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S.C. SUPREME COURT

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Certiorari to Oconee County

Honorable Perry H. Gravely, Circuit Court Judge

EDNA SLUDER,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2023-000995

APPENDIX

DAVID ALEXANDER
Appellate Defender

ALAN WILSON
Attorney General

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

DONALD J. ZELENKA
Deputy Attorney General
Rembert Dennis Building
1000 Assembly Street, Room 519
Columbia, SC 29201

ATTORNEY FOR PETITIONER

ATTORNEYS FOR RESPONDENT

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1 State of South Carolina
2 County of Oconee In the Court of General Sessions

3
4 State of South Carolina)
5) 2019-GS-37-01783 & 84
6 -vs-) December 18, 2019
7 Edna Sluder)
8) Transcript of Record
9 _____

10
11 B E F O R E:

12 The Honorable J. Cordell Maddox, Jr. Judge
13

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

15 Lindsey Simmons, Esquire
16 Attorney for the State

17 Jenn Byford, Esquire
18 Attorney for Defendant
19
20

21 Diane L. Marcengill, RPR, CRR, CRC
22 Circuit Court Reporter
23
24
25

1 MS. SIMMONS: This is Edna Sluder here on
2 2019-GS-37-1783 pleading guilty to five counts of
3 criminal sexual conduct with a minor in the second
4 degree, and on 2019-GS-37-1784 pleading guilty to five
5 counts of incest.

6 Your Honor, this is a straight-up plea.

7 Judge, I'm also passing up the written statement
8 Ms. Sluder gave during the course of this investigation
9 that was provided to the defense.

10 This case was investigated by Captain Tim Rice of
11 the Walhalla Police Department. He would like to be
12 heard. And the victim is present, Minor 1. You
13 heard from him earlier in the week. He would like to
14 be heard again.

15 THE COURT: This is a companion case to her
16 husband?

17 MS. SIMMONS: Yes.

18 (WHEREUPON, the defendant was sworn.)

19 THE COURT: Ms. Sluder, what I need you to do is,
20 before I take your plea, I need to ask you some
21 questions.

22 How old are you?

23 THE DEFENDANT: 56.

24 THE COURT: And how far have you gone in school?

25 THE DEFENDANT: I've got a Bachelor's of Science

1 degree.

2 THE COURT: And where did you work?

3 THE DEFENDANT: I was self-employed. I ran my own
4 business, so I was a sole proprietorship of my
5 business.

6 THE COURT: Just what did you do?

7 THE DEFENDANT: Machine embroidery.

8 THE COURT: Okay. How long did you stay in jail?
9 How long have you been in jail?

10 THE DEFENDANT: Since January, so that's
11 11 months.

12 MS. BYFORD: 337 days. She's been in since
13 January 15, 2019.

14 THE COURT: All right.

15 First, neither one of your cases have been sent to
16 the grand jury. You have a right to have this case
17 sent to the grand jury. And if you want to plead
18 today, you have to waive that right.

19 Are you waiving the right to have your case sent
20 to the grand jury?

21 THE DEFENDANT: Okay.

22 (Off-record discussion between the defendant and
23 her counsel.)

24 THE COURT: I mean, you have a right to have the
25 Solicitor take this to the grand jury, present the

1 case, make a determination of whether there is probable
2 cause and issue an indictment.

3 This is what's called a direct indictment. So if
4 you want to plead today, you have to waive your right
5 to have the grand jury involved.

6 Talk to your lawyer.

7 That's fine. No hurry.

8 (Off-record discussion between the defendant and
9 her counsel.)

10 THE DEFENDANT: Okay. Yes, I waive that.

11 THE COURT: Okay.

12 Have you ever had any kind of mental health
13 counseling, or are you currently undergoing any kind of
14 mental health counseling?

15 THE DEFENDANT: I have in the past, but I'm not
16 currently.

17 THE COURT: And how long ago was that?

18 THE DEFENDANT: It was -- the boys were three --
19 okay.

20 THE COURT: I mean, it was more than 15 years ago?

21 THE DEFENDANT: Yeah.

22 THE COURT: Okay. Are you taking any kind of
23 medicine prescribed for you for any kind of mental
24 health issues?

25 THE DEFENDANT: Yes. I'm taking an

1 antidepressant.

2 THE COURT: What are you taking?

3 THE DEFENDANT: I'm taking 20 milligrams of Paxil.

4 THE COURT: Does that prevent you from
5 understanding what's going on here today?

6 THE DEFENDANT: No.

7 THE COURT: Okay. Does it help you?

8 THE DEFENDANT: Yes. I'm not crying all the
9 time --

10 THE COURT: Okay.

11 THE DEFENDANT: -- in the jail.

12 THE COURT: Has anybody threatened you in any way
13 or promised you anything to get you to plead guilty
14 here today?

15 THE DEFENDANT: No.

16 THE COURT: Do you understand that this is a
17 straight-up plea, which means that I've got to come up
18 with a sentence between probation and 30 years in
19 prison?

20 THE DEFENDANT: Yes.

21 THE COURT: Do you understand that?

22 And you're 57 -- 56?

23 THE DEFENDANT: It's 2019, and '63 is when I was
24 born, so that would be...

25 THE COURT: So you'll be 56.

1 THE DEFENDANT: Yes.

2 THE COURT: Okay. Have you had -- and I hope the
3 answer is no since you have been in jail -- but have
4 you had any illegal drugs or alcohol within the last
5 24 hours?

6 THE DEFENDANT: No.

7 THE COURT: Okay.

8 You understand that if you want to plead guilty
9 today, there are certain constitutional rights you have
10 to waive and give up?

11 THE DEFENDANT: Yes.

12 THE COURT: And, in particular, are you giving up
13 your right to a jury trial?

14 THE DEFENDANT: Yes, your Honor.

15 THE COURT: Are you giving up your right to remain
16 silent?

17 (Off-record discussion between the defendant and
18 her counsel.)

19 THE COURT: You have to give up that right if you
20 want to plead guilty.

21 THE DEFENDANT: Oh, okay. I understand.

22 Yes, your Honor.

23 THE COURT: And are you giving up or waiving your
24 right to put up a defense to these charges?

25 THE DEFENDANT: Yes, your Honor.

1 THE COURT: Okay. You also have the right of
2 confrontation, which is, under the constitution, means
3 that the State would be required to bring in witnesses
4 who would testify against you; they would have the
5 burden of proof in proving their case. Your lawyer
6 would be allowed to cross-examine those witnesses, and
7 that is basically under the right of confrontation.

8 Are you waiving your right of confrontation?

9 THE DEFENDANT: Yes.

10 THE COURT: And have you had plenty of time to
11 speak to your lawyer?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: And are you satisfied with her
14 services?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: Do you have any questions for her now
17 or for me about your plea?

18 THE DEFENDANT: Not yet.

19 THE COURT: Okay. All right. And have you had
20 plenty of time to speak to your client?

21 MS. BYFORD: Yes, sir, I have.

22 THE COURT: Do you think she understands the
23 elements of these charges and her waiver of
24 constitutional rights?

25 MS. BYFORD: Yes, sir, I do.

1 THE COURT: All right.

2 Ms. Sluder, do you want to plead guilty to -- and
3 these are five counts of each -- but of incest and of
4 criminal sexual conduct with a minor times five each?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: And are you guilty of those?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: Okay. All right. Listen real
9 carefully because they're going to tell me the facts,
10 then I'm going to ask you if you agree with those, and
11 then I'll hear from your attorney.

12 MS. SIMMONS: Judge, between January 1st, 2004,
13 and December 31, 2008, Ms. Sluder did engage in a
14 sexual battery against a minor child that was between
15 the ages of 11 and 14 years old.

16 Your Honor, that minor child was her biological
17 son, which is the basis of the incest charge. All
18 events occurred in Oconee County.

19 THE COURT: Okay.

20 Do you agree with those facts?

21 THE DEFENDANT: Okay. So battery means touching,
22 correct?

23 THE COURT: Yes.

24 THE DEFENDANT: Yes. I agree with that.

25 THE COURT: But you're not being charged with

1 battery. You're being charged with incest, which would
2 be carnal relations with a relation, and criminal
3 sexual conduct with a minor would be criminal activity
4 with someone under the age of consent.

5 So you're not being charged with battery. You're
6 being charged with incest and criminal sexual conduct.

7 THE DEFENDANT: Okay. But in part of her
8 description, and that's why I'm making sure I'm
9 understanding the definition of the terms. So, yes, I
10 understand. So battery means touching in a sexual
11 connotation?

12 THE COURT: Right. Doesn't mean beating someone
13 up.

14 THE DEFENDANT: Okay.

15 THE COURT: Now, I'm not hearing this in a vacuum
16 because I heard your husband's case on Monday.

17 THE DEFENDANT: Yes.

18 THE COURT: And I had both statements. And I have
19 your voluntary statement here.

20 Do you remember doing this voluntary statement?

21 THE DEFENDANT: Yes.

22 THE COURT: Have you had a chance to review it
23 lately?

24 THE DEFENDANT: No.

25 MS. BYFORD: Your Honor, I believe we reviewed it

1 the time last time, about six months ago. We have
2 reviewed it, but it's been a little bit.

3 THE DEFENDANT: Yeah. It's been long enough that
4 I don't remember everything on it.

5 THE COURT: Okay. But in a broad sense, is it
6 correct?

7 THE DEFENDANT: Yes.

8 THE COURT: Okay. All right.

9 So you want to plead guilty to these ten charges?

10 THE DEFENDANT: Yes, your Honor.

11 THE COURT: And you are guilty?

12 THE DEFENDANT: Yes.

13 THE COURT: Okay.

14 Yes, ma'am.

15 MS. BYFORD: Thank you, your Honor. May it please
16 the court.

17 When I first met with Ms. Sluder for the first
18 time, it became very clear to me that we would need to
19 have an evaluation. We are not raising any issues of
20 competency or capacity today, your Honor, but I do
21 believe that Dr. Price's opinion on this matter is
22 crucial to the Court understanding how the family came
23 to be in this place.

24 And with that, I will turn it over to him.

25 THE COURT: Okay.

1 DR. PRICE: Good morning, Judge.

2 THE COURT: Good morning.

3 DR. PRICE: I've had an opportunity to evaluate
4 Ms. Sluder on two occasions.

5 THE COURT: Giver her your name.

6 DR. PRICE: David Price.

7 THE COURT: Okay. Go ahead. I'm sorry about
8 that.

9 DR. PRICE: On two occasions, once in July and
10 then recently last week, just to update my evaluation.
11 And this is a very unusual case. And in some respects,
12 with no disrespect to the male victims, she was
13 somewhat of a victim herself.

14 She has a history of being sexually abused by her
15 own biological father, she and a brother. And she
16 firmly believes that her brother is homosexual because
17 of that abuse. She has a very constricted sexual
18 history. In fact, she couldn't consummate her marriage
19 on the night of the marriage because of her avoidance
20 of sexual activity and repulsion by that.

21 She grew up in a fairly religious home. She did
22 report the sexual abuse by her father to her mother,
23 and the mother did not report that to any authorities
24 and it seems to me somewhat abdicated the sexual
25 relationship of the biological father to her children

1 instead of her.

2 She grew up very religiously. She went to a
3 Christian college where she got a degree in chemistry.
4 She married an older man. Part of her religious
5 beliefs is that the husband is the head of the family,
6 and everybody in the family would take the direction
7 from that husband.

8 And as she told me on a number of occasions, that
9 if in fact that was a sin under God's eyes, the husband
10 would be -- the male would be held responsible for that
11 sin and not the wife who was simply following the
12 direction of her husband.

13 It's interesting that none of this kind of sexual
14 behavior occurred when the husband was away. He was a
15 truck driver and was gone.

16 THE COURT: I noticed that in the statement.

17 DR. PRICE: Yeah, two to four weeks at a time, and
18 all of this occurred under his supervision.

19 As she grew into adulthood, she developed a
20 dependent personality disorder. So we're at this point
21 now, psychologically, you have someone that has a
22 history of being a victim of sexual abuse, has a
23 dependent personality disorder, which actually sort of
24 conforms to those religious beliefs about taking the
25 direction from somebody else and not having

1 responsibility.

2 You see many victims with dependent personality
3 disorder that stay in abusive relationships because
4 they would rather be in that relationship than alone,
5 despite how horrific it might be.

6 She married an older man. Most of her adult life
7 she's been treated for depression, if not with therapy,
8 with medication, and most often with Paxil. When I
9 first saw her, I actually thought that she had
10 developed anorexia because she had lost so much weight.
11 Now she's put about 12 pounds back on between when I
12 saw her the first time and when I saw her last week.
13 And she had a lot of anxious features. And I didn't
14 diagnose her with an anxiety disorder because people in
15 this life predicament would have anxiety.

16 THE COURT: Sure.

17 DR. PRICE: We would understand. But I did
18 diagnose her with recurrent depression. And I think
19 there's some unhappiness in that situation.

20 The interesting thing about how this started with
21 this incest and this sexual misconduct, it actually
22 started as punishment. They would use nudity as
23 punishment when the boys did not do certain things,
24 something as innocuous as not cleaning their room by
25 Saturday.

1 THE COURT: Yeah. On Monday, when he pled, we
2 went into much greater detail, and I was aware of that.
3 It was punishment for nonconforming.

4 DR. PRICE: That's exactly right. And I think
5 from the punishment -- I have not evaluated Mr. Sluder
6 personally, but I've seen these dynamics many times in
7 my career.

8 I think part of what happened when they started
9 the nudity as punishment, it started meeting some of
10 his needs for control and voyeurism and he would direct
11 these episodes, and they didn't -- they were sexual,
12 but they were not sexual. Nobody had an orgasm or
13 ejaculation. They were very brief.

14 I think the start of the actual kind of carnal
15 kind of stuff was they were concerned that one of the
16 sons was homosexual, had homosexual tendencies, and
17 she's very offended by her brother being homosexual.
18 And the idea was to show them the pleasures of
19 heterosexual sex and sensations rather than as
20 punishment. And it grew from that.

21 She has -- I don't think she's anorexic and I do
22 think she's competent and all that. But she still has
23 depression. She is remorseful. When she's out of
24 the -- when she's unfettered by Mr. Sluder's
25 interpretation of events and whatnot, she sees those

1 things in a completely different light.

2 This was a vulnerable woman that would conform to
3 direction from anyone and really is very anxious about
4 criticism or perceived rejection and sort of complied
5 with his direction. They didn't have any of that type
6 behavior when he was not present.

7 THE COURT: All right.

8 MS. BYFORD: Your Honor, may it please the court.
9 Just one or two other brief things.

10 THE COURT: No, go ahead.

11 MS. BYFORD: I just want to say that my experience
12 in conversing with her aligns with what Dr. Price has
13 just told you. It took me a long time to get her to
14 stop parroting the things that Tony had told her in
15 terms of understanding what this case was really about.

16 And any time I spent too much time away from her,
17 I would notice that she backslid kind of into those
18 indoctrinated beliefs.

19 And again, your Honor, we're not raising that as
20 an issue of capacity because I think legally that's not
21 the right frame, but I do believe that is mitigation.

22 While she has been, for the Court's information in
23 terms of determining sentence, I think it's important
24 to know that her stay in the detention center has been
25 a lot harder on her than it has been on most of the

1 people we see.

2 She was housed separately for a very long time
3 just for her own protection because she is a little bit
4 more fragile. She tends to be very meek, and as you
5 know, that's a rough environment just like the South
6 Carolina Department of Corrections is going to be a
7 very rough environment.

8 So we would just ask the Court to please consider
9 that sort of additional, I guess, punishment when
10 you're determining length of sentence, Judge.

11 I've advised her -- she wants me to ask. I have
12 advised her that this is a long shot, but she would
13 like the Court to consider a house arrest sentence. We
14 understand that that's -- that would be highly unusual
15 under these sets of circumstances, but we have to ask.

16 THE COURT: Sure.

17 MS. BYFORD: So we just ask the Court to consider
18 all that. She is horribly sorry. She understands that
19 this means she has lost her relationship with her son,
20 with her grandchildren, and that that is irrevocable.
21 No matter what happens today, she's lost all of that,
22 and we just ask the Court to take all that into
23 consideration.

24 DR. PRICE: Your Honor, I did a psychosexual
25 evaluation of her. She's not a threat to herself or

1 the community. This is a pretty circumscribed thing
2 that happened over four to five years and only happened
3 when Mr. Sluder was present.

4 THE COURT: And, you know, I didn't ask Monday
5 because I think everybody in this case recognizes this
6 dynamic, but how many years ago did this happen?
7 Because I heard from one of your boys --

8 THE DEFENDANT: Over 12 -- it's like the end was
9 2008.

10 THE COURT: Two thousand what?

11 THE DEFENDANT: 2008. It started in 2004.

12 THE COURT: I thought you said '18. Okay.
13 So 2004 to 2008?

14 THE DEFENDANT: Yes.

15 THE COURT: How old were your boys then?

16 THE DEFENDANT: They were -- in 2004, **Minor 1** was
17 11; **Minor 2** was nine, and then he would have been 15. He
18 turned 15 in 2008.

19 THE COURT: Did the son want to speak today?

20 MS. SIMMONS: Yes, your Honor. I would like to be
21 heard. The officer would like to be heard, and the son
22 has extensive comments.

23 THE COURT: Okay.

24 Be happy to hear from you.

25 MS. SIMMONS: Judge, with all due respect to the

1 defense, but you heard from me earlier this week during
2 Mr. Sluder's plea.

3 THE COURT: I did.

4 MS. SIMMONS: I firmly believe that Mrs. Sluder's
5 role in this is much more disturbing than his. I
6 believe she is more culpable. I think she committed
7 more acts. I firmly believe she had free will. She
8 could have chosen not to do this.

9 I have reviewed all the evidence in this case,
10 including her video interviews. It's clear to me that
11 she was the primary perpetrator, and I believe that she
12 deserves as much time, if not more, as Mr. Sluder.

