

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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S.C. SUPREME COURT

APPEAL FROM OCONEE COUNTY
Court of General Sessions

R. Lawton McIntosh, Circuit Court Judge

Indictment No. 2010-GS-37-364A

The State.....Respondent,

v.

Anthony Clark Odom.....Appellant,

**APPELLANT'S MOTION TO EXCLUDE MATTERS DESIGNATED BY
RESPONDENT FROM THE RECORD ON APPEAL, REQUEST TO SUBMIT COPIES
OF THE FINIAL RECORD ON APPEAL IN PDF ELECTRONIC FORMAT, AND STAY
THE TIME TO FILE THE RECORD UNTIL SUCH TIME AS THIS MOTION MAY BE
RULED UPON**

Now Comes the Appellant in this matter, Anthony C. Odom, by and through his counsel of record Brian D. McDaniel, Esquire of the McDaniel Law Firm, Beaufort, South Carolina. The Appellant (Odom) pursuant to Rule 240(a), SCACR does-request (1) that certain items set for in the Respondent's Amended Designation of Matter to be included in the Record on Appeal be excluded; (2) that he be allowed to submit only five (5) bound hard copies and one unbound hardcopy of the Record on Appeal, and that the additional copies of the Record on Appeal may be submitted in the PDF electronic format, and (3) that the time to file the Record on Appeal be stayed until such time as this motion may be ruled upon.. The grounds for this motion are as follows:

1. Per Rule 210(c), SCACR the Record on Appeal, may not include matter which was not presented to the lower court or tribunal. The Respondent's Amended Designation of Matter is hereby incorporated by reference into this motion and is attached here to. The following items

were not so presented during the trial before The Honorable R. Lawton McIntosh, Circuit Court Judge:

- a. Page 12 of the July 9, 2007, transcript. (Resp. Designation #2)
- b. State's Objection to Motion Regarding Equal Protection June 23, 2011. (Resp. Designation #8)
- c. Letter from Ms. Wines to The Honorable Judge Macaulay, dated April 28, 2011. (Resp. Designation #10)
- d. Telephonic Hearing Transcript, dated April 9, 2010. (Resp. Designation #12)
- e. Order of The Honorable U.S. District Judge Seymour, dated August 2010. (Resp. Designation #13)
- f. April 12, 2011, Transcript pages 24- 31. (Resp. Designation #16)
- g. July 27, 2011, Transcript pages 39-93. (Resp. Designation #17)
- h. June 1, 2011, Transcript pages 1-45. (Resp. Designation #22)

This trial in this case was held from November 7 thru November 10, 2011 before The Honorable R. Lawton McIntosh, Circuit Court Judge. The above-objected to designations were never incorporated into the trial, nor reviewed by the trial Judge in ruling on any issues on appeal. In fact, it should be noted that prior to the case coming before Judge McIntosh, the Honorable Judge Macaulay recused himself from the trial of this case as seen in the June 27, 2011 transcript pages 94-95 (Attached).

Additionally, the inclusion of the chat contained in States Exhibit Number 6 (Respondent's Designation #4), while entered as part of the trial of Odom, concerns the chat dated May 6, 2006. This chat was subject to Indictment Number 2010-GS-37-363A (see attached Indictment), which is not the indictment from which the current appeal arises. Further, the Appellant was found Not Guilty of the charges brought relevant to the chats in Exhibit Number 6. Not only are these chats not relevant to this appeal, Rule 209(b), SCACR, but to allow its inclusion would violate the Odom's Constitutional rights both under the State of South Carolina and the United States Constitutions.

2. Appellant respectfully requests that the requirements of Rule 210 (b) SCACR be relaxed in this appeal. The Record in the Appeal will be extensive, regardless if the Appellant's motion to exclude certain matters is granted or not. As such, it is requested that one unbound copy as well as five (5) bound copies of the Record be all that is required to be filed in a hard copy format with all other copies being submitted electronically. Appellant requests that he be allowed to submit each other copy of the Record on Appeal in the electronic PDF format, each copy on a single disc, or as otherwise designated in the discretion of the court to achieve a reduction in the costs of producing, handling and shipping the same. The requested allowance

would significantly reduce the cost of production for the Record on Appeal and would result in greater efficiency in handling. Considering this Court's willingness to embrace technology and in an effort to minimize the expenses associated with the judicial process, and with the inclusion of hard copies with which the digital copies can be verified, this request is made in the spirit of judicial economy. Said digital copies could also be provided electronically searchable by key word and many programs allow notations to be made to PDF documents.

3. Finally, Appellant requests that the time to file the Record on Appeal be stayed until such time as this motion may be ruled upon since the content and/or format of the Record may be changed should any of the Appellant's herein be granted.

Conclusion

Based on the forgoing, the Appellant respectfully request that his motion be granted in full.



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Attorney for the Appellant

Date: September 9, 2013

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Oconee County
Honorable R. Lawton McIntosh, Circuit Court Judge
Appellate Case Tracking No. 2012-206186

The State,

Respondent,

vs.

