L. MANLEY, Court Reporter, certify that I was
7 authorized to and did stenographically report the foregoing
8 proceedings and that the transcript is a true and complete
9 record of my stenographic notes.

8

DATED this 27th day of September, 2018.

9

10

11

Mona L. Manley /s/

12

MONA L. MANLEY

13

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14

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STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
) INDICTMENT NOS:

COUNTY OF BEAUFORT) 2017GS0700075
) 2017GS0700076

STATE OF SOUTH CAROLINA)
)
 vs.)

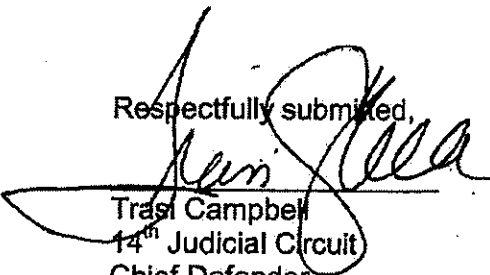
versus)

JUSTIN WATTS,
 Defendant.)

DEFENDANT'S MOTION FOR
 RECONSIDERATION OF SENTENCE

NOW COMES THE DEFENDANT, JUSTIN WATTS, who hereby asks this Honorable Court to reconsider his sentence in the above captioned matter. The Defendant entered a guilty plea to both indictments captioned above before this Honorable Court on February 12, 2018. This Honorable Court sentenced this Defendant to 20 years on 2017GS0700075 and 10 years on 2017GS0700076. These are the maximum sentences for these indictments and the Defendant asks to be heard further on the matter of sentencing in this matter.

Respectfully submitted,


 Traci Campbell
 14th Judicial Circuit
 Chief Defender
 Violent Crimes Division

Beaufort, South Carolina

2-16, 2018

STATE OF SOUTH CAROLINA
FOURTEENTH JUDICIAL CIRCUIT
COUNTY OF BEAUFORT
COURT OF GENERAL SESSIONS
CASE NUMBERS 2017-GS-07-00075 & 2017-GS-07-00076

STATE OF SOUTH CAROLINA

PLAINTIFF

VERSUS

JUSTIN ELLIOTT WATTS

DEFENDANT

APRIL 9, 2018

TRANSCRIPT OF HEARING

BEAUFORT COUNTY, SOUTH CAROLINA

BEFORE

HON. CARMEN T. MULLEN, JUDGE

WANDA H. ROWE, CVR-M
OFFICIAL COURT REPORTER

ORIGINAL

APPEARANCES

ON BEHALF OF THE STATE:

HON. BETHANY B. MILES
ASSISTANT ATTORNEY GENERAL
STATE OF SOUTH CAROLINA
OFFICE OF THE ATTORNEY GENERAL
REMBERT C. DENNIS BUILDING
POST OFFICE BOX 11549
COLUMBIA, SOUTH CAROLINA 29211-1549
803-734-3970

ON BEHALF OF DEFENDANT
JUSTIN ELLIOTT WATTS:

HON. TRASI CAMPBELL
BEAUFORT COUNTY PUBLIC DEFENDER
POST OFFICE BOX 525
BEAUFORT, SOUTH CAROLINA 29901-0525
843-225-5805
tcampbell@bcgov.net

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ATTACHMENTS

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EXHIBITS

No exhibits were admitted.

4-9-18 STATE V WATTS

Hearing

1 BEGINNING 11:13 A.M.

2 BY THE COURT:

3 THE COURT: All right. Ms. Campbell, this is your
4 motion to reconsider sentence in this case. Correct me
5 if I'm wrong. Did he plead guilty? Is that correct?

6 MS. CAMPBELL: That is correct.

7 THE COURT: He pled guilty to criminal sexual
8 conduct with a minor, victim ages eleven through
9 fourteen. Second degree, obviously. And criminal
10 sexual solicitation of a minor. It looks like I gave
11 him twenty years and ten years, to run concurrently. Is
12 that correct?

13 MS. CAMPBELL: That is correct.

14 THE COURT: All right. Whenever you're ready, Ms.
15 Campbell.

16 MS. CAMPBELL: Thank you. I believe -- Bethany
17 Miles from the Attorney General's Office is here. She
18 and I worked on this case together. And welcome to her.
19 And I will say for your Honor, unless Ms. Miles has a
20 correction, when we did the plea before your Honor, in
21 my previous discussions with the Attorney General's
22 Office and her statement on the record, she requested a
23 substantial sentence from your Honor on these charges.

24 Some of the reasoning why we're asking you to
25 reconsider your sentence, is that your Honor imposed the

1 maximum sentence on Mr. Watts for both offenses. While
2 having broad latitude in your sentencing, sentenced him
3 to the most that he could possibly receive.

4 THE COURT: Well, it could have been thirty years,
5 because I could have given him consecutive.

6 MS. CAMPBELL: An extremely valid point, your
7 Honor. Thank you.

8 THE COURT: Okay.

9 MS. CAMPBELL: The case itself involved the -- one
10 individual. It wasn't two separate individuals, but
11 just one individual. And so, we're seeking your Honor
12 to consider four factors, because when he pled guilty,
13 we were hopeful that your Honor would consider
14 mitigation.

15 The first article of mitigation that we would
16 submit to your Honor is that he did, in fact, plead
17 guilty; that he spared the State of South Carolina and
18 the young girl in this case. The state the expense.
19 And then, the young girl, who was admittedly involved in
20 numerous relationship relationships with numerous men
21 online, the trauma of a trial. So we feel like that is
22 a mitigating factor that we'd ask your Honor to
23 consider.

24 Also the fact that Mr. Watts, although, you know,
25 being considerably older than this individual, has no

4-9-18 STATE V WATTS

Hearing

1 prior criminal record whatsoever. And so, he's lived a
2 life this side of the law for the majority of his many,
3 many years. Never, you know, going over that line.

4 We submitted to your Honor, thirdly, a report from
5 Dr. Donna Watts that detailed the -- although he's
6 responsible criminally and is competent, although those
7 factors clearly indicated he could validly enter his
8 guilty plea to what he was charged with, he does suffer
9 from a condition of autism Asperger spectrum disorder,
10 which is documented in her report, which we gave to your
11 Honor, which causes him to lack insight into his
12 decision making. It has caused him to have functional
13 vocational difficulty most of his adult life, although
14 he did marry, and they did not have any children, but
15 his wife was here the last time, and she remains
16 supportive of him, but could not be here with us today.

17 And lastly, as I said before, the fourth factor
18 that we would ask your Honor to consider is that the
19 State did not seek the maximum sentence, neither in our
20 negotiations, nor when Ms. Miles, you know, stood before
21 your Honor here a few months ago for the plea and
22 sentence.

23 We'd like to think, for the defense attorney, for
24 my client, for his family, his mother and her husband,
25 who's standing in the back, my client's father, and his

1 sisters are here, that the healthy balance between his
2 guilt, what he did, can be weighed against the
3 mitigation of those four factors to equate a sentence
4 that is less than the maximum sentence.

5 Your Honor, his mother has talked to me and
6 provided me with numerous articles and information on
7 the spectrum disorders, and you know, her heartbreak at
8 the maximum sentence and what she feels like most
9 mothers would, that it's her child, no matter how old
10 they are. And I certainly feel her pain, but the
11 incarceration that he has been suffering, you know, in
12 the last few months has been extremely difficult for him
13 and the family. There have been numerous phone calls; a
14 fear for his safety; he is not functioning well in the
15 Department of Corrections. And while I told the family,
16 it's not like he's going to get a probationary sentence
17 today, that's not going to happen, because honesty to
18 the table every time. But I do think your Honor needs
19 to know that his adjustment there is poor because he
20 suffers from this mental disorder.

21 And again, we would ask the Court to consider a
22 lesser sentence, perhaps split sentence that would place
23 him on some sort of long-term probation, with the
24 requirement that he have mental health counseling to
25 address this difficulty he's had his entire life.

4-9-18 STATE V WATTS

Hearing

1 THE COURT: Ms. Campbell, will he get any of that
2 counseling while he's in the Department of Corrections?

3 MS. CAMPBELL: It's interesting that you say that,
4 your Honor, because that was the second part of my plea,
5 which is, if you would consider not only reducing the
6 sentence to something that factors in those four factors
7 of mitigation, but that would, you know, require the
8 Department of Corrections, because I know we've have a
9 lot of litigation, even in the last several last several
10 years over the lack of care that someone in Justin's
11 situation is receiving, order the Department of
12 Corrections to perform their own assessment to perhaps
13 determine whether or not he is better served at the
14 state hospital, because of the -- it's going to make the
15 condition more severe, the incarceration. And the
16 family has seen that with some sort of delusional
17 thoughts and process that he's going through now that
18 they've explained to me --

19 THE COURT: Well, part of that was evident from
20 what he actually read to me in the --

21 MS. CAMPBELL: Correct, yes.

22 THE COURT: When he was sentenced, he had written
23 out this lengthy -- and he talked about being able to --

24 MS. CAMPBELL: Right, and so, it's -- it really
25 should be addressed. It's not being addressed now, and

1 it's worsening. And if, again, if you could place in
2 your sentencing order that he be evaluated by the state
3 hospital to determine what his needs are and how the
4 Department of Corrections could assist him; and then,
5 again, as I said, factor in those four aspects of
6 mitigation to lessen his sentence at this time.

7 Thank you, your Honor.

8 MS. MILES: May it please the Court, your Honor.
9 The State believes that the sentence was proper. I'm
10 not sure if we've heard a different mitigating
11 circumstances or factors in this case that would warrant
12 a change in the sentencing. I don't disagree that it
13 might be proper that while he's serving that sentence,
14 he get additional mental health counseling.

15 Your Honor, as you're aware, the primary goal of
16 sentencing is protection of the public in society.
17 There's plenty of appropriate objectives: retribution;
18 deterrence, both of the accused; community condemnation;
19 development for respect of the law; more reinforcement;
20 punishment of the offender is also part of that.

21 Your Honor, just because a sentence is high, you
22 know, higher than what they would like, I don't believe
23 it makes it inappropriate. I believe as long as it's
24 within the norms of the sentencing, that you have the
25 broad discretion.

4-9-18 STATE V WATTSHearing

1 Your Honor, the facts in this case, he was thirty-
2 seven years old; the victim was fourteen; he traveled
3 from a different state to come have sex with her; and
4 before that, he had solicited her and exploited her. He
5 knew -- you know, as Ms. Campbell mentioned, this child
6 had mental problems as well, and rather than be an adult
7 and do something about that, he exploited that for his
8 own, you know, personal sexual satisfaction.

9 You know, based on the facts of this case, your
10 Honor, we do believe the sentence is proper, not only as
11 punishment, but for the protection of the public. I
12 spoke with law enforcement. He's in a training. He did
13 believe the sentence was appropriate. The victim's
14 father is here. And if you'll recall, at the time of
15 the plea, he did actually ask for maximum, consecutive
16 sentences. While the State did not, he did feel that
17 that was appropriate, and I believe spoke as to why.

18 Your Honor, we certainly understand there may be
19 mental health issues. We would just like that the
20 sentence still be proper. We believe that it was. If
21 we could add mental health counseling to that, the State
22 would certainly understand that and respect that as
23 well.

24 I don't believe the father wishes to speak.

25 THE COURT: That's all right.

1 MS. CAMPBELL: Thank you, Judge.

2 THE COURT: Thank you, Ms. Campbell. I will say, I
3 did take into account that he didn't have a prior
4 record. Obviously, from the circumstances, I certainly
5 heard your mitigation. Again, I could have given him
6 consecutive sentences in this, so I don't truly believe
7 it was a maximum.

8 I do think there certainly is a health component to
9 this, although you gave me Donna Schwartz Watts' report
10 saying that he was, you know, responsible and totally
11 responsible and informed.

12 I'm going to leave the sentence as it is. I will
13 add that they screen him for mental health counseling.
14 Unfortunately, as we all know, I don't think there's a
15 whole lot of hope. Unfortunately, it's just very, very
16 sad. But I will order that you are screened for mental
17 health counseling, and if they deem appropriate, you
18 receive mental health counseling.

19 Thank you, Ms. Campbell.

20 MS. CAMPBELL: Thank you, Judge.

21 MS. MILES: Thank you, Judge.

END PROCEEDING 11:23 A.M.

4-9-18 STATE V WATTS

CERTIFICATE OF REPORTER

CERTIFICATE OF REPORTER

APRIL 9, 2018 TRANSCRIPT OF TRIAL

STATE OF SOUTH CAROLINA

COUNTY OF BEAUFORT

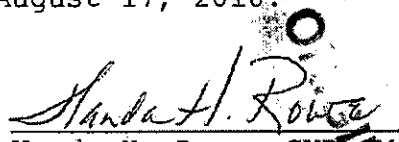
I, Wanda H. Rowe, Official Court Reporter for the State of South Carolina, do hereby certify that the foregoing April 9, 2018 Transcript of Trial is a true, accurate, and complete record of the proceedings had on said date, in the case of State of South Carolina versus Justin Elliott Watts, Beaufort County, Court of Common Pleas, Case Numbers 2017-GS-07-00075 and 2017-GS-07-00076; that no exhibits were admitted; that I am of neither kin, counsel, nor interest to any party hereto.

This Certificate of Reporter is attached to the original of this transcript requested by SCCID.

Pursuant to SCACR 607, requests for copies of this transcript must be made to the court reporter.

Unauthorized copying/emailing is prohibited.

Witness my signature August 17, 2018.


Wanda H. Rowe, CVR-M
Official Court Reporter

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM BEAUFORT COUNTY
Court of General Sessions

2018 APR 11 AM 10:39
JERRI ANN ROSENEAU
BEAUFORT COUNTY, S.C.
CLERK OF COURT

The Honorable Carmen T. Mullen, Circuit Court Judge

Case Nos. 2017-GS-07-00075 and 2017-GS-07-00076

STATE OF SOUTH CAROLINA,

Respondent,

v.

JUSTIN ELLIOTT WATTS,

Appellant.

NOTICE OF APPEAL

RECEIVED

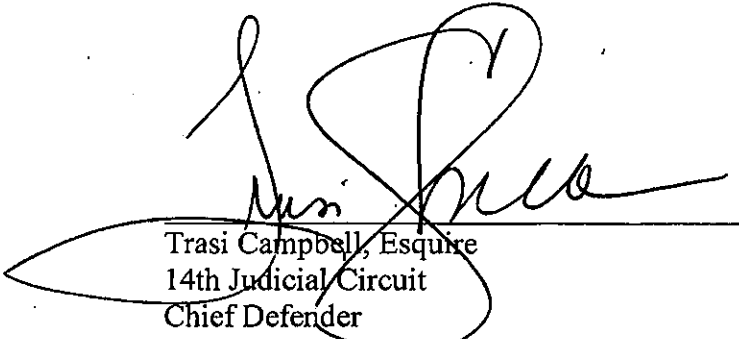
APR 17 2018

SC Court of Appeals

Justin Elliott Watts, appeals from his conviction and sentence before the Honorable Carmen T. Mullen. Defendant entered a guilty plea on February 12, 2018 and was sentenced that day. Defendant timely filed his Motion to Reconsider Sentence on February 16, 2018 which was heard on April 9, 2018. The Court did not change Defendant's sentence on April 9, 2018. Defendant appeals his guilty plea, his sentence and the denial of his Motion to Reconsider Sentence and all other matters related to this matter and conviction before the Honorable Carmen T. Mullen.

[SIGNATURE PAGE TO FOLLOW]

April 11, 2018



Trasi Campbell, Esquire
14th Judicial Circuit
Chief Defender
Violent Crimes Division
P.O. Box 525
Beaufort, SC 29901
(843) 255-5808
Attorney for Appellant

Other Counsel of Record:
Bethany Miles, Esquire
Assistant Attorney General
Post Office Box 11549
Columbia, South Carolina 29211
Attorney for Respondent

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM BEAUFORT COUNTY
Court of General Sessions

2018 APR 11 AM 10:39

JERRI ANN ROSENEAU
BEAUFORT COUNTY, S.C.
CLERK OF COURT

The Honorable Carmen T. Mullen, Circuit Court Judge

Case Nos. 2017-GS-07-00075 and 2017-GS-07-00076

STATE OF SOUTH CAROLINA,

Respondent,

v.

JUSTIN ELLIOTT WATTS,

Appellant.

RECEIVED

APR 17 2018

SC Court of Appeals

PROOF OF SERVICE

I certify that I have served the Notice of Appeal on Respondent by depositing a copy of it in the United States Mail, postage prepaid, on April 11, 2018, addressed to Respondent's attorney of record, Bethany Miles, Esq., Post Office Box 11549, Columbia, South Carolina 29211.

I further certify that on April 11, 2018 an Original Notice of Intent to Appeal in the above captioned case was filed with the Beaufort County Clerk of Court and an original Notice of Intent to Appeal in the above captioned case was served on the Clerk of Court, SC Court of Appeals, P.O. Box 11629, Columbia, SC by depositing same in the United States Post Office with the proper postage prepaid.

Sworn to and subscribed before me

This 11th day of April, 2018

Notary Public for South Carolina

My Commission Expires: June 26, 2026

Trasi Campbell, Esquire

14th Judicial Circuit

Chief Defender

Violent Crimes Division

Attorney for Appellant

AFFIDAVIT OF THOMASINE CAMPBELL

1. My name is Thomasine Campbell and I am a licensed attorney for the State of South Carolina. My South Carolina bar number is 15149.
2. I am the 14th Judicial Circuit Chief Defender Violent Crimes Division.
3. I am filing this appeal upon the request of my client, Justin Watts.
4. I am not aware of any reviewable appellate issues as a result of this guilty plea but the sentencing portion of this guilty plea may be an issue for appeal. I believe there may be an appellate issue with regard to the Court failing to properly apply mitigation factors to the sentence in this case. So, at the request of appellant and due to my concerns regarding the sentencing portion of this guilty plea, I am filing this appeal.
5. Specifically, Mr. Watts is concerned that he received the maximum sentence on both indictments and that the Court did not review appropriately his mitigation factors which he felt should have resulted in a sentence less than the maximum.
6. Furthermore, Mr. Watts was provided a hearing on his Motion to Reconsider Sentence and the Court heard argument from the Defendant's attorney and the State of South Carolina and determined that the Court would not amend the sentence in terms of the imposition of the maximum sentence for each indictment.

SWORN to and subscribed before me

this 11 day of April 2018

Notary Public for South Carolina

My Commission expires on: June 26, 2026

Thomasine Campbell

SOUTH CAROLINA COURT OF APPEALS

P.O. BOX 11629

COLUMBIA, SC 29211

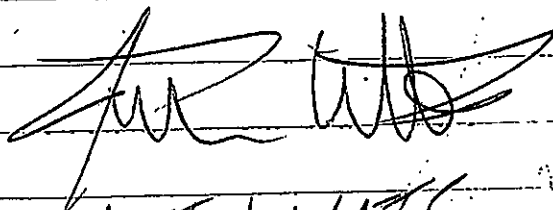
RECEIVED

MAY 16 2018

5/11/18

SC Court of Appeals

I'M WRITING TO APPEAL MY CASE ON THE GROUNDS THAT JUDGE MULLINS WAS BIASED AGAINST ME DUE TO THE FACT HER DAUGHTER HAD BEEN RAPED LONG BEFORE MY CASE. MY LAWYER WAS INEFFICIENT COUNSEL BECAUSE SHE KNEW THIS, AND HAD BEEN GIVEN THE PLEA OFFER I WAS GIVEN BEFORE GOING BEFORE THE JUDGE, BACK IN OCTOBER LAST YEAR, YET WAITED UNTIL JUDGE MULLINS WAS THE JUDGE I HAD TO GO IN FRONT OF, AND THAT I HAD TO TAKE A LAST SECOND "MODIFIED PLEA" WHICH I ENDED UP TAKING. IT IS FOR THESE AND OTHER REASONS I AM APPEALING MY SENTENCE.



JUSTIN WATTS

5/11/18

RECEIVED
MAY 16 2018

CLERK OF COURT
JULIA W. WATTS



Division of Appellate Defense
 1330 Lady Street, Suite 401
 Columbia, South Carolina 29201-3332
 Post Office Box 11589
 Columbia, South Carolina 29211-1589
 Telephone: (803) 734-1330
 Facsimile: (803) 734-1397

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

May 1, 2019

The Honorable Jenny Abbott Kitchings
 Clerk, S.C. Court of Appeals
 Post Office Box 11629
 Columbia, South Carolina 29211

RECEIVED
 MAY 01 2019
 SC Court of Appeals

Re: State v. Justin Elliott Watts - Appellate Case No. 2018-000708

Dear Ms. Kitchings:

Mr. Watts has decided to drop his appeal, as evidenced by the enclosed affidavit. I am fully satisfied that Mr. Watts understands the disadvantages of dropping his appeal, and everything that he is waiving.