13 THE COURT: You don't think that she was under the
14 religious domination of her husband?

15 MS. SIMMONS: I don't. I mean, Judge --

16 THE COURT: Okay.

17 MS. SIMMONS: -- in reviewing her interviews, she
18 just doesn't seem to appreciate what she did was wrong.
19 And I believe that she committed more acts against
20 these children than he did. It may have been at his
21 direction, but she certainly could have chosen not to
22 do that, Judge.

23 SGT. RICE: Good morning, your Honor.

24 I won't go back and state what I said on Monday.
25 I think we've heard enough of that.

1 I would like to make a note that, in the victim's
2 written statement, which I believe you were provided --

3 THE COURT: Yeah.

4 SGT. RICE: -- he states that this abuse wasn't
5 just from 2004 to 2008, which we talked about, but from
6 the time he was eight years old until he was 18 years
7 old. It's a much longer period of time, according to
8 the victim's statement.

9 And that matters to me, in my opinion, because in
10 that free will of time to walk out, instead of just
11 being over a short period of time, it was over many,
12 many years, that there could have been some change in
13 direction by Ms. Sluder to simply remove the children
14 from the home. Or if she chose to stay, send them to
15 someone else's house if she felt that she had to follow
16 the rules. If the boys weren't there, it wouldn't
17 happen.

18 I also believe that, with Mr. Sluder, I believe he
19 had a sixth-grade education, if I recall is what he
20 stated. This is an educated woman. Based on my
21 conversation with her, she was self-employed, but she
22 was also an instructor at Tri-County Tech. So not only
23 was she educated, but she was educating other young
24 individuals. So this is, in my mind, a woman who knows
25 what's going on.

1 Like Ms. Simmons said, I think that in
2 Ms. Sluder's case, the crimes are worse than that of
3 her husband because he, while was there for that,
4 oftentimes did not participate.

5 So I would ask on behalf of law enforcement and
6 behalf of the victim who I work for in this case that
7 the sentence be that at least of Mr. Sluder's if not
8 more.

9 THE COURT: Okay.

10 I'm sorry you're having to do this again. And I
11 may have a question or two for you, so I hope you're
12 okay with that.

13 Give us your full name, please.

14 Minor 1 : Minor 1

15 THE COURT: Yes, sir.

16 Minor 1 : So, as I said before, when I was a
17 child, I was exposed to this type of abuse, and it's
18 something that I personally should have never had to
19 experience as a child.

20 I mean, yes, the events only happened while my
21 father was home, but it was my mother that came up with
22 the idea of this. After I moved out of my parents'
23 home, my wife and I moved out to our own place, we
24 called my mom over to discuss this instance because I
25 needed some closure. And she admitted that it was her

1 idea. She came up with it in the first place when they
2 were trying to discuss punishments for me and my
3 brother.

4 And she said that before she had wanted to be with
5 little boys, that -- in a sexual manner, not just
6 having children kind of manner.

7 When I asked for an apology, you know, I'm sorry,
8 something, she said that it was between her and God,
9 that it was not between me and her, which, again, to
10 me, I understand religiously, yes, but at the same
11 time, I'm also the person that she should be
12 apologizing to. She said she didn't owe it to me.

13 To think that a mother that would do this to her
14 child is -- I really can't come up with words for that.
15 To be able to carry the child, to give birth and raise
16 that child and then to use them for their own sexual
17 pleasure is sickening. That's no mother, to me.

18 I grew up thinking that all this was my fault. I
19 did something wrong, and that if I had done something
20 better, I may have been able to earn or gotten the love
21 that I should have gotten as a child from these people.

22 But because of the -- because of this, as I
23 mentioned earlier this week, I self-harmed. I have
24 nightmares of the events. And I honestly thought about
25 running away many times. The only reason I didn't was

1 because of the fear of if I got caught, what would
2 happen to me.

3 And it took me years to realize that sexual
4 intercourse was something to be special, not something
5 just to make somebody else happy, your Honor.

6 And, overall, I mean, these people, I don't see
7 them as parents anymore. They're just monsters that I
8 had to grow up with. They ruined my childhood and
9 teenage years.

10 THE COURT: Let me ask you this because there's
11 been discussion about how long this took place.

12 How long did it take place?

13 Minor 1 : It started, as I said, when I was
14 seven or eight. And the last instance happened when I
15 was 18, when I came out to my parents, admitted that I
16 was sexually curious. They then forced me to do things
17 on my father as well as on my mother with my mother
18 present.

19 THE COURT: Which were the same things you had to
20 do when you were seven?

21 Minor 1 : Yes.

22 THE COURT: Okay. All right. Thanks.

23 MS. BYFORD: Very briefly, your Honor.

24 THE COURT: Sure.

25 MS. BYFORD: Your Honor, just because you're

1 well-educated, it doesn't mean you're not broken. And
2 she's broken. That's the only way you could think the
3 things that she thinks, Judge. And that is a result of
4 the abuse that she suffered.

5 We're not saying that it excuses it entirely,
6 Judge. It just explains it.

7 THE COURT: What church do y'all go to?

8 THE DEFENDANT: Earles Grove Baptist Church.

9 THE COURT: Okay. Well, I'm a Baptist, and I
10 understand Baptists get bad names because there are
11 Baptists and there are Baptists.

12 What part -- I'm trying to understand where you
13 decided that when Paul is talking about, you know, the
14 husband being the leader and that women have X roles,
15 I've always weighed that out religiously with Jesus
16 saying, you know, "Women, love your husbands," and,
17 "Husbands, love your wives the way you love me," which
18 always evened it out to me. And I'm just trying to
19 figure out what happened here.

20 THE DEFENDANT: Well, that's what, um, listening
21 to what my son, that time he mentions, I went over to
22 their house not knowing what, and I felt attacked by
23 his wife. Minor 1 stayed back in his bedroom. So by
24 the time he came out, I was already flustered because
25 she kept saying, "Well how can you do this?"

1 Well, I don't know what **Minor 1** has told you, so
2 I'm not going to say something that might, in other
3 words, cause a problem with his marriage. He was newly
4 married. So I did not want to cause problems with his
5 marriage, so I wasn't going to say something that might
6 make things worse for his marriage.

7 By the time he came out, I was flustered and
8 didn't know what I was saying anyway, but I never had
9 the idea to do this to my children. I thought I was
10 protecting my children from my husband doing something
11 worse. I didn't believe so --

12 THE COURT: What could he have done worse?

13 THE DEFENDANT: I don't know. But that's how --
14 in my mind, that's how I felt.

15 THE COURT: I mean, these were seven-year-olds.

16 THE DEFENDANT: But we didn't -- it was the first
17 time anything happened.

18 THE COURT: No. Go ahead. Now is the time. This
19 is it.

20 THE DEFENDANT: He was in fifth grade. We were
21 wanting to teach him. That's when I was taught about
22 sex. I didn't touch him when he was seven years old.
23 He wouldn't understand anything.

24 THE COURT: But your husband did?

25 THE DEFENDANT: No, my husband didn't. And if

1 there was anything between him and my husband, I was
2 not present for it.

3 THE COURT: All right. But your statement says,
4 "When Minor 1 was in the sixth grade." All right. So
5 that's not a seven-year-old. That's 12.

6 THE DEFENDANT: Yes.

7 THE COURT: Why did you do this when he was 12?

8 THE DEFENDANT: That's about the time when I was
9 told about sex. So --

10 THE COURT: Okay.

11 THE DEFENDANT: So that's --

12 THE COURT: So how, and I'm really truly -- I'm
13 not trying to trap you.

14 THE DEFENDANT: Yes.

15 THE COURT: I'm trying to understand this because
16 this is foreign to me.

17 THE DEFENDANT: Uh-huh.

18 THE COURT: And how, when he's 12, this happened,
19 how did it happen? How did that night happen?

20 THE DEFENDANT: My husband is the one that came up
21 with the idea. And then later, he's the one that had
22 the idea to use it for punishment because it seemed to
23 embarrass. So the whole idea was to -- he thought I
24 was not keeping the kids in line. In other words, that
25 I was not coming up with a punishment that if they

1 needed to clean their room, they wouldn't do it for me
2 because I didn't have something that would -- I
3 couldn't come up with anything that would give them an
4 incentive.

5 THE COURT: To do the right thing?

6 THE DEFENDANT: Yeah. Because --

7 THE COURT: Or a disincentive to do the wrong
8 thing.

9 THE DEFENDANT: Yeah. So he came up with -- he
10 decided, "Well, we'll try this and see if this will
11 convince him that, okay, you need to pick up your room.
12 You need to clean your room. Mom needs to wash
13 clothes. Mom can't wash clothes if the dirty clothes
14 are mixed with the clean clothes on the floor."

15 THE COURT: Did you try restricting him or, as my
16 mother would have done, made me go out and get a stick
17 so that she he can whop me with it?

18 THE DEFENDANT: I had tried paddling. It didn't
19 seem to do any good. I tried taking stuff away. It
20 didn't seem to do any good. It didn't seem like he
21 cared if he did what was right or what was wrong.
22 And --

23 THE COURT: I'm not sure you can explain it to me,
24 but this is your only chance. I want -- what I want to
25 understand is how it went from paddling and removal of

1 things that he wanted to have sex with you.

2 THE DEFENDANT: I did not want --

3 THE COURT: That's a huge jump.

4 THE DEFENDANT: Yes. I didn't want to do it. And
5 I would remind him daily, "Minor 1, you need to do this.

6 Minor 1 and Minor 2 you need to clean your room."

7 THE COURT: Right.

8 THE DEFENDANT: It's Monday. It's Tuesday. So
9 every single day I would remind, "It's time to clean
10 your room when you get done with your homework." The
11 day of, there would be an opportunity to clean the room
12 that morning. So, in other words, this would not occur
13 until evening time. So there was plenty of warning and
14 time to say, "We're going to have to punish you if you
15 do not do."

16 So that was part of my thing, well, if he didn't
17 want it to happen, all he had to do was whatever the
18 chore was. You have been given reminders and plenty of
19 time to complete the task.

20 DR. PRICE: Your Honor, may I say something?

21 THE COURT: Yeah.

22 DR. PRICE: Because of her dependent personality
23 disorder and fear of rejection and criticism, she's not
24 capable of enforcing consequences on behavior. That's
25 exactly --

1 THE COURT: Yeah, but she did. I mean, it was
2 like, "Well, you didn't clean your room, you've got to
3 have sex with me."

4 THE DEFENDANT: No, I didn't say that.

5 DR. PRICE: It evolved to that. But she's sort of
6 like a speed limit sign. That's a warning. We all
7 drive by them in excess of the speed limit. But
8 because there's no consequences, we ignore them, which
9 is what her sons did. She was submissive, not
10 authoritarian.

11 THE COURT: I mean, that was not my upbringing,
12 but I understand that.

13 MS. BYFORD: Your Honor, what I'd like to just
14 briefly, the reasoning that you are hearing is the
15 indoctrination that we're talking about. You -- and I
16 hope this doesn't offend my client, but people don't
17 think that way unless there is something very broken.
18 And they are also, in that brokenness, being
19 influenced. And that is how we got here. That is what
20 you're hearing, Judge.

21 THE COURT: Trust me. I understand it. You know
22 my background.

23 MS. BYFORD: Yes, sir.

24 THE COURT: And you know my father was a minister,
25 but a Baptist minister.

1 MS. SIMMONS: Judge, if I may, I mean, we've
2 talked about how broken she is, but she is the reason
3 he's broken. I mean, I think we're getting away from
4 that.

5 THE COURT: I know. I know.

6 And you're 56.

7 THE DEFENDANT: Yes.

8 THE COURT: Okay.

9 Anything else.

10 MS. BYFORD: No, sir.

11 THE COURT: Ms. Byford?

12 MS. BYFORD: No, sir.

13 THE COURT: Dr. Price?

14 DR. PRICE: No, sir.

15 THE COURT: Okay. I will tell you that I've been
16 on this job for 17 years and I have heard just things
17 that people just don't believe. And my wife goes and
18 gives talks to the judges every year about secondary
19 stress, et cetera.

20 This one is -- there is zero doubt in my mind that
21 there's not going to be some secondary stress from this
22 one.

23 The sentence on this -- what I did with your
24 husband was I ran it consecutive, and I understood why.
25 I have an understanding of religious-based male

1 dominance. I think that it's obviously absurd, and I
2 think that people that believe that are usually males
3 who have no idea about what Greek words mean, but
4 that's neither here nor there. I can't go there.

5 What I did with your husband is I ran the
6 sentences consecutive. What I'm going to do with you,
7 the sentence on the criminal sexual conduct is
8 20 years, run it concurrent with the incest, which is
9 ten, but that is just a straight 20 and straight ten,
10 and give you credit for 337 days.

11 MS. BYFORD: Thank you, sir.

12 THE COURT: I'm doing that basically because your
13 health and because I really am worried about you in
14 jail.

15 MS. BYFORD: Thank you, sir.

16 (WHEREUPON, proceedings concluded at 11:32 a.m.)

17 ***END OF REQUESTED TRANSCRIPT OF RECORD***
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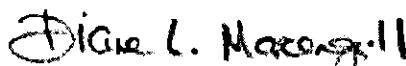
Certificate of Reporter

I, Diane L. Marcengill, Official Court Reporter for the Tenth Judicial Circuit of the State of South Carolina at the time of the proceedings, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of a portion of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Circuit Court for Oconee County, South Carolina, on the 18th day of December 2019.

This transcript may contain quoted material. Such material is reproduced as read by the speaker.

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

November 19, 2020



Diane L. Marcengill, RPR, CRR, CRC
Circuit Court Reporter

STATE OF SOUTH CAROLINA)

IN THE COURT OF COMMON PLEAS

County of Oconee)

2020 NOV 12 PM 4:31

Edna Jean Sluder 382012)

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

v.)

2020 - CP 37 - 807

APPLICATION FOR

State of South Carolina)

POST-CONVICTION RELIEF

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 Leath Correctional Institution
2809 Airport Rd Greenwood, SC 29649
2. Name and location of Court which imposed sentence Oconee County Court
of General Sessions Walhalla, SC 29691
3. Name(s) of co-defendant(s) (if any) Anthony Hugh Sluder 381913
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 2019-GS-37-01784
 - (b) 2019-GS-37-01783

- (c) _____
5. The date upon which sentence was imposed and the terms of the sentence:
- (a) 12/18/19 concurrent 10 years credit for 337 days
- (b) 12/18/19 concurrent 20 years credit for 337 days
- (c) _____
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty ✓
- (b) after a plea of not guilty _____
- (c) after a plea of nolo contendere _____
7. Did you appeal from the judgment of conviction or the imposition of sentence?
no
8. If you answered "yes" to (7), list:
- (a) the name of each Court to which you appealed:
- i. n/a
- ii. _____
- iii. _____
- (b) the result in each such Court to which you appealed:
- i. n/a
- ii. _____
- iii. _____
- (c) the date of each such result:
- i. n/a
- ii. _____
- iii. _____
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. n/a
- ii. _____
- iii. _____
9. If you answered "no" to (7), state your reasons for not so appealing:
- (a) Lawyer said she would come visit me downstairs after sentencing. She did not appear before went to jail. I was in county a month till I saw her and did not see her.
- (b) I set up a call in SCDC RFE, when we spoke she agreed to file

page 2a

9. (d) I mailed a letter to my lawyer using the name and address given to me by the Ocone Public Defenders Office. It was returned unknown. The second attempt which included the firm name ~~came to~~ received a response from a new address.

(e) The response did not answer any questions. It only contained the tracking and sentencing sheets.

- (c) Requested appeal myself and was told too late
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:
- (a) My lawyer did not request a preliminary hearing
- (b) At bond hearing, the solicitor said I was an extreme danger...
- (c) My lawyer did not negotiate for house arrest instead of no bond
11. State concisely and in the same order the facts which support each of the grounds set out in (10):
- (a) It was 3 months after arrest before I learned the preliminary hearing...
- (b) The crime was committed 12 years before arrest. There...
- (c) I was not a flight risk. I was seeking house arrest...
12. Prior to this application have you filed with respect to this conviction:
- (a) any petition in a State Court under South Carolina Law? no
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? no
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? no
- (d) any other petitions, motions or applications in this or any other Court? no
13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:
- (a) the specific nature thereof:
- i. n/a
- ii. _____
- iii. _____
- iv. _____
- (b) the name and location of the Court in which each was filed:
- i. n/a
- ii. _____
- iii. _____
- iv. _____

- 10 (b) to society with minimum rebuttal from my lawyer
- (d) Lawyer missed appointments with me
- (e) My lawyer did not interview the witness.
- (f) In court no character ~~was~~ references were given.
- (g) Lawyer said I was guilty of the violent crime when I asked for the official definition of what actions constitute the crime.
- (h) I was not allowed to see or read the motion of discovery before I made a plea.
- (i) My lawyer told me to plead guilty because a trial would be too traumatic for me.
- (j) My lawyer said I must plea guilty to both charges even though they are versions of the same crime.

page 3b

11. (a) was to review evidence for proof of enough against me to convict. It was too late for me to ask it be filed.
- (b) was no further 'crime' repeated. In the time frame after DSS approved guardianship of a minor. I held a job as church pianist and organist and was a respected, honest, tax paying business owner.
- (c) with my father who requires 24 hour supervision for dementia. My mother has back problems that interfere with mobility
- (d) After each bond hearing the lawyer said she would see me next week to begin the next step. She did not talk to me until months later or the week before court.
- (e) The lawyer set up multiple appointments to meet with the witness but she cancelled each time.

page 3e

11.(f) I gave the lawyer a list of character witness but was given no sign she had contacted them. I did not know their phone numbers but told her where they worked or retired from Oconee County public offices.

(g) The lawyer had only the written police statement. I was scared when writing it and used general terms. She never let me tell her the circumstances or details of what happened.

(h) I understood there was no safe place for a copy of my motion of discovery in jail. After I signed the plea the lawyer ~~see~~ let me see the papers in the 'Motion of Discovery' file but did not let me read it. She said there was not enough time she had other inmates to see.

(i) My lawyer said that if I went to trial they would ruin my good standing in the community by dragging up dirt on me. The solicitor made sure information was given to TV media to air what they thought I did.

page 3d

11. (j) The charges are violent and non-violent versions of the same type crime. I was not told I could plea to the nonviolent form and have them prove it should be ~~even~~ escalated to the violent form.

