

STATE OF SOUTH CAROLINA

vs.

ANDRES FERNANDO POSSO,

Defendant.

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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

RECEIVED

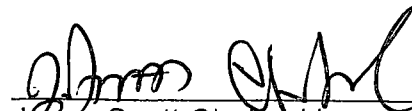
OCT 03 2022

SC Court of Appeals

RULE 203(B) EXPLANATION

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

Respectfully submitted,



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

Lexington, South Carolina
September 27, 2022

copy of & yrs = rec.

oto 15 yrs

STATE OF SOUTH CAROLINA

COUNTY OF Lexington

STATE

VS.

Andres Fernando Posso

AKA:

Race: Hispanic Orig Sex: M Age: 45

DOB: SS#:

Address:

City, State, Zip:

DL#* SID#

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2020 - GS - 32 - 01240

AW#: 20-STR-00044

Date of Offense: 2/1/2018

S.C. Code §: 16-03-0655(C)

CDR Code #: 3661

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SENTENCE SHEET

SC Court of Appeals

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

In disposition of the above indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADS ALFORD

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

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

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

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

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

ATTEST:

S. McNeenamin 102991
Solicitor SC Bar #

Defendant

Attorney for Defendant

69350
SC Bar #

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

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

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

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

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

The sentence shall run

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:

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

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

☐ The Defendant Shall be Released from County Detention Center.

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

A TRUE COPY

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

STATE VS.

Andres Fernando Posso

INDICTMENT/CASE#:

2020 - GS - 32 - 01240

SPECIAL CONDITIONS:

☐ PTUP after _____ months/years

And Other Terms Listed Below:

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

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

Payment Terms: _____ ☐ Set by SCDPPPS

Recipient: _____

*Fine:

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

\$14-1-206 (Assessments 107.5%)

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

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

\$56-5-2995 (DUI Assessment)

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

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

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

\$34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)

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

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

3% to County (if paid in installments)

☐ Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees☐ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund

		\$
		\$
	\$100	\$ 100
	\$100	\$
	\$12	\$
	\$25	\$
	\$25	\$ 25
	\$150	\$
	\$41	\$
	\$50	\$
	\$40/ea	\$
	TBD	\$
	\$500	\$
	TBD	\$
TOTAL		\$ 125.00

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

Presiding Judge:

Judge Code:

Sentence Date:

Walsh
2765
5-12-2022

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OCT 03 2022

SC Court of Appeals

WITNESSES

DOCKET NO. 2020GS3201240

Law Enforcement Case #: 19006293

The State of South Carolina
County of Lexington

LMC

ARREST WARRANT NUMBER

20-STR-00044

COURT OF GENERAL SESSIONS

JULY TERM 2020

THE STATE

vs.

Andres Fernando Posso

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date: 7/13/20

VERDICT

CDR #: 3661

Indictment for

Criminal Sexual Conduct With a Minor -
3rd Degree

§ 16-03-0655(C)

Foreperson of Petit Jury

Date:

S.R. Hubbard III, SOLICITOR

A TRUE COPY
Lex. Ct. C.C.C.P., G.S. & F.C.

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

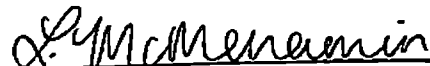
INDICTMENT FOR
Criminal Sexual Conduct With a Minor - 3rd
Degree

§ 16-03-0655(C)

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

That Andres Fernando Posso, date of birth November 11, 1976, being a person over fourteen years of age, did in Lexington County, South Carolina, on or about February 1, 2018 to September 1, 2018, willfully and lewdly commit or attempt to commit a lewd and lascivious act upon or with the body, or its parts, of a child under sixteen years of age, with the intent of arousing, appealing to, or gratifying the lust or passions or sexual desires of himself or of the child, to wit: touching of a sexual nature involving a child, Andrea Posso, date of birth September 25, 2003, furthermore, the said child was under the age of sixteen years during the time of these offenses, in violation of Section 16-3-655(C), S.C. Code of Laws, 1976, as amended.

