

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM THE SPARTANBURG COUNTY
Court of General Sessions

Roger L. Couch, Circuit Court Judge

Case No. 2011-GS-42-5554, 2011-GS-42-5555, 2011-GS-42-5556

 The State,

Respondent,

Randall Dean Matheny


v.

Appellant

NOTICE OF APPEAL

Randall Dean Matheny appeals his conviction and sentence in this case. The sentence was imposed by the Honorable Roger L. Couch on August 29, 2013. This appeal is taken from the conviction and sentence and the order of the Honorable Roger L. Couch of August 29, 2013, which denied the appellant's motion for a new trial.

September 4, 2013



J. Roger Poole

Bar No.: 4499

Seventh Judicial Circuit Public Defender Office

366 N Church Street, Suite 3000

Spartanburg, South Carolina 29303

(864) 596-2561

Attorney for Appellant

Other Counsel of Record:

Susan S Reese, Esq.

Seventh Judicial Circuit Solicitor's Office

180 Magnolia Street

Spartanburg, South Carolina 29306

(864) 596-2575

Attorney fo Respondent

RECEIVED

SEP 10 2013

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM THE SPARTANBURG COUNTY
Court of General Sessions

Roger L. Couch, Circuit Court Judge

Case No.: 2011-GS-42-5554, 2011-GS-42-5555, 2011-GS-42-5556

The State

Respondent,

v.

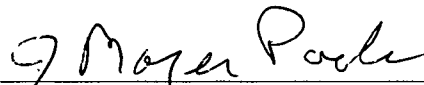
Randall Dean Matheny

Appellant.

PROOF OF SERVICE

I certify that I have served the Notice of Appeal on the State of South Carolina by depositing a copy of it in the United States Mail, postage prepaid, on September 5, 2013, addressed to its attorney of record, Susan S. Reese, Esq., Assistant Solicitor, 180 Magnolia Street, Spartanburg, South Carolina 29306.

September 5, 2013



J. Roger Poole

Bar No.: 4499

Seventh Judicial Circuit Public Defender Office

366 N Church Street, Suite 3000

Spartanburg, South Carolina 29303

(864) 596-2561

Attorney for Appellant

RECEIVED

SEP 10 2013

SC Court of Appeals

WITNESSES

Spartanburg County Sheriff's Office

1. SENTENCE MADE
Spartanburg County Sheriff's Office **Computer**

2. REPORT MADE

3. CARD PULLED

4. INDEXED

5. CHECKED WARRANTS
ARREST WARRANT NUMBER

6. CHECKED SIGNATURE

7. ASSESSMENT OF FINE CARD MADE
M126731 **Computer**

8. TRAFFIC VIOLATION COPY

ACTION OF GRAND JURY

Foreperson of Grand Jury

Date: *8-27-13*

VERDICT

Guilty

Foreperson of Petit Jury

Date:

DOCKET NO.

11-GS-42-5556

The State of South Carolina

County of Spartanburg

Barry J. Barnette, Solicitor

COURT OF GENERAL SESSIONS

SEP 15 2011

TERM

THE STATE

vs.

Randall Dean Matheny

Indictment for

CHILDREN/NEGLECT OF CHILD

SC Code: 63-5-70

CDR Code: 2481

Class FEL-E

FILED
SPARTANBURG COUNTY
2011 SEP 16 PM 4:39
M. HOPE BLACKLEY

RECEIVED

SEP 10 2013

SC Court of Appeals

STATE OF SOUTH CAROLINA)
)
COUNTY OF SPARTANBURG)

INDICTMENT

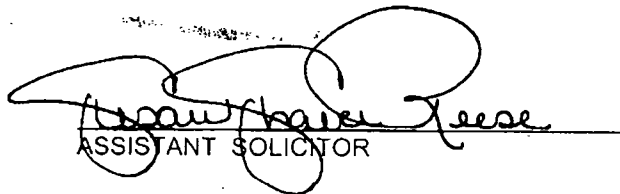
At a Court of General Sessions, convened on SEP 15 2011, the

Grand Jurors of Spartanburg County present upon their oath:

CHILDREN/NEGLECT OF CHILD

That Randall Dean Matheny, did in Spartanburg County between the dates of ~~May 1, 2011 and May 26, 2011,~~ willfully and unlawfully, having charge or custody of ~~_____~~ a minor child, place the child at unreasonable risk of harm affecting the child's life, physical or mental health, or safety, in violation of Section 63-5-70, *THE CODE OF LAWS OF SOUTH CAROLINA*, (1976), as amended.