(c) the disposition thereof:

- i. n/a
- ii. _____
- iii. _____
- iv. _____

(d) the date of each such disposition:

- i. n/a
- ii. _____
- iii. _____
- iv. _____

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

- i. n/a
- ii. _____
- iii. _____
- iv. _____

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

no

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

(a) which grounds have been presented:

- i. n/a
- ii. _____
- iii. _____

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

- i. n/a
- ii. _____
- iii. _____

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

(a) I did not have a lawyer to assist me,
 (b) _____
 (c) _____

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? nla
 (c) your sentencing? yes
 (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? nla
 (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed?
no

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

(a) the name and address of each attorney who represented you:
 i. Jennings Byford of Byford & Scalzo, LLC
414-B Pettigru Street Greenville, SC 29601
 ii. _____
 iii. _____
 (b) the proceedings at which each such attorney represented you:
 i. a) plea and sentencing.
no ~~represent~~ representation at arraignment
 ii. _____
 iii. _____

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

I would like the charges to be dropped or a reduced sentence, the chance to go to trial, and/or transfer the sentence to house arrest at my parent's address.

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

NO

STATE OF SOUTH CAROLINA)

County of Oconee)

VERIFICATION

2020-CP37-807

I, Edna Jean Sluder, 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.

Edna Sluder

SWORN to and subscribed before me this 29th day of September, 2020.

J. M. Lamb (L.S.)
Notary Public

My Commission Expires: 2-13-2029

2020 NOV -2 PM 4:32

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

2020-08-31-807

I, Edna Jean Sluder, 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.

Edna Sluder

Applicant

SWORN or affirmed to and subscribed before me this
29th day of September, 2020.

Margaret

Notary Public

My Commission Expires:

2-13-2029

2020 NOV -2 PM 4:32

STATE OF SOUTH CAROLINA
COUNTY OF OONEE

IN THE COURT OF COMMON PLEAS
FOR THE TENTH JUDICIAL CIRCUIT

Edna Sluder, SCDC #382012,

Case No. 2020-CP-37-0807

Applicant,

v.

RETURN
(Counsel Appointed)

State of South Carolina,

Respondent.

RECEIVED
CLERK OF COURT
JAN 22 2021
10:59 AM

In response to the post-conviction relief (PCR) action commenced by Edna Sluder (Applicant) on November 22, 2020, the State makes this return:

I. FACTS & PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment from the Oconee County Clerk of Court. Applicant was arrested on January 15, 2019 following an investigation into allegations of sexual abuse involving her biological son. Specifically, the victim stated that his father, Applicant's co-defendant, and Applicant sexually abused him from the time he was seven or eight up until he turned eighteen. (A. Sluder Plea Tr. 12). The victim and his brother would be forced to allow Applicant to perform oral sex on them for not completing household chores, such as cleaning their room and picking up clothes. (A. Sluder Plea Tr. 12).

As time went on, the punishment evolved into any other form of sex with Applicant. (A. Sluder Plea Tr. 12). The victim also recounted that he was told by his father that most boys his age dream of sleeping with their mother, and that any time he felt like it, his mother liked it when he had sex with her. (A. Sluder Plea Tr. 12). The victim also stated that at one time he was confused

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about his sexuality and told his parents. (A. Sluder Plea Tr. 12). His parents then forced him to perform oral sex on his father. (Plea Tr. 12).

On December 18, 2019, Applicant appeared before the Honorable J. Cordell Maddox, Jr., waived presentment to the grand jury, and pleaded guilty straight up to five counts of second-degree criminal sexual conduct (CSC) with a minor (2019-GS-37-1783) and five counts of incest (2019-GS-37-1784).¹ Jenn Byford, Esquire (Counsel) represented Applicant. Assistant Solicitor Lindsey Simmons, prosecuted the case.

The solicitor and the investigating officer both recommended Applicant receive a harsher sentence than her husband. (Plea Tr. 17–18, 19–20). They believed Applicant was more culpable than her husband, and that she was the primary perpetrator. (Plea Tr. 18–19). Judge Maddox sentenced Applicant to concurrent terms of twenty years' imprisonment on the second-degree CSC with a minor indictment, which encompassed all five counts, and ten years on the incest indictment, which also encompassed all five counts. Applicant did not appeal her plea or sentences. Applicant commenced this PCR action on November 22, 2020.

II. CURRENT APPLICATION

In her application for post-conviction relief, Applicant alleges she is being held in custody unlawfully based on the following (verbatim):

1. My lawyer did not request a preliminary hearing.
 - a. It was 3 months after arrest before I learned the preliminary hearing was to review evidence for proof of enough against me to convict. It was too late for me

¹ Applicant's husband and co-defendant, Anthony Sluder, appeared before Judge Maddox two days prior, on December 16, 2019. He also waived presentment to the grand jury, and pleaded guilty straight up to five counts of second-degree criminal sexual conduct (CSC) with a minor (2019-GS-37-1780) and five counts of incest (2019-GS-37-1781). Judge Maddox sentenced him to consecutive terms of fifteen years' imprisonment on the second-degree CSC with a minor indictment, which encompassed all five counts, and ten years on the incest indictment, which also encompassed all five counts.

to ask it be filed.

2. At bond hearing, the solicitor said I was an extreme danger to society with minimum rebuttal from my lawyer.
 - a. The 'crime' was committed 12 years before arrest. There was not further 'crime' repeated. In the time frame after ■SS approved guardianship of a minor, I held a job as church pianist and organist and was a respected, honest, tax paying business owner.
3. My lawyer did not negotiate for house arrest instead of no bond.
 - a. I was not a flight risk I was seeking house arrest with my father who requires 24 hour supervision for dementia. My mother has back problems that interfere with mobility.
4. Lawyer missed appointments with me.
 - a. After each bond hearing the lawyer said she would see me next week to being the next step. She did not talk to me until months later or the week before court.
5. My lawyer did not interview the witnesses.
 - a. The lawyer set up multiple appointments to meet with the witnesses but she cancelled each time.
6. In court no character references were given.
 - a. I gave the lawyer a list of character witnesses but was given no sign she had contacted them. I did not know their phone numbers but told her where they worked or retired from Conec County public offices.
7. Lawyer said I was guilty of the[sic] violent crime when I asked for the official definition of what actions constitute the crime.
 - a. The lawyer had only the written police statement. I was scared when writing it and used general terms. She never let me tell her the circumstances or details of what happened.
8. I was not allowed to see or read the motion of discovery before I made a plea.
 - a. I understand there was no safe place for a copy of my motion of discovery in jail. After I signed the plea, the lawyer let me see the papers in the 'Motion of Discovery' file but did not let me read it. She said there was not enough time she had other inmates to see.
9. My lawyer told me to plead guilty because a trial would be too traumatic for me.
 - a. My lawyer said that if I went to trial they would ruin my good standing in the community by dragging up dirt on me. The solicitor made sure information was given to media to air what they thought I did.
10. My lawyer said I must plea[sic] guilty to both charges even though they are the versions of the same crime.

- a. The charges are violent non-violent versions of the same type of crime. I was not told I could plea[sic] to the nonviolent form and have them provide it should be escalated to the violent form.

Applicant requests relief as follows:

"I would like the charges to be dropped or a reduced sentence, the chance to go to trial, and/or transfer the sentence to house arrest at my parent's address."

In response to question nine as to why she did not pursue a direct appeal, Applicant states (verbatim):

1. Lawyer said she would come visit me downstairs after sentencing. She did not appear before I went to jail.
2. I set up a call in SCDC R&E. When we spoke she agreed to file
3. Requested appeal myself and was told too late
4. I mailed a letter to my lawyer using the name and address given to me by the Oconee Public Defenders Office. It was returned unknown. The second attempt which included the firm name received a response from a new address.
5. The response did not answer any questions. It only contained the tracking and sentencing sheets.

Based on these responses and Applicant's failure to state this as an enumerated ground for relief, it is unclear whether Applicant is seeking belated appellate review of her guilty plea pursuant to *White v. State*, 263 S.C. 110, 208 S.E.2d 35 (1974) (finding that a defendant who did not knowingly and voluntarily waive his right to direct appeal of his conviction is entitled to a belated review of direct appeal issues). Since it is unclear whether Applicant is asserting she did not knowingly or voluntarily waive her right to a direct appeal, the State requests Applicant, through counsel, clarify whether she intends to proceed forward on this allegation. However, out of an abundance of caution, the State is interpreting Applicant's response to question nine as an allegation that plea counsel was ineffective for failing to file a direct appeal on Applicant's behalf.

Attached to this return and incorporated by reference are the Oconee County Clerk of Court records regarding the subject convictions, Applicant's records from the South Carolina Department of Corrections, the plea transcripts,² and the records of the current PCR action. The State reserves the right to amend this return upon receipt of any relevant materials.

III. RESPONSE TO ALLEGATION OF INEFFECTIVE ASSISTANCE OF COUNSEL

A. Ineffective Assistance of Plea Counsel, Generally

Applicant's claim of ineffective assistance of counsel is without merit. The Sixth and Fourteenth Amendments to the United States Constitution guarantee Applicant—like all other defendants—the right to “assistance by an attorney, whether retained or appointed, who plays the role necessary to ensure that the trial is fair.” *Strickland v. Washington*, 466 U.S. 668, 685 (1984). 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. *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. 466 U.S. at 687. To obtain relief, a PCR applicant must prove (1) counsel's performance fell below an objective

² Since he pleaded guilty two days before Applicant, Applicant's co-defendant's transcript includes more details of the crimes and investigation.

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 her 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).

B. Involuntary Guilty Plea

“[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." *Id.* 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*, 282 S.C. at 133, 318 S.E.2d at 361. 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 she 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 v. Leake*, 282 S.C. 131, 134, 318 S.E.2d 360, 361 (1984).

C. Conclusion and Action Requested

The State submits Applicant cannot satisfy either requirement of *Hill*. However, the record likely does not refute or disprove Applicant's allegations of ineffective assistance of plea counsel;

therefore, the State requests an evidentiary hearing to fully resolve the issues. *See Sharper v. State*, 279 S.C. 264, 265, 305 S.E.2d 247, 248 (1983) (providing an evidentiary hearing shall be held when a PCR application “alleges specific instances of ineffective assistance of counsel which are not conclusively refuted by the record before the lower court”).

IV. ANY FUTURE AMENDMENTS AND INVOCATION OF DISCOVERY PROCESS

Applicant must specify any claims she intends to raise at the PCR evidentiary hearing. 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, SCRPC. *Pro se* filings will not be considered at the PCR hearing. The State reserves the right to request that any amendments withheld until the last minute be stricken because of undue prejudice to the State pursuant to *Love v. State*, 428 S.C. 231, 834 S.E.2d 196 (2019), or, alternatively, the State will request a continuance in the matter. *Id.*, 428 S.C. at 245, 834 S.E.2d at 203 (Kittredge, J., dissenting) (“If, however, the proposed amendment . . . would truly prejudice the State, the better course of action would be to continue the matter and thus remove any possibility of prejudice resulting from the belated amendments.”).

If Applicant fails to file a timely and responsive amended application setting forth specific allegations for relief, the State reserves the right to move to dismiss this allegation or claim. S.C. Code Ann. §§ 17-27-10 to -160; Rule 71.1, SCRPC. *See also* Rules 15(a)–(b), SCRPC. The State reserves the right to request that any amendments withheld until the last minute be stricken because of undue prejudice to the State. *See* Rule 15(a), SCRPC.

Pursuant to S.C. Code Ann. § 17-27-150, Applicant may not invoke formal discovery processes to issue subpoenas or otherwise obtain discovery materials unless granted leave from the Court upon a showing of good cause. Furthermore, the State requests that all potential exhibits

and materials used to produce potential expert witness testimony be sent to the State well in advance of the evidentiary hearing. The State reserves the right to request a continuance and oppose witness testimony and exhibits that are withheld until the last minute resulting in undue prejudice to the State.

V. GENERAL DENIAL

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

VI. CONCLUSION

WHEREFORE, the State respectfully requests an evidentiary hearing be held on the claim of ineffective assistance of counsel.

Respectfully submitted,

ALAN WILSON
Attorney General

W. JEFFREY YOUNG
Chief Deputy Attorney General

MEGAN HARRIGAN JAMESON
Senior Assistant Deputy Attorney General

LILLIAN L. MEADOWS
Assistant Attorney General

By: s/LillianMeadows
ATTORNEYS FOR THE STATE
Office of the Attorney General
P.O. Box 11549
Columbia, S.C. 29211

March 3, 2021

FILED UNDER: 100, 101, 102
 MELISSA C. BURTON

STATE OF SOUTH CAROLINA CLERK OF COURT IN THE COURT OF COMMON PLEAS
 COUNTY OF OCONEE

2023 FEB 22 AM 9:00

TENTH JUDICIAL CIRCUIT

EDNA SLUDER,
 APPLICANT.

v.

THE STATE OF SOUTH CAROLINA,
 RESPONDENT.

AMENDED APPLICATION

CASE # 2020-CP-37-807

This matter comes before the Court by way of application of post conviction relief filed November 2, 2020, making a number of allegations of ineffective assistance of counsel. A Return was made on March 3, 2021. This application is intended to supplement the pro se application's adding allegations of ineffective assistance of trial counsel for:

1. failing to visit and review discovery with Applicant;
2. failing to contact and present character witnesses at the plea;
3. failing to adequately explain the elements of the charges prior to the plea;
4. failing to appeal the plea; and
5. failing to move to reconsider the sentence when the co-defendant received a lesser sentence which appears not to be the intended outcome. (p. 30, l. 12)

Respectfully submitted,

s/ Susannah Ross

Susannah Ross #11204

Attorney for the Applicant

330 E. Coffee St.

Greenville, SC 29601

(864) 242-0029

This 21 day of February, 2023

Copies to:

Any (P) ☒ (D) ☒

DSS other emailed

Mailed ☐ Boxed ☐ handed ☐

ENTERED
 COMPUTER

FILED OCT 11 2023
 MELISSA C. BURTON
 CLERK OF COURT)
 STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
 COUNTY OF OCONEE) TENTH JUDICIAL CIRCUIT

2023 FEB 22 AM 9:00

EDNA SLUDER,)
 APPLICANT.) AFFIDAVIT OF SERVICE BY
 v.) ELECTRONIC MAIL
)
 THE STATE OF SOUTH CAROLINA,)
 RESPONDENT.) CASE # 2020-CP-37-807
 _____)

1. I am the attorney for the Applicant in the above-captioned matter.
2. Regular communication by electronic mail exists throughout the state of South Carolina and this is a proper circumstance of service by mail.
3. I have this day served a copy of the Notice of Appeal on the above-captioned matter on the following person by electronic mail:

Taylor Smith@scag.gov

s/ Susannah Ross
 Attorney for Defendant

This 21st day of February, 2023

State of South Carolina
County of Oconee

Court of Common Pleas

Edna J. Sluder	)	
	)	
Plaintiff,	)	Transcript of Record
v.	)	2020-CP-37-00807
	)	
State of South Carolina	)	
	)	
Defendant.	)	

February 27, 2023
Oconee, South Carolina

B E F O R E:

The Honorable Perry H. Gravely, Judge.

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

Susannah Ross, Esquire
Attorney for the Plaintiff

Russell Barlow II, Attorney General
Attorney General's Office

Lisa Scott
Circuit Court Reporter

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- - -

E X H I B I T S

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EVD.</u>
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No Exhibits.

P R O C E E D I N G S

* * * * *

THE COURT: All right. Mr. Barlow, I'll be glad to hear from you.

MR. BARLOW: Thank you, Your Honor. May it please the Court? Russ Barlow on behalf of the State of South Carolina. This is the post-conviction relief matter of *Edna J. Sluder v. The State*, Case No. 2020-CP-37-00367 out of Oconee County.

On December 18, 2019, Applicant appeared before the Honorable J. Cordell Maddox Jr., and waived presentment on her indictment to the Oconee County Grand Jury. Applicant was indicted for five counts of CSC with a minor, 2019-GS-37-1783; and five counts of incest, 2019-GS-37-1784.

Applicant pled guilty as indicted and Judge Maddox sentenced Applicant to concurrent terms of 20 years for CSC with a minor, second degree, and 10 years for incest. Applicant did not appeal.

Applicant timely commenced this PCR action on November 22, 2020, alleging ten instances of ineffective assistance of plea counsel. And on February 21st of 2023, Applicant amended her application for post-conviction relief to allege

1 five allegations of ineffective assistance of plea
2 counsel. And at this time, we just ask Ms. Ross to
3 state for the record which issue she intends to move
4 forward on.

5 THE COURT: Ms. Ross.

6 MS. ROSS: Your Honor, I don't preclude an
7 Applicant from making their own arguments. So when
8 I amend the application, I'm sort of saying in
9 addition to, but the issues that I focused on were
10 failing to visit and review discovery with Applicant
11 fully prior to the plea; failure to contact
12 character witnesses before the plea; failing to
13 adequately explain the elements of the charges prior
14 to the plea.

15 And a little on that. Ms. Sluder got a heavier
16 sentence than her codefendant, and it -- it appeared
17 to be out of some misunderstanding on her part of
18 elements of the charges. And if that had been
19 prepared for more, that may have gone more smoothly.

20 Failing to appeal the plea; failing to move to
21 reconsider the sentence, again, when the codefendant
22 received a lesser sentence. And with that, I would
23 call Edna Sluder.

24 THE COURT: Ms. Sluder, if you'll come forward
25 and be sworn.

1 (Applicant approached.)

2 THE CLERK: Would you please come forward. If
3 you're able to, please raise your right hand.

4 THE APPLICANT: (Complying.)

5 THE CLERK: Do you swear or affirm the
6 testimony you're about to give should be the truth,
7 the whole truth, and nothing but the truth?