I respectfully request that this Court issue an order dismissing Mr. Watt's appeal. By copy of this letter, I am informing opposing counsel, J. Benjamin Aplin, of my client's decision.

Thank you for your assistance in this matter. If the Court requires any further information or has any questions, please do not hesitate to contact me.

Sincerely,

Robert M. Dudek
 Chief Appellate Defender

RMD/cp

cc: J. Benjamin Aplin, Esq.
 Justin Elliott Watts #375425

STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT

THE STATE,

RESPONDENT,

v.

JUSTIN ELLIOTT WATTS,

APPELLANT,

IN THE SOUTH CAROLINA
COURT OF APPEALS

APPELLATE CASE NO.: 2018-000708

AFFIDAVIT

RECEIVED
MAY 01 2019
SC Court of Appeals

PERSONALLY appeared before me, Justin Elliott Watts, who being duly sworn, deposes and says:

1. I am the appellant in the above-captioned case.
2. I understand that I am entitled to an appeal of my conviction, and that, because I am indigent, I am entitled to the assistance of an attorney from the South Carolina Office of Appellate Defense.
3. In light of the risks which have been explained to me, it is my desire that the South Carolina Office of Appellate Defense not file a brief on my behalf and to drop my appeal.
5. I have made this decision on my own, with a full understanding of all the possible consequences of this action.
4. I do not wish to appeal.

SWORN TO before me this 26th
day of April, 2019.

Jennifer Abbott (L.S.)

Notary Public for South Carolina

My Commission Expires: March 2, 2020

Justin Elliott Watts

RMD

The South Carolina Court of Appeals

The State, Respondent,

v.

Justin Elliott Watts, Appellant.

Appellate Case No. 2018-000708

The Honorable Carmen T. Mullen
Beaufort County

Trial Court Case No. 2017GS0700075, 2017GS0700076

ORDER

It appears that Appellant, with full understanding of all possible consequences of this action and with agreement of counsel, wishes to withdraw and dismiss this matter. Accordingly, this matter is dismissed. The remittitur will be sent as provided by Rule 221(b) of the South Carolina Appellate Court Rules.

FOR THE COURT

BY V. Claire Allen, Deputy
CLERK

Columbia, South Carolina

cc:

Justin Elliott Watts, 00375425
Robert Michael Dudek, Esquire
Alan McCrory Wilson, Esquire
John Benjamin Aplin, Esquire

FILED

May 6, 2019



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1220 SENATE STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
www.sccourts.org

May 23, 2019

The Honorable Jerri Ann Roseneau
PO Box 1128
Beaufort SC 29901-1128

REMITTITUR

Re: The State v. Justin E. Watts
Lower Court Case No. 2017GS0700075, 2017GS0700076
Appellate Case No. 2018-000708

Dear Clerk of Court:

The above referenced matter is hereby remitted to the lower court or tribunal. A copy of the judgment of this Court is enclosed.

Very truly yours,

V. Claire Allen, Deputy

CLERK

Enclosure

cc: Justin Elliott Watts, 00375425
Robert Michael Dudek, Esquire
Alan McCrory Wilson, Esquire
John Benjamin Aplin, Esquire

STATE OF SOUTH CAROLINA

County of Beaufort

In the Court of Common Pleas

Justin Watts

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

vs.

State of South Carolina

Name of Respondent.

2018 CP-07-1676APPLICATION FOR
POST-CONVICTION RELIEFINSTRUCTIONS — 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 it clear to which question any such continued answer refers.

Since every application must be sworn to 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 applicant was convicted.

1. Place of detention BROAD RIVER C.I. 4460 Broad River Rd.
Columbia, S.C. 29210
2. Name and location of Court which imposed sentence Beaufort County Court of
General Sessions
3. The indictment number or numbers (if known) upon which and the offense or offenses for which sentence was imposed:
 - (a) 2017-GS-07-00075 (CSG) Criminal Sexual Conduct 2nd with a
 - (b) 2017-GS-07-00076 Criminal Solicitation of a minor
 - (c) _____
4. The date upon which sentence was imposed and the terms of the sentence:
 - (a) Feb. 12, 2018 (CSG) Criminal Sexual Conduct 2nd with
 - (b) a minor, 20 yrs. concurrent to Solicitation of
 - (c) a minor 10 years

5. Check whether a finding of guilty was made

(a) after a plea of guilty X

(b) after a plea of not guilty _____

(c) after a plea of nolo contendere _____

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

yes

7. If you answered "yes" to (6), list

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

i. _____

ii. _____

iii. _____

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

i. _____

ii. _____

iii. _____

(c) the date of each such result:

i. _____

ii. _____

iii. _____

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

i. _____

ii. _____

iii. _____

8. If you answered "no" to (6), state your reasons for not so appealing:

(a) _____

(b) _____

(c) _____

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

(a) Ineffective Assistance of Counsel

(b) _____

(c) _____

10. State concisely and in the same order the facts which support each of the grounds set out in (9):

(a) _____

(b) See Attached Copies

(c) _____

11. Prior to this application have you filed with respect to this conviction

- (a) any petition in a State Court under South Carolina Law? N/A
- (b) any petitions in State or Federal Courts for habeas corpus or post-convictions relief? N/A
- (c) any petitions in the United States Supreme Court for certiorari other than petitions, if any, already specified in (7)? N/A
- (d) any other petitions, motions or applications in this or any other Court? N/A

12. If you answered "yes" to any part of (11), list with respect to each petition, motion or application:

(a) the specific nature thereof:

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

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

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

(c) the disposition thereof:

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

(d) the date of each such disposition:

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

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

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

13. Has any ground set forth in (9) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

none

14. If you answered "yes" to (13), identify:

(a) which grounds have been presented:

- i. _____
- ii. None
- iii. _____

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

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

15. If any ground set forth in (9) 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) _____
- (b) _____
- (c) _____

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

- (a) your arraignment and plea? Trasi Campbell Esq.
- (b) your trial, if any? _____
- (c) your sentencing? Trasi Campbell Esq.
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? _____
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? _____

17. If you answered "yes" to one or more parts of (16), list:

(a) the name and address of each attorney who represented you

- i. Trasi Campbell Esq. 14th Judicial Circuit Human
Services Building 1905 Duke St. Room 210
- ii. Beaufort, SC 29902
- iii. _____

(b) the proceedings at which each such attorney represented you:

- i. all
- ii. _____
- iii. _____

18. State clearly the relief you seek in filing this application.

Sentence reconsideration
reduction to the original deal

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

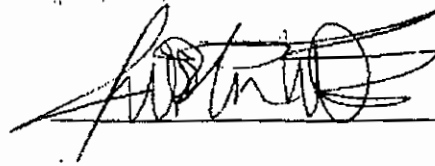
N/A

STATE OF SOUTH CAROLINA

County of Beaufort

VERIFICATION

I, Justin Watts, 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.



SWORN to and subscribed before me this _____

day of _____, 19 ____.

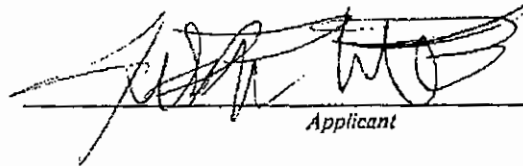
Notary Public (L.S.)

My Commission Expires: _____

**APPLICATION TO PROCEED WITHOUT PREPAYMENT
OF COSTS AND AFFIDAVIT
IN SUPPORT THEREOF**

I, Justin Watts, 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 therefor.



Applicant

SWORN or affirmed to and subscribed before me this

_____ day of _____, 19 ____

Notary Public

My Commission Expires _____

AFFIDAVIT OF THOMASINE CAMPBELL

1. My name is Thomasine Campbell and I am a licensed attorney for the State of South Carolina. My South Carolina bar number is 15149.
2. I am the 14th Judicial Circuit Chief Defender Violent Crimes Division.
3. I am filing this appeal upon the request of my client, Justin Watts.
4. I am not aware of any reviewable appellate issues as a result of this guilty plea but the sentencing portion of this guilty plea may be an issue for appeal. I believe there may be an appellate issue with regard to the Court failing to properly apply mitigation factors to the sentence in this case. So, at the request of appellant and due to my concerns regarding the sentencing portion of this guilty plea, I am filing this appeal.
5. Specifically, Mr. Watts is concerned that he received the maximum sentence on both indictments and that the Court did not review appropriately his mitigation factors which he felt should have resulted in a sentence less than the maximum.
6. Furthermore, Mr. Watts was provided a hearing on his Motion to Reconsider Sentence and the Court heard argument from the Defendant's attorney and the State of South Carolina and determined that the Court would not amend the sentence in terms of the imposition of the maximum sentence for each indictment.

SWORN to and subscribed before me

this 11 day of April 2018

Notary Public for South Carolina

My Commission expires on: June 26, 2026

Thomasine Campbell

1 of 4

STATEMENT OF THE CASE

ON JANUARY 5TH 2017 I WAS ARRESTED & BOOKED INTO CHATHAM COUNTY JAIL & HELD FOR BEAUFORT COUNTY. ON JANUARY 11TH 2017 BEAUFORT COUNTY PICKED ME UP & BOOKED ME INTO BEAUFORT COUNTY JAIL FOR CRIMINAL SEXUAL CONDUCT WITH A MINOR SECOND DEGREE, CRIMINAL SOLICITATION OF A MINOR, & EXPLOITATION OF A MINOR. AND WITHOUT ANY PRIOR RECORD, I WAS DENIED BOND, & HELD 400 DAYS WITHOUT INDICTMENTS BY THE GRAND JURY. MRS. THOMASINE CAMPBELL, FROM THE 14TH JUDICIAL CIRCUIT'S PUBLIC DEFENDERS OFFICE WAS ASSIGNED TO REPRESENT ME. AS MY ATTORNEY, I SAW HER ABOUT 5 OR 6 TIMES OUT OF THE 400 DAYS THAT I WAS AT BEAUFORT COUNTY JAIL. ON THE 5TH OR 6TH VISIT, MY ATTORNEY SAID WE HAVE A DEAL. I WOULD AGREE TO PLEAD GUILTY TO SOLICITATION OF A MINOR & WAIVE MY RIGHT TO THE GRAND JURY, & THAT I WOULD BE SENTENCED TO 0-10 YEARS. BUT WHEN I WENT TO COURT ON FEB 12TH 2018, I WAS TOLD THE DEAL HAD CHANGED FROM ONLY SOLICITATION OF A MINOR, & THAT I, IN ORDER TO AVOID GOING TO TRIAL, & AS MY ONLY PLEA DEAL, HAD TO PLEAD GUILTY TO SOLICITATION OF A MINOR AND CRIMINAL SEXUAL CONDUCT WITH A MINOR SECOND DEGREE, AND THAT IF I DID NOT TAKE THIS PLEA OFFER, I WAS GOING TO GO TO ~~COURT~~ TRIAL. SO I SIGNED THE WAIVER OF THE GRAND JURY, WITHOUT REALIZING WHAT I WAS DOING, AND PLEAD GUILTY TO CRIMINAL SEXUAL CONDUCT WITH A MINOR SECOND DEGREE, 0-20 YEARS, & SOLICITATION OF A MINOR 0-10 YEARS, AND WAS GIVEN 20 YEARS.

TO ESTABLISH A CLAIM THAT COUNSEL WAS INEFFECTIVE, A DEFENDANT MUST SHOW THAT ① COUNSEL'S REPRESENTATION FELL

2 of 4

BELOW AN OBJECTIVE STANDARD OF REASONABLENESS AND (2) BUT FOR COUNSEL'S ERRORS, THERE IS A REASONABLE PROBABILITY THAT THE OUTCOME OF THE TRIAL WOULD HAVE BEEN DIFFERENT.

REASONABLE PROBABILITY IS A PROBABILITY SUFFICIENT TO UNDERMINE CONFIDENCE IN THE OUTCOME OF THE TRIAL. AND UNDER THE SOUTH CAROLINA RULES OF COURT RULE 1.1 COMPETENCE

A LAWYER SHALL PROVIDE COMPETENT REPRESENTATION TO A CLIENT. COMPETENT REPRESENTATION REQUIRES THE LEGAL KNOWLEDGE, SKILL, THOROUGHNESS & PREPARATION REASONABLY NECESSARY FOR THE REPRESENTATION.

RULE 2.1 ADVISOR

IN REPRESENTING A CLIENT, A LAWYER SHALL EXERCISE INDEPENDANT PROFESSIONAL JUDGEMENT AND RENDER CANDID ADVISE. A LAWYER MAY REFER NOT ONLY TO LAW, BUT TO OTHER CONSIDERATIONS SUCH AS MORAL, ECONOMICAL, SOCIAL & POLITICAL FACTORS THAT MAY BE RELEVANT TO THE CLIENT'S SITUATION.

RULE 1.3 DILIGENCE

A LAWYER SHALL ACT WITH REASONABLE DILIGENCE AND PROMPTNESS IN REPRESENTING A CLIENT.

RULE 3.2 EXPEDITING LITIGATION

A LAWYER SHALL MAKE REASONABLE EFFORTS TO EXPEDITE LITIGATION CONSISTANT WITH THE INTERESTS OF THE CLIENT.

3E 1.1 ACCEPTANCE OF RESPONSIBILITY

(A) IF THE DEFENDANT CLEARLY DEMONSTRATES ACCEPTANCE OF RESPONSIBILITY FOR HIS OFFENSE, DECREASE THE OFFENSE

3 of 4

LEVEL BY TWO LEVELS

(B) IF THE DEFENDANT QUALIFIES FOR A DECREASE UNDER SUBSECTION (A) THE OFFENSE LEVEL DETERMINED PRIOR TO THE OPERATION OF SUBSECTION (A) IS LEVEL 16 OR GREATER, AND UPON MOTION OF THE GOVERNMENT STATING THAT THE DEFENDANT WAS ASSISTED AUTHORITIES IN THE INVESTIGATION OR PROSECUTION OF HIS OWN MISCONDUCT BY TIMELY NOTIFYING AUTHORITIES OF HIS INTENTION TO ENTER A PLEA OF GUILTY, THEREBY PERMITTING THE GOVERNMENT TO AVOID PREPARING FOR TRIAL AND PERMITTING THE GOVERNMENT AND THE COURT TO ALLOCATE THEIR RESOURCES EFFICIENTLY, DECREASE THE OFFENSE LEVEL BY 1 ADDITIONAL LEVEL.

APPLICATION NOTES

(1) IN DETERMINING WHETHER THE CONDUCT COMPRISING THE OFFENSE(S) OF CONVICTION, AND TRUTHFULLY ADMITTING OR NOT FALSELY DENYING ANY ADDITIONAL RELEVANT CONDUCT FOR WHICH THE DEFENDANT IS ACCOUNTABLE UNDER 1B1.3 (RELEVANT CONDUCT) NO TO THAT A DEFENDANT IS NOT REQUIRED TO VOLUNTEER, OR AFFIRMATIVELY ADMIT RELEVANT CONDUCT BEYOND THE OFFENSES OF CONVICTION WITHOUT AFFECTING HIS ABILITY TO OBTAIN A REDUCTION UNDER SUBSECTION, HOWEVER, A DEFENDANT WHO FALSELY DENIES, OR FRIVOLOUSLY CONTESTS, RELEVANT CONDUCT THAT THE COURT DETERMINES TO BE TRUE HAS ACTED IN A MANNER INCONSISTANT WITH ACCEPTANCE OF RESPONSIBILITY.

4 of 4

IN CLOSING

YOU CAN SEE THAT I HAVE ESTABLISHED THROUGH THE SOUTH CAROLINA RULES OF COURT I HAVE PROVEN THAT THE DEFENSE ATTORNEY FELL BELOW THE PROFESSIONAL NORM.

STATE OF SOUTH CAROLINA)

County of BEAUFORT)JUSTIN WATTS 375425)

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

v.)

State of South Carolina)

2019-CP-07-1367
IN THE COURT OF COMMON PLEASAPPLICATION FOR
POST-CONVICTION RELIEF2019 JUN 10 PM 12:58
CLERK OF COURT
BEAUFORT 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 BROAD RIVER CORRECTIONAL INSTITUTION
2. Name and location of Court which imposed sentence BEAUFORT COUNTY
3. Name(s) of co-defendant(s) (if any) NONE
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 17GS0700075
 - (b) 17GS0700076

- (c) _____
5. The date upon which sentence was imposed and the terms of the sentence:
- (a) FEBRUARY 12 '18
- (b) SOLICITATION OF A MINOR & CSC 2ND DEGREE
- (c) 20 YEARS
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty YES
- (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
8. If you answered "yes" to (7), list:
- (a) the name of each Court to which you appealed:
- i. _____
- ii. _____
- iii. _____
- (b) the result in each such Court to which you appealed:
- i. _____
- ii. _____
- iii. _____
- (c) the date of each such result:
- i. _____
- ii. _____
- iii. _____
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. _____
- ii. _____
- iii. _____
9. If you answered "no" to (7), state your reasons for not so appealing:
- (a) I WAS TOLD TO GO STRAIGHT TO P.C.R. BECAUSE APPEALING WAS A WASTE OF TIME.
- (b) _____

- (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:
- (a) I WAS OFFERED ONE PLEA DEAL, 10 YEARS, 5 SUSPENDED, 5 YEARS
 (b) NON VIOLENT, 5 YEARS PROBATION, BUT AT THE LAST MINUTE WAS TOLD I
 (c) HAD TO TAKE THE DEAL I TOOK, OR GO TO TRIAL, SO I TOOK THIS & GOT GIVEN 20 YEARS
11. State concisely and in the same order the facts which support each of the grounds set out in (10):
- (a) ORIGINALLY I WAS OFFERED A PLEA DEAL OF SOLICITATION, 10 YEARS, 5 SUSPENDED
 (b) 5 YEARS NON VIOLENT, 5 YEARS PROBATION, BUT THEN MY LAWYER CHANGED THE
 (c) PLEA TO WHAT I GOT, & TOLD ME I HAD TO TAKE THIS DEAL OR GO TO TRIAL, & GOT GIVEN 20 YEARS.
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. _____
 ii. _____
 iii. _____
 iv. _____
- (b) the name and location of the Court in which each was filed:
- i. _____
 ii. _____
 iii. _____
 iv. _____

(c) the disposition thereof:

- i. _____
- ii. _____
- iii. _____
- iv. _____

(d) the date of each such disposition:

- i. _____
- ii. _____
- iii. _____
- iv. _____

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

- i. _____
- 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

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

(a) which grounds have been presented:

- i. _____
- ii. _____
- iii. _____

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

- i. _____
- 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) IT WAS PRESENTED IN BEAUFORT COUNTY COURT WHEN I GOT SENTENCED
 (b) THAT I WAS OFFERED ONE PLEA DEAL, & MADE TO ACCEPT THE ONE I WAS
 (c) GIVEN.

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

- (a) your arraignment and plea? YES
 (b) your trial, if any? _____
 (c) your sentencing? YES
 (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? _____
 (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed?

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. TRASI CAMPBELL
1905 DUKE ST BEAUFORT S.C. 29901

- ii. _____

- iii. _____

- (b) the proceedings at which each such attorney represented you:

- i. BEAUFORT COUNTY COURT

- ii. _____

- iii. _____

19. State clearly the relief you seek in filing this application:

TIME REDUCTION OR TIME SERVED AND OR
PROBATION/PAROLE

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

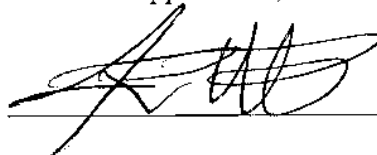
NO

STATE OF SOUTH CAROLINA)

County of BEAUFORT)

VERIFICATION

I, JUSTIN WATTS, 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.



SWORN to and subscribed before me this 24th
 day of May, 2019.

Jennifer Washington (L.S.)
 Notary Public

My Commission Expires: March 8, 2028

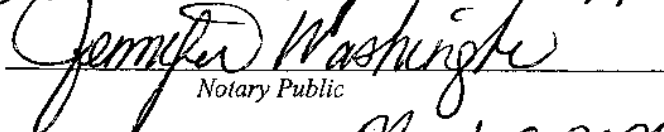
**APPLICATION TO PROCEED WITHOUT PAYMENT
OF COSTS AND AFFIDAVIT
IN SUPPORT THEREOF**

I, JUSTIN WATTS, 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.


Applicant

SWORN or affirmed to and subscribed before me this
24th day of May, 2019.


Notary Public

My Commission Expires: March 8, 2028

STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT

Justin Watts, #375425,

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS
FOR THE FOURTEENTH JUDICIAL CIRCUIT

2018-CP-07-1675 & 2019-CP-07-1367

**AMENDED RETURN AND MOTION FOR
MERGER**

Respondent, making its return to the applications for post-conviction relief filed by Applicant, Justin Watts, on August 21, 2018 and June 10, 2019, would respectfully show this Court:

I. PROCEDURAL FACTUAL HISTORY

Applicant is currently confined in the South Carolina Department of Corrections pursuant to orders of the Beaufort County Clerk of Court. Applicant was originally charged in Beaufort County with Sexual Exploitation of a Minor First Degree, Criminal Sexual Conduct with a Minor Second Degree, and Criminal Solicitation of a Minor. Applicant ultimately waived presentment to the Beaufort County Grand Jury and plead to Criminal Solicitation of a Minor (2017-GS-07-00076) and Criminal Sexual Conduct with a Minor Second Degree (2017-GS-07-00075). Applicant was represented on those charges by Trasi Campbell, Fourteenth Circuit Chief Public Defender. Bethany Bedenbaugh of the Office of the Attorney General prosecuted the case.