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


ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

Computer

COUNTY OF SPARTANBURG
STATE VS.
Randall Dean Matheny
AKA:
Race: WHITE Sex: M Age:
DOB:
Address:
City, State, Zip:
DL#: SID#:
*CDL Yes No CMV Yes No Hazmat Yes No

INDICTMENT/CASE#: 2011GS4205556
A/W#: M126731
Date of Offense: 5/26/2011
S.C. Code §: 63-05-0070
CDR Code #: 2481

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was
TO: Unlawful neglect of child 0-10 years and/or fine in the court's discretion
[] CONVICTED OF or [] PLEADS

in violation of § 63-05-0070 of the S.C. Code of Laws, bearing CDR Code # 2481
[] NON-VIOLENT [] VIOLENT [] SERIOUS [] MOST SERIOUS [] Mandatory GPS(CSC §17-25-45 w/minor 1st or Lewd Act)

The charge is: [] As Indicted. [] Lesser Included Offense. [] Defendant Waives Presentment to Grand Jury. (defendant's initials)
The plea is: [] Without Negotiations or Recommendation, [] Negotiated Sentence, [] Recommendation by the State.

ATTORNEY: REESE, SUSAN S 6772 SC Bar#
Randall Matheny Defendant
Boyer Peale Attorney for Defendant 4499 SC Bar#

WHEREFORE, the Defendant is committed to the [] State Department of Corrections, [] County Detention Center,
for a determinate term of 10 days/months/years or [] under the Youthful Offender Act not to exceed years
and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment
of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

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

[] CONCURRENT or [] CONSECUTIVE to sentence on:
[] The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
by the State Department of Corrections. 826 days
[] The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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

SPECIAL CONDITIONS:

[] RESTITUTION: [] Deferred [] Def. Waives Hearing [] Ordered PTUP
Total: \$ plus 20% fee: \$
Payment Terms:
[] Set by SCDPPPS
Recipient:

Table with 3 columns: Description, Amount, Total. Includes items like § 14-1-206 (Assessments 107.5%), § 14-1-211(A)(1) (Conv. Surcharge) \$100 \$100.00, § 14-1-211(A)(2) (DUI Surcharge) \$100 \$, § 56-5-2995 (DUI Assessment) \$12 \$, § 56-1-286 (DUI Breath Test) \$25 \$, Proviso 47.9 (Public Def/Prob) \$500 \$, § 14-1-212 (Law Enforce. Funding) \$25 \$ 25.00, § 14-1-213 (Drug Court Surcharge) \$150 \$, § 50-21-114 (BUI Breath Test Fee) \$50 \$, § 56-5-2942(J) (Vehicle Assessment) \$40/ca \$, Proviso 90.5 (SCCJA Surcharge) \$5 \$ 5.00, 3% to County (if paid in installments) \$ 3.90, TOTAL \$133.90

Obtain GED []
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,
§ 47.12 requires \$500 be paid to Clerk
during probation.

Clerk of Court/ Deputy Clerk: A. Saucy
Court Reporter: P. Green
SCCA/217 (03/2011)

Presiding Judge:
Judge Code: 2135
Sentence Date: 8/29/12

WITNESSES

Spartanburg County Sheriff's Office

1. SENTENCE MADE

2. REPORT ENDED

4. INDEXED

5. CHECKED WARRANTS

6. CHECKED SIGNATURE

7. ASSESSMENT MADE

8. TRAFFIC VIOLATION COPY

ARREST WARRANT NUMBER

M126729-Amended

ACTION OF GRAND JURY

AUG 22 2013

True Bill

Foreperson of Grand Jury

Date:

VERDICT

Guilty

Foreperson of Petit Jury

Date:

8-29-13

DOCKET NO. -

11-GS-42-5554
The State of South Carolina

County of Spartanburg

Barry J. Barnette, Solicitor

COURT OF GENERAL SESSIONS

AUG 26 2013

TERM

THE STATE

vs.