8 THE APPLICANT: Yes.

9 THE CLERK: Thank you. Please take a seat
10 there at the witness stand.

11 THE APPLICANT: (Complying.)

12 EDNA SLUDER,
13 having been produced and first duly sworn as a
14 witness on behalf of the Applicant, then testified
15 as follows:

16 DIRECT EXAMINATION

17 BY MS. ROSS:

18 Q. Good morning.

19 A. Good morning.

20 Q. Now, you've applied for post-conviction relief
21 and discussed that with me. Do you understand what
22 the outcome can be or the outcomes can be?

23 A. Yes. It can change plus and minus.

24 Q. Okay. But do you realize that if you prevail,
25 you'll be put back in the position you were in

1 before your guilty plea?

2 A. Correct.

3 Q. And it's your intent you would still like to go
4 forward even with that risk?

5 A. Yes.

6 Q. All right. Now, you've alleged ineffective
7 assistance of counsel. What do you believe your
8 lawyer should have done prior to your plea that was
9 not done?

10 A. She didn't spend -- there were missed
11 appointments. She would said say, "I'm going to
12 come see you next week," and then she didn't show.

13 I had given her character references, and she
14 didn't contact anybody as far as I know. She never
15 told me she contacted anybody.

16 Q. And who were they and what do you think they
17 could've contributed?

18 A. Well, they would be basically character showing
19 that I was a participating citizen, a good citizen.
20 One of them was the former school district
21 attendant, James Singleton -- or no. No. James
22 Singleton was the former county sheriff. I went to
23 church with him. I also went to church with his
24 family, so he would be able to attest to I hold
25 myself properly amongst the community.

1 The other one was a school superintendent, and
2 the name slipped me because it's been a while. But
3 he was -- I was his grandson's Cub Scout leader.

4 Q. Okay. And how about your sister, Marilyn
5 Green?

6 A. She had talked to her some, but I don't know
7 how much she talked to Marilyn at the time.

8 Q. Now, were there things -- let's just go to
9 your -- have you read the transcript of your guilty
10 plea? Are you familiar with it?

11 A. Yes. I read through it last night. I'm still
12 fuzzy, but yes.

13 Q. Okay. Now, what -- in there, there was some
14 delays and questions that you had actually during
15 the plea colloquy that talked back and forth.

16 A. Yes.

17 Q. Can you explain a little bit about that?

18 A. Well, some of it, the first initially was
19 because, okay, what do those terms mean? And when
20 they were talking about, okay, you're convicted of
21 CSC. What is that? What exactly?

22 They're asking me to say "yes" or "no" to this.
23 What is that? If I say change my mind and say, no,
24 what does that mean? "Oh, you got to say 'yes' to
25 it," was a lot of the comments that I was getting

1 from her at the time.

2 Q. And now you gave a statement, correct?

3 A. Yes.

4 Q. Now, did your lawyer ever print out the -- the
5 sections of the statutes of the -- the charges that
6 you were pleading guilty to ---

7 A. No.

8 Q. --- and review them with you?

9 A. I didn't -- no. I never knew what that 6-3,
10 whatever it is, what it was. Since I've been, I had
11 no access to any legal documentation while I was
12 being held. When I got to the facility -- when I
13 finally got into population, then I was able to go
14 to go the law -- or look it up on the law library
15 and find out exactly what -- what all is included in
16 criminal sexual conduct.

17 Q. And with that, you then understood that ---

18 A. Right.

19 Q. --- what they were asking you about is what you
20 had given a statement about?

21 A. Correct.

22 Q. But before that, your delay, you weren't trying
23 to avoid responsibility?

24 A. No. I was trying to find out what exactly --
25 every time I'd ask her what does the CSC mean?

1 "Well, what you did."

2 "Well, what about I said a variety of things
3 that I did. What specifically did I do that
4 constituted that?" And I never got an answer out of
5 her about it.

6 Q. And do you think the plea would've gone more
7 smoothly if you had had those answers and were able
8 to understand?

9 A. Right. If I knew what I was pleading to, that
10 would help me understand. If I -- at the time I
11 didn't know how serious what I had done was because
12 I didn't really know the law.

13 Q. And there was a history there with you
14 personally ---

15 A. Right.

16 Q. --- being abused, correct?

17 A. Right. I had already been -- I had been the
18 recipient of it, so I didn't understand myself.
19 Because a lot of times what you grow up learning,
20 you don't know any different because that's what
21 happened to you when you were growing up.

22 Q. Okay. And let's talk about your faith.

23 A. Yes.

24 Q. What was the situation with you and your
25 husband in the home? Who controlled things or

1 directed how things went?

2 A. Him. Now, whether it's per se the church
3 belief, it was the way I took the belief because I
4 know people -- you take your own interpretations. I
5 believe that the husband was the leader of the home,
6 that whatever he asked me to do, I was supposed to
7 do. I was to be obedient and submit to whatever he
8 wanted me to do, that he was the leader, that I was
9 to follow him whatever way he wanted to lead me to
10 go.

11 Q. All right. Now, on these as to what you pled
12 guilty to, the in -- the incidents of sexual
13 misconduct that you pled guilty to, were you
14 instigating those instances by your own initiative?

15 A. No.

16 Q. How -- how did that happen?

17 A. Well, because I would talk and say I really
18 don't do -- want to do this, but it's like, "Well,
19 you gotta -- you've gotta do it." So it was -- I
20 did not initiate anything. I tried to do what I
21 could to avoid.

22 Q. And did you -- during the plea, you seemed
23 confused about some of what was said at the end of
24 the plea by your son **Minor 1** about when things
25 happened and how. Can you explain that confusion or

1 what was going on?

2 A. What he believed -- after time, I know your
3 mind takes in things and changes things. And what
4 he believed happened, didn't match what I thought
5 happened. So -- and that is -- I know that is
6 individual perception, as well, because what I saw
7 and what I thought was going on may not have been
8 how it was perceived to him.

9 Q. All right. And so there was some delay in
10 your -- during the plea, you were sort of attempting
11 to absorb some changes in what you had thought ---

12 A. Yeah, absorb something that I didn't know he
13 thought. I hadn't heard him say some of those
14 things before, so I was reacting to "Well, what do
15 you mean?" It was that was -- I didn't -- I
16 couldn't understand where he got the ideas from I
17 guess is what I was questioning.

18 Q. All right. But it wasn't an effort just simply
19 not to take responsibility?

20 A. No. It wasn't an effort not to take
21 responsibility. It was more an effort trying to
22 understand because it just didn't sound like -- it
23 didn't sound like the boy that I knew when he was
24 younger. And I know people grow up, so at the age
25 they're going to change. It's just I didn't -- it

1 was -- it was disconcerting to me to think that I --
2 I didn't realize how much I had hurt him and didn't
3 know. So until I knew, and then I'm reacting
4 because I didn't realize.

5 Q. And that was happening -- you sort of -- that
6 was happening during the plea for the first time?

7 A. Right.

8 Q. And you weren't prepared for that?

9 A. Right. I wasn't prepared for that.

10 Q. Now, after the -- the guilty plea, what --
11 you've seen the sentencing sheets. What happened on
12 your sentencing sheet that we've discussed?

13 A. When I looked at the sentencing sheet, it
14 has -- you can see where a -- the sentence was
15 written and scribbled out. And then -- and if you
16 look close enough, you can see it said 15, and then
17 it's scribbled out and has 20 and initialed. So
18 some time along the way, what was intended to be
19 sentenced was changed.

20 Q. And did -- what did your husband get sentenced
21 to?

22 A. My husband got 15 years for the violent and 10
23 years for the incest.

24 Q. So he got 5 years less than -- than you because
25 you're was changed ---

1 A. Right.

2 Q. --- from 15 to 20? Now, did -- did you feel it
3 was fair statements made about who the instigator
4 was that might've contributed to that change of
5 sentence?

6 A. Well, in there I heard them say that I was the
7 one that instigated it, and I never instigated
8 anything like that. And even the testimony from
9 Dr. Price indicated that I was scared of sex, and so
10 that's not something I would go out of the way to
11 try to expand on because I still -- it's like, no,
12 that's not something -- I know it's part of life,
13 but it's not something I'm, okay, I gotta have it.
14 No. I can go without it. I don't -- I'm not
15 that ---

16 Q. Is that why you were surprised when **Minor 1** was
17 saying that he felt that you were the instigator?

18 A. Correct.

19 Q. And had you ever heard that before?

20 A. No. I had not heard that before.

21 Q. Now, after the plea, what -- did you ask for
22 your -- the -- a motion to reconsider the sentence
23 or an appeal?

24 A. I had spoken with my lawyer before. I thought
25 I told her that I wanted to appeal. She said she

1 would meet me downstairs so then we could try to --
2 then I would be able to talk with her over the next
3 step and say, "Yes, I want to appeal," but I sat
4 down there for 30 minutes to an hour and she never
5 showed so they took me back to county.

6 I sat in county for -- I was sentenced on
7 December 19th. I did not leave county till
8 January 3rd. So I sat in county for two weeks and
9 never heard from her for a chance to even go over
10 what's the next step.

11 Q. Okay. Would you have wanted an appeal or a
12 motion to reconsider the sentence?

13 A. Yes. I would have. I did want to.

14 Q. Did you have any expectation of a similar
15 sentence to your husband who'd been sentenced
16 earlier in the week?

17 A. Yes. I -- I sort of figured I'd have somewhere
18 along the same time. Hopefully less, but I know
19 that's not -- hopeful doesn't mean it would, but I
20 didn't expect to have more.

21 Q. Now, is there anything else you'd like the
22 judge to consider regarding your allegations of
23 ineffective assistance of counsel?

24 A. I know that after reading the motion for
25 discovery after I got it, after I was in SCDC, that

1 showed me a little bit more about where things were
2 coming from, what was going, but I didn't get a
3 chance to read that prior to know what was -- what
4 had been said.

5 Q. All right. And you alleged -- we've discussed
6 the preliminary hearing. There was no preliminary
7 hearing?

8 A. There was no preliminary hearing. I didn't
9 know about it until it was too late to ask for one.

10 Q. All right. So you've never seen all of this?

11 A. Right. I had never seen all the evidence.

12 MS. ROSS: Okay. Well, I have no further
13 questions. Please answer any questions of
14 Mr. Barlow.

15 THE COURT: Cross-examination.

16 MR. BARLOW: Thank you, Your Honor. May it
17 please the Court?

18 CROSS-EXAMINATION

19 BY MR. BARLOW:

20 Q. Good morning, Ms. Sluder.

21 A. Good morning.

22 Q. How are you today?

23 A. Good.

24 Q. Good. Okay. So today we're here and you're
25 alleging that your plea counsel was ineffective,

1 correct?

2 A. Correct.

3 Q. And that but for her ineffectiveness, you
4 would've chosen to go to trial and not pled,
5 correct?

6 A. Correct.

7 Q. Okay. And I just want to confirm for the
8 record that you understand what PCR -- what this
9 Court can grant you today. And I know that your
10 attorney has gone over it with you, but you go back
11 to step one. You get a new trial. All indictments
12 come back on.

13 A. Okay.

14 Q. And do you understand the potential
15 consequences of all this, indictments coming back
16 on?

17 A. It means the sentence could change. It means
18 that there is -- from what I understood, 20 years
19 was the max for ---

20 Q. A single -- so a single count of criminal
21 sexual conduct with a minor, second degree, the
22 maximum term of that is 20 years.

23 A. Okay.

24 Q. How many counts did you plead guilty to?

25 A. I think five.

1 Q. Okay. And how many counts of incest?

2 A. Five.

3 Q. Okay. And do you know the maximum sentence on
4 incest?

5 A. No.

6 Q. It's 10 years.

7 A. Okay.

8 Q. And so that's -- so if the Court wanted to, it
9 could do what it did in your husband's case, and it
10 could stack those.

11 A. Okay. Yes.

12 Q. Meaning that you could face up to 150 years at
13 trial.

14 A. Okay.

15 Q. Knowing this, you still wish to move forward?

16 A. Yes. I trust God. And if God wants me to stay
17 behind bars, I stay behind bars. If God wants me
18 out, I -- I rely on my faith to get me through each
19 and every day.

20 Q. All right. Let's touch on the religion, that
21 all of this stuff came out during your trial,
22 correct?

23 A. Correct.

24 Q. That you were -- that your husband was -- that
25 you were the follower of your husband, that your

1 husband led you. You did exactly what your husband
2 was telling you to do?

3 A. Yes.

4 Q. Nothing further, correct?

5 A. Correct.

6 Q. That all came out in the plea, correct?

7 A. Yes.

8 Q. Okay. And you were also evaluated by a
9 psychologist?

10 A. Correct.

11 Q. All right. And that psychologist testified for
12 you?

13 A. Yes.

14 Q. At the plea hearing?

15 A. Yes.

16 Q. Okay. And let me ask you this: You're
17 referencing some stuff that your son was testifying
18 to on direct, and was this at your -- at your plea
19 hearing?

20 A. Correct.

21 Q. Okay. And this is after you pled, correct?

22 A. Correct.

23 Q. Okay. So you weren't processing that stuff
24 before you pled?

25 A. No. I wasn't processing it before ---

1 Q. Okay. So that ---

2 A. --- so I was processing it -- processing
3 during.

4 Q. --- that did not interfere with when you
5 actually pled guilty to the charges?

6 A. No.

7 Q. Okay. When did the abuse start?

8 A. It would've been about 12 or 13 years of age.

9 Q. Okay. And from the record, I believe what was
10 read it in, I thought it was eight?

11 A. No. Nothing happened.

12 Q. Okay. So it's your testimony that it was 12?

13 A. Yes, sir.

14 Q. How long did that abuse last?

15 A. Maybe three years.

16 Q. So the record indicates that it lasted till
17 they were 18?

18 A. No. It stopped before he learned how to drive.

19 Q. Okay. That's your testimony here today?

20 A. Yes.

21 Q. Okay. One of your allegations is plea counsel
22 failed to visit and review discovery with you. Is
23 it your -- are you -- is it your testimony that
24 Ms. Byford did not visit you?

25 A. She visited me, but she would say, "I'm

1 coming," and then not show, so I'd be looking for
2 the visit. So she missed visits that I thought I
3 was going to see her. And she carried the motion
4 for discovery and did it, "See, here's all the
5 papers of it," but I was not allowed to actually
6 read it.

7 Q. How many times did she visit you?

8 A. I think about three.

9 Q. And let me ask you in the discovery, part of
10 that discovery was your -- your statement, correct?

11 A. Correct.

12 Q. Okay. Another allegation was failed to contact
13 and present character witnesses at your plea. I
14 know that you testified to whom you would've had on
15 call. Is it your testimony that you did actually
16 give her those names?

17 A. I did give her those names. Yes.

18 Q. And but for those witnesses being there, you
19 would not have pled guilty. You would've gone to
20 trial?

21 A. I don't know if that would have affected
22 whether I went to plead or went to trial. It more
23 affected what I thought presenting something for the
24 judge to consider when he was evaluating what kind
25 of sentence.

1 Q. Okay. But the -- the question is: But
2 for you -- you were aware those witnesses were not
3 there to testify for you or to give test -- or to
4 give character statements for you, correct?

5 A. Correct.

6 Q. But you still pled?

7 A. Yes.

8 Q. Okay. Failure to adequately explain the
9 elements of the charges. Did you -- and the Court
10 reviewed those charges during the plea?

11 A. They gave the names of the charges, but didn't
12 review what actually -- they didn't tell me what
13 exactly qualified and what kind of actions were
14 criminal sexual conduct. They just used...

15 Q. At any time, did you ask the Court what they
16 were?

17 A. I asked my lawyer what it was, and she -- she
18 never did come out and say -- show me -- bring me a
19 definition so I could read or spell out what exactly
20 is included in that.

21 Q. And when the Court questioned you, "Ms. Sluder,
22 are you guilty of CSC, second degree, with a minor?"
23 and you said yes, you did not think at that time to
24 ask him what that was?

25 A. I did.

1 Q. You asked the judge that?

2 A. I asked -- I did -- I don't remember if I asked
3 specifically what the terms were, but I was
4 questioned. I did question some about what I was
5 pleading to.

6 Q. And in the incest, did you -- at any time when
7 you pled guilty and told the judge that you were
8 indeed guilty of incest, did you at any time ask the
9 judge what incest was or the elements were?

10 A. I knew what incest was.

11 Q. Okay. So it's just the criminal sexual conduct
12 with a minor?

13 A. Correct.

14 Q. Okay. Another allegation: Plea counsel failed
15 to file an appeal. When did you ask plea counsel to
16 file an appeal for you?

17 A. I think the time before when she come to visit
18 me before we got to the court. It had been a couple
19 months ago prior to. I think -- I asked questions
20 as far as what would be the steps of things, and I
21 did mention that I would want to appeal when -- if
22 things -- if I ended up going to jail.

23 Q. Well, you were pleading guilty. You knew you
24 were going to jail ---

25 A. Right.

1 Q. --- correct?

2 A. Correct. I knew there was -- I knew the
3 sentence on the thing -- she showed me that that
4 crime back when it was committed had a zero jail
5 time as a possibility. So I knew it was possibly
6 that I might, but I figured I would get some kind of
7 punishment, whether it was jail or house arrest or
8 something.

9 Q. And what would the basis of your appeal had
10 been?

11 A. (No response.)

12 Q. What meritorious issue was there in your plea
13 hearing that you would've appealed?

14 A. I would be asking for leniency, understanding
15 that I got a higher sentence than my husband did,
16 asking ---

17 Q. I'm glad you bring that up because it's one of
18 your allegations, so let's go into that. You --
19 your testimony is that you got a higher sentence
20 than your husband, correct?

21 A. Uh-huh. When it calculates out.

22 Q. So your husband got CSC, second, as well,
23 15 years, correct?

24 A. Uh-huh.

25 Q. And then he got -- incest he got 10 years,

1 correct?

2 A. Correct.

3 Q. Were those to be served consecutively?

4 A. His was consecutive.

5 Q. So he got an aggregate of 25 years, correct?

6 A. Correct. But the way SCDC calculates, he
7 actually gets out before I do because of the way
8 they calculate service times.