On February 12, 2018, Applicant plead guilty before the Honorable Carmen T. Mullen, Circuit Court Judge. Applicant plead guilty to Criminal Solicitation of a Minor and Criminal Sexual Conduct with a Minor Second Degree with no recommendation other than that there be a

substantial active sentence. Judge Mullen sentenced Applicant to twenty years for Criminal Sexual Conduct with a Minor Second Degree and ten years for Criminal Solicitation of a Minor. Applicant's sentences were ordered to run concurrently and credit be given for 396 days time served.

Applicant filed a timely notice of appeal. Robert Dudek, Chief Appellate Defender at the Office of Indigent Defense represented Applicant on appeal. Applicant subsequently withdrew his appeal. The Court of Appeals issued an order dismissing the matter on May 6, 2019 and the Remittitur was issued on May 23, 2019.

II. PCR APPLICATION

Applicant has filed two PCR applications stemming from the same charges and plea. The first application was filed on August 21, 2018 during the pendency of his direct appeal and the second was filed on June 10, 2019. The State will consider the second application an amendment to the first and subsequently moves to merge the cases under the case number for the first application (2018-CP-07-1675). In his first application for relief, applicant alleges he is being held in custody unlawfully for reasons enumerated in attached documents, the State interprets the sole allegation to be that of an involuntary guilty plea. In his amended application for relief, Applicant alleges he is being held in custody unlawfully for the following reasons:

1. "I was offered one plead deal, 10 years, 5 suspended, 5 years non-violent, 5 years probation, but at the last minute was told I had to take the deal I took or go to trial, so I took this and got given 20 years."

Applicant requests as relief the following: "Time reduction or time served and or probation/parole."

III. INEFFECTIVE ASSISTANCE OF COUNSEL

Applicant alleges in his application for relief that counsel was ineffective for failing to investigate the facts of the case. However, Applicant has failed to provide any additional details or sufficient facts regarding what, specifically, counsel failed to investigate to support this allegation as required. Accordingly, it is impossible for Respondent to reply with specificity and requests that Applicant, through counsel, provide a more definite statement of the allegation on which Applicant intends to proceed forward. In a post-conviction relief action, an applicant has the burden of proving the allegations in his application. Rule 71.1(e), SCRCP; *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, the applicant must prove "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 (1984); *Butler*, 286 S.C. at 442, 334 S.E.2d at 814.

In order to prevail on a claim of ineffective assistance of counsel, an applicant must present evidence to satisfy the two prong test enumerated in *Strickland v. Washington*[466 U.S. 668, 687, 104 S.Ct. 2052, 2064, 80 L.Ed.2d 674 (1984)] to determine whether plea counsel's "assistance was so defective as to require a reversal of" Applicant's sentence. First, the applicant must prove counsel's performance was deficient; and second, the applicant must show they were prejudiced by that deficiency. *State v. Stalk*, 383 S.C. 559, 560-61, 681 S.E.2d 592, 594 (2009) (citing *Hill v. Lockhart*, 474 U.S. 52, 106 S.Ct. 366, 88 L.Ed.2d 203 (1985)) (extending the Court's two prong *Strickland* test to apply to guilty pleas).

In order to prove deficient performance under the first prong of *Strickland*, the burden is on applicant to show that plea counsel's representation fell below an objective standard of reasonableness. *Strickland*, 466 U.S. at 687-88, 104 S.Ct. at 2064. The proper measure of attorney

performance remains simply reasonableness under prevailing professional norms. *Id.* In considering whether counsel's performance was reasonable:

Judicial scrutiny of counsel's performance must be highly deferential, as it is all too tempting for a defendant to second-guess counsel's assistance after conviction or an adverse sentence, and it is all too easy for a court, examining counsel's defense after it has proved unsuccessful, to conclude that a particular act or omission of counsel was unreasonable.... A fair assessment of attorney performance requires that every effort be made to eliminate the distorting effects of hindsight.

Strickland, 466 U.S. at 689, 104 S.Ct. at 2065; *Edwards v. State*, 392 S.C. 449, 456-57, 710 S.E.2d 60, 64 (2011).

"[W]hen counsel articulates a valid reason for employing a certain strategy, such conduct will not be deemed ineffective assistance of counsel." *Smith v. State*, 386 S.C. 562, 567, 689 S.E.2d 629, 632 (2010) (citing *Caprood v. State*, 338 S.C. 103, 110, 525 S.E.2d 514, 517 (2000)). "[C]ounsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment." *Butler*, 286 S.C. at 442, 334 S.E.2d at 814 (quoting *Strickland*, 466 U.S. at 690, 104 S.Ct. at 2066). The applicant must overcome this presumption to receive relief. *Cherry v. State*, 300 S.C. 115, 118, 386 S.E.2d 624, 625 (1989).

Even if the applicant can establish that counsel's performance was deficient, they must still overcome their burden to demonstrate prejudice from that deficiency. The second prong of *Strickland* requires the applicant to prove that counsel's deficient performance prejudiced applicant to the extent that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceedings would have been different." *Cherry*, 300 S.C., at 117-18, 386 S.E.2d, at 625 (citing *Strickland*, 466 U.S., at 694, 104 S.Ct., at 2068).

Respondent submits Applicant cannot satisfy neither requirement of the *Strickland* test. Applicant has failed to present any evidence to show any error on behalf of counsel. Applicant's

assertion that counsel failed to investigate the facts of the case does not meet the standards enumerated in *Strickland*. However, the allegation of ineffective assistance of counsel probably raises questions of fact that the record does not conclusively refute. Accordingly, Respondent requests an evidentiary hearing to fully resolve this issue. See *Sharper v. State*, 279 S.C. 264, 305 S.E.2d 247 (1983).

IV. INVOLUNTARY GUILTY PLEA

Applicant also asserts his plea was involuntary. In PCR cases, an applicant asserting a constitutional violation must frame the issue as one of ineffective assistance of counsel. Al-Shabazz v. State, 338 S.C. 354, 363-64, 527 S.E.2d 742, 747 (2000) (citations omitted). An applicant who pleads guilty on the advice of counsel may collaterally attack the plea only by showing (1) counsel was ineffective and (2) there is a reasonable probability that but for counsel's errors, the defendant would not have pled guilty and would have insisted on going to trial. Roscoe v. State, 345 S.C. 16, 20, 546 S.E.2d 417, 419 (2001). An applicant alleging his guilty plea was induced by ineffective assistance of counsel must prove counsel's advice was not "within the competence demanded of attorneys in criminal cases." Hill v. Lockhart, 474 U.S. 52, 56 (1985). Further, "[t]hat a guilty plea must be intelligently made is not a requirement that all advice offered by the defendant's lawyer withstand retrospective examination in a post-conviction hearing." McMann v. Richardson, 397 U.S. 759, 770 (1970). Rather, "whether a plea of guilty is unintelligent . . . depends as an initial matter, not on whether a court would retrospectively consider counsel's advice to be right or wrong, but on whether that advice was within the range of competence demanded of attorneys in criminal cases." Id. at 771.

The record must establish the defendant had a full understanding of the consequences of his plea and the charges against him. Dalton v. State, 376 S.C. 130, 138, 654 S.E.2d 870, 874 (Ct.

App. 2007) (citing Boykin v. Alabama, 395 U.S. 238, 242 (1969)). A defendant's knowing and voluntary waiver of statutory or constitutional rights must be established by a complete record, and "may be accomplished by colloquy between the court and defendant, between the court and defendant's counsel, or both." Roddy v. State, 339 S.C. 29, 34, 528 S.E.2d 418, 421 (2000) (citing State v. Ray, 310 S.C. 431, 437, 427 S.E.2d 171, 174 (1993)). Further, "[a] guilty plea is a solemn, judicial admission of the truth of the charges" against the applicant; thus, a criminal inmate's right to contest the validity of such a plea is usually, but not invariably, foreclosed. Dalton, at 137–38, 654 S.E.2d at 874 (citing Blackledge v. Allison, 431 U.S. 63 (1977)). Therefore, admissions "made during a guilty plea should be considered conclusive unless [an applicant] presents valid reasons why he should be allowed to depart from the truth of his statements." Id. (citing Crawford v. United States, 519 F.2d 347 (4th Cir. 1975); Edmonds v. Lewis, 546 F.2d 566 (4th Cir. 1976)). "In considering an allegation on PCR that a guilty plea was based on inaccurate advice of counsel, the transcript of the guilty plea hearing will be considered to determine whether any possible error by counsel was cured by the information conveyed at the plea hearing." Id. at 138–39, 654 S.E.2d at 874 (citing Wolfe v. State, 326 S.C. 158, 165, 485 S.E.2d 367, 370 (1997)).

Respondent submits the record fully supports the knowing and voluntary nature of Applicant's plea. However, allegations regarding the voluntariness of the plea may raise a question of fact that is not conclusively refuted by the record. Accordingly, Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

V. MOTION FOR A MORE DEFINITE STATEMENT

Respondent also hereby moves for a more definite statement. Applicant has failed to set forth any facts to "support each ground" or to explain with any specificity whatsoever the facts upon

which his claims are based. 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 (1985) (emphasis added). Respondent respectfully submits that it is incumbent upon Applicant, through counsel, to amend his application to set forth specific facts upon which his allegations are based so that Respondent may adequately prepare for an evidentiary hearing. Therefore, Respondent requests that Applicant be required to amend his application to set forth specifically the grounds on which his claims are based.

VI. MOTION FOR MERGER

The applicant in the above-captioned matter has filed two applications for post-conviction relief, one on August 21, 2018, and a second on June 10, 2019 (2018-CP-07-1675 & 2019-CP-07-1367). Since an applicant is not generally allowed to have two post-conviction relief proceedings in regard to the same conviction (See *Aice v. State*, 305 S.C. 448, 409 S.E.2d 392 (1991); *Foxworth v. State*, 275 S.C. 615, 274 S.E.2d 415 (1981); S.C. Code Ann. §17-27-90), the State hereby moves that the two proceedings be merged. The second application for post-conviction (2019-CP-07-1367) will be considered an amendment to the initial application for post-conviction (2018-CP-07-1675).

VII. ANY FUTURE AMENDMENTS

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), SCRCPP. 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.

VIII. RESPONSE TO ANY AND ALL OTHER ALLEGATIONS

Each and every allegation contained within the application not expressly admitted, qualified, or explained in this Return is hereby denied.

IX. REQUEST FOR EVIDENTIARY HEARING

WHEREFORE, Respondent requests that an evidentiary hearing be held on the claims of ineffective assistance of trial counsel.

Respectfully submitted,

ALAN WILSON
Attorney General

W. JEFFREY YOUNG
Chief Deputy Attorney General

MEGAN HARRIGAN JAMESON
Senior Assistant Deputy Attorney General

BENJAMIN LIMBAUGH
Assistant Attorney General

By: s/ Benjamin Limbaugh
ATTORNEYS FOR RESPONDENT

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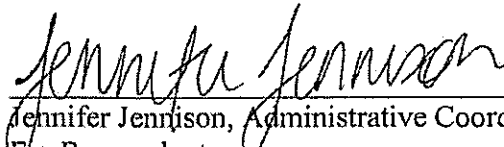
July 10, 2020

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF BEAUFORT	)	FOR THE FOURTEENTH JUDICIAL CIRCUIT
	)	
Justin Watts, #375425	)	
	)	Case No.: 2018-CP-07-1675 &
	)	2019-CP-07-1367
Applicant,	)	
	)	
v.	)	Certificate of Service by Mail
	)	
State of South Carolina	)	
	)	
Respondent,	)	
_____	)	

1. I am an employee of the Respondent in the above-captioned action.
2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.
3. I have this day served a copy of the **Amended Return And Motion For Merger** in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

James Kristian Falk, Esquire
Falk Law Firm, LLC
PO Box 1058
Charleston, SC 29402

DATED this 10th day of July, 2020.


Jennifer Jennison, Administrative Coordinator
For Respondent

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF BEAUFORT) FOR THE FOURTEENTH JUDICIAL CIRCUIT

2020 JUL 17 PM 2:03

Justin Watts, #375425,

JERRI ANN ROSENEAU
BEAUFORT COUNTY, S.C.
CLERK OF COURT

2018-CP-07-1675 & 2019-CP-07-1367

Applicant,

ORDER OF MERGER

v.

State of South Carolina,

Respondent.

The applicant in the above-captioned matter has filed two applications for post-conviction relief, one on August 21, 2018 (2018-CP-07-1675) and one on June 10, 2019 (2019-CP-07-1367). Since an applicant is not generally allowed to have two post-conviction relief proceedings in regard to the same conviction (See Aice v. State, 305 S.C. 448, 409 S.E.2d 392 (1991); Foxworth v. State, 275 S.C. 615, 274 S.E.2d 415 (1981); S.C. Code Ann. §17-27-90), this Court hereby orders that the two proceedings be merged. The second application for post-conviction relief (2019-CP-07-1367) will be considered an amendment to the initial application for post-conviction relief (2018-CP-07-1675).

The Clerk of Court is therefore ordered to merge the two cases, with the docket number 2018-CP-07-1657 being the surviving case. Hereafter, the word "Application" will refer to docket number 2018-CP-07-1675; the word "Amendment" will refer to docket number 2019-CP-07-1367, which will be considered an amendment to the application for post-conviction relief.

IT IS THEREFORE ORDERED that the Beaufort County Clerk of Court merge docket number 2019-CP-07-1367 into docket number 2018-CP-07-1675, with file 2018-CP-07-1675



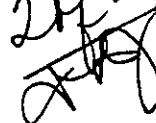
being the surviving file and all future pleadings bearing docket number 2018-CP-07-1675. Docket number 2019-CP-07-1367 will be dismissed upon the merger.

AND IT IS SO ORDERED this 14th day of July, 2020.



DEADRA L. JEFFERSON
Chief Administrative Judge
Fourteenth Judicial Circuit

 Charleston, SC
at Chamber's

2 of 2


STATE OF SOUTH CAROLINA	)	COMMON PLEAS COURT
	)	
COUNTY OF BEAUFORT	)	FOURTEENTH JUDICIAL CIRCUIT

JUSTIN E. WATTS	)	NO. 2018-CP-07-01675
	)	
VS.	)	<u>TRANSCRIPT OF RECORD</u>
	)	
STATE OF SOUTH CAROLINA	)	PCR hearing

B E F O R E:

The Honorable E. Eugene C. Griffith, Jr., Judge
Beaufort, South Carolina

DATE: Thursday, August 12, 2021

1:52 p.m.

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

James K. Falk, Esquire

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Attorney for the Applicant

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Attorney for the State

Reported by: Cathy J. Provost, RMR, Official Court Reporter

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COURT REPORTER LEGEND:

dash -- intentional/purposeful interruption; change in thought
 ellipses ... trailing off
 [ph] phonetically written
 [sic] written as said
 [indiscernible] unable to be understood due to low volume or
 quality of audio

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

ATTORNEY WEIDAUER: May it please the Court.

THE COURT: Yes, ma'am.

ATTORNEY WEIDAUER: Samantha Weidauer on behalf of the State of South Carolina. There is the post-conviction relief matter of Justin Watts v State, case no. 2018-CP-07-01675 out of Beaufort County.

For a brief procedural background, in his underlying General Sessions case Mr. Watts was indicted for criminal sexual conduct with a minor, victim 11 to 14 years of age, second degree; criminal solicitation of a minor; and sexual exploitation of a minor, first degree.

Applicant pleaded guilty on February 12th, 2018, before Judge Mullen. Applicant was represented by Ms. Trasi Campbell who is present in the courtroom today. Judge Mullen sentenced applicant to concurrent sentences of 20 years for criminal sexual conduct - second, and 10 years for the solicitation charge.

Counsel filed a motion to reconsider applicant's sentence, and the Court heard arguments from defendant's counsel and the State. The Court denied to amend the sentence imposed, and applicant subsequently filed a direct appeal which he later withdrew.

On May 6th, 2019, the Court of Appeals issued an order dismissing the matter. Applicant then filed an application for post-conviction relief on August 21st, 2018, and another on

1 June 10th, 2019. An order of merger of the post-conviction
2 relief matters was filed on July 17th, 2020, and this hearing
3 follows.

4 It's the State's understanding applicant will be alleging
5 involuntary guilty plea. I'd like to let Jim add anything to
6 that if he has anything.

7 ATTORNEY FALK: What case number are we going under?

8 ATTORNEY WEIDAUER: 2018-CP-07-01675. But both applications
9 should have been merged by order filed July 17th, 2020.

10 ATTORNEY FALK: So the one that ends in 1307, that's 2019,
11 right?

12 ATTORNEY WEIDAUER: Yes.

13 ATTORNEY FALK: Okay. Your Honor, there is -- I mean,
14 everything that Mr. Watts wants to add to this really sort of
15 falls under the involuntary guilty plea. There was a -- on page
16 6, I believe, there was failure to instruct him on his Fifth
17 Amendment rights. And there's only three things that *Boykin*
18 requires, and one of them is the knowledge that he, you know, if
19 he comes in to plea, he has a right to go to trial and not have
20 to take the stand. I think that's problematic.

21 The other issues with this case were that there was -- my
22 client was under the impression there was a plea deal that was
23 much better than what he wound up having and that somewhere along
24 that line the plea deal disappeared, and that's what my client
25 wants to talk about, so that he wound up getting forced into the

1 deal that he took as opposed to going to trial.

2 And, Your Honor, if you're taking notes, I'm just saying if
3 you look on page 6 of the transcript, between lines 11 and 20, I
4 do think that's where the judge was making the, you know,
5 colloquy about the rights that you waive when you go ahead and
6 plead guilty, and I think *Boykin* requires that you have to
7 give that particular right.

8 A lot of times it's not going to apply with other defendants
9 who, you know, know the system. I think my client has some
10 special circumstances that maybe he wasn't fully aware.

11 THE COURT: I want to see that transcript.

12 ATTORNEY FALK: Okay.

13 THE COURT: Do you have a paper copy of it?

14 ATTORNEY WEIDAUER: What?

15 THE COURT: Do you have a paper copy of the transcript?

16 ATTORNEY WEIDAUER: Yes, I do. The transcript should be the
17 last item in the packet.

18 THE COURT: What pages are you looking at?

19 ATTORNEY FALK: If you look on page 6, lines 11, that
20 paragraph between 11 and 19, I think she got two of the three.

21 ATTORNEY WEIDAUER: Jim, can you repeat which two then, or
22 which one is missing?

23 ATTORNEY FALK: Waiving the Fifth Amendment right.

24 ATTORNEY WEIDAUER: Okay.

25 THE COURT: There's one sentence. Not really one sentence,

1 one clause.

2 ATTORNEY FALK: Beg your pardon?

3 THE COURT: There's only one clause here.

4 ATTORNEY FALK: Should we bring my client over?

5 THE COURT: Sure. Let's do that.

6 ATTORNEY FALK: Well, I'm going to call him as my first
7 witness. You want to put him in the box?

8 THE COURT: Yeah, sure.

9 JUSTIN E. WATTS,

10 having first been duly sworn, was examined and testified as
11 follows:

12 CLERK OF COURT: If you'll just state your name, and spell
13 your last name for the court reporter.

14 THE WITNESS: Justin Watts, W-a-t-t-s.

15 ATTORNEY FALK: Could he take his mask down while he's
16 there? It might be clearer.

17 THE COURT: He can try.

18 ATTORNEY FALK: Oh, okay.

19 **DIRECT EXAMINATION**

20 BY ATTORNEY FALK:

21 Q Mr. Watts, tell me how -- How did Ms. Campbell become your
22 lawyer in this case?

23 A She was appointed to me.

24 Q Okay. You may need to speak closer to the mic.

25 A She was appointed to me.

1 Q Okay. And so what kind of discussions did you have with
2 her?

3 A I had about four or five discussions, that was before the
4 day of sentence, and in each one we had talked about a
5 10-year-5-suspended plea, and various sorts.

6 Q So what did you think the plea deal was going to be?

7 A I was under the impression that I was going to plead 10
8 years and 5 suspended, 5 probation, and 5 years - nonviolent.

9 Q So that was 10 years suspended to 5 years, to serve 5 years
10 on probation?

11 A And five - nonviolent.

12 Q Oh, and five years - nonviolent?

13 A Yes.

14 Q How much time have you been in the detention center?

15 A Thirteen months.

16 Q Where did those numbers come from? Why did you think that
17 was the deal that you were getting?

18 A Well, in a previous client meeting on Thursday the week
19 before she told me that the solicitor and her had come to an
20 arrangement that I was going to be given the 10 year, 5 years
21 suspended, 5 probation, 5 - nonviolent, plea.