Anthony Clark Odom,

Appellant.

**AMENDED DESIGNATION OF MATTER
TO BE INCLUDED IN THE RECORD ON APPEAL**

Respondent proposes the following to be included in the Record on Appeal:

- (1) All items designated by Appellant in his Designation of Matter;
- (2) July 9, 2007, transcript pages 12-13;
- (3) Oconee chats, November 7, 2011 State's Exhibit 2-3;
- (4) Spartanburg chats, November 8, 2011 State's Exhibit 6;
- (5) D-Orders, November 9, 2011 Court's Exhibits 4-6 & 9;
- (6) Search Warrant, November 9, 2011 Court's Exhibit 7;
- (7) Letter, April 12, 2011 Defendant's Exhibit 2;
- (8) State's Objection to Motion regarding Equal Protection and State's Supplemental Memorandum in Opposition filed Jun 23, 2011;
- (9) State's Objection to Motion for New Trial;


- (10) Letter from Ms. Wines to Judge Macaulay dated April 28, 2011;
- (11) Federal Complaint Civil Action 2:10-872-MBS;
- (12) Telephonic Hearing Transcript dated April 9, 2010;
- (13) Order of Judge Seymour August 2010;
- (14) State's Memorandum in Opposition to Motion regarding First Amendment;
- (15) November 1, 2011 Transcript pages 1-27;
- (16) April-12, 2011 Transcript pages 24-31;
- (17) July 27, 2011 Transcript pages 39-93;
- (18) November 7, 2011 Transcript pages 65, 69; 89-136; 188-207;
- (19) November 8, 2011 Transcript pages 212-214; 223-225; 255-257; 443-449; 490-512;
- (20) November 9, 2011 Transcript pages 517-520; 584-591; 598;
- (21) November 10, 2011 Transcript pages 766-779; 841-878; 927-957; 963-965; 971-972; 975-976; 983;
- (22) June 1, 2011 Transcript pages 1-45
- (23) State's Opposition to Motion to Quash For Prosecutorial Vindictiveness.

To facilitate the preparation of the Final Brief, Respondent requests that counsel for Appellant retain the page numbers of the trial transcript in the Record on Appeal, in addition to the new page numbers.

The undersigned hereby certifies this Designation contains no matter which is irrelevant to this appeal.

ALAN WILSON
Attorney General

WILLIAM M. BLITCH, JR.
Assistant Attorney General

BY: 
William M. Blitch, Jr.

Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211
(803) 734-3727

ATTORNEYS FOR RESPONDENT

August 22, 2013

1 SINCE YOU ARE THE MOVING PARTY AS TO WHETHER OR NOT YOU,
2 WANT ME TO PROCEED.

3 MR. MCDANIEL: YOUR HONOR, AFTER CONSULTING WITH
4 CO-COUNSEL AND THE DEFENDANT, AND GIVEN THE TOTALITY OF
5 THE CIRCUMSTANCES WITH THE MOTIONS PENDING AND THE
6 CURRENT SITUATION WITH THE COURT'S POSITION IN THAT, WE
7 WOULD ASK VERY RESPECTFULLY THAT THE COURT RECUSE ITSELF.

8 THE COURT: NO PROBLEM. NO PROBLEM. YOU MIGHT SAY
9 I WELCOME IT. AGAIN, I UNDERSTAND THAT -- WELL, I WAS
10 GONNA SAY IT HASN'T BEEN THAT LONG SINCE I WAS WHERE YOU
11 ARE TODAY, AT TABLES IN FRONT OF A BENCH. AND AS THEN,
12 MY MOST IMPORTANT CONSIDERATION WAS MY CLIENT.

13 IN FACT, I CAN REMEMBER ONE NIGHT I WAS IN TRAFFIC
14 COURT DOWN IN SENECA, AND I WAS DEFENDING IN THOSE DAYS,
15 AND THE POLICE CHIEF ASKED WHY WAS I THERE AT 7:00
16 GETTING READY TO DRAW A JURY. AND HE SAID, "WHY ARE YOU
17 DOWN HERE IN THIS LITTLE COURT?"

18 AND I SAID, WELL, THIS IS THE MOST IMPORTANT CASE MY
19 CLIENT'S GOT, AND, THEREFORE, IT'S THE MOST IMPORTANT
20 CASE I HAVE.

21 SO I RESPECT -- I WILL SAY THIS AS A DUTCH UNCLE
22 MIGHT -- PLEASE UNDERSTAND, JUDGES DON'T LIKE TO DO THIS.
23 IF I HAD HAD ANY PROBLEM BEFORE THIS AFTERNOON, AND I DID
24 NOT ANTICIPATE ANY, I WOULD HAVE DIRECTLY PUT YOU ON
25 NOTICE, MR. HUFF AND MR. JOHNSTON. I THINK I'VE DEALT

1 WITH BOTH-OF YOU, PARTICULARLY MR. JOHNSTON IN THIS
2 STATE; AND MS. WINES, MR. ANDERS, MR. SENN.

3 I'M GOING TO GRANT THE MOTION. I HAVEN'T HEARD FROM
4 YOU, MS. WINES, BUT I TRUST THAT YOU DO NOT OBJECT
5 BECAUSE I WILL SAY THAT I AM GONNA GRANT THE MOTION.