9 Q. We're not talking about SCDC. We're talking
10 about what the sentence of the Court was.

11 A. Yes.

12 Q. It was a consecutive term on those charges
13 which gave him an aggregate of 25 years, correct?

14 A. Yes.

15 Q. And what was yours? What was your sentence?

16 A. Mine was 20 and 10 concurrent.

17 Q. Correct. And so you will only have to serve
18 how much?

19 A. It will be 18-and-a-half.

20 Q. So with regard to the sentence, your husband
21 actually got a higher sentence than you?

22 A. In theory, yes.

23 Q. In -- in -- it's -- well, it's not in theory.
24 He got 25 years aggregate, and you got 20.

25 A. He also has the opportunity for parole that I

1 do not have.

2 Q. Well ---

3 A. But that's like I said, it is whatever it ended
4 up being.

5 Q. Do you recall the Solicitor actually asking
6 that you receive more time than your husband?

7 A. Yes, I do.

8 Q. Okay. So there was no intent from the
9 Solicitor's Office to -- to ask the Court to give
10 you less time than your husband, correct?

11 A. No. From what I heard.

12 MR. BARLOW: Okay. Beg the Court's indulgence.
13 Nothing further from the State.

14 THE COURT: Any redirect?

15 MS. ROSS: Just briefly.

16 REDIRECT EXAMINATION

17 BY MS. ROSS:

18 Q. On page 8 and 9 of the transcript, you're asked
19 on page 20, "Do you agree with those facts?" -- I
20 mean, on line 20. I'll approach. And then you
21 began to question, correct?

22 A. Correct.

23 Q. So battery means touching. And then you ---

24 A. Because they used terms that I didn't expect to
25 hear.

1 Q. And that's because -- that's because you
2 weren't prepared? You did not understand what those
3 terms meant?

4 A. Correct.

5 Q. And that's why you were asking on page 9 -- 8
6 and then onto 9.

7 And then just going to page 21 of the
8 transcript. Again, when -- when your son **Minor 2** was
9 speaking, did you expect him to say that you had
10 come up with this?

11 A. No. Because I had -- nothing ever been said in
12 his presence, and my husband had always said he was
13 the one that came up with the idea.

14 Q. And that was in his statement, as well?

15 A. Correct. It was in my husband's statement that
16 he made. It was in my initial statement that I made
17 in the sheriff's office that I was following the
18 direction of what my husband.

19 Q. And then -- and just going quickly. On the
20 SCDC forms, when you look up the time that you're
21 serving versus your husband, your husband max's out
22 before you do and is parole eligible well before you
23 are?

24 A. I'm not -- according to what I've seen, I'm not
25 parole eligible at all. He is.

1 Q. And that's because he maxed out the CSC at
2 15 -- like around 10 or 12 years?

3 A. Yes.

4 MS. ROSS: Okay. I've got no further
5 questions.

6 THE COURT: Thank you. You may step down.

7 (Witness excused.)

8 THE COURT: Anything else?

9 MS. ROSS: I call Marilyn Green.

10 THE COURT: Ms. Green, you'll come forward and
11 be sworn.

12 (Witness approached.)

13 THE CLERK: Would you please raise your right
14 hand?

15 THE WITNESS: (Complying.)

16 THE CLERK: Do you swear or affirm the
17 testimony you're about to give shall be the truth,
18 the whole truth, and nothing but the truth?

19 THE WITNESS: Yes, ma'am.

20 THE CLERK: Thank you. If you'd take a seat
21 there at the witness stand.

22 THE WITNESS: (Complying.)

23 MARILYN GREEN,
24 having been produced and first duly sworn as a
25 witness on behalf of the Applicant, then testified

1 as follows:

2 DIRECT EXAMINATION

3 BY MS. ROSS:

4 Q. Now, Ms. Green, how are you related to Edna?

5 A. Edna is my sister.

6 Q. And we've discussed testifying. Are you
7 familiar with this situation at all?

8 A. Yes. Minor 1 --- Minor 1 and I were very close
9 when he was younger. And he -- when he came over,
10 he was about 16 I believe, and he told me that
11 things had happened with his parents and he gave me
12 some details and ---

13 MR. BARLOW: Objection, Your Honor. Hearsay.

14 BY MS. ROSS:

15 Q. As a result of what he told you, did you have
16 an understanding that your sister was the instigator
17 or her husband?

18 A. He always said that it was never his mother's
19 idea. His dad made -- made her do it. She had no
20 choice in the matter.

21 MR. BARLOW: Objection, Your Honor. Hearsay.

22 THE COURT: All right. I guess rephrase your
23 question. I'm going to sustain that as being
24 hearsay.

25 BY MS. ROSS:

1 Q. Now, were you at the guilty plea - your
2 sister's guilty plea? Were you present there?

3 A. Yes.

4 Q. Now, Minor 1 -- Minor 1 made some statements
5 there. Did those -- I'll just turn to page 20, line
6 20.

7 A. "Yes. I mean, you have statements from what
8 happened while my father was home."

9 Q. And then he goes on to say?

10 A. "But, you know, it was my mother who came up
11 with the idea of this."

12 Q. Was that your understanding after him coming to
13 you and talking about it a number of times?

14 A. No. And it doesn't sound like my sister as
15 she -- as I know her.

16 Q. And how -- how do you know her as far as that
17 family dynamic with her and her husband?

18 A. When they first got married, after a few years
19 her personality kind of changed and she seemed kind
20 of scared of Tony in a way. There was things in her
21 personality. And Tony is like a great big 'ole 6
22 foot 3, weighs about 300 pounds and she weighs all
23 of maybe 120 in her size. So -- and he's got this
24 big loud voice and he shouts a lot when he wants
25 something done. And Edna has always been kind of

1 sensitive to a loud, shouting voice. So I can see
2 the dynamics, kind of her being forced to do things.
3 And he told me at the first of their wedding that
4 she had to be educated.

5 MR. BARLOW: Objection, Your Honor.

6 THE COURT: Sustained.

7 THE WITNESS: And that I needed to be educated
8 also.

9 THE COURT: Hold on. I sustained the
10 objection.

11 MS. ROSS: I'm sorry. You can't say what
12 someone else told you.

13 THE WITNESS: Okay.

14 MS. ROSS: You can just say your impressions or
15 what you thought ---

16 THE WITNESS: Okay.

17 MS. ROSS: --- based on what you were -- you
18 know ---

19 THE WITNESS: Okay.

20 MS. ROSS: --- what you were informed of.

21 THE WITNESS: I gotcha. Okay.

22 BY MS. ROSS:

23 Q. But your understanding of the dynamics in that
24 home, was it ---

25 THE COURT: Hold on. Can I ask what this has

1 to do with this PCR application?

2 MS. ROSS: Judge, it's simply going to the
3 allegation that had a character witness been brought
4 out, it might have been able to address some of the
5 statements that were made.

6 THE COURT: That she agreed to in her plea that
7 this is -- she agreed to those facts though?

8 MS. ROSS: That's true. You're correct, Your
9 Honor. Beg the Court's indulgence. I have no
10 further questions.

11 THE COURT: All right. Cross-examination.

12 MR. BARLOW: Nothing from the State, Your
13 Honor.

14 THE COURT: All right. You may step down.

15 (Witness excused.)

16 MS. ROSS: We have no further witnesses.

17 THE COURT: All right. State.

18 MR. BARLOW: Yeah, Your Honor. At this time we
19 call Ms. Elizabeth J. Byford.

20 THE COURT: Ms. Byford, if you'll come forward
21 and be sworn.

22 (Witness approached.)

23 THE CLERK: Would you please come forward and
24 raise your right hand?

25 THE WITNESS: (Complying.)

1 THE CLERK: Do you swear or affirm the
2 testimony you're about to give shall be the truth,
3 the whole truth, and nothing but the truth?

4 THE WITNESS: I do.

5 THE CLERK: Thank you. Please take a seat at
6 the witness stand.

7 THE WITNESS: (Complying.)

8 THE COURT: All right. You may proceed.

9 MR. BARLOW: Thank you, Your Honor.

10 ELIZABETH BYFORD,
11 having been produced and first duly sworn as a
12 witness on behalf of the State, then testified as
13 follows:

14 DIRECT EXAMINATION

15 BY MR. BARLOW:

16 Q. Good morning, Ms. Byford. How are you?

17 A. Good. Thank you.

18 Q. Just for the record, will you state your name
19 and spell your last name?

20 A. Elizabeth Jennings Byford, B-y-f-o-r-d.

21 Q. Thank you. How long have you been practicing
22 law?

23 A. This is my 21st year.

24 Q. And how much of that has been criminal law?

25 A. Almost all of it. That's pretty much all I do.

1 Eleven years, I was a prosecutor. And I've been a
2 defense attorney for 10 years, and about 90 percent
3 of my practice is from criminal defense.

4 Q. And were you appointed or retained in this
5 case?

6 A. I was appointed on this case under Rule 608.
7 Mr. Sluder was represented by the Public Defender's
8 Office, so Ms. Sluder was conflicted to me.

9 Q. And let me ask you this: Roughly, how long
10 before the plea were you appointed?

11 A. I was appointed -- she was arrested
12 January 15th, I was appointed February 18th, and the
13 plea was December 18th. All of 2019.

14 Q. So, roughly, 11 months?

15 A. Yes, sir.

16 Q. Okay. And during that time, did you receive
17 discovery?

18 A. I did.

19 Q. Okay. And did you review discovery with the
20 Applicant?

21 A. I did.

22 Q. Okay. And we'll get into that a little bit
23 more, but can you give us a brief overview of your
24 understanding of the State's evidence in this case?

25 A. It was -- it was pretty simple. Her -- her

1 son -- her older son, the victim, had -- had gone to
2 law enforcement and made a statement that both she
3 and her husband had performed sexual acts with him
4 when he was -- when he was younger.

5 Then the investigators went and talked to
6 Mr. and Ms. Sluder about it. They both gave a
7 statement admitting that that had, in fact,
8 happened. First, at their home. Second, at the law
9 enforcement center. That interview was recorded,
10 and they also both wrote written statements to that
11 effect.

12 She was originally charged with CSC first and
13 CSC second. As part of the plea negotiations, the
14 CSC first charge was dismissed, and we pled to CSC
15 second and incest.

16 Q. Okay. And based on the State's evidence, did
17 you have a defense -- a defense strategy if you were
18 to go to trial?

19 A. So, basically, after I met with Edna for the
20 first time and kind of got some family background,
21 our defense strategy was essentially to blame
22 Mr. Sluder.

23 Edna had told me a lot about her religious
24 background, that she really believed that her
25 husband had authority over her and she was required

1 to do what he said.

2 Based on those conversations, I decided to hire
3 Dr. Price. I felt like an evaluation was -- was
4 appropriate. To be honest, I was -- I was hopeful
5 that we could get into a guilty but mentally ill
6 plea situation. Unfortunately, Dr. Price, after
7 meeting with Edna several times, didn't feel he
8 could have the opinion that, you know, that she met
9 the standard for that. But he did testify at her
10 plea, and he -- he testified that -- that she did
11 truly believe that she had to do what her husband
12 said and that Mr. Sluder was the instigator and the
13 driver of these things.

14 Unfortunately, I think there were things said
15 at the plea that kind of offset the mitigation we
16 were trying to present, but that was essentially
17 our -- our defense strategy.

18 Q. Okay. And you're aware of the allegations that
19 are made against you here today?

20 A. Yes, sir.

21 Q. Okay. Let me start with or jump into the
22 actual allegation. There's one. On Ms. Sluder's
23 direct, I believe she testified that you -- you
24 basically pushed her to just say "yes" at the plea
25 hearing. Is that -- is that a fair presentation?

1 A. I don't remember exactly what our sidebars were
2 at the plea. There was a lot going on. I will
3 explain what her confusion was about battery because
4 this is something that she and I had discussed
5 together both in reviewing the indictments, and we
6 did review the language of each of those indictments
7 and how they met the statute before the plea.

8 She and I -- her -- her big complaint was that
9 the acts that she and her husband had performed with
10 their son were not for the purpose of sexual
11 gratification. They were just meant as punishment.
12 And if you read the transcript, she explained that
13 to Judge Maddox, that they were just punishment,
14 that he was told if he didn't clean his room that
15 this was going to happen.

16 So her argument to me when we were discussing
17 it was that we didn't -- it wasn't for sex. It
18 wasn't for sex. And I explained to her that these
19 were still considered sexual acts and that the
20 motivation was not going to be a defense to those
21 actions. So, yes, it was being described as sexual
22 battery. I understood what she was telling me that
23 it wasn't for the purpose of sexual gratification,
24 but that did not, not make it a sex act.

25 Q. Okay. And you fully explained that to her,

1 correct?

2 A. Yes, sir, I did.

3 Q. All right. And ---

4 A. Numerous times.

5 Q. Do you -- do you recall how many times you
6 visited with Ms. Sluder before taking this plea?

7 A. Yes, sir. I met with her eight times prior to
8 the plea. I met with her February 27th of 2019 for
9 45 minutes. That was our initial kind of background
10 meeting. I met with her March 25, 2019. That was
11 prior to our first bond hearing. We briefly
12 reviewed **Minor 1**'s statement at that point because it
13 was -- I knew that Ms. Simmons was going to bring up
14 at the plea. I met with her June 6th of 2019 for
15 45 minutes. That was our in-depth discovery review
16 when we went through the discovery of the case. I
17 met with her July 2nd of 2019 for 30 minutes and
18 again on July 18th of 2019. That was both in
19 preparation for the second bond hearing that we had
20 because the first bond was denied, but we could
21 refile in 90 days. I met with her August 8th of
22 2019. I met with her November 18th of 2019. That
23 was our last big hearing before the plea. It was
24 when Ms. Simmons and I had been negotiating this
25 case pretty heavily. I met with the Solicitor's

1 office on numerous, numerous occasions trying to --
2 to make some headway. And then we did the plea on
3 December 18, 2019.

4 Q. Okay. So move on to allegation number two.
5 Did Ms. Sluder provide you with a list of character
6 witnesses she wanted at her plea?

7 A. She did. She provided me a list of -- I
8 believe it was eight or nine names. She gave me
9 their phones numbers. I called all of them. I left
10 at least one message, but they didn't call back. We
11 called them about 14 days later and left another
12 one. Of the nine names that she gave me, only two
13 of those individuals were willing to speak with me.
14 And neither one of them were willing to come to
15 court. One of them told me that they were
16 physically unable. I offered them the option of
17 writing a letter, and they said they did not feel
18 comfortable doing that.

19 Q. Okay. Another allegation, allegation number
20 three, was that you failed to adequately explain the
21 elements of the charges.

22 A. We went over -- like I stated a few minutes
23 ago, we went over the back of the indictments that
24 were going to be read at the trial, that that --
25 that those were specifically the elements that the

1 State would have to prove at trial and that that's
2 what she would have to admit to if we did the guilty
3 plea. And I believe we -- we did that at two
4 separate hearings. I often felt like I needed to
5 revisit things with her. That was part of the
6 reason we had Dr. Price there as well, so we -- we
7 actually did that more than once.

8 Q. And just to make the record clear,
9 Dr. Price ---

10 A. Dr. Price was a forensic psychiatrist who
11 evaluated her and testified.

12 Q. And who hired him?

13 A. I -- I retained him.

14 Q. Okay. Allegation number four was that plea
15 counsel failed to file an appeal. Do you recall
16 Ms. Sluder asking you to file an appeal?

17 A. So after -- we had discussed prior to the plea
18 that she -- you know, you get ten days to file an
19 appeal. I always tell my clients that transit from
20 the jail to SCDC can create communication issues, so
21 make sure you -- you know, you do that as soon as
22 possible.

23 In Oconee, they're -- they can communicate with
24 me through the kiosk. And she had done previously,
25 so I knew she was aware of that. When we spoke

1 directly after the plea, I asked her -- I'll start
2 by saying, Mr. Sluder I believe pled the Monday and
3 we pled a couple of days later. So after his plea,
4 I knew what he had received. I talked to both Edna
5 and I believe Marilyn Green about what he had gotten
6 and that we should probably expect to be very close
7 to that range just to manage expectations.
8 Obviously, we -- we were asking for something a lot
9 less, but just that that should kind of probably be
10 everyone's expectation.

11 So at the conclusion of her plea when I walked
12 back there, I said, "Well, you know, that was kind
13 of what we were expecting. Are you okay?"

14 And she said, "Yes."

15 And I said -- her -- her main concern at that
16 point was, we had tried to arrange for her and
17 Mr. -- Mr. Sluder to -- to be able to kind of say
18 goodbye to each other, because they had been married
19 for a very long time. They were both going to SCDC
20 for a very long time. And that was her main
21 concern.

22 So I -- I don't recall specifically asking if
23 she wanted to appeal, just if she was okay, and she
24 said yes, but all she wanted to focus on was that
25 meeting going to take place. How do I arrange for

1 that meeting to take place. And I -- we had
2 arranged for it. I don't believe they ever did get
3 to talk, I think, because he ended up -- SCDC came
4 to get him sooner than we thought they were going to
5 come get him, but -- but that was her main concern
6 after the plea. So there -- I had no indication
7 that she wanted to appeal.

8 Q. Do you recall if there was any basis to file an
9 appeal?

10 A. No, sir. I did not. There would not have
11 been.

12 Q. And failed to move to reconsider the sentence
13 because the codefendant received lesser sentence?

14 A. So Judge -- I reread the transcript in
15 preparation for today. Judge Maddox says that he's
16 not going to run it consecutive, but he doesn't ever
17 indicate that he meant to give her less.

18 And if you read that transcript, I mean, we --
19 we made our case. Dr. Price spoke. And then her
20 son stood up and basically said, "Your Honor, my
21 mother was the driving force in all of this." And I
22 think -- I believe that Tim Rice who was the
23 investigator also spoke and said the same thing.
24 That was certainly Ms. Simmons' position, as well.

25 So while that was our position and what we

1 believed should've happened, there was evidence to
2 the contrary. And I -- I don't think there's any
3 indication that Judge Maddox -- other than stating
4 his intention that he was not going to run her
5 sentence consecutive. I don't know that there's any
6 evidence he intended to give her less than her
7 husband.