22 THE COURT: Back up just a hair from that microphone.

23 THE WITNESS: How about that?

24 THE COURT: That's a lot better. You're just barely
25 touching it with your mask.

1 THE WITNESS: How about now?

2 THE COURT: All right. Perfect. Go back through that
3 again.

4 BY ATTORNEY FALK:

5 Q You said there was a prior client meeting?

6 A Yeah, on Thursday the week before.

7 Q Okay.

8 A And at the client meeting she told me that I would be
9 getting -- that I would have to go in front of the judge but that
10 she had arranged a period of -- she had arranged a 10 year, 5
11 suspended, 5 probation, 5 - nonviolent plea for me to sign; that
12 that was what I would be going to court for the week following.

13 Q And so that was the Thursday before. What kind of day of
14 the week was your plea? I should have looked.

15 A What? Say it again?

16 Q What kind of day of the week? When did you come back into
17 court, the following what? Monday? Tuesday? Wednesday?

18 A I believe Tuesday.

19 Q And so what did you think was going to happen on that
20 Tuesday?

21 A I thought I was going to get the plea that we had agreed,
22 that she had told me that I would be signing.

23 Q Did you have a discussion with her that day?

24 A Yeah. Before we went out she showed me the prearranged
25 negotiated plea but I didn't have a pen, so I asked her for a

1 pen, and she handed me the pen but then she took two steps back
2 and said, I still gotta make sure this is a go. And she came
3 back with zero-to-10 and zero-to-20 and told me if I didn't take
4 that I'd be going to trial.

5 Q Let me just sort of go off on a little bit of a tangent
6 here. Have you received any mental healthcare?

7 A Not at the time when I was being detained in Beaufort
8 County, and very little since I've been put in prison. Very
9 little.

10 Q But is there some -- have you been diagnosed with having
11 somewhere in the autism spectrum?

12 A Yeah. I have been diagnosed with Asperger's and ADD.

13 Q Okay. And was your lawyer aware that you were diagnosed
14 with Asperger's?

15 A Yeah, but it seemed to matter very little to her.

16 Q So let's go back. So did she hand you three pieces of paper
17 and then you were going to sign them?

18 A Well, no. The first time she only came with the one piece
19 of paper.

20 Q Okay.

21 A That was the 10 year, 5 suspended, 5 probation, 5 -
22 nonviolent, plea.

23 Q So which charge did you think you were pleading to?

24 A I thought I was going to get the 10 year, 5 suspended, 5 --

25 Q But you have more than one charge. You were indicted on

1 more than one criminal offense. Which offense did you think you
2 were pleading guilty to?

3 A Oh. Solicitation.

4 Q All right. So going forward, and so I think where we left
5 off, you had the papers; you didn't have a pen; she took the
6 papers; and she said let make sure it's still a go?

7 A Yes.

8 Q About how much time elapsed between that and when she came
9 back in?

10 A No more than 20 minutes.

11 Q And when she came back in what did she say?

12 A She told me that the 10 year, 5 suspended, 5 probation, and
13 5 - nonviolent, plea got taken away, and that if I was going to
14 take a plea today, that day, it would have been for zero-to-10,
15 solicitation; zero-to-20, CSC - second. She said that I could
16 get the max on both but in her so-called expert opinion Judge
17 Mullen wouldn't be likely to give me the max on either, much less
18 both.

19 Q So it was your understanding that you were pleading what
20 they call straight-up? I mean, you were just going to walk right
21 in there and plea; there was no deal?

22 A Yeah. Well, she made it seem like the 10 years and 20
23 years, in other words up to 30 years, was a deal.

24 Q Okay.

25 A I wasn't looking at 35.

1 Q So then what did you do next?

2 A Well, after her giving me the most vivid and bleak
3 outlook -- see, she made it seem as if I didn't sign the
4 zero-to-10 or zero-to-20 deal, that I would be going in front of
5 a jury my next time at court.

6 I wasn't -- I was to have no more plea deals of any sort,
7 and that was the only thing. As far as relief went, that was the
8 only thing that I was going to get, was going to get, was
9 zero-to-10 --

10 Q But this wasn't a situation where they had already picked a
11 jury and you were getting one last chance to plea, right? You
12 did not think you were going to trial that week, did you?

13 A No, I didn't think I was going to that week but I thought,
14 based on what she had told me at the time, it was made crystal
15 clear to me that if I didn't take the zero-to-10 or zero-to-20
16 that I was -- my next time in the court was going to be at a jury
17 trial.

18 Q Okay. In yours and my prior conversations I know you had
19 had some discussion with me about representations about going
20 before Judge Mullen and whether that was a good plan or a bad
21 plan.

22 A Yeah.

23 Q Can you --

24 A She is the most -- Trasi Campbell made it seem as if Judge
25 Mullen would not be willing to seek the max on either, or much

1 less both, of my sentences, the deal of zero-to-10 and
2 zero-to-20. She made it seem as if Judge Mullen was the most
3 lenient judge and would do -- would have given me a plea deal of
4 something close to the 10 year, 5 suspended, 5 probation, 5 -
5 nonviolent, plea that I thought I was there to sign.

6 But obviously Judge Mullen is the most -- one of the hardest
7 judges on CSC crime individuals and, as a result, she sought the
8 max on both, like, which I wish I had been told.

9 Q Well, I guess she could have run them consecutively.

10 A Well, she did do 85 percent, as well, but, I mean, that was
11 nowhere close to the 10 year, 5 suspended, 5 probation, 5 -
12 nonviolent.

13 Q When she came back in and told you it's zero-to-20,
14 zero-to-10, did she tell you why the other deal was no longer
15 good?

16 A She just said that the deal had gone its course, whatever
17 that means.

18 Q Well, let's go back. So you had this conversation about
19 that plea, you said, the Thursday before?

20 A The Thursday.

21 Q When was the first time you heard about the plea?

22 A In the client meeting. She was very happy and proud that
23 she had gotten me a 10 year, 5 suspended, 5 probation, 5 -
24 nonviolent, plea.

25 Q So this was not -- just so I make sure I've got the

1 timeline, so it's the Thursday before you're thinking you're
2 getting your 10-5-5?

3 A And 5.

4 Q And then come around Tuesday of the next week it's not
5 there?

6 A Well, it was at first. She told me -- as I said, she
7 brought me the letter, she showed me the 10 year, 5 suspended, 5
8 probation, 5 - nonviolent, plea. And I didn't have a pencil at
9 the time. I would have signed it right then if I had had a
10 pencil or a pen. I would have signed it right then. But then
11 when she handed me the pen she backed away and said she still had
12 to make sure that this was a go, whatever that meant. And when
13 she came back it was zero-to-10 and zero-to-20, and that was my
14 only plea that I would be given.

15 Q What's your criminal record prior to this?

16 A It doesn't exist.

17 Q So this is your first offense?

18 A Yes.

19 Q So this was your first time in court?

20 A Yeah. Well, my second time today.

21 Q I'm sorry. But this was your first arrest?

22 A This would be my first arrest.

23 Q Okay. And what did Ms. Campbell go over with you as far as
24 your rights?

25 A She said that I would be waiving, waiving my right to go to

1 trial. I don't remember much else.

2 Q All right. Well, you said that you've been in the detention
3 center for 13 months. Had you already talked about the discovery
4 in this case? I mean, was there a trial strategy that y'all were
5 working on, or was this always, I'm trying to get you the best
6 deal I can?

7 A Well, initially I had admitted guilt to the cops and then
8 again on a recorded wall phone repeatedly over 13 months. My
9 family wouldn't let it lie, so we knew I needed to plea, but she
10 had told me that only probation was a long shot; to go for
11 something like 10 years, to plead to solicitation for the 10
12 years, get the 10 years, and then have 5 of it be suspended --

13 Q Yeah.

14 A -- and the rest.

15 Q And then I know when we were talking you had some concerns
16 about if Judge Mullen ever knew there was a prior deal that was
17 out there?

18 A Right. At no time, aside from page 17, lines 9 through 22,
19 at no time other than as what I just said, is there any mention
20 of mitigation of these. She just -- she at no time said, Your
21 Honor, there's a prearranged negotiated plea of 10 years, 5
22 suspended, 5 probation, 5 - nonviolent. She at no time said any
23 of that, and I expected her to do something, just not like that.

24 At least -- could at least let the judge know that the
25 solicitor that came out and my attorney had already come to an

1 agreement for the original 10 year, 5 suspended, 5 probation, 5 -
2 nonviolent. I expected her to bring up that even I was onboard
3 but for some unforeseen reason the deal didn't get signed and she
4 wouldn't go through -- she didn't say any of that.

5 Q I know you've gone over your transcript, and you had had
6 memorized that other. So page 3 of the transcript where
7 Ms. Miles is talking to the Court where the Court asked -- and
8 this is line 16, and the Court says -- "Okay. Is there any
9 recommendation from the State?" and Ms. Miles responds, "Your
10 Honor, the State is not making a specific recommendation to a
11 number years. We would request a substantial active sentence.
12 We'll go into at the proper time." So, I mean, why didn't you
13 put the brakes on that when you heard that?

14 A Say that again, please.

15 Q Okay. So you were standing next to your lawyer, and I
16 presume you heard the solicitor say that they're looking for a
17 substantial active sentence?

18 A Yeah.

19 Q Why didn't you stop then and say -- talk to your lawyer? I
20 mean, did you understand what she was saying?

21 A All I understood was all backing away from any kind of --
22 from anything at that point. From my understanding, once I
23 signed the 10 year -- I mean the 10 years and then the 20 years,
24 open pleas, my choices were out the window.

25 She at no time made me aware of the fact that I could stop

1 at any time and say, you know, I want to back out of this.

2 Q What kind of -- did you have any conversations? Well, so
3 you lost this plea deal. At somewhere along the line the judge
4 asked whether you were satisfied with the services of your
5 attorney, right?

6 A Everything I was asked, from the first question -- to give
7 you a full play-by-play -- is when I signed the plea of
8 zero-to-10 and zero-to-20, my mind was so far afield it wasn't
9 even funny. I was going through the five stages of grief. I'm
10 praying to God fervently that my sentence be something around the
11 10 year, 5 suspended, 5 probation, 5. My mind was going
12 different ways at different times and at no time was I thinking
13 on my own behalf.

14 Trasi basically coached me every answer to give when I was
15 in front of the judge. I didn't -- I was too busy having as
16 close to an out-of-body experience as you can possibly have.
17 I've never been in trouble with the law before, never been in
18 front of a judge before. She took full advantage of all of my
19 ignorance of the law.

20 If I had known, that in any way, shape, or form, that I
21 could turn down that plea and that I would have two more deals
22 before I go to trial I would have walked away from that deal
23 right away, gone back to my cell, and waited for another better
24 plea, something more along the lines of 10 year, 5 suspended.

25 Q Why do you think that there would have been more pleas down

1 the road?

2 A Well, I've been told since I've been in prison that it's
3 generally a custom to offer a person of incarcerated nature at
4 least three plea deals, and then if you turn down all three you
5 go to trial. That's been the experience of a lot of people.

6 Q Where were you living before you were arrested? Were you
7 living with your parents?

8 A No. I lived in an apartment with my wife in Savannah.

9 Q And where do you work?

10 A Say it again?

11 Q Where were you working?

12 A Oh. I was an online student. I was going for my Bachelor's
13 in English.

14 Q Okay. Were you on any medication for your Asperger's?

15 A No. It was a diagnoses that required no medication.

16 Q Would you have been okay had she told the judge about your
17 Asperger's?

18 A I wanted her to pull out, quote-unquote, all the stops. I
19 wanted her to do everything she could, and she didn't.

20 Q Well, what kind of discussions had you had with her about
21 that?

22 A About the Asperger's?

23 Q Yeah.

24 A Only that it complicated my whole life and that, you know,
25 it has to do with not always thinking things through before I do

1 stuff. Obviously this is an example of one of the times I didn't
2 think something through entirely.

3 Another thing is she at no time let me take a breath to
4 get -- to decide whether or not I wanted to take the plea deal.
5 She was -- the revised zero-to-10, zero-to-20 deal, she told me
6 that I had to make a decision right then; that it was either up
7 to 30 years or up to 55 years in front of a jury.

8 Q We had a prior conversation on the phone and you kind of
9 read a speech that you had prepared, and I had asked you some
10 questions to try to elicit some of the responses. Was there
11 something more you want to say?

12 A Actually, I would. I believe we've covered a lot of it, but
13 I prepared this for this. I was prepared to be asked, Why should
14 would we believe you now?, which I believe is a valid question.

15 Q I think that question's coming.

16 A Yeah. Because this time my mind is clear, unlike last time
17 when Trasi Campbell. But I do want to say that it is because of
18 my total ignorance of South Carolina law and Trasi Campbell's
19 disregard to telling the truth about my options on February 12th.
20 As a result of that and other reasons I'm going to mention, Trasi
21 Campbell put me through the most intense mental --

22 Q Mr. Watts, you've got to slow down, I think.

23 A Oh. Am I going too fast?

24 Q I saw her sweating a little bit, so I think.

25 A Let me -- let me --

1 Q No. no. You're fine.

2 A -- start from the beginning.

3 Q No, no. She's with you now.

4 A Well, what I mean when I say that is because of my total
5 ignorance of South Carolina law and Trasi Campbell's disregard to
6 telling the truth about my options on February 12th, as a result
7 of that and other reasons I'm going to mention, Trasi Campbell
8 put me through the most intense mental and verbal abuse I ever
9 experienced in my life.

10 Let me explain why I say that, as it all ties everything
11 together. The following is how it all began: On February 12th,
12 2018, Trasi --

13 ATTORNEY WEIDAUER: Objection. This is not responsive to
14 the question.

15 BY ATTORNEY FALK:

16 Q Well, let me ask you this: So you talked about verbal
17 abuse, and I don't believe I asked you a question about that.
18 What did you mean by the verbal abuse?

19 A Well, that she -- I told her that I did not want to take the
20 plea --

21 Q Okay.

22 A -- of 10 years, zero-to-10 and zero-to-20. I told her that
23 more than once. She told me more than once, and ultimately ended
24 up getting her way, that if I didn't take the zero-to-10 and
25 zero-to-20 revised plea that I was looking up to 35 years for all

1 of these charges.

2 Q Did she insult you at some point as far as the verbal abuse,
3 or was she raising her voice? What do you mean by the abuse
4 part?

5 A She made me see the most absolute bleak and vivid outlook as
6 far as this was the only plea I was going to get and that if I
7 didn't take it I was looking up to 30 -- all three charges -- up
8 to 55 years, [indiscernible], and having already admitted my
9 guilt more than once, I didn't want to go to trial.

10 ATTORNEY FALK: Your Honor, could I have a little leeway on
11 leading questions?

12 THE COURT: Sure.

13 BY ATTORNEY FALK:

14 Q So did you think that she had your best interest in mind?

15 A She made me believe that she did.

16 Q And what do you believe now?

17 A I believe that she tried as little as possible. She did. I
18 mean, you saw from page 17, line 9 through to 22, that's what she
19 brought up when she brought up my prearranged negotiated plea of
20 10 and 5, and 5, and 5. She brought it up in passing as if you
21 could -- you know, the number 10 got bounced around. No, it
22 didn't. The 10 years, 5 suspended, 5 probation, 5 - nonviolent
23 was a prearranged negotiated plea.

24 Q Now, you use that term "prearranged and negotiated." Why
25 did you think it was prearranged and negotiated? Just so we're

1 clear.

2 A Because the Thursday before on the client meeting she made
3 it seem as if all I had to do was show up, sign the 10 years, 5
4 suspended, 5 probation, 5 - nonviolent, plea, and I wouldn't have
5 to say a word in front of the judge.

6 Q Sometimes -- Let me withdraw that. So, I mean, here's the
7 question, is that -- you were sworn, right? You raised your
8 hand, you put your hand on the Bible --

9 A Yes, sir.

10 Q -- and you swore to tell the truth, right?

11 A Yes.

12 Q And you said that Ms. Campbell had done everything for you
13 that you needed, and you said that you were happy her services;
14 is that correct?

15 A Every word that I said at that time was coached through by
16 Trasi.

17 Q Well, when was the coaching?

18 A Before I entered the room she told me that the judge was
19 going to ask me some questions and that I was to say that she had
20 done everything she have could, and any questions that I had that
21 she hadn't answered -- any questions that she -- any questions
22 that I had had, she answered. Every response on that transcript
23 was basically me being Trasi Campbell's parrot.

24 Q And did you realize when you pled guilty that that was being
25 recorded and so you were making an admission of guilt in front of

1 the judge?

2 A Yeah.

3 Q So now you've been sworn again and now you're saying
4 something completely different, so it sort of begs the question,
5 Well, were you lying then or are you lying now? So what's the
6 difference?

7 A This time my mind is clear. I'm not being ...

8 Q Did you feel pressured?

9 A I was being pressured.

10 Q Would you have wanted to go to trial with Ms. Campbell as
11 your lawyer?

12 A Not after what happened on the sentencing day. Knowing what
13 I know now, I would have fired her.

14 Q Okay, but how about before?

15 A Before she told me she had every, my every, interest at
16 heart and to trust her completely, so I did, and this is the
17 result of that.

18 Like I said, I was going through the five stages of grief.
19 I was praying to God. I was physically standing there but
20 mentally I was nowhere near the room when they asked me those
21 questions.

22 Q And we've talked on the telephone several times. Have we
23 reached every point you want to make? You want to read over to
24 yourself?

25 A Well, I just -- I would have to be able to just make the

1 statement that I prepared but it's going to be a bunch of
2 objection. I've got seven pages, and I want to read every one.
3 I mean, it all ties -- whether anybody else says so, it all ties
4 in together, what I was about to read, and I haven't -- I haven't
5 gotten to make the use of my --

6 ATTORNEY FALK: Your Honor, could he read his statement?

7 THE WITNESS: -- prearranged statement.

8 ATTORNEY FALK: This is his one bite at the apple.

9 THE COURT: Is your writing good?

10 THE WITNESS: Yes, sir.

11 THE COURT: Legible?

12 THE WITNESS: I believe so.

13 THE COURT: You want to make it a Court's exhibit?

14 ATTORNEY FALK: Why don't we do that.

15 (Court's Exhibit 1 is identified.)

16 THE COURT: Okay.

17 BY ATTORNEY FALK:

18 Q What we're going to do, just so you understand, the judge
19 would prefer that you submit your statement as an exhibit to the
20 Court.

21 THE COURT: We can make a copy and give him the original
22 back.

23 THE WITNESS: Yes, please.

24 ATTORNEY FALK: And then that will be part of the record.
25 Thank you. I'm done.

CROSS-EXAMINATION

BY ATTORNEY WEIDAUER:

Q Good afternoon, Mr. Watts.

A Ma'am, am I close enough?

Q What did you say?

A Am I close enough?

ATTORNEY FALK: Can you hear him?

ATTORNEY WEIDAUER: Yeah.

BY ATTORNEY WEIDAUER:

Q So you stated earlier that you met with your attorney four or five times?

A Four or five.

Q Okay. You filed an application in 2018 stating that you met with her five or six times.

A Like I said, I have ADD. Sometimes I get things wrong.

Q So that affects your memory?

A It's selective.

Q Selective, okay. During any of those meetings with counsel do you recall reviewing discovery?

A Reviewing discovery?

Q Yes.

A I don't recall.

Q Did she bring the State's evidence to show you what the State would present at trial were you to proceed to trial, what the State had against you?

1 A I gotta tell you, it's been almost four years after the
2 fact, and I can't tell you specifically.

3 Q In your own words would you summarize what you believe the
4 facts were of the case then?

5 A Well, that I had made a guilty statement, a statement of
6 guilt, to the cops before; that I was not trying to go to court;
7 and charged with all three counts; that something of the --
8 something close to a 10 year, 5 suspended, and it changed with
9 the variation, the vivid [ph]. One time she came with 10 years,
10 5 suspended. There was another one --

11 Q I'll get there, Mr. Watts. So the facts of your case were
12 that you had already confessed to them, and that would be in the
13 record and that would be presented at trial; that was your
14 understanding?

15 A Yeah, that it would be -- that I would -- that if I didn't
16 take a plea that I looked to, I was going to, be charged with all
17 three counts and up with 55 years.

18 Q And did you discuss any possible defenses with Ms. Campbell?

19 A The only defense was taking a plea as close to -- she knew
20 that probation alone would not probably cut it; that something
21 around a 10 year, 5 suspended. And then what happened to be a 5
22 year, 5 -- 10 year, 5 suspended, 5 probation, 5 - nonviolent was
23 the plea that I thought I was going to sign that.