Randall Dean Matheny

Indictment for

CRIMINAL SEXUAL CONDUCT
W/MINOR, FIRST DEGREE

SC Code: 16-03-0655(1)

CDR Code: 0385

Class FEL-C(V)

STATE OF SOUTH CAROLINA)
)
COUNTY OF SPARTANBURG)

INDICTMENT

AUG 22 2013

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

CRIMINAL SEXUAL CONDUCT WITH A MINOR, FIRST DEGREE

That Randall Dean Matheny, did in Spartanburg County, between May 20, 2011
~~and May 27, 2011, commit the crime of Criminal Sexual Conduct with a minor, in that~~
the defendant did commit a sexual battery upon the minor victim, ~~_____~~
who was under eleven (11) years of age at the time of the said incident. Said incident
occurred in Spartanburg County, South Carolina, in violation of §16-03-655 (1), *CODE
OF LAWS OF SOUTH CAROLINA*, (1976, as amended).

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


ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA

Compute

IN THE COURT OF GENERAL SESSIONS

COUNTY OF SPARTANBURG
STATE VS.
Randall Dean Matheny

INDICTMENT/CASE#: 2011GS4205554
A/W#: M126729
Date of Offense: 5/26/2011
S.C. Code §: 16-03-0655(A)
CDR Code #: 0385

AKA:
Race: WHITE Sex: M Age:
DOB:
Address:
City, State, Zip:
DL#: SID#:

SENTENCE SHEET

*CDL Yes No CMV Yes No Hazmat Yes No

In disposition of the said indictment comes now the Defendant who was TO: Criminal sexual conduct with minor -victim under 11 yrs of age - First degree 25 years to life

in violation of § 16-03-0655(A) of the S.C. Code of Laws, bearing CDR Code # 0385
NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC) §17-25-45 w/minor 1st or Lewd Act

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury.
The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST: REESE, SUSAN S 6772 SC Bar# Defendant Randall Matheny Attorney for Defendant 4499 SC Bar#

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center, for a determinate term of 25 days/months/years or under the Youthful Offender Act not to exceed years and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

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

CONCURRENT or CONSECUTIVE to sentence on: 8/29/13
The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections. 826 days
The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered PTUP
Total: \$ plus 20% fee: \$
Payment Terms:
Set by SCDPPPS

Recipient:

Table with 3 columns: Description, Amount, Total. Includes items like § 14-1-206 (Assessments 107.5%), § 14-1-211(A)(1) (Conv. Surcharge) \$100, § 14-1-211(A)(2) (DUI Surcharge) \$100, § 56-5-2995 (DUI Assessment) \$12, § 56-1-286 (DUI Breath Test) \$25, Proviso 47.9 (Public Def/Prob) \$500, § 14-1-212 (Law Enforce. Funding) \$25, § 14-1-213 (Drug Court Surcharge) \$150, § 50-21-114 (BUI Breath Test Fee) \$50, § 56-5-2942(J) (Vehicle Assessment) \$40/ea, Proviso 90.5 (SCCJA Surcharge) \$5, 3% to County (if paid in installments) \$390, TOTAL \$133.90

days/hours Public Service Employment
Obtain GED
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: 1. Must register as a sex offender - 2. Must register on the child abuse registry 3. Advise GPS monitoring if required for life 4. Batterer counseling is required
Appointed PD or appointed other counsel, § 47.12 requires \$500 be paid to Clerk during probation.