8 I mean, the plea -- once -- once the victim and
9 the State started speaking, the plea kind of went a
10 little bit south for us. So I mean it -- and Judge
11 Maddox has been on the bench a long time. I feel
12 quite confident he knows how to calculate sentences
13 and that he gave her what he intended to give her.

14 MR. BARLOW: Beg the Court's indulgence.
15 Nothing else from the State.

16 THE COURT: Cross-examination.

17 MS. ROSS: Thank you, Your Honor.

18 CROSS-EXAMINATION

19 BY MS. ROSS:

20 Q. Just looking at -- looking at page 30 of that
21 transcript. And he says that I'm doing that
22 basically because your health and because I'm really
23 worried about you in jail. And it seems like he
24 just said, "I'm running them concurrent."

25 A. Right.

1 Q. And so in doing that -- and I don't know if you
2 saw the sentencing sheet where 15 was changed to 20?

3 A. Right.

4 Q. Did you see that?

5 A. I did see that.

6 Q. Okay. But it's your testimony that -- that you
7 think -- you think he had no intent of showing
8 leniency by doing that?

9 A. Now, obviously, I can't speak to what Judge
10 Maddox was thinking, but I will tell you that based
11 on the plea, when he started -- when we had all
12 finished speaking and Judge Maddox started talking,
13 I began to get concerned that it was going to be a
14 lot worse even than what it was.

15 When he was talking about the -- the
16 seriousness of what it was and how his wife speaks
17 about secondary stress and there was absolutely
18 going to be secondary stress for everybody in that
19 courtroom and just what a serious -- I mean ---

20 Q. Right. And then you sort of ---

21 A. So I -- I -- my feeling was that he wasn't
22 necessarily intending to be more lenient, and I
23 became very concerned during his questioning of her
24 and the way that she was responding that we were
25 undoing a lot of the arguments that we had made in

1 terms of her being the less culpable party.

2 Because Judge Maddox says to her at one point,
3 she -- she is describing how much notice she would
4 give her son before these things would happen, how
5 many opportunities he would have to -- I think the
6 example she gave was clean his room.

7 And then Dr. Price says, "You know, Your Honor,
8 because of her situation, she doesn't -- she doesn't
9 have the -- she can't enforce punishment." And
10 Judge Maddox says, "But she did. She did." So
11 Judge Maddox was definitely pushing back against our
12 presentation. So I -- it was not my feeling that he
13 necessarily meant to give her less time.

14 Q. Okay. And I'm not asking for your feeling.
15 I'm just trying to say, you did not see any reason
16 to file a motion to reconsider?

17 A. No.

18 Q. And he -- part of that push back and forth was
19 his interpretation. He talked about his father
20 being a Baptist ---

21 A. Right.

22 Q. --- priest and him saying that her
23 interpretation was wrong essentially ---

24 A. Correct.

25 Q. --- and there was some debate about that during

1 the plea.

2 Now, when some of the facts were presented by

3 **Minor 2** you know, when he test --

4 testified, had you talked to Marilyn Green about

5 what he had come forward ---

6 A. Yes.

7 Q. --- to talk to her about?

8 A. I -- I had talked to Marilyn and Ruth and --

9 and **Minor 2** I had spoken with all of the family
10 before.

11 Q. And then, didn't Marilyn say that **Minor 2** had
12 come forward early on and then said it had not
13 happened since he was 14?

14 A. That **Minor 1** had come forward you mean?

15 Q. Sorry. That **Minor 1** had come to -- to -- to --
16 sorry -- to Marilyn Green and ---

17 A. She did. She did. And -- and there was --
18 there was a point where there -- and they -- they
19 brought up some other things with **Minor 1**, but I -- I
20 tried to stress and I still believe this, that
21 attacking **Minor 1**'s credibility when both his father
22 and his mother had given a statement admitting that
23 what he said had happened had happened, was probably
24 not going to get us anywhere. And, in fact, was
25 probably going to put us in a much worse position

1 than throwing ourselves on the mercy of the Court.

2 Q. Okay.

3 A. I -- I mean, they -- that was brought to my
4 attention and it was -- it was something that they
5 kind of wanted to pursue, but I tried to strongly --
6 strongly point out that nobody was saying ---

7 Q. Yeah.

8 A. --- that what **Minor 1** said happened didn't
9 happen. So trying to -- trying to catch him on an
10 inconsistency was -- was not going to work out well
11 for us.

12 Q. Okay. Despite the prior statements that he
13 gave saying that it was not ongoing ---

14 A. The prior statement that he gave was -- to
15 Marilyn was that his -- his father had been the
16 instigator and not his mother, but there were things
17 that both he and that Edna said at her plea. I
18 mean, **Minor 1** definitely said that at the plea, but
19 there was also questions that Edna answered by Judge
20 Maddox that did not help our situation or our
21 position to that effect.

22 Q. And had you -- and that that goes back to going
23 over her response, discussing with her how to
24 interact with the judge during her plea?

25 A. And we did -- we did talk about that. I gave

1 her the same advice I give. And I -- I did try at
2 one point to kind of quail the questioning and Judge
3 Maddox said, "No, no. I need to hear it." So, I
4 mean, at that point, there's not a whole lot I can
5 do.

6 Q. I understand. And you did not believe it would
7 be helpful to pass up the prior statements from
8 Minor 1 that sort of went against what he said
9 in the ---

10 A. Not at -- not at that point.

11 Q. All right. And in prior -- in discussions with
12 the Solicitor on the case and the sheriff's office
13 on the case, did you bring out those statements?

14 A. Lindsey Simmons and I had discussed extensively
15 that this was -- I mean, she knew what was going to
16 be my presentation, that we were essentially saying
17 that Mr. Sluder was the instigator, the planner, and
18 all of that. And that was not her position, so...

19 Q. All right. And were you there? I'm just
20 curious, were you there for the guilty plea of the
21 codefendant, Mr. Sluder?

22 A. I was not there for Mr. Sluder's guilty plea.

23 MS. ROSS: All right. I have no further
24 questions.

25 THE COURT: Any redirect?

1 MR. BARLOW: Beg the Court's indulgence.

2 Nothing further from the State, Your Honor.

3 THE COURT: You may step down.

4 THE WITNESS: Thank you, sir.

5 (Witness excused.)

6 THE COURT: Anything else from the State?

7 MR. BARLOW: No, Your Honor.

8 THE COURT: Anything else from Applicant?

9 MS. ROSS: No, Your Honor.

10 THE COURT: All right. Any argue -- brief
11 argument?

12 MS. ROSS: Judge, the argument would simply go
13 to there -- there was evidence out there during this
14 plea. Ms. Byford absolutely is correct. Things
15 sort of -- you can watch it happening if you read
16 the transcript how things are going there. And a
17 lot has to do with the statements made by Mr. Minor 1
18 [REDACTED] which went against prior -- there were
19 inconsistent prior statements that he had made that
20 were in discovery and available. And due to that,
21 we believe it changed the outcome of the case in
22 light of the sentence.

23 The -- no appeal was made. I understand on a
24 guilty plea, that's difficult. I -- I don't know
25 which issues there would be, but there was certainly

1 a discussion about religion that came in. And then
2 I'd also argue that potentially a motion to
3 reconsider could've been helpful in that case,
4 despite the sentences being illegal. It appears, in
5 my reading of the sentencing, that the intent was
6 that Ms. Sluder would not get more time than
7 Mr. Sluder.

8 THE COURT: Okay. Mr. Barlow.

9 MR. BARLOW: Your Honor, briefly. Thank you.
10 Your Honor, in a guilty plea as you're aware, the
11 standard is but for the actions of the guilty -- or
12 the plea counsel that the Applicant would not have
13 pled and would have instead gone to trial, and I
14 believe she said that. I believe she testified
15 today that she wouldn't necessarily have gone to a
16 trial. And I just don't think that any of the
17 allegations raised here today rise to the level of
18 ineffective assistance of plea counsel.

19 THE COURT: And I agree with the State. I
20 don't believe that Applicant has shown any
21 ineffective assistance of counsel. I'm going to
22 deny her petition and ask that it be dismissed and
23 ask the State to send me an order to that effect.

24 (At 12:03 p.m., proceedings concluded.)

25 - - -

C E R T I F I C A T E O F R E P O R T E R

STATE OF SOUTH CAROLINA

COUNTY OF OCONEE

I, the undersigned, Lisa Scott, Circuit Court Reporter for the Tenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete transcript of record of all the proceedings had and the evidence introduced in the hearing of the captioned cause, relative to appeal in the Circuit Court for Oconee County, South Carolina, on the 27th day of February, 2023.

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

September 6, 2023

/s/Lisa Scott

Lisa Scott
Circuit Court Reporter

FILED OCONEE COUNTY, SC
MELISSA C. BURTON
CLERK OF COURT

STATE OF SOUTH CAROLINA)
COUNTY OF OCONEE)
2023 JUN 12 PM 4: 12)
Edna J. Sluder, #382012,)
Applicant,)
v.)
State of South Carolina,)
Respondent.)

ORDER OF DISMISSAL

This matter comes before the Court by way of Edna J. Sluder's (Applicant) application for post-conviction relief (PCR). Respondent made its Return on March 8, 2021. On February 22, 2023, Applicant amended her PCR application.

An evidentiary hearing was convened on February 27, 2023, at the Anderson County Courthouse before the Honorable Perry H. Gravely. Applicant was present and represented by Susannah C. Ross, Esquire. D. Russell Barlow, II, Esquire, represented Respondent. Applicant and Elizabeth J. Byford (Plea Counsel) testified at the hearing. After hearing the testimony at the PCR hearing and a full review of the record, the Court finds that Applicant's allegations are without merit, denies relief, and dismisses the action with prejudice.

PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment from the Oconee County Clerk of Court. On December 18, 2019, Applicant appeared before the Honorable J. Cordell Maddox, Jr., and waived presentment of her indictments to the Oconee County Grand Jury. Applicant was indicted for five counts of Criminal Sexual Conduct with a Minor—2nd Degree (2019-GS-37-1783) and five counts of Incest (2019-

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GS-37-1784).¹ Assistant Solicitor Lindsey Simmons prosecuted the case. Applicant pled guilty as indicted. Judge Maddox sentenced Applicant to concurrent terms of twenty years for Criminal Sexual Conduct with a Minor—2nd degree and ten years for Incest.

Applicant did not appeal.

SUMMARY OF RELEVANT FACTS

Applicant was arrested on January 15, 2019, following an investigation into allegations of sexual abuse involving her biological son (Victim). Specifically, the Victim stated that his father, Applicant's co-defendant, and Applicant sexually abused him from the time he was seven or eight up until he turned eighteen. (Plea Tr. 12). The Victim and his brother would be forced to allow Applicant to perform oral sex on them for not completing household chores, such as cleaning their room and picking up clothes. (Plea Tr. 12).

As time went on, the punishment evolved into any other form of sex with Applicant. (Plea Tr. 12). The Victim also recounted that he was told by his father that most boys his age dream of sleeping with their mother, and his mother liked it when he had sex with her. (Plea Tr. 12). The Victim also stated that at one time, he was confused about his sexuality and told his parents. (Plea Tr. 12). His parents then forced him to perform oral sex on his father. (Plea Tr. 12).

The Solicitor and the investigating officer both recommended Applicant receive a harsher sentence than her husband. (Plea Tr. 17–18, 19–20). They believed Applicant was more culpable than her husband, and that she was the primary perpetrator. (Plea Tr. 18–19).

¹ Applicant's husband and co-defendant, Anthony Sluder, appeared before Judge Maddox two days prior, on December 16, 2019. He also waived presentment to the grand jury, and pleaded guilty straight up to five counts of second-degree criminal sexual conduct (CSC) with a minor (2019 GS-37-1780) and five counts of incest (2019-GS-37-1781). Judge Maddox sentenced him to consecutive terms of fifteen years' imprisonment on the second-degree CSC with a minor indictment, which encompassed all five counts, and ten years on the incest indictment, which also encompassed all five counts.

ISSUES BEFORE THIS COURT

In her application for post-conviction relief, Applicant alleged she is being held in custody unlawfully based on the following (verbatim):

1. My lawyer did not request a preliminary hearing.
 - a. It was 3 months after arrest before I learned the preliminary hearing was to review evidence for proof of enough against me to convict. It was too late for me to ask it be filed.
2. At bond hearing, the solicitor said I was an extreme danger to society with minimum rebuttal from my lawyer.
 - a. The 'crime' was committed 12 years before arrest. There was not further 'crime' repeated. In the time frame after DSS approved guardianship of a minor, I held a job as church pianist and organist and was a respected, honest, tax paying business owner.
3. My lawyer did not negotiate for house arrest instead of no bond.
 - a. I was not a flight risk I was seeking house arrest with my father who requires 24 hour supervision for dementia. My mother has back problems that interfere with mobility.
4. Lawyer missed appointments with me.
 - a. After each bond hearing the lawyer said she would see me next week to being the next step. She did not talk to me until months later or the week before court.
5. My lawyer did not interview the witnesses.
 - a. The lawyer set up multiple appointments to meet with the witnesses but she cancelled each time.
6. In court no character references were given.
 - a. I gave the lawyer a list of character witnesses but was given no sign she had contacted them. I did not know their phone numbers but told her where they worked or retired from Oconee County public offices.
7. Lawyer said I was guilty of the[sic] violent crime when I asked for the official definition of what actions constitute the crime.
 - a. The lawyer had only the written police statement. I was scared when writing it and used general terms. She never let me tell her the circumstances or details of what happened.
8. I was not allowed to see or read the motion of discovery before I made a plea.
 - a. I understand there was no safe place for a copy of my motion of discovery in jail. After I signed the plea, the lawyer let me see the papers in the 'Motion of Discovery' file but did not let me read it. She said there was not enough time she had other inmates to see.
9. My lawyer told me to plead guilty because a trial would be too

traumatic for me.

- a. My lawyer said that if I went to trial they would ruin my good standing in the community by dragging up dirt on me. The solicitor made sure information was given to media to air what they thought I did.
10. My lawyer said I must plea[sic] guilty to both charges even though they are the versions of the same crime.
 - a. The charges are violent nonviolent versions of the same type of crime. I was not told I could plea[sic] to the nonviolent form and have them provide it should be escalated to the violent form.

Applicant requests relief as follows:

"I would like the charges to be dropped or a reduced sentence, the chance to go to trial, and/or transfer the sentence to house arrest at my parent's address."

In response to question nine as to why she did not pursue a direct appeal, Applicant states (verbatim):

1. Lawyer said she would come visit me downstairs after sentencing. She did not appear before I went to jail.
2. I set up a call in SCDC R&E. When we spoke she agreed to file
3. Requested appeal myself and was told too late
4. I mailed a letter to my lawyer using the name and address given to me by the Oconee Public Defenders Office. It was returned unknown. The second attempt which included the firm name received a response from a new address.
5. The response did not answer any questions. It only contained the tracking and sentencing sheets.

Based on these responses, Respondent interpreted Applicant's answers to question nine as Applicant sought a belated appeal pursuant to White v. State, 263 S.C. 110, 208 S.E.2d 35 (1974).

On February 21, 2023, Applicant amended her APCR to allege the following:

1. failing to visit and review discovery with Applicant;
2. failing to contact and present character witnesses at the plea;
3. failing to adequately explain the elements of the charges prior to the plea;
4. failing to appeal the plea; and

5. failing to move to reconsider the sentence when the co-defendant received a lesser sentence which appears not to be the intended outcome

Applicant proceeded with her amended allegations at the PCR hearing.

SUMMARY OF EVIDENTIARY HEARING TESTIMONY

APPLICANT'S TESTIMONY

Direct Examination

On direct examination, Applicant testified that Plea Counsel missed appointments and would say that she would see her next week but would never show. Applicant testified that Plea Counsel did not contact any of the character references. Applicant testified that her character witnesses would have shown she was a good citizen. Applicant testified that one of her character witnesses was the former school district superintendent, James Singleton. Another character witness was the sheriff, and she went to church with him and his family, and he could have testified about her behavior in the community.

When asked to explain the delays at the plea hearing, Applicant testified that she wanted to know what the terms meant. Applicant testified she did not understand what being convicted of "CSC" meant. Applicant testified that she had to say yes to the questions. Applicant testified that she gave a statement. Applicant testified that Plea Counsel did not discuss the elements of the crimes, and she had no access to documentation. Applicant testified that when she got to the facility and into the population, she was able to look things up in the law library.

Applicant testified that when she asked Plea Counsel what CSC meant, Plea Counsel would say it was what she did. Applicant testified that she wanted to know what she did that constituted CSC, but she never got that answer from Plea Counsel. Applicant testified that if she had known what she was pleading to, that would have helped her understand. Applicant testified that she did not understand how serious her charges were because she did not know the law. Applicant testified

that she had been the recipient of abuse, so she did not understand. Applicant testified that she did not know any difference because that was what happened to her when she grew up.

Applicant testified that she believes that her husband (co-defendant) is the leader of the home, and she was supposed to be obedient and submit to whatever he wants her to do. Applicant testified that she did not instigate the abuse and would say that she did not want to do it, but her co-defendant would say that she had to. Applicant testified that she tried to do what she could to avoid the abuse. Applicant testified that she was confused by her son's (Victim) version of abuse at the plea hearing because it did not match how she remembered the abuse happened. Applicant testified that it is individual perception, and what she saw and thought was happening may not have been how Victim perceived it.

Applicant testified that after the guilty plea, her sentencing sheet was changed from fifteen to twenty years. Applicant testified that her co-defendant's sentence was fifteen years for CSC and fifteen years for incest. Applicant testified that her co-defendant received less time because her sentence was changed. Applicant testified that she did not think the statements were fair that she was the instigator when she never instigated anything. Applicant testified that Dr. Price indicated that she was scared of sex and that it is part of life, but she can go without it. Applicant testified that she was surprised when Victim said that she was the instigator because she had not heard that before.

Applicant testified that she thought she told Plea Counsel that she wanted to appeal. Applicant testified that Plea Counsel said that they would meet downstairs, but she never showed up. Applicant testified that she wanted to appeal or have her sentence reconsidered. Applicant testified that she had hoped her sentence would be along the same lines as her co-defendant's sentence, maybe less, but did not expect to have more.