24 Q And that was solely your decision to take the plea because,
25 as you said, you didn't want to go to trial?

1 A I took the plea that I was -- that Trasi -- the revised
2 plea.

3 Q But you took the plea that was offered? That was the plea
4 that was on the table at the time, and you decided that you
5 wanted to plead and not go to trial?

6 A Yeah.

7 Q Mr. Falk mentioned your constitutional rights. Do you
8 remember Judge Mullen saying that you had the right to remain
9 silent?

10 A Yeah, but I thought that meant that -- I thought that meant
11 while -- unless I'm asked something.

12 Q Okay.

13 A I didn't know that I could turn down -- I didn't know that I
14 could turn down -- even standing in front of the judge, that I
15 could turn down the plea that I had been not physically but
16 forced to sign.

17 Q But she did say that you had the right to remain silent?

18 A Yeah, she did.

19 Q So you did not have to say that you agreed to plead guilty?

20 A Yeah.

21 Q Okay. Do you have the transcript up there with you?

22 A It's hard for me to access.

23 Q But you do have it there? Can you turn to page 6 for me?
24 Go ahead, and let me know when you're there.

25 A Page 6?

1 Q Six. Would you read lines 20 through 25, and then line 1 on
2 the next page, page 7. So 20 -- or excuse me, 20 through 25, and
3 then the first line on the next page.

4 A Twenty?

5 Q Yep, start at 20.

6 A "When you plead guilty you are waiving all of these rights.
7 When you're coming forward and you're telling me that you are
8 guilty you are waiving your right to remain silent, and you are,
9 in fact, guilty. I want to make absolutely sure that that's what
10 you wish to do. Is that correct, sir. Yes" --

11 Q And would you go ahead and read your response on page 7?

12 A "Yes, ma'am."

13 Q Okay. Do you recall telling the judge that you were
14 satisfied with Ms. Campbell's representation?

15 A As I said before, although I was standing in front of the
16 judge, my mind was only on what Trasi told me to say in front of
17 the judge.

18 Q Okay. Can you go ahead and read on page 7, line 2
19 through 4?

20 A Two through 4: "All right. Sir, are you satisfied with how
21 Ms. Campbell represented you?" " Yes, ma'am."

22 Q Okay. And you testified before that you understood you were
23 pleading to two charges, one that carried a sentence of zero to
24 10 years and one that carried a sentence of zero to 20, correct?

25 A Yeah. That was the revised plan.

1 Q But you understood that at the plea hearing? You weren't
2 happy with it but you understood?

3 A That's right.

4 Q And you understood that you could have received a sentence
5 of 30 years if those sentences were to run consecutively?

6 A Yeah. Far from the 10 year, 5 suspended, 5 probation, 5 -
7 nonviolent, plea, but --

8 Q But again, at the guilty-plea hearing you understood that
9 you could receive up to 20 years?

10 A Yeah.

11 Q Did Ms. Campbell threaten you in any way before this
12 guilty-plea hearing?

13 A Define threaten.

14 Q That would be a personal interpretation, but do you feel
15 that you were threatened in any way or coerced into taking that
16 plea?

17 A No, I feel like -- looking back on it now, on that day she
18 coerced me into taking the plea deal that I took at the time.
19 She made me see the worst, absolute bleak outlook that a man
20 could look --

21 Q And though you say --

22 A -- that I could get.

23 Q -- that is a bleak outlook --

24 A She made me believe that turning down the plea of zero-to-10
25 and zero-to-20 meant that I would go next -- my next time in

1 court would be at a court trial.

2 Q But that was a possibility? The State did not have to offer
3 you another plea deal if you were to refuse this one?

4 A It's been made aware to me that it's customary to offer up
5 to three before going trial from the information --

6 Q But they were not required to even if you believe it is
7 customary --

8 A Okay.

9 Q -- correct? You understood that they did not have to offer
10 you another plea deal?

11 A I do now.

12 Q Okay. Can you turn to page 8 for me. It should just be the
13 next page in the transcript.

14 A Go ahead.

15 Q Can you go ahead and read line 11 through 14?

16 A "I just want to make to sure that you appreciate what we are
17 doing and you understand you're entering a guilty plea. Do you
18 understand all of that?" "Yes, ma'am."

19 Q Okay. So that's twice in the plea that you said that you
20 knew you were pleading guilty, so you did understand that?

21 A Only on a very base animal [ph] ...

22 Q Yes or no? You understood that you were pleading guilty
23 that day?

24 A Yeah.

25 Q Did you ever indicate to Ms. Campbell that you wanted to go

1 to trial?

2 A No.

3 ATTORNEY WEIDAUER: Beg the Court's indulgence.

4 BY ATTORNEY WEIDAUER:

5 Q And do you understand if you're to succeed on this claim
6 today, that you could receive more time than you did -- than you
7 pled to?

8 A Yeah.

9 Q Okay. And at the time of the plea did you believe that you
10 would have been convicted at trial?

11 A Say that again.

12 Q Did you believe you would be convicted at trial were you to
13 go to trial?

14 A I believe so.

15 Q And if you're to succeed today you don't believe that
16 anymore, you don't believe you would want a new trial?

17 A I would want to go to trial.

18 Q You would want to go to trial even though you previously
19 believed you would be convicted?

20 A I believe this time I have a chance.

21 ATTORNEY WEIDAUER: Beg the Court's indulgence. Thank you,
22 Your Honor.

23 THE COURT: You may step down.

24 ATTORNEY FALK: We'd call Trasi Campbell to the stand.

25

1 TRASI CAMPBELL,
2 having first been duly sworn, was examined and testified as
3 follows:

4 CLERK OF COURT: And then once you get settled, if you will
5 state your first and last name, and spell out your last name for
6 the court reporter, okay.

7 THE WITNESS: Certainly. Can you hear me through my mask?

8 THE COURT: You can take it off if you want.

9 THE WITNESS: If you don't mind, could I leave it on?

10 THE COURT: Sure.

11 THE WITNESS: Okay. Thank you. So my name is Trasi
12 Campbell. My first name is spelled T-r-a-s-i. Campbell,
13 C-a-m-p-b-e-l-l.

14 **DIRECT EXAMINATION**

15 BY ATTORNEY FALK:

16 Q Ms. Campbell, you were here earlier when Mr. Watts
17 testified. Can you tell us about the plea negotiations in this
18 case?

19 A Certainly. During the course of my representation of
20 Mr. Watts, I did meet with him multiple times at the Beaufort
21 County Detention Center. My notes from February 8th, 2018, when
22 I met with him, would be my handwritten notes which we went over
23 together, I detailed the two charges against him, the possible
24 penalties, the notable aspects, and then in detail that we would
25 be asking the Court to consider a 10-year sentence, with credit

1 for time served.

2 I have no idea what Mr. Watts was talking about when he
3 talks about 10 suspended on 5, suspended on 5, suspended on 5 -
4 nonviolent. That is not part of any conversation I ever had with
5 him.

6 Q You were here for Mr. Watts. Has his demeanor changed any
7 from when you were speaking with him?

8 A My recollection of Mr. Watts, when I met with him over the
9 course of that 13 months, is that he displayed flat affect
10 frequently and that much of our conversation, there was a
11 narcissism aspect to them. The family had provided me with a
12 psychological report that mirrored some of the behaviors that I
13 saw with him. And I worked very diligently to try and get him to
14 understand the gravity of what he had been charged with, the
15 gravity of the evidence that the State had against him in terms
16 of the 14-year-old girl, the graphic and violent text messages
17 and photos that were sent back and forth, and the meeting in real
18 life, and then engaging in what had been discussed between the
19 two of them was very serious, and it was something that I was
20 very fearful for him that he would be convicted of on all the
21 charges and spend potentially the rest of his life in prison.

22 Even when we discussed, you know, some of the most horrific
23 aspects of what had occurred his demeanor and affect did not
24 change. And that is what I saw today as well.

25 Q So it's similar?

1 A It is.

2 Q I didn't know if it had been affected by time at SCDC --

3 A No.

4 Q -- so I was just curious. Well, he recounts -- I mean, you
5 heard his account of you coming in and meeting with him on a
6 Thursday before the plea and that you were very happy that you
7 had worked out a deal?

8 A That did not happen. According to my notes, I have
9 testified as to what occurred at that meeting.

10 Q Okay. And had you already had some preliminary discussions
11 with the solicitor on that?

12 A Of course. I don't think I would be doing my job as his
13 attorney if I had not engaged in plea negotiations with the
14 Attorney General's Office. Beth and I had -- we had exchanged
15 emails, letters, any number of different avenues that I could
16 pursue on his behalf, to try and minimize the impact of the plea
17 and the sentence for him.

18 Q This was an ICAC case?

19 A I'm sorry, what?

20 Q It was an ICA -- whatever, ICAC case? It was attorney
21 general?

22 A Yes, it was. Yes. Yes.

23 Q Crimes Against Children case, I guess.

24 A Yes. That's correct.

25 Q Well, when you came in there and was suggesting maybe 10,

1 was that based on conversations that you had with the Attorney
2 General's Office?

3 A I had begged for 10. I had asked repeatedly can we not meet
4 somewhere in the middle, you know, but -- and discussed it with
5 her and with him. You know. Even though there's no prior
6 criminal record, out of the box here, you know, this is not --
7 you know, this is not minor stuff.

8 And at best she gave me what she said, which we knew, which
9 was not asking, you know, for the maximum, and so she phrased
10 it -- and I discussed this with my client, you know -- a
11 substantial sentence, which was not asking for the maximum. And
12 she didn't, you know, pound her fists either. I mean, she did
13 not, you know, take a really fervent position during the plea.
14 And that was about as good as it was going to get for Mr. Watts.

15 Q Had you had any discussions -- you said that you had a
16 mental health diagnosis or a report from a diagnosis you got from
17 the parents?

18 A Yes. And when I was discussing the file I talked with this
19 attorney about a private evaluation that we had sought, you know,
20 for fear that some of the issues that had been identified in the
21 previous report, if we had done it through the State then that
22 would have been revealed, if you will. But, yes, so I did pursue
23 that and came to the conclusion certainly that he was fully
24 competent. That was never an issue, and, you know, we could move
25 forward. But some of the, perhaps, underlying personality

1 disorders would have been problematic if that had been -- you
2 know.

3 Q Do you think that he could have gotten a better sentence had
4 you shared more of the personality disorders as a way of
5 mitigation?

6 A No. I think it probably would have made it worse.

7 Q Why is that?

8 A Because, you know, again, in reading what had been
9 diagnosed -- and, again, this was done, you know, and provided to
10 me -- I felt like the references to sustained substance abuse,
11 the need for attending Narcotics Anonymous, that he had a
12 personality disorder of narcissistic traits, those were not terms
13 and things that I felt that the State would look kindly on.

14 Q Did you coach him through how to respond to Judge Mullen for
15 the plea?

16 A There was no coaching. There is always a review with every
17 client, again, of their constitutional rights and what to expect
18 during the plea. In other words, you know, you don't want to
19 have your client overwhelmed. It's a frightening-enough time as
20 it is, you know, you come into this courtroom and there's all
21 these people in here and the judge. So that they don't fall out,
22 you know, or become overwhelmed, so it's my practice for them to
23 understand the process of the plea, and that is discussed.

24 Q Did you tell him specifically how to answer the questions?

25 A Absolutely not.

1 Q Did he know that he could, even after he signed it -- did
2 you tell him that he could tell the judge he wanted to back out?

3 A I don't know that I specifically told him that you can back
4 out, you know, when we're standing in front of the judge. I felt
5 like it was clear enough from our conversations that these are
6 your options, and you can take this plea or you can go to trial.
7 If you don't want to plead, don't take the plea. I don't mind
8 trying the case.

9 Q So do you recall, or however you want to say -- he testified
10 to the fact that you put a deal in front of him, this 10-year
11 deal --

12 A Uh-huh.

13 Q -- and he didn't have a pencil and so you took it back from
14 him and then you said, I've got to check to make sure this is
15 still good. What's your recollection of that transaction?

16 A I don't have a recollection of that occurring.

17 Q So when did he see the plea sheets?

18 A Well, again, I don't have an independent recollection of him
19 in particular. What would be the normal practice is they are
20 held in the holding-cell area, and then whenever the Attorney
21 General would get here, that she would provide those to me, and
22 then I would have the opportunity to meet with him in private,
23 obviously in the holding-cell area, and go over the sentencing
24 sheet with him.

25 It's not something that would have happened, you know, a day

1 before or at the detention center. It would have been here the
2 day of court.

3 Q Do you recall, was it a plea day? I mean, were there a
4 bunch of, you know, where the Attorney General comes in?

5 A I don't recall. I don't know. No, I don't.

6 Q I know in Charleston County on a plea day they don't call
7 the case until the sheets are signed.

8 A I honestly can't say. I don't know what the particular
9 order was for the day.

10 Q One moment, please. Did you make any representations about
11 your expectation on what Judge Mullen would do, particularly with
12 this case?

13 A No.

14 Q Did you make any representations about what another trial
15 judge might do with this case?

16 A No, not in saying what any particular judge would or would
17 not do. He knew what the possible penalties were, the maximum,
18 of course, but that --

19 Q Did you advise him that Judge Mullen would go easy?

20 A No.

21 Q Just so -- you keep giving me some notes. So it's your
22 testimony that there was never a 10 year suspended to 5 years, 5
23 years' probation deal?

24 A No. No. And again, like I said, that's really not what
25 he's -- he keeps talking about 10 suspended to 5, suspended to 5

1 years' probation, and 5 - nonviolent. I'm not -- that recitation
2 is nonsensical to me. It doesn't make any sense considering the
3 charges and --

4 Q Is criminal solicitation -- is that a violent?

5 A I don't have --

6 Q I don't have the rule book, either.

7 A I know Judge Mullen has a notebook of colloquy -- I believe
8 she did. I don't have an independent recollection, obviously,
9 but I have written notes with all that next to it.

10 Q I was thinking the solicitation plea was not an 85 percent
11 or so, that that could be the nonviolent?

12 A I don't know. Like I said, that's what I wrote in my notes.

13 Q Just so I make sure that I've covered all his points, is it
14 your testimony that you never brought in a plea deal for him to
15 sign and then took away from him?

16 A No, sir. That did not happen.

17 Q I guess we've got a double negative there. There wasn't a
18 deal that was taken away?

19 A No. That did not happen.

20 Q Okay.

21 A No.

22 Q Thank you.

23 ATTORNEY FALK: Your Honor, I guess I have no further
24 questions.

25

CROSS-EXAMINATION

BY ATTORNEY WEIDAUER:

Q Good afternoon, Ms. Campbell. I'd like to ask a few preliminary questions about your practice history. How long have you been practicing law?

A I took the bar in 1990. I became a public defender in Beaufort County in 1991. I practiced with the Beaufort County Public Defender's Office for about three or four years.

Then I stayed home with my children and I did private practice for about five years.

Came back in '98 - '99 as a public defender here with the Chief Public Defender for Beaufort County, I want to say, '08 to 2016.

And then in 2016 I became the chief defender for violent crimes in the 14th Circuit, which is all five counties in the circuit, and principally handled the murders in the circuit and the child sexual assault cases for the circuit.

And then -- oh, and then during the pandemic I left that position to be the managing attorney for DSS for Beaufort and Jasper.

And then the solicitor called out of the blue and said, Would you like to join the career of criminal prosecution team, and I said, yes, I would like to come home, and so I did. And so I'm now with the 14th Circuit Solicitor's Office but prosecuting rather than defending. And I started that position several

1 months ago.

2 Q So it's fair to say a lot of your practice has been in
3 criminal law?

4 A That is principally it. Yes.

5 Q And in this case you were appointed, correct?

6 A Correct.

7 Q And you said that was a year or a little over a year before
8 the plea?

9 A That is correct. I have the first letter I sent to him back
10 in February of 2017, and some other notes and meetings with him,
11 and then letters that I sent to him at the jail, and then in
12 January I had gotten a copy of his discovery in his case in 2018
13 and sent that to him for his review.

14 Q Applicant testified earlier that you met with him three to
15 four times. Do you remember roughly how many times you would
16 have met with him before he went to --

17 A According to my notes, it would have been one, two, three,
18 four -- it looks like four times, alter detention center, and
19 then I assume obviously then maybe the fifth time here at court.

20 And then again I met with him after the plea in preparation
21 for the motion to reconsider. And then I met with him here at
22 the courthouse for the motion to reconsider. So that's maybe six
23 times.

24 Q Okay. And did you discuss applicant's version of the facts
25 during any of those meetings?

1 A You mean the underlying facts for the case itself for the
2 charges against him?

3 Q Yes. The applicant's facts, did those match the underlying
4 facts that the State presented?

5 A Yes.

6 Q Okay. And would you briefly characterize the State's
7 position as you remember?

8 A Well, you mean the facts supporting the indictment?

9 Q Yes.

10 A So Mr. Watts had engaged in an online relationship with a
11 14-year old through an app called Whisper. It was clear based on
12 their communications back and forth that he understood her age.
13 And then, you know, the graphic sexual nature of what transpired
14 through the app, and then the plan and all. There was also this
15 aspect of, I don't know if you call it like a predilection [ph]
16 or whatever, but it was like a dominating, kind of making the
17 14-year old do certain things or whatever. Anyway, there was
18 this agreement to meet in real life. They kept texting IRL, and
19 the texts went back and forth, and then they did.

20 And then the actual physical contact supporting, you know,
21 the one indictment occurred. And then, you know, it's a little
22 hazy to me, but as far as how law enforcement got involved,
23 whether it was one of the task force, you know, things or
24 whatever, but I do remember that the girl's father was actively
25 involved in all of that at this point. And so anyway they

1 arrested Mr. Watts and, you know, confronted him with the
2 evidence, you know, that they had, and he admitted to the online
3 relationship and to the -- to the physical, you know, sexual
4 touching and engaging with the 14 year old. Then, of course, you
5 know, that's where we were.

6 Q And he understood the strengths of the State's case against
7 him?

8 A Yes, I believe he did.

9 Q And did he ever express that he wanted to have a jury trial
10 or he wished to go to trial?

11 A No.

12 Q Okay. Did he ever tell he didn't understand anything about
13 his case?

14 A No.

15 Q Mr. Falk mentioned before the issue of competency, and I
16 believe you testified that you thought there were no issues.

17 A I did not believe there to be any issues.

18 Q Do you have a copy of the transcript in front of you?

19 A I'm sorry, I do not.

20 ATTORNEY WEIDAUER: Judge, do you mind if we borrow your
21 copy?

22 THE COURT: I don't mind. I read the entire thing already.

23 ATTORNEY WEIDAUER: Okay. I'll move on then.

24 THE COURT: It's not long. I read it very quickly.

25

1 BY ATTORNEY WEIDAUER:

2 Q As for applicant, how active was he in crafting a defense
3 for the defense's position?

4 A Well, we had determined fairly early on that there was
5 really not any defense, you know, as to what he was looking at.
6 He had confessed, and the strength of the State's case was beyond
7 a reasonable doubt.

8 Q So he was always going to plead guilty?

9 A Yes.

10 ATTORNEY WEIDAUER: Beg the Court's indulgence for a moment.

11 BY ATTORNEY WEIDAUER:

12 Q And had the State offered any type of plea, you would have
13 conveyed that to him?

14 A Yes.

15 Q And that's your standard practice?

16 A It is.

17 Q And it was solely his decision to plead guilty?

18 A Correct.

19 Q And you did not feel that going to trial would be in his
20 best interest?

21 A I did not feel that, no, it was not in his best interest to
22 go to trial.

23 ATTORNEY WEIDAUER: Okay. Please answer any questions
24 Mr. Falk has for you.

25 THE WITNESS: Thank you.

1 THE COURT: I've got a couple. I've got a couple questions.

2 THE WITNESS: Yes, sir.

3 THE COURT: Ms. Campbell, I believe you've been practicing
4 law one year longer than me, solely doing defense work.

5 THE WITNESS: Yes, sir.

6 THE COURT: Estimate how many cases you defended where the
7 AG was the prosecutor as opposed to a solicitor?

8 THE WITNESS: Uhm. In the 25-or-plus.

9 THE COURT: Had ever you known the AG to negotiate?

10 THE WITNESS: No, not really. No, sir.

11 THE COURT: Okay. That's all I want. You can step down.

12 THE WITNESS: Oh. Thank you, sir.

13 ATTORNEY FALK: Your Honor, we have nothing further.

14 THE COURT: Okay.

15 ATTORNEY WEIDAUER: The State rests as well.

16 THE COURT: Okay. I'm going to read the summary of his
17 letter. Everything surrounds the voluntariness and his
18 understanding of what was going on.

19 ATTORNEY FALK: I appreciate it, Your Honor.

20 THE COURT: I've stood in everybody's shoes in this equation
21 other than the defendants; as a lawyer, a prosecutor, and as a
22 judge. I've seen it before, and I understand. I think I know
23 what I'm looking for.

24 ATTORNEY FALK: Your Honor, let me withdraw that initial --
25 I walked up here and I didn't even notice I was sidelined. He

1 clearly was advised on the right to remain silent.