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


ASSISTANT SOLICITOR

comp of 8 yrs = rec.

Oct 15 yrs

STATE OF SOUTH CAROLINA

COUNTY OF Lexington

STATE

VS.

Andres Fernando Posso

AKA:

Race: Hispanic Orin Sex: M Age: 45

DOB: SS#:

Address:

City, State, Zip:

DL#

SID#

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE# 2020 - GS - 32 - 01168

AW#: 2019A3210201862

Date of Offense: 2/1/2014

S.C. Code §: 16-03-0655(b)(1)

CDR Code #: 0396

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OCT 03 2022

SENTENCE SHEET

SC Court of Appeals

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

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

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

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

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

(CSC w/minor 1st or CSC w/minor 3rd)

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

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

ATTEST:

X. McMenamin

102991

Solicitor

SC Bar #

Defendant

Attorney for Defendant

SC Bar #

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

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

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

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

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

The sentence shall run

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:

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

543 (days/months)

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

☐ The Defendant Shall be Released from County Detention Center.

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

TRUE COPY

Lex. 66 C.C.C.P. G.S. & F.C.

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

SPECIAL CONDITIONS:

☐ PTUP after _____ months/years

And Other Terms Listed Below:

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

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

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

Payment Terms: _____ ☐ Set by SCDPPPS

Recipient: _____

***Fine:**

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

§14-1-206 (Assessments 107.5%)

\$100

\$

§14-1-211 (A)(1)(Conv. Surcharge)

\$100

\$ 100

§14-1-211 (A)(2)(DUI Surcharge)

\$12

\$

§56-5-2995 (DUI Assessment)

\$25

\$

§56-1-286 (DUI Breath Test)

\$25

\$

§14-1-212 (Law Enforce. Funding)

\$150

\$ 25

§14-1-213 (Drug Court Surcharge)

\$41

\$

§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)

\$50

\$

§50-21-114 (BUI Breath Test Fee)

\$40/ea

\$

§56-5-2942(J) (Vehicle Assessment)

TBD

\$

3% to County (if paid in installments)

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

\$500

\$

☐ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund

TBD

\$

TOTAL

\$ 125.00

Clerk of Court/Deputy Clerk: SA Comer @
Court Reporter: Steve LeBlanc

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

RECEIVED

OCT 03 2022

SC Court of Appeals

WITNESSES

Lexington County Sheriffs Department

Michael J Hart

Law Enforcement Case #: 19006293

LMC

ARREST WARRANT NUMBER

2019A3210201862

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date: 7/13/22

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2020GS3201168

The State of South Carolina

County of Lexington

COURT OF GENERAL SESSIONS

JULY TERM 2020

THE STATE

vs.

Andres Fernando Posso

CDR #: 0397

Indictment for

**Criminal sexual conduct with a minor - 2nd
degree**

§ 16-03-0655(B)(2)

S.R. Hubbard III, SOLICITOR

A TRUE COPY
[Signature]
Lex. Co. C.C.C.P., G.S. & F.C.

STATE OF SOUTH CAROLINA)
)
COUNTY OF LEXINGTON)
)

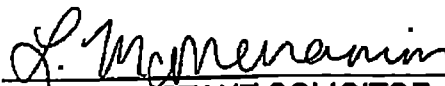
INDICTMENT FOR
Criminal sexual conduct with a minor - 2nd
degree

§ 16-03-0655(B)(2)

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

That **Andres Fernando Posso** did in Lexington County, South Carolina on or about February 1st, 2014 through January 31st, 2015 willfully and unlawfully commit criminal sexual conduct with a minor in the second degree by engaging in sexual battery with a minor who was at least fourteen (14) years of age but who was less than sixteen (16) years of age, to wit: fellatio and/or vaginal intrusion upon or with Haylee Posso, date of birth April 2, 1999, and the Defendant was older than the victim, his date of birth being 11/11/1976, in violation of Section 16-3-655(B)(2), S.C. Code of Laws (1976), as amended.

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


ASSISTANT SOLICITOR