Applicant testified that after she read the motion for discovery, she learned more about what the Victim had disclosed, but she did not know that before pleading. Applicant testified that there was no preliminary hearing, and she did not know about it until it was too late to ask for one. Applicant testified that she never saw all of the discovery and evidence.

Cross-Examination

On cross-examination, Applicant testified that the fact that she followed her co-defendant's demands came out at the plea hearing. Applicant testified that a psychologist evaluated her, and the psychologist testified at the plea hearing. Applicant testified that the Victim's statements were after she had pled guilty, which did not interfere with her entering her guilty plea.

Applicant testified that the abuse started when Victim was about twelve or thirteen years old. Applicant testified that it was not when Victim was eight years old, as he told the court at the plea hearing. Applicant testified that it ended before Victim learned to drive, contrary to Victim's statement at the plea hearing indicating it stopped at eighteen years of age when he moved out of the home.

Applicant testified that Plea Counsel visited her but would say that she was coming and then not show up. Applicant testified that Plea Counsel missed visits they had scheduled and would only quickly show the discovery but would not let Applicant read it. Applicant testified that Plea Counsel visited her about three times.

Applicant testified that she did not know if the character witnesses had been present and whether that would have affected her decision to plead guilty and instead go to trial. Applicant testified that the character witnesses would have been something for the judge to consider when he was evaluating what sentence to issue. Applicant testified that she pled guilty even though the character witnesses were not there.

Applicant testified that the plea court named the charges but did not tell her what kind of

actions were criminal sexual conduct. Applicant testified that she did not ask the plea court what actions were criminal sexual conduct, but she did ask her lawyer. Applicant testified that she thought about asking the plea court what CSC meant but could not remember if she asked what the terms were, but she did ask what she was pleading to. Applicant testified that she knew what incest was and was only confused about CSC with a minor.

Applicant testified that she asked Plea Counsel to file an appeal a couple of months before she pled guilty. Applicant testified that she asked Plea Counsel questions about the steps to an appeal. Applicant testified that she told Plea Counsel that she would want to appeal if she went to jail. However, Applicant testified that she knew she was going to jail because she was pleading. Applicant testified that she knew the sentence. Applicant testified that her sentencing range was zero to something, but she figured she would get some kind of punishment, whether jail or house arrest. Applicant testified that her basis for an appeal would have been to ask for leniency, understanding that she got a higher sentence than her co-defendant.

Applicant testified that she got a higher sentence than her co-defendant when it "calculates out." Applicant testified that she agreed that her co-defendant got fifteen years and ten years to be served consecutively, an aggregate sentence of 25 years. Applicant testified that her co-defendant will be released earlier by SCDC because of the parole calculation. Applicant testified that "in theory," her co-defendant got a higher sentence because her co-defendant has the opportunity for parole, and she does not. Applicant testified that she recalled the Solicitor requesting that she receive a higher sentence than her co-defendant.

Redirect Examination

On redirect examination, Applicant testified that the record shows on pages 8-9 of the plea transcript that she began questioning the facts as presented because they used terms she was not expecting to hear. Applicant testified that she did not expect Victim to say what he said because

her co-defendant had always said that he had come up with the idea. Applicant testified that her statement said that she was following her co-defendant's direction.

MARILYN GREEN'S TESTIMONY

Direct Examination

Marilyn Green² (Green) testified that she was familiar with this situation because she was very close to Victim when he was younger. Green testified that Victim came over to her house when he was sixteen and said some things. Green testified that she understood Applicant was not the instigator.

Green testified that Victim made statements at the plea hearing that did not match what he told her about the instigation. Green testified that Applicant is sensitive, and she could see that Applicant was being forced to do things. Green testified that Applicant's co-defendant is bigger than Applicant.

PLEA COUNSEL'S TESTIMONY

Direct Examination

On direct examination, Plea Counsel testified that she had been practicing law for twenty-one years, almost all of which had been in criminal law. Plea Counsel testified that she was appointed to represent Applicant about eleven months before the plea hearing. Plea Counsel testified that she reviewed discovery with Applicant.

Plea Counsel testified that the State's evidence was simple. Plea Counsel testified that the older son made a statement to law enforcement that Applicant and her co-defendant performed sexual acts with him when he was younger. Plea Counsel testified that Investigators talked to Applicant and her co-defendant, and they both gave statements admitting that it happened at home.

² Applicant's sister.

Plea Counsel testified that the interview at the law enforcement center was recorded, and they both gave written statements.

Plea Counsel testified that after meeting with Applicant and some of the family, their defense strategy was to blame the co-defendant if they went to trial. Plea Counsel testified that Applicant told her about their religious background and that she was required to do what her co-defendant said. Plea Counsel testified that she hired Dr. Price to do an evaluation. Plea Counsel testified that she hoped they would get a guilty but mentally ill. Plea Counsel testified that after several meetings, Dr. Price did not think that guilty but mentally ill applied, but he testified at the plea hearing that he believed that she believed that she had to obey her co defendant.

Plea Counsel testified that she and Applicant discussed battery when reviewing the indictments. Plea Counsel testified that they reviewed the language of each indictment and how they fit the facts before the hearing. Plea Counsel testified that Applicant's big complaint was that the acts that they performed with the Victim were not for sexual gratification but were for punishment only. Plea Counsel testified that the plea judge was told that during the plea hearing. Plea Counsel testified that Applicant argued that it was not for sex. Plea Counsel testified that she explained that the acts were considered sexual acts and that the motivation would not be a defense to those actions. Plea Counsel testified that she understood what Applicant was saying, but that did not make it not a sex act. Plea Counsel testified that she explained that to Applicant numerous times.

Plea Counsel testified that she met with Applicant eight times before the plea hearing. Plea Counsel testified that their first meeting was forty-five minutes, and they briefly reviewed Victim's statement during the second meeting. Plea Counsel testified that they met for forty five minutes at the third meeting in June and reviewed discovery in detail. Plea Counsel testified that then they

met for thirty minutes and maybe another time for a second bond hearing. Plea Counsel testified that she met with the Solicitor's office many times to try to make some headway.

Plea Counsel testified that Applicant gave her eight or nine names that were character witnesses. Plea Counsel testified that she called them all and left messages. Plea Counsel testified that she called them back later, and only two would speak with her. Plea Counsel testified that neither was willing to come to court. Plea Counsel testified that one said that she was not physically able and declined to provide a letter.

Plea Counsel testified that she went over the indictments that would be read at trial and that those were the elements that would have to be proved at trial, and that was what she would have had to admit to at the guilty plea hearing. Plea Counsel testified that they went over the indictments more than once because Applicant needed some things repeated. Plea Counsel testified that that was part of why she hired Dr. Price.

Plea Counsel testified that she discussed the ten-day window to appeal with Applicant. Plea Counsel testified that they pleaded a few days after the co-defendant and she talked to Applicant about what the co-defendant had received and told her that they would probably get close to him even though they would ask for less. Plea Counsel testified that after Applicant pled, Applicant said she was ok. Plea Counsel testified that they had arranged for Applicant and her co-defendant to say goodbye to each other since they had been married for so long, and that was what Applicant was exclusively concerned about. Plea Counsel testified that she did not think they were able to talk because SCDC picked him up earlier than expected. Plea Counsel testified that she had no indication that Applicant wanted to appeal. Plea Counsel testified that there was no basis for an appeal.

Plea Counsel testified that Judge Maddox said he would not run it consecutive but did not

indicate that he meant to give Applicant less time. Plea Counsel testified that they made their case, Dr. Price spoke, and Victim spoke and said that Applicant was the driving force in all of it. Plea Counsel testified that the investigator said the same thing. Plea Counsel testified that that was the Solicitor's position, too. Plea Counsel testified that there was evidence that Applicant was the instigator. Plea Counsel testified that she did not think the judge intended to give Applicant less than her co-defendant because the plea went south for them. Plea Counsel testified that Judge Maddox issued what he wanted to issue.

Cross-Examination

On cross-examination, Plea Counsel testified that she did see what was changed on the sentencing sheet; however, she could not say what Judge Maddox was thinking. Plea Counsel testified that when they finished speaking and Judge Maddox started talking, she started to get concerned that it would be worse than what it was. Plea Counsel testified that Judge Maddox talked about secondary stress. Plea Counsel testified that she felt that he did not necessarily intend to be more lenient. Plea Counsel testified that she became concerned during the court's question of Applicant and her responses that they were undoing the case of making her out to be the less culpable party. Plea Counsel testified that Judge Maddox pushed back against the defense's presentation.

Plea Counsel testified that she talked to Marilyn, Ruth, and Minor 2 beforehand. Plea Counsel testified that Green said that Minor 2 came to her early on and said that it had not happened since he was fourteen. Plea Counsel testified that they brought up other things about Victim but did not think they could attack Victim's credibility when both defendants gave statements admitting to what they had done. Plea Counsel testified that she thought it might put them in a worse position, considering they were asking for mercy. Plea Counsel testified that they wanted to pursue that, but she did not think it would work out well, trying to find an inconsistency in

Victim's statement. Plea Counsel testified that Victim had given a statement that his father was the instigator and not Applicant. However, Plea Counsel testified that Applicant answered questions from Judge Maddox that did not help their position. Plea Counsel testified that she advised Applicant on how to interact with the judge in advance. Plea Counsel testified that it would not have been helpful to pass up Victim's statements at that point.

Plea Counsel testified that she discussed extensively with the Solicitor that they would say that the co-defendant was the instigator and the planner. Plea Counsel testified that the Solicitor did not agree.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Applicant has alleged various claims of ineffective assistance of Plea Counsel and asserts that as a result of Plea Counsel's purported errors, he is entitled to have his guilty plea undone and proceed back to the court of general sessions for a new disposition of his case.

STANDARD OF REVIEW

Under the Uniform Post-Conviction Procedures Act, an applicant may seek post-conviction relief 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).

The Sixth and Fourteenth Amendments to the United States Constitution guarantee Applicant, like all other defendants, the right to effective assistance of counsel. Strickland v. Washington, 466 U.S. 668 (1984); Taylor v. State, 404 S.C. 350, 359, 745 S.E.2d 97, 101 (2013). Ordinarily, post-conviction relief 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 post-conviction relief 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(c), 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 or sentence. 466 U.S. at 687. First, the applicant must show that counsel's performance was deficient; and second, that the deficient performance prejudiced the applicant. Id. at 668; Butler, 286 S.C. at 442, 334 S.E.2d at 814.

The first prong—constitutional deficiency—is "necessarily linked to the practice and expectations of the legal community." Padilla v. Kentucky, 559 U.S. 356, 366 (2010). In order to prove deficient performance, the applicant must show counsel's representation fell below an objective standard of "reasonableness under prevailing professional norms." Cherry v. State, 300 S.C. 115, 117–18, 386 S.E.2d 624, 625 (1989). The proper measure of performance is whether

the attorney provided representation within the range of competence required in criminal cases. Butler, 286 S.C. at 442, 334 S.E.2d at 814.

Strickland, however, "does not guarantee perfect representation[—]only a 'reasonably competent attorney.'" Harrington v. Richter, 562 U.S. 86, 110 (2011) (quoting Strickland, 466 U.S. at 687). Representation is constitutionally ineffective only if counsel's conduct "so undermined the proper functioning of the adversarial process" that the defendant was denied a fair proceeding. Strickland, 466 U.S. at 686. Just as there is "no expectation that competent counsel will be a flawless strategist or tactician, an attorney may not be faulted for a reasonable miscalculation or lack of foresight or for failing to prepare for what appear to be remote possibilities." Harrington, 562 U.S. at 110.

Accordingly, "[j]udicial 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." Strickland, 466 U.S. at 689; see also Yarborough v. Gentry, 540 U.S. 1, 6 (2003) ("The Sixth Amendment guarantees reasonable competence, not perfect advocacy judged with the benefit of hindsight."). Unlike a later reviewing court, the attorney observed the relevant proceedings; knew of materials outside the record; and interacted with the client, opposing counsel, and the judge. Thus, the question is whether an attorney's representation amounted to incompetence under "prevailing professional norms," not whether it deviated from best practices or most common custom. Id. (quoting Strickland, 466 U.S. at 690).

Thus, a fair assessment of attorney performance requires every effort to be made to eliminate the distorting effects of hindsight, to reconstruct the circumstances of counsel's

challenged conduct, and to evaluate the conduct from counsel's perspective at the time. Id. Because of the difficulties inherent in making such an evaluation, the reviewing court must indulge in a "strong presumption that counsel's conduct falls within the wide range of reasonable professional assistance." Butler, 286 S.C. at 445, 334 S.E.2d at 816. The applicant must overcome this presumption to receive relief. Cherry, 300 S.C. at 118, 386 S.E.2d at 625.

Reviewing courts "must judge the reasonableness of counsel's challenged conduct on the facts of the particular case, viewed at the time of counsel's conduct." Strickland, 466 U.S. at 690. An applicant making a claim of ineffective assistance "must identify the acts or omissions of counsel that are alleged not to have been the result of reasonable professional judgment." Id. The reviewing court must then "determine whether, in light of all the circumstances, the identified acts or omissions were outside the wide range of professionally competent assistance." Id.

The Strickland standard must be applied with scrupulous care, lest "intrusive post-trial inquiry" threaten the integrity of the very adversary process the right to counsel is meant to serve. 466 U.S. at 689-690; see also Harrington, 562 U.S. at 105 (cautioning that an ineffective assistance of counsel claim could potentially function as a way to escape rules of waiver and forfeiture and raise issues not presented at trial). Even under *de novo* review, the standard for judging counsel's representation is a most deferential one. Harrington, 562 U.S. at 105.

The second, or "prejudice" prong of Strickland is rooted in the very purpose of the Sixth Amendment guarantee of counsel—to ensure a defendant has the assistance necessary to justify reliance on the outcome of the proceeding. Id. at 691–92. In order to prove prejudice, an applicant must demonstrate counsel's deficient performance prejudiced the applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. A reasonable

probability is a probability "sufficient to undermine confidence in the outcome." Strickland, 466 U.S. at 694. Thus, it is not enough "to show the errors had some conceivable effect" on the outcome of the proceeding—counsel's errors must be "so serious as to deprive the defendant of a fair trial." Id. at 687 (emphasis added).

Because the Sixth Amendment right to counsel also applies to a defendant entering a guilty plea, Hill v. Lockhart extended the two-part Strickland test to challenge guilty pleas based on ineffective assistance of counsel." 474 U.S. 52 (1985); cf. Padilla, 559 U.S. at 373 (recognizing the guilty plea process is a "critical phase of litigation" for purposes of the Sixth Amendment right to effective assistance of counsel). A claim of ineffective assistance of guilty plea counsel requires the applicant present evidence satisfying two prongs: first, evidence that counsel's performance was deficient; and second, evidence that counsel's deficient performance prejudiced the defendant by causing him to plead guilty rather than go to trial. Hill, 474 U.S. 52.

The analysis of counsel's performance under the first prong of Strickland remains unchanged—the applicant must show counsel's representation fell below the 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 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 decision making" 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).

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. 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 plea and the evidence presented at the PCR hearing. Harres, 282 S.C. at 134, 318 S.E.2d at 361.

The performance and prejudice standards, however, "do not establish mechanical rules; [t]he ultimate focus of inquiry must be on the fundamental fairness of the proceeding whose result is being challenged." Id. at 696. Moreover, "there is no reason for a court deciding an ineffective

assistance claim to approach the inquiry in the same order or even to address both components of the inquiry if the defendant makes an insufficient showing on one." Id. at 697. The court "need not determine whether counsel's performance was deficient before examining the prejudice suffered by the defendant as a result of the alleged deficiencies. Id. If it is easier to dispose of an ineffectiveness claim on the ground of lack of sufficient prejudice, the court may evaluate the prejudice prong only. Id.

FINDINGS AS TO SPECIFIC CLAIMS RAISED

Applicant has alleged multiple claims of ineffective assistance of Plea Counsel and asserts that as a result of counsel's purported errors, she is entitled to have her guilty plea vacated. This Court finds Applicant has failed to meet her requisite burden of proof as to each allegation. Each allegation is addressed below:

Failure to Visit and Review Discovery with Applicant

Applicant alleges Plea Counsel was constitutionally ineffective for failing to meet and review discovery with her. This Court finds this allegation is without merit.

As an initial matter, this Court finds Applicant's testimony on this issue not credible and Plea Counsel's testimony on this issue credible.

Plea Counsel testified that in the approximately eleven months she represented Applicant, she met with Applicant eight times, and they reviewed all the discovery. Plea Counsel testified that the evidence in this case was "simple," that the Victim gave a statement to law enforcement, and Applicant and her co-defendant were brought in for questioning and gave written and recorded statements admitting to the allegations.

Without presenting proof beyond mere speculation of Plea Counsel's alleged failure to review all the discovery with Applicant, Applicant has failed to overcome the strong presumption that Plea Counsel rendered adequate assistance. See Butler, 286 S.C. at 442, 334 S.E.2d at 814.

In addition, Applicant has not presented any new evidence or defenses that could have been discovered by Plea Counsel's further review of the discovery. See Harris v. State, 377 S.C. 66, 75– 76, 659 S.E.2d 140, 145– 46 (2008) (holding an applicant must show what new evidence or other defenses he would have asked counsel to pursue had counsel more thoroughly gone over the discovery materials with him) (citing Jackson v. State, 329 S.C. 345, 353-54, 495 S.E.2d 768, 772 (1998)), abrogated on other grounds by Smalls v. State, 422 S.C. 174, 810 S.E.2d 836.

Accordingly, this Court finds Applicant has failed to establish Plea Counsel's deficiency or prejudice. Thus, this allegation must be denied and dismissed with prejudice.

Failure to Contact and Present Character Witnesses

Applicant alleges Plea Counsel was constitutionally ineffective for failing to call character witnesses and have them present at the plea hearing. This Court finds this allegation is without merit.