2 THE COURT: All right. Okay. All right. I'll let you
3 know.

4 ATTORNEY FALK: I'm not withdrawing the other stuff. Just
5 *the Boykin* claim, I'm not --

6 THE COURT: I've got the Court's exhibit up here, his
7 personal letter.

8 ATTORNEY WEIDAUER: The State would just request that
9 Mr. Falk provide us with a copy of the Court's exhibit that we
10 didn't have prior to.

11 THE COURT: You can have it right here.

12 CLERK OF COURT: Go make another copy?

13 THE COURT: Sure. All right. So we're at ease.

14 (End of Transcript of Record.)
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CERTIFICATE OF REPORTER

I, Cathy J. Provost, Official Court Reporter for the Fourteenth 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 evidence introduced in the trial/proceedings of the captioned case in the Court of Common Pleas for Beaufort County, South Carolina, on the 12th day of August, 2021.

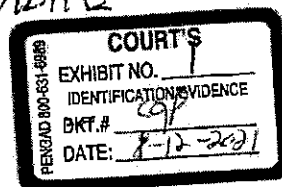
I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

Date: May 1, 2023

\s\ Cathy J. Provost
Cathy J. Provost, RMR
Official Circuit Reporter

WHY SHOULD WE BELIEVE YOU NOW?

B/C THIS TIME MY MIND IS CLEAR, UNLIKE /AST TIME W/ TRACI CAMPBELL. WHAT I MEAN WHEN I SAY THAT IS THAT BECAUSE OF MY TOTAL IGNORANCE OF S.C. LAW & TRACI CAMPBELL'S DISREGARD TO TELL ME THE TRUTH ABOUT MY OPTIONS ON FEB 12TH, AS A RESULT OF THAT AND OTHER REASONS I AM GOING TO MENTION, TRACI CAMPBELL PUT ME THROUGH THE MOST INTENSE MENTAL & VERBAL ABUSE I HAVE EVER EXPD, IN MY LIFE, LET ME EXPLAIN WHY I SAY THAT AS IT ALL TIES EVERYTHING TOGETHER. THE FOLLOWING IS HOW IT ALL BEGAN: ON THURS FEB 7TH 2018 T.C. CAME TO SEE ME FOR A CLIENT MEETING, SHE WAS PROUD & EXCITED THAT SHE GOT ME THE BEST DEAL I COULD HOPE FOR AT THAT TIME, A PREARR. NEGO. 10YR SSUS 5 PROB 5 NON VIOPLEA. SHE, T.C. ALSO STRONGLY ADVISED ME TO WRITE A HEARTFELT STATEMENT TO READ TO THE SUDGE MULLINS, WHICH I WROTE & READ ON FEB 12TH EXCEPT P. 20 LINES 21 & DOWN, THAT IS WHERE MY WRITTEN STATEMENT ENDED & PLEADING FOR MERCY BEGAN B/C I KNEW I COULD GET UP TO 30 YRS DUE TO HAVING SIGNED A WAY WORSE WAY DIFF. PLEA OFFER OF 1 SOL 0-10 1 CSC2ND 0-20 AT THAT POINT AND THAT THOUGH MY STATEMENT WAS HEARTFELT, HONEST & CONTRITE I HADN'T YET BEGGED FOR MERCY, SO I DID THEN. TO CONT. W/ THE THURS. FEBRUARY 7TH CLIENT MEETING, AFTER T.C. STRONGLY ADVISED ME TO WRITE A HEARTFELT STATEMENT, SHE TOLD ME TO BRING



2

THE STATEMENT & BE READY TO SIGN THE PREARR.
NEGO. PLEA OF 10YRS SSUS SPROB. Snon vio. EST
IN PRINCIPLE, WHICH WAS GOING TO HAVE ME HOME
1 YR SMO. AFTER WORK CREDITS WERE APPLIED TO
BE ON 5YRS PROB. WHICH T.C. HAD A DOC. STATING
THAT I WAS A 98% CANDIDATE TO SUCCEED ON PAROLE
OR PROB. EITHER OR I WOULD SUCCEED AT & T.C.
CONT. BY STRESSING TO ME THE MOST IMPORTANT THING
WAS TO BE BACK W/ MY FAMILY, MY MOM, RECENTLY
DEPARTED DAD & MY WIFE A.S.A.P NOW, WITH THAT,
SHE ENDED THE CLIENT MEETING, TELLING ME SHE
WOULD SEE ME THE NEXT WEEK, SO AFTER HEARING
EVERYTHING TOLD ME & HOW SHE WAS EXCITED & PROUD
AT THE WORK SHE HAD DONE FOR ME IN GETTING THE
PREARRANGED NEGO. PLEA OF 10YRS SSUS Snon vio S
PROB I WAS I ADMIT, EXCITED TO GO TO COURT & SIGN
THAT PREARR. NEGOT. 10YR SSUS SPROB Snon vio. SO
I WENT STR8 BACK TO ALDERM, GOT ON THE COUNTY
RECORDED WALL PHONE & TOLD MY MOM RECENTLY DEPARTED
DAD & WIFE KNOW EVERYTHING T.C. HAD JUST GOTTEN
DONE TELLING & IMPRESSING UPON ME, THAT ALL I HAD TO
DO IS GO TO COURT THE FOLLOWING WEEK & SIGN THE PREARR.
NEGO PLEA OF 10YRS SSUS SPROB Snon vio. WHICH EVEN
T.C. HAD TOLD ME SHE WAS PROUD TO HAVE GOTTEN ME, &
THAT IF T.C. HAD ALLOWED ME TO SIGN IT WOULD HAVE HAD
ME HOME JULY 1ST 2019 LOOKING BACK ON IT, I SHOULD
HAVE REALIZED THAT T.C. STRONGLY ADVISING ME TO

3

WRITE THAT HEART FELT STATEMENT AT THE FEB 7TH
 CLIENT MEETING WAS HER BACKWARD WAY OF TELLING
 ME I WAS GOING TO SEE BUT NEVER BE ABLE TO SIGN IT,
 THE PREARR. NEGOT. PLEA OF 10 YRS SSUS SPROB.
 SNON VIO. AND THAT SHE WAS GOING TO CHANGE IT ALL
 ALONG. BY T.C. WALKING AWAY BEFORE I COULD SIGN
 IT, WHICH IS EXACTLY WHAT SHE DID DO ON FEB 12TH
 BUT NOT HAVING TOLD ME SHE WAS GOING TO DO THAT ON
 FEB 7TH OUTRIGHT. I SAY THAT B/C WHAT WOULD I
 NEED TO WRITE A STATEMENT SINCE THE ORIGINAL
 PREARR. NEGOT. PLEA ~~WAS~~ OF 10 YRS SSUS SPROB
 SNON VIO THAT I WOULD HAVE NO NEED FOR A
 STATEMENT CAUSE ALL I HAD TO DO IS SIGN THE
 ORIGINAL PREARR. NEGOT. PLEA OF 10 YRS SSUS SPROB.
 SNON VIO & THE JUDGE, UNDER THAT PLEA COULD GIVE ME
 NO MORE TIME THAN THAT PLEA WOULD HAVE HAD ME DO.
 I SAY ALL OF THAT TO ILLUSTRATE HOW ALL, ME, MY MOM,
 RECENTLY DEPARTED DAD & WIFE'S MENTAL STATES ON
 FEB 7TH WERE ABOUT WHAT WE WERE EXPECTING TO
 HAPPEN TO HAPPEN THE NEXT WEEK, AND PART OF WHY
 I SAID IN THE BEGINNING ABOUT T.C. HAVING PUT ME
 THROUGH THE MOST INTENSE MENTAL & VERBAL ABUSE
 I HAVE EVER EXPERIENCED IN MY LIFE, B/C WHEN
 FEB 12TH DID COME & T.C. DID SHOW ME THE NEGOT.
 PREARR. NEGOT. PLEA OF 10 YRS SSUS SPROB SNON VIO,
 SHE DID SO AT A RUSH LENGTH, WHEN I SAW IT WAS
 WHAT SHE TOLD ME IT WOULD BE BACK ON FEB 7TH

4

I AUTOMATICALLY REACHED FOR THE PLEA, & AS I REACHED
 FOR IT T.C. STEPPED BACK & SAID "I GOTTA GO MAKE
 SURE THIS IS STILL A 90" & WALKED OFF BEFORE I COULD
 RESPOND B/C I WAS SPEECHLESS THAT PLEA, THE PRE
 ARR. NEG. PLEA OF 10 SSUS SPROB 5 NON VIO WAS THE
 ONLY REASON I WAS GIVEN AT COURT THAT DAY. SHE,
 T.C. DID COME BACK SHORTLY AFTER WITH A FAR WORSE
 FAR DIFFERANT PLEA, THE ONE T.C. VERBALLY PRESSURED
 ME INTO SIGNING, THE 1 SOL 0-10 1 ESC 2ND 0-20 YRS AT
 THAT TIME, I SHOULD HAVE KNOWN T.C. HAD BEGUN
 WORKING AGAINST ME & ~~FOR THE STATE~~, ESPECIALLY
 AFTER I TOLD T.C. THAT I DID NOT WANT TO SIGN
 THIS NEW WAY WORSE OFFER WHEN T.C.'S RESPONSE
 INSTEAD OF TELLING ME THE TRUTH, THAT NOT ONLY
 DID I HAVE ANOTHER 2 PLEAS, INCLUDING THIS ONE, THAT
 I COULD EITHER ACCEPT OR REJECT BEFORE HAVING TO
 GO TO A JURY TRIAL COURT AND THAT I SHOULD TURN
 THIS ONE DOWN, B/C JUDGE MULLINS, W/ MY CHARGES &
 REVISED PLEA WAS LIKELY TO GIVE ME THE MAX ON
 BOTH, B/C JUDGE MULLINS IS THE HARDEST JUDGE ON
 C.S.C. CHARGED INDIVIDUALS AND THAT AS I SAID IN THE
 BEGINNING I HAD NO IDEA ABOUT ANY OF THESE
 OPTIONS I SHOULD HAVE BEEN MADE AWARE OF BY T.C.
 & THAT T.C. SHOULD HAVE ADVISED ME TO TURN THIS FIRST
 PLEA ~~ADD~~ DOWN, GO BACK TO MY CELL & WAIT FOR A ~~BETTER~~
 BETTER PLEA & POSSIBLY A DIFF JUDGE AS WELL

5

INSTEAD, T.C. CHOSE TO PLAY UPON MY IGNORANCE OF
 S.C. LAW & SCARE ME TO DEATH BY SAYING TO ME
 "IF YOU DON'T SIGN THIS PLEA, & IF YOU PASS UP GOING IN FRONT
 OF THIS MOST ~~ELIMANT~~ "JUDGE MULLINS, THAT MY NEXT
 TIME IN COURT WILL BE IN A JURY TRIAL FOR UP TO ALL 3
 CHARGES ~~FOR~~ FOR UP TO 55 YEARS" SHE WENT ON ABOUT
 HOW I HAD ALREADY MADE A STATEMENT TO THE COPS THAT
 I WAS GUILTY THAT I HAD MADE REPEATED STATEMENTS
 TO MY MOM, DAD & WIFE THAT I WAS GUILTY ON THE
 RECORDED WALL PHONE WHICH WERE BOTH TRUE & THAT
 WAS ALL AMMUNITION THE DEFENSE WOULD USE AT A
 JURY TRIAL, IF I TURNED THIS PLEA DOWN. WELL AFTER
 HEARING THIS ALL I COULD THINK OF AT FIRST WAS THAT
 I HAD INITIALLY BEEN BROUGHT THERE ONLY TO SIGN THE
 PREARR. NEGO. 10 YRS 5 SVS 5 PROB. 5 MIN-VIO WHICH HAD ME
 GOING HOME IN 1 YR 5 MO. & TO MAKE A SEEMINGLY USELESS
 HEARTFELT STATEMENT TO NOW HAVING A CHOICE BETWEEN
 UP TO A MAX OF 30 YRS THAT DAY & HOPING T.C. COULD PERSUADE
 JUDGE MULLINS TO GIVE ME THE ORIGINAL PLEA
 & READ MY STATEMENT THEN PLEAD TO MULLINS FOR ^{MERLY} ~~FOR~~
 WHICH I DID FROM P. 21 LINE ~~20~~ DOWN ~~TO~~ OR COME
 BACK TO COURT FOR MY TRIAL DATE, FACE ALL 3 CHARGES
 & UP TO 55 YEARS WITH OVERWHELMING EVIDENCE OF MY
 GUILT. THIS WAS A TON OF INFO IN A SHORT TIME TO PROCESS
 & FOR ME IT WAS TOO MUCH ALL AT ONCE, AT THE TIME,
 INSTEAD OF ACCEPTING THAT I DID NOT WANT TO SIGN
 THE PLEA, SHE KEPT TELLING ME TO TRUST HER, THAT

C

SHE WAS giving ME "ALL THE options" & THAT SHE WAS still
 Looking out FOR my BEST INTEREST AND how though
 Judge MULLINS could give ME THE MAX ON BOTH
 THAT IN HER EXPERT BASED ON T.C.'S PAST DEALINGS
 w/ Judge MULLINS, THAT Judge MULLINS, IN T.C.'S
 EXPERIENCE WAS unlikely TO SEEK THE MAX ON EITHER
 MUCH LESS BOTH OF my CHARGES, THAT Judge MULLINS
 WAS THE "most lenient" Judge I WAS going to GET, IN ~~THE~~
 T.C.'S opinion & THAT T.C. ASSURED ME REPEATEDLY THAT
 T.C. WAS going TO "PULL OUT ALL THE STOPS" BY LETTING
 MULLINS know THE ONLY REASON I WAS THERE WAS TO
 SIGN A PREVIOUSLY PREARR. NEGOT. 10 YR SSUS SPOR
 S NON VID. & THAT T.C. WAS going TO appeal TO Judge
 MULLINS TO HAVE MERCY ON ME & give ME something
 SIMILAR TO THAT, FOR ME TO READ my HEART FET
 STATEMENT, THEN TO BEG FOR MERCY & ALL THAT WOULD
 REALLY help IN REGARDS TO how I WAS TO BE SENTENCED
 NOW, IF I HAD KNOWN THE TRUTH THAT Judge MULLINS
 WAS, IN FACT, THE MOST likely TO give ME THE MAX ON
 BOTH, SINCE SHE IS THE HARDEST Judge ON C.S.C. CHARGED
 CASES, MUCH LESS HAD I KNOWN I HAD THE right TO
 ACCEPT OR REJECT NOT ONLY THE plea T.C. WAS STRESSING
 SO EMPHATICALLY THAT I TAKE, BUT ANOTHER FUTURE
 TWO pleas BEFORE HAVING TO go TO A JURY TRIAL, I
 WOULD HAVE NOT ONLY TURNED DOWN T.C.'S plea FLAT
 BUT HAVE FIRED T.C. BOTH RIGHT THEN & THERE & gone
 STRAIGHT BACK TO my cell. INSTEAD, I TRUSTED HER (T.C.)
 EXPLICITLY AS I DID BY DOING & SAYING EVERYTHING

T.C. TOLD ME TO SAY & DO. BUT I DID NOT KNOW ANY OF THAT, SO
 AS A RESULT, I WAS RAPIDLY PROCESSING ALL THE LIES T.C. HAD
 BOMBARDED ME WITH, & PASSED OFF AS TRUTH, ALL IN A SHORT
 AMOUNT OF TIME. LIKE I SAID, SHE HAD ME SEEING THE MOST
 VIVID, BLEAK OUTLOOK, SO I SIGNED THE TWO CHARGES, B/C I
 REALLY DID NOT WANT TO GO TO A JURY TRIAL AT THAT TIME & T.C.
 AUTOMATICALLY WENT INTO WHAT JUDGE MULLINS WAS GOING TO
 ASK ME, COACHED ME ON ALL THE ANSWERS I WAS TO GIVE, SHE
 REHEARSED & COACHED ME UNTIL I REPEATED BOTH QS & JUDGE
 MULLINS WAS GOING TO ASK, & SPECIFICALLY WHAT ANSWER TO EACH
 Q. TO GIVE UNTIL T.C. WAS SURE I WOULD ONLY SAY WHAT SHE
 COACHED ME TO SAY VERBATIM TO EVERY Q. I WOULD BE ASKED,
 SO SHE TOOK ME IN FRONT OF JUDGE MULLINS, WHERE I REPLIED
 EXACTLY AS T.C. INSTRUCTED ME TO. HOWEVER, WHILE THIS WAS
 ALL HAPPENING TO ME, I WASN'T ANYWHERE CLOSE TO THINKING OF
 THE QS I WAS BEING ASKED OR THE ANSWERS I WAS GIVING. I
 WAS JUST DOING AS I HAD BEEN COACHED BY T.C. PREVIOUSLY HAD
 INSTRUCTED. I WAS JUST VISUALIZING ALL T.C. HAD TOLD ME, PRAYING
 TO GOD FERVENTLY THAT T.C. WAS GOING TO BE ABLE TO GET ME A
 SENTENCE SIMILAR TO THE 10YRS, 55US, 5PROB, 5NONVIO, & GOING THROUGH
 ALL 5 STAGES OF GRIEF AT THE SAME TIME. B/C THE 10YR
 55US, 5PROB, 5NONVIO, PLEA WAS THE INITIAL REASON I WAS EVEN
 BROUGHT UP THERE IN THE FIRST PLACE & THAT T.C. PULL OUT ALL
 THE STOPS SHE COULD, WHICH SHE PLAINLY DID NOT DO. ALL THESE
 THINGS ARE WHY I SAID, AT THE BEGINNING, THAT I HAVE A CLEAR
 MIND THIS TIME, UNLIKE LAST TIME W/ T.C. & THAT B/C OF MY

8

S.C.

TOTAL IGNORANCE OF THE LAW, ~~ESPECIALLY THE 6TH AMENDMENT~~ &
T.C.'S COMPLETE DISREGARD TO TELL ME ANYTHING TRUE ABOUT MY
OPTIONS & THAT T.C. ON FEB 12TH PUT ME THROUGH THE MOST INTENSE
MENTAL & VERBAL ABUSE I HAVE EVER EXPERIENCED IN MY LIFE
& AS A RESULT I HAVE SEVERE TRUST ISSUES REGARDING
LAWYERS.

STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT

Justin E. Watts, SCDC #375425,

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS
FOR THE FOURTEENTH JUDICIAL CIRCUIT

Case No.: 2018-CP-07-01675

ORDER OF DISMISSAL

2023 FEB 23 AM 11:17
JEREMY A. FOSBERG, JUDGE
BEAUFORT COUNTY
CLERK OF COURT

This matter comes before this Court by way of post-conviction relief (PCR) action commenced by Applicant Justin E. Watts on August 21, 2018. The State requested an evidentiary hearing on Applicant's claims of ineffective assistance of counsel through its amended return and motion for merger filed July 10, 2020¹. An evidentiary hearing into the matter convened before the undersigned on August 12, 2021, at the Beaufort County Courthouse. Applicant was present and represented by James K. Falk, Esquire. Assistant Attorney General Samantha J. Weidauer represented the State. Applicant testified on his own behalf at the hearing. Plea counsel, Trasi Campbell, Esquire, also testified.

In addition to the pleadings in this action, this Court had before it a copy of the Beaufort County Clerk of Court records regarding the subject convictions, Applicant's records from the South Carolina Department of Corrections, Applicant's appellate records, the plea transcript, and the records regarding this post-conviction relief action.

¹ In its return, the State moved to merge the two pending actions Applicant had in Beaufort County at that time. Specifically, Applicant filed a second PCR application on June 10, 2019, (2019-CP-07-01367). That action stemmed from the same charges and plea as the 2018 application. In its return, filed July 10, 2020, Respondent moved to merge the two applications. On July 14, 2020, then-Chief Administrative Judge Deadra Jefferson issued an Order merging the two applications, with docket number 2018-CP-07-01657 being the surviving case and dismissing the 2019 case.

JEH

After hearing the testimony at the PCR hearing and a full review of the record, this Court finds Applicant's allegations regarding ineffective assistance of counsel and involuntary guilty plea are without merit. Therefore, for the reasons discussed below, this Court denies relief and dismisses this action with prejudice.

I. Procedural History

Applicant is presently confined in the South Carolina Department of Corrections. Applicant was originally charged with criminal sexual conduct with a minor – second degree (2017-GS-07-00075) and criminal solicitation of a minor (2017-GS-07-00076). On February 12, 2018, Applicant waived presentment of the charges and pleaded guilty before the Honorable Carmen T. Mullen as charged, without recommendation² or negotiation. Trasi Campbell, Esquire, represented Applicant. Bethany Bedenbaugh Miles of the Office of the Attorney General prosecuted the case. Judge Mullen sentenced Applicant to concurrent terms of twenty years for criminal sexual conduct with a minor – second degree and ten years for criminal solicitation of a minor.