6 MS. WINES: NO, YOUR HONOR, I CERTAINLY WOULD NOT
7 OBJECT. WHATEVER YOUR HONOR DEEMS APPROPRIATE.

8 THE COURT: NOW, THE THING IS, I WOULD LIKE TO MOVE
9 THE CASE IF WE CAN. AND LET'S HAVE A COMPLETE FILE FOR
10 WHATEVER JUDGE HEARS IT.

11 MS. WINES: YOUR HONOR, IF I MAY JUST GET SOME
12 CLARIFICATION?

13 THE COURT: YES, MA'AM.

14 MS. WINES: OKAY. IF I'M UNDERSTANDING CORRECTLY,
15 THE REASON FOR THE RECUSAL IS YOUR INVOLVEMENT OR YOUR
16 KNOWLEDGE OF THE MOVING OF THE TERM OF COURT FROM
17 ANDERSON TO OCONEE COUNTY; IS THAT CORRECT?

18 THE COURT: NOT EXACTLY.

19 MS. WINES: OKAY.

20 THE COURT: BOTH, OR AT LEAST MR. HUFF REFERRED TO
21 IT AND, OF COURSE, MR. MCDANIEL MENTIONED IT ON HIS
22 EXAMINATION OF MR. HUFF. OUR RULES OF PROFESSIONAL
23 CONDUCT, THEY RELY ON 3.6 WHICH IS PRETRIAL OR TRIAL
24 PUBLICITY, AND 3.8, SPECIAL RESPONSIBILITIES OF A
25 PROSECUTOR.

STATE OF SOUTH CAROLINA)
)
)
COUNTY OF OCONEE)

INDICTMENT

CRIMINAL SOLICITATION OF A MINOR

At a Court of General Sessions, convened on April 12, 2010, the Grand Jurors of Oconee County present upon their oath:

That Anthony C. Odom, on or about May 6, 2006, did willfully and knowingly commit the crime of criminal solicitation of a minor. To wit: Anthony C. Odom, a person eighteen years of age or older, did knowingly contact and communicate with a person located in Oconee County that he reasonably believed to be under the age of eighteen, for the purpose of or with the intent of persuading, inducing, enticing, or coercing the person to engage or participate in a sexual activity as defined in Section 16-15-375(5), or a violent crime as defined in Section 16-1-60, or with the intent to perform a sexual activity in the presence of the person reasonably believed to be under the age of eighteen. This is in direct violation of Section 16-15-0342, of the South Carolina Code of Laws (1976), as-amended.

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

OFFICE OF THE ATTORNEY GENERAL


HENRY McMASTER (MBW)
ATTORNEY GENERAL

DOCKET NO. 2010-GS-37-

363A

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

Defendant

WITNESSES

Sgt. Gordon Hopkins, WPD

[Signature]

The State of South Carolina

County of Oconee

COURT OF GENERAL SESSIONS

APRIL TERM 2010

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

THE STATE

vs.

ANTHONY C. ODOM
D.O.B. 6/22/1973

Witness:

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

ARREST WARRANT NUMBER

Direct Presentment

ACTION OF GRAND JURY

William Longley
Foreperson of Grand Jury
Date: APR 12 2010

VERDICT

Not Guilty

Indictment for

CRIMINAL SOLICITATION
OF A MINOR

SC Code: 16-15-0342
CDR Code: 2999

Foreperson of Petit Jury
Date:

FILED OCOONEE, SC
BEVERLY H. WHITFIELD
CLERK OF COURT

2010 APR 12 P 3:17

[Signature]

THE STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

APPEAL FROM OCONEE COUNTY
Court of General Sessions

R. Lawton McIntosh, Circuit Court Judge

Indictment No. 2010-GS-37-364A

The State.....Respondent,

v.

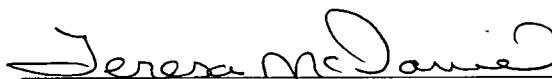
Anthony Clark Odom.....Appellant,

PROOF OF SERVICE

I, Teresa McDaniel, certify that I have served the **Appellant's Motion to Exclude Matters Designated by the Respondent from the Record on Appeal, Request to submit copies of the Record on Appeal in electronic PDF format, and Stay the time to file the Record on Appeal until such time as this motion may be ruled upon** on The Office of the South Carolina Attorney General by depositing a copy of it in the United States Mail, postage prepaid, on September 9, 2013, addressed to its attorney of record, , , William M. Blicht, Jr. Esquire, P.O. Box 11549, Columbia, SC 29211

William M. Blicht, Jr., Esquire,
Asst. SC Attorney General
P.O. Box 11549
Columbia, SC 29211.

September 9, 2013



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