This Court finds Plea Counsel credibly testified that she called the eight or nine persons provided by Applicant as character witnesses not once but twice. Out of the eight- or nine-persons Plea Counsel called, Plea Counsel credibly testified that only two would speak with her, and neither was willing to go to court or provide a letter. Although Applicant mentioned James Singleton and a sheriff she went to school with, Applicant did not present them or any testimony from them at the PCR hearing. Failure to present purportedly favorable witnesses or evidence at the evidentiary hearing precludes a finding of prejudice. See, e.g., Martin v. State, 427 S.C. 450, 455, 832 S.E.2d 277, 279– 80 (2019); Taylor v. State, 258 S.C. 369, 378, 188 S.E.2d 850, 854 (1972).

Accordingly, this Court finds Applicant has failed to establish Plea Counsel's deficiency or prejudice. Thus, this allegation must be denied and dismissed with prejudice.

Failure to Explain the Elements of the Charges Prior to the Plea

Applicant alleges Plea Counsel was constitutionally ineffective for failing to explain the elements of the charges prior to her pleading guilty. This Court finds this allegation is without merit.

As an initial matter, this Court finds Applicant's testimony on this issue not credible and Plea Counsel's testimony on this issue credible.

Plea Counsel testified that she explained all the indictments, the elements that would have to be proven if they went to trial, and what Applicant would have to admit guilt to at the plea hearing. Plea Counsel testified that she and Applicant did this more than once because some things had to be explained to Applicant several times. Plea Counsel testified that was part of the reason she had Applicant psychologically evaluated. Based on Plea Counsel's credible testimony and the record, this Court finds Plea Counsel explained the elements of the charges to Applicant.

Accordingly, this Court finds Applicant has failed to establish Plea Counsel's deficiency or prejudice. Thus, this allegation must be denied and dismissed with prejudice.

Failure to File an Appeal

Applicant alleges Plea Counsel was constitutionally ineffective for failing to file an appeal of her guilty plea. This Court finds this allegation is without merit.

Counsel is required to make sure the defendant is made fully aware of the right to appeal following a trial. White v. State, 263 S.C. 110, 208 S.E.2d 35 (1974). However, absent extraordinary circumstances, there is no constitutional requirement that a defendant be informed of the right to a direct appeal from a guilty plea. Weathers v. State, 319 S.C. 59, 459 S.E.2d 838 (1995). The bare assertion that a defendant was not advised of appellate rights is insufficient to grant relief. Id. Instead, there must be proof that extraordinary circumstances exist such that the

defendant should have been advised of the right to appeal. Id. Extraordinary circumstances may exist when there is reason to think that a rational defendant would want an appeal, such as when non-frivolous grounds for an appeal exist, or when the defendant reasonably demonstrates an interest in appealing. Id.; Roe v. Flores-Ortega, 528 U.S. 470 (2000).

This Court finds Plea Counsel's testimony **credible** that she explained the ten-day window to appeal to Applicant, that she had no indication that Applicant wanted to appeal, and that there was no basis to appeal. Therefore, Plea Counsel was not required to file one, barring extraordinary circumstances, which have not been shown here.

Accordingly, this Court finds Applicant has failed to establish Plea Counsel's deficiency or prejudice. Thus, this allegation must be denied and dismissed with prejudice.

Failure to Move to Reconsider the Sentence When the Co-defendant Received a Lesser Sentence Which Appears Not to Be the Intended Outcome

Finally, Applicant alleges Plea Counsel was constitutionally ineffective for failing to move to reconsider the sentence because the co-defendant received a lesser sentence, and that was not the intended outcome. This Court finds this allegation is without merit.

This Court finds the record wholly refutes Applicant's allegation. At Applicant's plea hearing, the Solicitor specifically requested that Applicant be given as much time as the co-defendant or more time than the co-defendant. (Plea Tr. p. 18). Also, Applicant testified at the PCR hearing that she recalled the Solicitor requesting Applicant receive more time than her co-defendant.

Accordingly, this Court finds Applicant has failed to establish Plea Counsel's deficiency, and even if this Court were to find deficiency in Plea Counsel's failure to move to reconsider the sentence, Applicant cannot satisfy the prejudice prong. Thus, this allegation must be denied and dismissed with prejudice.

CONCLUSION

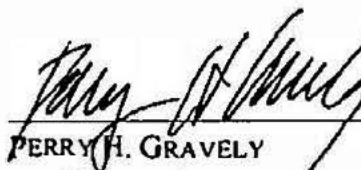
Based on the evidence presented at the evidentiary hearing and a thorough review of the record, this Court finds and concludes Applicant failed to meet her burden of proof pursuant to Strickland and Hill and Rule 71.1, SCRCP. This Court finds Plea Counsel adequately conferred with Applicant and provided effective and competent representation. Applicant has not established any constitutional violations or deprivations that would require this Court to grant her application for post-conviction relief. 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 Edna J. Sluder remains remanded in the custody of the State of South Carolina.

AND IT IS SO ORDERED this 6th day of June, 2023.


 PERRY H. GRAVELY
 Presiding Judge
 Tenth Judicial Circuit

2023 JUN 12 PM 4:12

FILED BOSSIE COUNTY SC
 MELISSA C. BURTON
 CLERK OF COURT

Pickens, South Carolina

STATE OF SOUTH CAROLINA
COUNTY OF OCONEE

INDICTMENT

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

COUNT ONE - CRIMINAL SEXUAL CONDUCT WITH A MINOR, SECOND DEGREE

The defendant, Edna Jean Sluder, did, in Oconee County, South Carolina, between January 1, 2004 and December 31, 2004, willfully and unlawfully commit the crime of Criminal Sexual Conduct With a Minor in the Second Degree by engaging in sexual battery with a minor who was fourteen (14) years of age or less but who was at least eleven (11) years of age, to wit: [REDACTED] whose date of birth is [REDACTED]. This is in violation of 16-3-655(B)(1) of the South Carolina Code of Laws (1976) as amended.

COUNT TWO - CRIMINAL SEXUAL CONDUCT WITH A MINOR, SECOND DEGREE

The defendant, Edna Jean Sluder, did, in Oconee County, South Carolina, between January 1, 2005 and December 31, 2005, willfully and unlawfully commit the crime of Criminal Sexual Conduct With a Minor in the Second Degree by engaging in sexual battery with a minor who was fourteen (14) years of age or less but who was at least eleven (11) years of age, to wit: [REDACTED] whose date of birth is [REDACTED]. This is in violation of 16 3 655(B)(1) of the South Carolina Code of Laws (1976) as amended.

COUNT THREE - CRIMINAL SEXUAL CONDUCT WITH A MINOR, SECOND DEGREE

The defendant, Edna Jean Sluder, did, in Oconee County, South Carolina, between January 1, 2006 and December 31, 2006, willfully and unlawfully commit the crime of Criminal Sexual Conduct With a Minor in the Second Degree by engaging in sexual battery with a minor who was fourteen (14) years of age or less but who was at least eleven (11) years of age, to wit: [REDACTED], whose date of birth is [REDACTED]. This is in violation of 16-3-655(B)(1) of the South Carolina Code of Laws (1976) as amended.

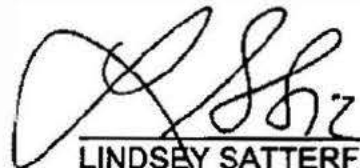
COUNT FOUR - CRIMINAL SEXUAL CONDUCT WITH A MINOR, SECOND DEGREE

The defendant, Edna Jean Sluder, did, in Oconee County, South Carolina, between January 1, 2007 and December 31, 2007, willfully and unlawfully commit the crime of Criminal Sexual Conduct With a Minor in the Second Degree by engaging in sexual battery with a minor who was fourteen (14) years of age or less but who was at least eleven (11) years of age, to wit: [REDACTED], whose date of birth is [REDACTED]. This is in violation of 16-3-655(B)(1) of the South Carolina Code of Laws (1976) as amended.

COUNT FIVE - CRIMINAL SEXUAL CONDUCT WITH A MINOR, SECOND DEGREE

The defendant, Edna Jean Sluder, did, in Oconee County, South Carolina, between January 1, 2008 and December 31, 2008, willfully and unlawfully commit the crime of Criminal Sexual Conduct With a Minor in the Second Degree by engaging in sexual battery with a minor who was fourteen (14) years of age or less but who was at least eleven (11) years of age, to wit: [REDACTED], whose date of birth is [REDACTED]. This is in violation of 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.


LINDSEY SATTERFIELD SIMMONS
DEPUTY SOLICITOR

WITNESSES

Oconee Co Sheriff's Dept
Tim J. Rice

ARREST WARRANT NUMBER

COUNT ONE 2019A3710200012
COUNT TWO 2019A3710200013
COUNT THREE 2019A3710200014
COUNT FOUR 2019A3710200015
COUNT FIVE 2019A3710200016

ACTION OF GRAND JURY

Foreperson of Grand Jury
Date:

VERDICT

Foreperson of Grand Jury
Date:

DOCKET NO. 2019-GS-37-01783

The State of South Carolina
County of Oconee

COURT OF GENERAL SESSIONS

_____, TERM

THE STATE

VS.

EDNA JEAN SLUDER

INDICTMENT FOR

COUNT ONE THROUGH FIVE
CRIMINAL SEXUAL CONDUCT WITH A
MINOR, SECOND DEGREE

SC Code: § 16-03-0655(B)(1)
CDR Code: 0396

LSS

STATE OF SOUTH CAROLINA
COUNTY OF OCONEE

INDICTMENT

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

COUNT ONE - INCEST

The defendant, Edna Jean Sluder, did in Oconee County, South Carolina on or
between January 1, 2004 and December 31, 2004, willfully and unlawfully commit the
crime of Sex/Incest in that she had carnal intercourse with **Minor 1** who is
the defendant's son.

COUNT TWO - INCEST

The defendant, Edna Jean Sluder, did in Oconee County, South Carolina on or
between January 1, 2005 and December 31, 2005, willfully and unlawfully commit the
crime of Sex/Incest in that she had carnal intercourse with **Minor 1** who is
the defendant's son.

COUNT THREE - INCEST

The defendant, Edna Jean Sluder, did in Oconee County, South Carolina on or between January 1, 2006 and December 31, 2006, willfully and unlawfully commit the crime of Sex/Incest in that she had carnal intercourse with [Minor 1] who is the defendant's son.

COUNT FOUR - INCEST

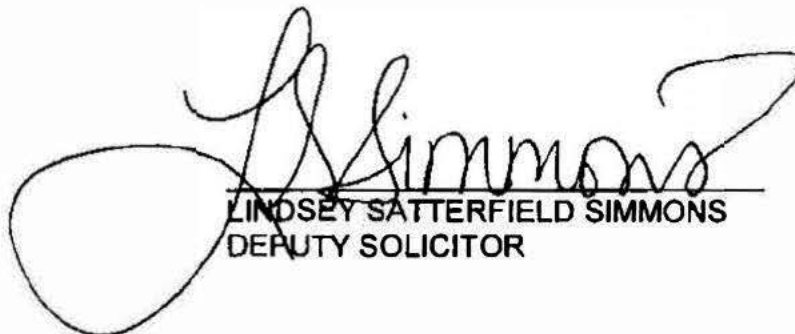
The defendant, Edna Jean Sluder, did in Oconee County, South Carolina on or between January 1, 2007 and December 31, 2007, willfully and unlawfully commit the crime of Sex/Incest in that she had carnal intercourse with [Minor 1] who is the defendant's son.

COUNT FIVE - INCEST

The defendant, Edna Jean Sluder, did in Oconee County, South Carolina on or between January 1, 2008 and December 31, 2008, willfully and unlawfully commit the crime of Sex/Incest in that she had carnal intercourse with [Minor 1] who is the defendant's son.

This is in violation to 16-15-0020 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.



LINDSEY SATTERFIELD SIMMONS
DEPUTY SOLICITOR

WITNESSES

Oconee Co Sheriff's Dept.
Tim J. Rice

ARREST WARRANT NUMBER

COUNT ONE 2019A3710200020
COUNT TWO 2019A3710200021
COUNT THREE 2019A3710200022
COUNT FOUR 2019A3710200023
COUNT FIVE 2019A3710200024

ACTION OF GRAND JURY

Foreperson of Grand Jury
Date:

VERDICT

Foreperson of Grand Jury
Date:

DOCKET NO. 2019-GS-37-01784

The State of South Carolina
County of Oconee

COURT OF GENERAL SESSIONS

_____, TERM

THE STATE**VS.****EDNA JEAN SLUDER****INDICTMENT FOR**

COUNT ONE THROUGH FIVE
INCEST

SC Code: § 16-15-0020
CDR Code: 0090

LSS

COUNTY OF OGDREE
STATE VS.

EDNA JEAN SLUDER

AKA: _____
Race: White Sex: E Age: 58
DOB: _____ SS#: _____
Address: Fendley Road
City, State, Zip: Westminster, SC 29003-5805
DL# _____ SID# _____INDICTMENT/CASE#: 2019-GS-37-01783
AW#: 2019A3710200012-016
Date of Offense: 01/01/2008 THRU 01/01/2008
S.C. Code #: 16-03-0655(B)(1)
CDR Code #: 0396

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADSTO: Criminal Sexual Conduct With A Minor, Second Degree (5 COUNTS)In violation of § 16-03-0655(B)(1) of the S.C. Code of Laws, bearing CDR Code # 0396☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45
(CSC w/minor 1st or CSC w/minor 3rd)The charge is: ☐ As indicted, ☐ Lesser Included Offense, ☒ Defendant Waives Presentment to Grand Jury, _____ (def.'s initials)
The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State

ATTEST

Undley Satterfield Simmons 79224 Edna Sluder 68297
Undley Satterfield Simmons, Deputy Solicitor 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 12 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 Service standard conditions of probation, which
are incorporated by reference.☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 12/18/19 plan
☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SC
Department of Corrections 337 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 16-25-20 or 16-25-65 (Domestic
Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP _____
Total: \$ _____ plus 20% fee: \$ _____ days/hours Public Service Employment
Payment Terms: _____ Obtain GED ☐☐ Set by SCDPPPS _____

Recipient: _____

*Fine: _____ \$ _____
§14-1-208 (Assessments 107.5%) \$ _____
§14-1-211 (A)(1)(Conv. Surcharge) \$100 \$ 500.00
§14-1-211 (A)(2)(DUI Surcharge) \$100 \$ _____
§56-5-2885 (DUI Assessment) \$12 \$ _____
§56-1-288 (DUI Breath Test) \$25 \$ _____
Proviso (Public Def/Prob) \$500 \$ _____
§14-1-212 (Law Enforce. Funding) \$25 \$ 125.00
§14-1-213 (Drug Court Surcharge) \$150 \$ _____
§50-21-114 (BUI Breath Test Fee) \$50 \$ _____
§56-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____
3% to County (if paid in installments) \$ 18.75TOTAL \$ 643.75Clerk of Court/Deputy Clerk: Beverly D. [Signature]
Court Reporter: Daniel [Signature]
SCCA/217 (04/2018)Attend Voc. Rehab. Or Job Corp. _____
May serve W/E beginning _____
Substance Abuse Counseling ☐
Random Drug/Alcohol Testing ☐
Fine may be pd. in equal consecutive weekly/monthly
pmts. of \$ _____ Beginning _____
\$ _____ Paid to Public Defender Fund
Other: _____
☐ Appointed PD or appointed other counsel,
Proviso requires \$500 be paid to Clerk
during probation and shall be collected before any
other fees.Presiding Judge: [Signature]
Judge Code: 213
Sentence Date: 12/18/19

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF OCONEE

STATE VS.

EDNA JEAN SLUDER

AKA:

Race:

Age: 50

Address:

City, State, Zip: Westminster, SC 29683-6806

DL#

SID#

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or☒ PLEADSTO: Incar (6 COUNTS)

In violation of § 16-16-020 of the S.C. Code of Laws, bearing CDR Code # 0080

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45(CSC within 1st or CSC within 3rd)The charge is: ☐ As indicted, ☐ Lesser Included Offense,☒ Defendant Waives Presentation to Grand Jury. (def.'s initials)The plea is: ☒ Without Negotiations or Recommendation,☐ Negotiated Sentence,☐ Recommendation by the State.

ATTEST:

Underly Simmons 70221 Deputy Solicitor SC Bar #

Defendant

WHEREFORE, the Defendant is committed to the ☐ State Department of Corrections ☐ County Detention Center,for a determinate term of 10 days/months/years or ☐ under the Youthful Offender Act not to exceed yearsand/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 Service standard conditions of probation, which are incorporated by reference.☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 12/10/19 plan☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SC Department of Corrections 337 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 822, it is unlawful for a person convicted of a violation of Section 16-26-20 or 16-25-85 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUPTotal: \$ plus 20% fee: \$ days/hours Public Service EmploymentPayment Terms: Obtain GED ☐☐ Set by SCOPPPS Attend Voc. Rehab. Or Job Corp. May serve W/E beginning Substance Abuse Counseling ☐Random Drug/Alcohol Testing ☐

Fine may be pd. in equal consecutive weekly/monthly

instal. of \$ Beginning \$ Paid to Public Defender FundOther: ☐ Appointed PD or appointed other counsel,

Provido requires \$500 be paid to Clerk

during probation and shall be collected before any other fees.

Presiding Judge: Judge Code: 2131Sentence Date: 12/18/19Clerk of Court/Deputy Clerk: Beverly N. WhitfieldCourt Reporter: Diane Marangolis

SCCA/217 (04/2018)

*Fine:	\$	
§14-1-206 (Assessments 107.5%)	\$	
§14-1-211 (A)(1)(Conv. Surcharge)	\$100	\$ 500.00
§14-1-211 (A)(2)(DUI Surcharge)	\$100	\$
§58-5-2965 (DLI Assessment)	\$12	\$
§58-1-288 (DUI Breath Test)	\$25	\$
Provido (Public Def/Prob)	\$500	\$
§14-1-212 (Law Enforce. Funding)	\$25	\$ 125.00
§14-1-213 (Drug Court Surcharge)	\$150	\$
§50-21-114 (BUI Breath Test Fee)	\$50	\$
§58-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
3% to County (if paid in installments)	\$	\$ 18.75
TOTAL		\$ 643.75