Applicant filed a timely notice of appeal and was represented on appeal by Chief Appellate Defender Robert M. Dudek of the South Carolina Commission on Indigent Defense – Division of Appellate Defense. On May 1, 2019, Applicant, through counsel, sent a letter to the South Carolina Court of Appeal stating his intention to withdraw his appeal. The withdrawal letter was accompanied by an affidavit signed by Applicant. On May 6, 2019, the South Carolina Court of Appeals issued an order dismissing the matter. The matter was remitted back to the circuit court on May 23, 2019.

² While the State did not make a specific recommendation regarding Applicant's sentence, the State requested Applicant receive a substantial active sentence. (Plea Tr. 3; 13)

II. Facts Giving Rise to the Plea

The facts for the two charges Applicant pleaded to were articulated by the State at Applicant's plea hearing as follows:

In August of 2016, law enforcement was contacted by the father of a 14-year old victim who located sexually explicit conversations between his daughter and then-37-year-old defendant. The victim admitted to the conversations and disclosed that earlier in August the defendant had traveled from his home in Savannah, Georgia to meet her on a road where they engaged in sexual activity in his car. The victim disclosed that on August 2nd, the defendant had contacted her after she posted on the Whisper app. The post included the fact that she was 14 years of age.

Shortly after contacting the minor, the defendant began asking her for full body pictures. The victim sent a face picture so he was aware of the fact that he was indeed speaking with a minor. The defendant refers to himself as master and speaks of entering into a dominant/submissive sexual relationship with the minor. The next day he begins speaking to her about coming to her house to meet up with her to engage in that relationship.

In addition to the conversations, the defendant requested numerous images of child pornography from the victim. He requested photos of her breasts and vagina, very graphically directing her as to what angle to take the photos, what body parts to accentuate, and what to wear or not wear for the photos.

Less than a week after they began chatting, the defendant traveled from his home in Georgia and met the victim on a nearby street where they engaged in sex. Messages between the two afterward confirmed that sexual encounter did occur.

The defendant was interviewed and admitted to talking to the minor female on line after knowing she was 14 years of age. He admitted to receiving photos of the minor. He states that he has a very dominant personality and was seeking submissive females to be sex slaves. He stated that – or he identified the minor female as a troubled young female who was in need of a positive person in her life. But admitted that that didn't happen and that he very quickly got, quote, nasty when speaking with her. He also admitted to traveling to South Carolina to meet with her.

(Plea Tr. 8-10).

III. Issues Before This Court

In his original application for post-conviction relief, Applicant alleges he is being held in custody unlawfully because his plea counsel was ineffective and as a result his plea was entered involuntarily. Additionally, though not formally alleged, Applicant, through counsel, also alleged at the evidentiary hearing his plea was involuntary because he was not advised of his right to a

gch

jury trial pursuant to *Boykin*³.

To the extent the allegations set forth in Applicant's original applications can be construed as separate grounds for relief from the grounds stated at the PCR hearing, the Court finds those claims were voluntarily waived and abandoned, and those claims are therefore denied and dismissed with prejudice. S.C. Code Ann. § 17-27-90.

IV. Testimony Presented at Evidentiary Hearing

Applicant Justin Watt's Testimony

Applicant testified he had four or five conversations with plea counsel, Trasi Campbell (Counsel), prior to pleading guilty. Applicant testified prior to the date of his plea he was under the impression he would be sentenced to "ten years suspended to five years plus 5 years' probation - non-violent" as he had met with Counsel on the Thursday before his plea and that was the plea offer Counsel told him had been offered. Applicant testified that the above-referenced meeting was the first conversation he had with Counsel regarding his plea.

Applicant testified that on the date of his plea, Counsel showed him the negotiated plea. Applicant stated Counsel told him she needed to confirm the negotiated plea was still being offered. Applicant stated at that time he believed he was only pleading guilty to the solicitation charge. Applicant testified twenty minutes elapsed between the time Counsel left to confirm the offer and when she came back. Applicant stated that when Counsel returned, she said the offer of ten years suspended to five years plus five years' probation was no longer the offer and if Applicant were to plead that day, he would have to plead to 0 – 10 years for the solicitation charge and 0 – 20 years for the criminal sexual conduct charge. Applicant testified Counsel told him he could

³ *Boykin v. Alabama*, 395 U.S. 238 (1969). At the evidentiary hearing, Applicant, through Counsel, amended his allegations to include this claim. At the conclusion of all testimony, however, Applicant withdrew the allegations that he was not advised of his right to remain silent.

receive the max sentence of thirty years; however, if he didn't take the plea, he would have to proceed to trial. Applicant stated that based on his conversations with Counsel, he believed that if he didn't take this offer, the next time he would be in court would be for a jury trial. Applicant testified Counsel did not give him time to decide whether he wished to take the State's offer. Rather, Applicant stated Counsel told him he had to decide whether he wished to plead guilty up to up to thirty years or possibly be sentenced up to fifty-five years before a jury.

When asked whether he believed going before Judge Mullen was a good or bad plan, Applicant testified Counsel made it seem as if Judge Mullen would not give him the maximum sentence on either charge and that Judge Mullen was a lenient sentencer. Applicant testified that at the time of his plea, he did not have any concerns about whether Judge Mullen knew there was a prior plea deal; however, Counsel never mentioned the prior plea offer during his plea. When asked why he did not stop and ask to speak with his lawyer when the State detailed during his plea they were not making any recommendations except for a substantial active sentence, Applicant testified Counsel did not make him aware he could stop the plea hearing and tell the court he did not wish to plead.

When asked about the rights Counsel reviewed with him, Applicant testified Counsel told him by pleading he would be waiving his right to proceed to trial, but he did not remember anything else. When questioned as to whether he reviewed discovery with Counsel and/or discussed trial strategy, Applicant stated he had admitted guilt to law enforcement, so he knew he needed to plead. Applicant testified Counsel told him receiving only probation was a "long shot," but that he could possibly receive a sentence of ten years suspended to 5 years with five years' probation.

When asked why he testified during his plea that he was satisfied with Counsel, Applicant testified that when questioned during the plea hearing his mind was "far afield," that he was going

through 5 stages of grief, and that Counsel had coached him regarding which answers to give when to the plea court. Applicant further stated he was having an “out of body experience” and Counsel took advantage of his ignorance because he had never been in trouble before. Applicant testified if he had known he could turn down the plea, he would have. Applicant testified that since he has been incarcerated, he has been told it is normal to be given at least three plea offers and only once you turn down all three, would he have had to go to trial. Applicant stated his testimony at the evidentiary hearing is different from his testimony at his plea hearing because his mind is now clear, and he is not under the verbal abuse Counsel put him through. When asked about the alleged verbal abuse, Applicant contended Counsel told him if he did not take the plea offer of 0 – 10 for the solicitation charge and 0 – 20 for the criminal sexual conduct charge, he could possibly receive fifty-five years total at trial. Applicant additionally testified Counsel gave him only the bleakest outlook regarding his plea. Applicant testified he had already admitted his guilt more than once and he did not wish to proceed to trial. Applicant testified he believes Counsel helped him as little as possible. Applicant testified that when he pleaded guilty, he understood he was being recorded and he was making an admission of guilt. Applicant testified that his testimony at the evidentiary is made with a clear mind and he is no longer being pressured by Counsel.

Regarding his mental health, Applicant testified that he had not been treated prior to his plea; however, since his incarceration he has been diagnosed with Asperger’s and A.D.D. Applicant testified Counsel was aware of his Asperger’s diagnosis but stated the diagnosis seemed to matter very little to her. When asked whether it would have been acceptable for Counsel to apprise the Judge of his Asperger’s diagnosis, Applicant stated he wanted Counsel to pull out “all the stops.” Applicant testified he told Counsel his diagnosis had affected him his whole life.

On cross-examination, when asked why he had previously testified he only met with Counsel four or five times but stated in his application he met with her five or six times, Applicant replied he has A.D.D. and selective memory. Applicant testified he did not recall reviewing discovery with Counsel during any of their meetings. When asked whether Counsel reviewed his constitutional right with him, Applicant testified she had.

During cross-examination, Applicant again testified he had already confessed to law enforcement and stated it was his decision to plead guilty. Applicant reiterated Counsel told him probation alone was not an option and stated he understood that if he did not plead, he was going to be charged with all indicted offenses carrying up to fifty-five years imprisonment. Applicant testified he understood he was pleading guilty to two separate charges carrying up to thirty years but again reiterated he wanted the alleged prior plea offer.

When asked whether Counsel threatened him in any way prior to the guilty plea hearing, Applicant testified he felt coerced and was made to believe that by turning down the plea offer of 0 – 10 years for the solicitation charge and 0 – 20 years for the criminal sexual conduct charge, his only other option was to proceed to trial. Applicant testified he understood he was in court to plead guilty on the date of his plea and that he did not ever indicate to Counsel that he wished to proceed to trial. Applicant further testified that at the time of his plea he believed he would have been convicted at trial.

Plea Counsel Trasi Campbell's Testimony

Applicant's counsel next called Counsel Trasi Campbell to testify. During cross-examination, Counsel testified she has been a member of the Bar since 1990. Counsel testified she had been a public defender for most of her career. Counsel also testified that she held the office of Circuit Public Defender and Chief Public Defender for Violent Crimes in the 14th Circuit.



Counsel testified she was appointed to represent Applicant in this case a little over a year before he pleaded guilty. Counsel testified that according to her notes she met with Applicant four times at the detention center, a fifth time at court prior to his plea, and again in preparation of a motion to reconsider. Counsel testified that she has defended over 25 cases like the instant case where the Attorney General's Office was the prosecuting agency and that she has never known the Attorney General's Office to negotiate.

Counsel testified she met with Applicant multiple times at the Beaufort County Detention Center. Counsel testified her notes from 2018 indicate she reviewed, in detail, the charges Applicant was facing with him and the possible penalties. Counsel testified she sent Applicant's discovery materials to him in January 2018. Counsel further testified she did not ever have a conversation with Applicant regarding the plea offer he testified to at the evidentiary hearing (ten years, suspended to five years, suspended to five years – non-violent).

When asked whether Applicant's demeanor had changed since her representation of Applicant, Counsel testified she recalled Applicant displaying a flat affect frequently. Counsel elaborated that during many of their conversations she believed there was an aspect of narcissism. Counsel testified Applicant's family provided her with a psych report that aligned with some of the behaviors she observed. Counsel further testified she sought a private exam for Applicant for fear that an examination through the State would reveal underlying personality disorders that could have been problematic for Applicant. Counsel further testified she did not have any questions regarding Applicant's competency. When questioned whether Counsel believed Applicant could have received a better sentence should Counsel have shared some of Applicant's personality disorders with the plea court during mitigation, Counsel testified she believed that sharing Applicant's diagnoses would have made it worse for Applicant. Counsel elaborated that from what

she read in the report provided to her by the family, she felt the references included in the report - substance abuse, Applicant's need for attending narcotics anonymous meetings, and Applicant's narcissistic personality traits - were not things Counsel believed the State would look kindly upon.

Counsel stated she worked very hard to make sure Applicant understood the evidence the State had against him which included photographs that were violent and graphic in nature and evidence that Applicant and the victim had met in real life. Counsel noted that even during their discussions regarding some of the most horrific aspects of the incident, Applicant's demeanor and affect did not change. Counsel added that she observed the same demeanor at the evidentiary hearing. Should Applicant proceed to trial, Counsel testified she was fearful that he would potentially be sentenced to life in prison.

When questioned about the meeting Applicant stated occurred on the Thursday prior to his plea, Counsel testified that that conversation did not occur. Counsel testified she had spoken with the State via letter and email and believed she had done everything she could do to get the best possible outcome for Applicant. Counsel testified she had asked the State if Applicant could plead guilty to ten years and requested they meet her somewhere in the middle with their offer. Counsel testified the best the State was willing to offer Applicant was to not to ask for the maximum sentence available; rather, at Applicant's plea hearing the State requested a "substantial sentence". Counsel stated she believed that was as good of an offer as Applicant was going to receive.

Regarding Applicant's plea, when asked whether Counsel coached Applicant regarding how to respond to the plea court, Counsel adamantly testified that there was no coaching. Counsel stated she always reviews Applicant's constitutional rights with them and what to expect during a plea so that Applicant is not overwhelmed during the plea. When asked whether she told Applicant specifically how to answer questions during his plea, Counsel stated - "absolutely not."

When asked whether Counsel told Applicant he could deny the plea, Counsel testified that she did not know if she specifically informed Applicant he could back out of the plea; however, Counsel stated she made it very clear to Applicant that his options were to plead guilty or to proceed to trial. Counsel testified she did not make any representations regarding her expectation of what sentence Judge Mullen, or any other impose on him. Counsel further testified she did not advise Applicant that Judge Mullen would “go easy.” Counsel testified the sentence offer (ten years suspended to five years plus five years’ probation) was never offered and stated that the offer was nonsensical. Counsel testified that there was never a plea offer that was given to Applicant to sign and then later taken away from him.

During cross-examination when asked whether she discussed Applicant’s version of the facts with him, Counsel testified she had, and they had matched the facts the State presented. Counsel testified the State’s position was that Applicant had engaged in an online relationship with a fourteen-year-old through a social application on his phone called “Whisper”. Counsel stated that it was clear based on her communications that Applicant knew the victim’s age. Counsel testified there was a graphic sexual nature (BDSM) in what transpired through the social application and that Applicant made plans to meet the victim. Counsel testified the State’s case showed there was an agreement between Applicant and victim to meet up in real life and they ultimately did. Counsel stated that after Applicant was arrested by law enforcement and confronted with the evidence they had collected, Applicant admitted to having an online relationship with victim and admitted to having a sexual relationship with the fourteen-year-old victim. Counsel testified Applicant understood the strength of the State’s case and never indicated he did not understand anything about his case. Counsel again stated she did not have any concerns regarding Applicant’s competency. Counsel testified Applicant never expressed he wanted a trial; Counsel



further testified that she and Applicant had determined early on in her representation of him that there was not a defense to the charges. Counsel testified Applicant always planned to plead guilty. Counsel testified that should the State have offered any plea to Applicant she would have conveyed the plea offer to him as that is her standard practice. Counsel testified that it was solely Applicant's decision to plead guilty.

V. Standard of Review

An applicant may seek PCR upon the following types of allegations:

1. That the conviction or the sentence was in violation of the Constitution of the United States or the Constitution or laws of this State;
2. That the court was without jurisdiction to impose sentence;
3. That the sentence exceeds the maximum authorized by law;
4. That there exists evidence of material facts, not previously presented and heard, that requires vacation of the conviction or sentence in the interest of justice;
5. That his sentence has expired, his probation, parole or conditional release unlawfully revoked, or he is otherwise unlawfully held in custody or other restraint; or
6. That the conviction or sentence is otherwise subject to collateral attack upon any ground of alleged error heretofore available under any common law, statutory or other writ, motion, petition, proceeding or remedy[.]

S.C. Code Ann. § 17-27-20(A).

Ordinarily, PCR allegations are centered upon an allegation that the applicant did not receive *effective* assistance of counsel guaranteed by the Sixth Amendment. *See generally* S.C. Code Ann. § 17-27-20(A) (enumerating allegations cognizable in PCR actions). The allegation of denial of such representation sets forth a *prima facie* violation of this constitutional right, and raises a question of fact that can only be determined by an evidentiary hearing. *Rogers v. State*, 261 S.C.

288, 291, 199 S.E.2d 761, 762 (1973).

In a post-conviction relief action, the applicant bears the burden of proving the allegations by a preponderance of the evidence—a mere allegation of ineffective assistance is not sufficient to warrant granting relief. Rule 71.1(e), SCRCP; *Butler v. State*, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985). The reviewing court applies the two-part test outlined in *Strickland* to determine whether counsel’s conduct “was so ineffective as to require reversal” of the applicant’s conviction. *Strickland v. Washington*, 466 U.S. 668 at 687 (1984). To obtain relief, a PCR applicant must prove (1) counsel’s performance fell below an objective standard of reasonableness, and (2) the applicant sustained prejudice as a result of counsel’s deficient performance. *Id.* at 687–88; *Cherry v. State*, 300 S.C. 115, 117–18, 386 S.E.2d 624, 625 (1989). Failure to make the required showing of either deficient performance or sufficient prejudice defeats the ineffectiveness claim. *Strickland*, 466 U.S. at 700; *see also Bell v. Cone*, 535 U.S. 685, 695 (2002) (explaining that “[w]ithout proof of both deficient performance and prejudice to the defense, . . . it could not be said that the sentence or conviction resulted from a breakdown in the adversary process that rendered the result of the proceeding unreliable” (citation and internal quotation marks omitted)).

Because the Sixth Amendment right to counsel also applies to a defendant entering a guilty plea, *Hill v. Lockhart*, 474 U.S. 52 (1985), extended the two-part *Strickland* test to challenge guilty pleas based on ineffective assistance of counsel. *See Padilla v. Kentucky*, 559 U.S. 356, 373 (2010) (recognizing that the guilty plea process is a “critical phase of litigation” for purposes of the Sixth Amendment right to effective assistance of counsel). The analysis of counsel’s performance under the first prong of *Strickland* remains unchanged—the applicant must show that counsel’s representation fell below an objective standard of reasonableness demanded of attorneys in criminal cases. *Hill*, 474 U.S. at 58–59; *accord Thompson v. State*, 340 S.C. 112, 115, 531 S.E.2d

294, 296 (2000).

An applicant alleging his guilty plea was induced by ineffective assistance of counsel must prove counsel's advice to plead guilty was not "within the competence demanded of attorneys in criminal cases." *Hill*, 474 U.S. at 56. The second, or "prejudice" prong, however, "focuses on whether counsel's constitutionally ineffective performance affected the outcome of the plea process." *Id.* at 58–59. Specifically, when an applicant claims counsel's deficient performance caused him to accept a plea, the applicant "must show that there is a reasonable probability that, but for [plea] counsel's [alleged] errors, he would not have pleaded guilty and would have insisted on going to trial." *Id.* at 59.

This inquiry "focuses on a defendant's decisionmaking" and does not turn on the outcome of a defendant's actual criminal proceeding or potential outcome had a defendant chosen to proceed to trial. *Lee v. United States*, 582 U.S. ___, 137 S. Ct. 1958, 1966 (2017). However, an applicant must convince the court that a decision to reject the plea bargain would have been rational under the circumstances. *Padilla*, 559 U.S. at 372. The question here is whether the applicant, if correctly informed of circumstances surrounding the plea, would have pleaded guilty—*not* whether counsel would have still advised him or her to plead guilty. *Turner v. State*, 335 S.C. 382, 385, 517 S.E.2d 442, 444 (1999).

VI. Findings of Fact & Conclusions of Law

This Court has reviewed the testimony presented at the PCR hearing, observed the witnesses, passed upon their credibility, and weighed their testimony accordingly. After hearing the testimony presented and considering the legal arguments by counsels, as well as the record in this action incorporated by way of the State's return, this Court proceeds to the claims raised at the evidentiary and finds each to be without merit. Pursuant to S.C. Code Ann. § 17-27-80, this Court



makes the following findings of facts and conclusions of law based upon all of the probative evidence presented.

The issue before this Court is whether Applicant received ineffective assistance of counsel, rendering his guilty plea involuntary. This Court disagrees, and finds the combined record from the plea hearing and the evidentiary hearing establishes Applicant freely, knowingly, and voluntarily pleaded guilty.

Ineffective Assistance of Counsel for Failure to Convey Acceptance of a Plea Offer

Applicant alleges, through his testimony, Counsel was ineffective for failing to timely convey Applicant's acceptance of a plea offer from the State. Applicant asserts he told Counsel he wished to accept the negotiated plea offer from the State of "ten years suspended to five years plus 5 years probation - non-violent" and that prior to the date of his plea he believed that is what he would be sentenced to. This Court disagrees.

"[A]s a general rule, defense counsel has the duty to communicate formal offers from the prosecution to accept a plea on terms and conditions that may be favorable to the accused." *Missouri v. Frye*, 566 U.S. 134, 145 (2012); *see Strickland*, 466 U.S. at 688 (explaining that counsel has a duty "to consult with the defendant on important decisions and to keep the defendant informed of important developments in the course of the prosecution."). Further, "allow[ing] an offer to expire without advising the defendant or allowing him to consider it" constitutes deficient performance". *Frye*, 566 U.S. at 145. As an initial matter, this Court finds Applicant's testimony regarding his acceptance of a prior plea offer not credible and Counsel's testimony that no plea offer of "ten years suspended to five years plus 5 years' probation - non-violent" existed, credible.

To satisfy the *Strickland* prejudice prong where a plea offer has lapsed or been rejected because of counsel's deficient performance, an applicant must demonstrate a reasonable

probability that:

(1) he “would have accepted the earlier plea offer had [he] been afforded effective assistance of counsel;” (2) “the plea would have been entered without the prosecution canceling it or the trial court refusing to accept it;” and (3) “the end result of the criminal process would have been more favorable by reason of a plea to a lesser charge or a sentence of less prison time.”

Collins v. State, 422 S.C. 250, 262, 810 S.E.2d 871, 877 (2018) (quoting *Frye*, 566 U.S. at 147); see *Hill v. Lockhart*, 474 U.S. 52, 59 (1985) (“In the context of plea negotiations, the prejudice element turns on whether counsel’s performance affected the defendant’s final decision to accept or reject a plea offer.”).

Though Applicant testified when he pleaded guilty, he believed he was pleading to a negotiated sentence, he further acknowledged he understood prior to pleading that the State was not making a recommendation in his case and that sentencing would be 0 – 10 years for the solicitation charge and 0 – 20 years for the criminal sexual conduct charge. Additionally, Counsel credibly testified that the plea offer Applicant claims to have been offered originally, was never offered, and testified that she did not have any conversations with Applicant regarding the “nonsensical” plea offer he claims was offered to him.

Moreover, this Court finds Applicant failed to present evidence there was a reasonable probability the plea would have been entered without the trial court refusing to accept it and failed to present evidence the plea would have been entered without the prosecution canceling it. Particularly in light of Counsel’s testimony that the Attorney General’s Office, the prosecuting agency in this matter, rarely negotiates and only conceded to asking the plea court for a “substantial sentence” rather than the maximum sentence available. The remaining showing required under

Collins does not apply. Accordingly, Applicant's allegation pertaining to ineffective assistance by Counsel for failure to convey acceptance of a plea offer is **DENIED**.

Involuntary Guilty Plea

Applicant further contends his plea was involuntary because he felt coerced into taking the plea. This Court disagrees, and finds Applicant knew the nature of the charges against him, the terms of the plea agreement, and the consequences of pleading guilty pursuant to the requirements of *Boykin* and *Pittman*. The plea transcript reflects Applicant entered his plea knowingly and voluntarily, engaged in an intelligent colloquy with the plea court, and gave appropriate responses to the court's questions.

"[I]t is the prerogative of any person to waive his rights, confess, and plead guilty, under judicially defined safeguards, which are adequately enforced." *Reed v. Becka*, 333 S.C. 676, 685, 511 S.E.2d 396, 401 (Ct. App. 1999). Accordingly, because a criminal defendant waives several constitutional rights by pleading guilty, the Due Process Clause requires that guilty pleas are entered into voluntarily, knowingly, and intelligently. *Boykin v. Alabama*, 395 U.S. 238 (1969); *Pittman v. State*, 337 S.C. 597, 524 S.E.2d 623 (1999). To be intelligent, a plea must be made by a mentally competent defendant who understands both the charges against him and the consequences of his plea. *Brady v. United States*, 397 U.S. 742, 748 (1970). To be voluntary, a plea must be free of threats or other coercion that would impermissibly distort the defendant's choice. *Id.* at 755; *see also United States v. Smith*, 440 F.2d 521, 528–529 (7th Cir.) (Stevens, J., dissenting) (explaining that voluntariness relates to the trustworthiness of the admission of guilt and binding character of the waiver of the constitutional protections which would be available to the accused if he elected to stand trial).

Before a court can accept a guilty plea, the defendant must be advised of the constitutional



rights he or she is waiving; the right to a jury trial, the right to confront one's accusers, and the privilege against self-incrimination. *Boykin*, 395 U.S. at 243. Additionally, the defendant "must be aware of the nature and crucial elements of the offense, the maximum and any mandatory minimum penalty, and the nature of the constitutional rights being waived." *Pittman v. State*, 337 S.C. 597, 599, 524 S.E.2d 623, 624 (1999). The defendant's knowing and voluntary waiver of statutory or constitutional rights must be established by a complete record, and "may be accomplished by colloquy between court and defendant, between court and defendant's counsel, or both." *State v. Ray*, 310 S.C. 431, 437, 427 S.E.2d 171, 174 (1993); *See also Wolfe v. State*, 326 S.C. 158, 485 S.E.2d 367 (1997) (guilty plea not involuntary where the colloquy demonstrated the trial judge asked defendant twice whether he understood there were no promises and that no sentencing recommendations were binding on the judge). To ensure the defendant understands the consequences of his guilty plea, the plea judge "usually questions the defendant about the facts surrounding the crime and punishment that could be imposed." *Dover v. State*, 304 S.C. 433, 434–35, 405 S.E.2d 391, 392 (1991). However, the plea judge "does not have to direct the defendant's attention to every consequence of his plea provided the record reveals affirmative awareness of the consequences of a guilty plea." *Carter v. State*, 329 S.C. 355, 362, 495 S.E.2d 773, 776 (1998).

The test for determining the validity of a guilty plea is "whether the plea represents a voluntary and intelligent choice among the alternative courses of action open to the defendant." *North Carolina v. Alford*, 400 U.S. 25, 31 (1970). It is "well established that a guilty plea is not rendered invalid because it represents a compromise by defendant, thrusts a difficult judgment upon him, or is motivated by fear of greater punishment." *United States v. Cox*, 464 F.2d 937, 942 (6th Cir. 1972) (citing *Brady*, 397 U.S. 742). The State may properly encourage guilty pleas either by being more lenient to those who enter such pleas, *Brady*, 397 U.S. at 750-753, or by increasing

the risks of punishment on those who do not. *North Carolina v. Alford*, 400 U.S. 25, 37 (1970).

Nonetheless, because a guilty plea is a solemn, judicial admission of the truth of the charges against an individual . . . , a criminal inmate's right to contest the validity of such a plea is usually, but not invariably, foreclosed." *Dalton v. State*, 376 S.C. 130, 137, 654 S.E.2d 870, 874 (Ct. App. 2007) (citing *Blackledge v. Allison*, 431 U.S. 63, 74 (1977); see also *Jamison v. State*, 410 S.C. 456, 469–71, 765 S.E.2d 123, 129–30 (2014) (observing that "guilty plea[s] must be treated as final in the vast majority of cases" and instructing that caution must be exercised so as not to "undermine the solemn nature of a guilty plea and the finality that generally attaches to a guilty plea"). Indeed, admissions made during a guilty plea should be considered conclusive unless an applicant presents valid reasons why he should be allowed to depart from the truth of his statements." *Dalton*, 376 S.C. at 137–38, 654 S.E.2d at 874 (internal citations and quotation marks omitted); cf. *Blackledge*, 431 U.S. at 73–74 (pointing out that representations made by a defendant, his lawyer, and the prosecutor at a guilty plea hearing, as well as any findings made by the judge accepting the plea, constitute a "formidable barrier in any subsequent collateral proceedings").

The voluntariness of a guilty plea, however, "is not determined by an examination of the specific inquiry made by the sentencing judge alone, but is determined from both the record made at the time of the entry of the guilty plea and the record of the post-conviction hearing." *Harres v. Leeke*, 282 S.C. 131, 133, 318 S.E.2d 360, 361 (1984). An applicant who enters a plea on the advice of counsel may "only attack voluntary, knowing and intelligent character of the plea by showing that plea counsel's representation fell below an objective standard of reasonableness and that there is a reasonable probability that, but for counsel's errors, the [applicant] would not have pled guilty, but would have insisted on going to trial." *Roscoe v. State*, 345 S.C. 16, 20, 546 S.E.2d 417, 419 (2001).

In evaluating an allegation on PCR that a guilty plea was based on inaccurate advice of counsel, the transcript of the guilty plea hearing will be considered to determine whether any possible error by counsel was cured by the information conveyed at the plea hearing. *Wolfe*, 326 S.C. at 165, 485 S.E.2d at 370; *cf. Rayford v. State*, 314 S.C. 46, 443 S.E.2d 805 (1994) (finding that, where the transcript of the guilty plea proceeding refuted applicant's claim that he did not understand the terms of a plea bargain, granting PCR was inappropriate notwithstanding applicant's claim his lawyer misadvised him).

Surmounting *Strickland's* high bar is never an easy task, and the strong societal interest in finality has "special force with respect to convictions based on guilty pleas." *Lee*, 582 U.S. ___, 137 S. Ct. at 1967 (internal citations and quotation marks omitted); *cf. Hill*, 474 U.S. at 58 ("[R]equiring a 'prejudice' showing from defendants who seek to challenge the validity of their guilty pleas on the ground of ineffective assistance of counsel 'will serve the fundamental interest in the finality of guilty pleas.'"). Reviewing "[c]ourts should not upset a plea solely because of *post hoc* assertions from a defendant about how he would have pleaded but for his attorney's deficiencies." *Lee*, 582 U.S. ___, 137 S. Ct. at 1967. Rather, judges should "look to contemporaneous evidence to substantiate a defendant's expressed preferences." *Id.* Thus, in determining whether a guilty plea was taken in accordance with constitutional standards, the reviewing judge must analyze and consider the entire record, including the transcript of the guilty plea and the evidence presented at the PCR hearing. *Harres*, 282 S.C. at 134, 318 S.E.2d at 361.

At the plea hearing, Counsel advised the plea court she had fully discussed the charges and possible sentences with Applicant. Judge Murphy explained to Applicant the constitutional rights he waived by pleading guilty, including his rights to: a jury trial, remain silent, and challenge the State's evidence. Applicant further indicated he was satisfied with the services provided to him by



Counsel. Applicant testified that he did not suffer from any mental or physical problems that would prevent him from understanding the plea proceeding. Applicant testified he understood that he was pleading guilty. Applicant further testified that “[he was wrong for what [he] did” and that he was sorry. (Plea Tr. 20).

The plea transcript reflects Applicant understood the proceedings, interacted intelligently with the plea court, and entered his guilty plea knowingly and voluntarily. Applicant has failed to present any valid reason why he should be able to depart from the above statements made during his guilty plea. *See Crawford v. United States*, 519 F.2d 347, 350 (4th Cir. 1975), *overruled on other grounds by United States v. Whitley*, 759 F.2d 327 (4th Cir. 1985) (finding that the accuracy and truth of an accused’s statements at a guilty plea proceeding are “conclusively” established unless he makes some reasonable allegation why this should not be so).

Moreover, at the evidentiary hearing, Applicant testified he understood that if he did not plead, he would have to proceed to a jury trial and was told prior to his plea he could receive a thirty-year sentence. Applicant also testified that because he had previously admitted his guilt to law enforcement, he knew he needed to plead guilty. Applicant contended that Counsel told him if he did not take the plea offer of 0 – 10 years for the solicitation charge and 0 – 20 years for the criminal sexual conduct charge, he could possibly receive fifty-five years total should he proceed to trial. Though Applicant claims this gave him the bleakest outlook possible regarding pleading, this Court finds the information given by Counsel accurate. Additionally, because Applicant testified he did not wish to proceed to trial, this Court finds Applicant’s allegation of involuntary guilty plea baseless.

Based on the foregoing, the record and Applicant’s testimony at the evidentiary hearing, which this Court finds wholly self-serving, contradicts Applicant’s assertion he was coerced by



Counsel to plead guilty and that his plea was involuntary as a result of ineffective assistance of counsel. Thus, based on the evidence presented at the PCR hearing and the record of the plea proceeding, this Court finds Applicant's plea was freely, knowingly, and voluntarily entered into. Accordingly, Applicant's request for relief by way of this allegation is **DENIED**.

[conclusion and signature on following page]



VII. Conclusion

Based on the evidence presented at the PCR hearing and the record of the plea proceeding, this Court finds Applicant has not established any constitutional violations or deprivations that would require this Court to grant his application for post-conviction relief. This Court finds Counsel was not deficient in any manner, nor was Applicant prejudiced by Counsel's representation. This Court finds Applicant freely, knowingly, and voluntarily pleaded guilty and further failed to present any justification as to why the statements he made during the guilty plea hearing should not be considered conclusive. Therefore, based on the foregoing, this Court denies relief on all allegations and dismisses this PCR action with prejudice.

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

IT IS THEREFORE ORDERED:

1. The application for post-conviction relief be denied and dismissed with prejudice; and
2. Applicant be remanded to the custody of the State.

AND IT IS SO ORDERED this 15th day of Feb, 2023.

York, South Carolina



 EUGENE C. GRIFFITH, JR.
 Presiding Circuit Court Judge
 Fourteenth Judicial Circuit

WITNESSES

Seth Reynells, Beaufort County Sheriff's Office

ARREST WARRANT NUMBER

2016A0710300411

ACTION OF GRAND JURY

Foreperson of Grand Jury
Date:

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2017GS-07-00075

The State of South Carolina

County of Beaufort

COURT OF GENERAL SESSIONS

2018 TERM

THE STATE

vs.

JUSTIN ELLIOTT WATTS
D.O.B. [REDACTED]

Indictment for

**CRIMINAL SEXUAL CONDUCT WITH A
MINOR IN THE SECOND DEGREE**

S.C. CODE §16-3-655(B)(1)
CDR Code: 0396

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

Defendant

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

Defendant

Witness:

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

RECEIVED
APR 17 2018
SC Court of Appeals

STATE OF SOUTH CAROLINA)

INDICTMENT

COUNTY OF BEAUFORT)

CRIMINAL SEXUAL CONDUCT
WITH A MINOR IN THE SECOND DEGREE

At a Court of General Sessions, convened on _____, 2018, the
Grand Jurors of Beaufort County present upon their oath:

That Justin Elliott Watts, did in Beaufort County, on or about August 8, 2016, willfully and knowingly commit the crime of Criminal Sexual Conduct with a Minor in the Second Degree. To wit: Justin Elliott Watts, a person over the age of eighteen, did engage in sexual battery with a minor Minor DOB [REDACTED] who was between the ages of 11 and 14. This is in direct violation of Section 16-3-655(B)(1) of the South Carolina Code of Laws (1976), as amended.

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

OFFICE OF THE ATTORNEY GENERAL



ALAN WILSON (BBM)
ATTORNEY GENERAL

WITNESSES

Seth Reynolds, Beaufort County Sheriff's Office

ARREST WARRANT NUMBER

2016A0710300412

ACTION OF GRAND JURY

Foreperson of Grand Jury
Date:

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 201765-07-00076

The State of South Carolina

County of Beaufort

COURT OF GENERAL SESSIONS

2018 TERM

THE STATE

vs.

JUSTIN ELIJAH WATTS
D.O.B. [REDACTED]

Indictment for

CRIMINAL SOLICITATION
OF A MINOR

SC Code: 16-15-342
CDR Code: 2999

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

Defendant

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

Defendant

Witness:

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

RECEIVED
APR 17 2018
SC Court of Appeals

STATE OF SOUTH CAROLINA)

INDICTMENT

COUNTY OF BEAUFORT)

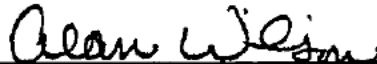
CRIMINAL SOLICITATION OF A MINOR

At a Court of General Sessions, convened on _____, 2018, the
Grand Jurors of Beaufort County present upon their oath:

That Justin Elliott Watts, did in Beaufort County, between the dates of August 2 and August 8, 2016, did willfully and knowingly commit the crime of Criminal Solicitation of a Minor. To wit: Justin Elliott Watts, a person eighteen years of age or older, did knowingly contact and communicate with a person under the age of eighteen, (minor DOB [REDACTED]) for the purpose of or with the intent of persuading, inducing, enticing, or coercing the person to engage or participate in a sexual activity as defined in Section 16-15-375(5), or a violent crime as defined in Section 16-1-60, or with the intent to perform a sexual activity in the presence of the person reasonably believed to be under the age of eighteen. This is in direct violation of Section 16-15-342, of the South Carolina Code of Laws (1976), as amended.

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

OFFICE OF THE ATTORNEY GENERAL


ALAN WILSON (BBM)
ATTORNEY GENERAL

0-20 yrs

RECEIVED

STATE OF SOUTH CAROLINA

APR 17 2018

IN THE COURT OF GENERAL SESSIONS

COUNTY OF

Beaufort

SC Court of Appeals

STATE

VS.

INDICTMENT/CASE#: 2017-GS-07 - 00075

Justin Elliott Watts

AAN#: 2016A0710300411

AKA:

Date of Offense: August 8, 2016

Race: W

Sex: M

Age: 39

S.C. Code §: 16-3-655(B)(1)

DOB: [REDACTED]

SS#: [REDACTED]

CDR Code #: 0396

Address: [REDACTED]

City, State, Zip: [REDACTED]

DL#

SID#

*CDL Yes ☐ No ☒ CMV Yes ☐ No ☒ Hazmat Yes ☐ No ☒

SENTENCE SHEET

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

☐ CONVICTED OF or ☒ PLEADS

TO: Criminal Sexual Conduct with a Minor, Second Degree

In violation of § 16-3-655(B)(1)

of the S.C. Code of Laws, bearing CDR Code # 0396

☐ NON-VIOLENT☒ VIOLENT☐ SERIOUS☒ MOST SERIOUS☐ Mandatory GPS☐ \$17-25-45The charge is: ☐ As Indicted, ☐ Lesser Included Offense, ☒ Defendant Waives Presentment to Grand Jury.The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Bettany Miles

76212

Assistant Attorney General

SC Bar #

Defendant

Attorney for Defendant

SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections ☐ County Detention Center, for a determinate term of 20 days/months/years or ☐ under the Youthful Offender Act not to exceed years and/or to pay a fine of \$; provided that upon the service of days/months/years and or payment of \$; plus costs and assessments as applicable; the balance is suspended with probation for months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections. 396 days credit☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

PTUP

Total: \$ plus 20% fee: \$ days/hours Public Service Employment

Payment Terms:

Obtain GED ☐☐ Set by SCDPPPSAttend Voc. Rehab. Or Job Corp.

Recipient:

May serve W/E beginning

Substance Abuse Counseling ☐

*Fine:

\$14-1-208 (Assessments 107.5%)

\$14-1-211 (A)(1)(Conv. Surcharge)

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

\$56-5-2995 (DUI Assessment)

\$56-1-286 (DUI Breath Test)

Proviso 47.9 (Public Def/Prob)

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

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

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

\$56-5-2942(J) (Vehicle Assessment)

Proviso 90.5 (SCCA Surcharge)

3% to County (if paid in installments)

TOTAL

Clerk of Court/Deputy Clerk

Court Reporter: Random Drug/Alcohol Testing ☐

Fine may be pd. in equal consecutive weekly/monthly

pmts. of \$ Beginning\$ Paid to Public Defender FundOther:

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

Presiding Judge

Judge Code: 2142Sentence Date: 2/12/18

0-10 yrs

RECEIVED

APR 17 2018

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF

SC Court of Appeals

Beaufort

STATE

VS.

Justin Elliott Watts

AKA:

Race:

W

Sex:

M

Age:

36

DOB:

SS#:

Address:

City, State, Zip:

DL#

SID#

*CDL Yes ☐ No ☒ CMV Yes ☐ No ☒ Hazmat Yes ☐ No ☒

INDICTMENT/CASE#: 2017-GS-07 - 000716

A/W#: 2016A0710300412

Date of Offense: August 2-8, 2016

S.C. Code §: 16-15-0342

CDR Code #: 2999

SENTENCE SHEET

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

☐ CONVICTED OF or ☒ PLEADS

TO: Criminal Solicitation of a Minor

In violation of § 16-15-0342 of the S.C. Code of Laws, bearing CDR Code # 2999

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45The 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:

B. B. Miles

78212

Assistant Attorney General

SC Bar #

Defendant

Attorney for Defendant

SC Bar #

WHEREFORE, the Defendant is committed to the State Department of Corrections ☐ County Detention Center, for a determinate term of 10 days/months/years ☐ under the Youthful Offender Act not to exceed years and/or to pay a fine of \$; provided that upon the service of days/months/years and or payment of \$; plus costs and assessments as applicable; the balance is suspended with probation for months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections. X 396 days☐ The Defendant is to be placed on 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 16-26-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

PTUP

Total: \$ plus 20% fee: \$

days/hours Public Service Employment

Payment Terms:

Obtain GED ☐☐ Set by SCDPPPS

Attend Voc. Rehab. Or Job Corp. _____

Recipient:

May serve W/E beginning

Substance Abuse Counseling ☐

*Fine:

\$14-1-208 (Assessments 107.5%)	\$	\$
\$14-1-211 (A)(1)(Conv. Surcharge)	\$100	\$100.00
\$14-1-211 (A)(2)(DUI Surcharge)	\$100	\$
\$56-5-2995 (DUI Assessment)	\$12	\$
\$56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def./Prob)	\$500	\$
\$14-1-212 (Law Enforce. Funding)	\$25	\$25.00
\$14-1-213 (Drug Court Surcharge)	\$150	\$
\$50-21-114 (BUI Breath Test Fee)	\$50	\$
\$56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCCJA Surcharge)	\$5	\$
3% to County (if paid in installments)	\$	\$37.50
TOTAL	\$	\$1287.50

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, \$47.12 requires \$500 be paid to Clerk during probation.

Clerk of Court/Deputy Clerk

Court Reporter: Wanda W. W. W.

Presiding Judge

Judge Code: 2192

Sentence Date: 2/12/18