Clerk of Court/ Deputy Clerk: A. Searcy
Court Reporter: P. Green
SCCA/217 (03/2011)

Presiding Judge: [Signature]
Judge Code: 2135
Sentence Date: 8/29/13

WITNESSES

Spartanburg County Sheriff's Office

1. SENTENCE MADE

2. REPORT FILED

Spartanburg County Sheriff's Office

3. CARD PULLED

4. INDEXED

ARREST WARRANT NUMBER

6. CHECKED SIGNATURE

M126730

7. ASSESSMENT AND FINE CARD MADE

8. TRAFFIC VIOLATION COPY

ACTION OF GRAND JURY

Foreperson of Grand Jury

Date: SEP 15 2011

VERDICT

Guilty

Foreperson of Petit Jury

Date:

8-29-13

DOCUMENT NO. 11-GS-42-5555

The State of South Carolina

County of Spartanburg

Barry J. Barnette, Solicitor

COURT OF GENERAL SESSIONS

SEP 15 2011

TERM

THE STATE

VS.

Randall Dean Matheny

Indictment for

CHILDREN/NEGLECT OF CHILD

SC Code: 63-5-70

CDR Code: 2481

Class FEL-E

FILED
COURT
SPARTANBURG COUNTY
2011 SEP 16 PM 4:39
M. HOPE BLACKLEY

STATE OF SOUTH CAROLINA)
)
COUNTY OF SPARTANBURG)

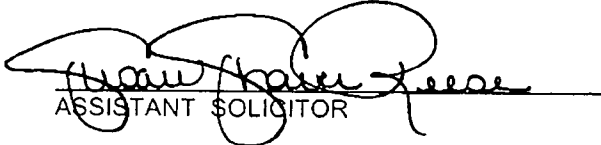
INDICTMENT

At a Court of General Sessions, convened on _____ SEP 15 2011 _____, the
Grand Jurors of Spartanburg County present upon their oath:

CHILDREN/NEGLECT OF CHILD

That Randall Dean Matheny, did in Spartanburg County between the dates of
May 1, 2011 and May 26, 2011, willfully and unlawfully, having charge or custody of
Camden Hembree, a minor child, place the child at unreasonable risk of harm affecting
the child's life, physical or mental health, or safety, in violation of Section 63-5-70, *THE
CODE OF LAWS OF SOUTH CAROLINA*, (1976), as amended.

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


ASSISTANT SOLICITOR

Computer

COUNTY OF SPARTANBURG
STATE VS.
Randall Dean Matheny
AKA:
Race: WHITE Sex: M Age: 47
DOB:
Address:
City, State, Zip:
DL#: SID#:

INDICTMENT/CASE#: 2011GS4205555
A/W#: M126730
Date of Offense: 5/26/2011
S.C. Code §: 63-05-0070
CDR Code #: 2481

SENTENCE SHEET

*CDL Yes No CMV Yes No Hazmat Yes No

In disposition of the said indictment comes now the Defendant who was
TO: Unlawful neglect of child 0-10 years and/or fine in the court's discretion

CONVICTED OF or PLEADS

in violation of § 63-05-0070 of the S.C. Code of Laws, bearing CDR Code # 2481
NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC §17-25-45 w/minor 1st or Lewd Act)

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury.
The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST: Susan S. Reese, 6772, Randall Matheny, Roger Poole, 4499
REESE, SUSAN S SC Bar# Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center,
for a determinate term of 10 days/months/years or under the Youthful Offender Act not to exceed years
and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment
of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

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

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The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
by the State Department of Corrections. 826 days
The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered PTUP

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

Payment Terms: Obtain GED

Set by SCDPPPS Attend Voc. Rehab. or Job Corp.

Recipient: May serve W/E beginning

*Fine: \$ Substance Abuse Counseling

§ 14-1-206 (Assessments 107.5 %) \$ Random Drug/Alcohol testing

§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$100.00 Fine may be pd. in equal, consecutive weekly/monthly

§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$ pmts. of \$ beginning

§ 56-5-2995 (DUI Assessment) \$12 \$ paid to Public Defender Fund

§ 56-1-286 (DUI Breath Test) \$25 \$ Other:

Proviso 47.9 (Public Def/Prob) \$500 \$

§ 14-1-212 (Law Enforce. Funding) \$25 \$ 25.00

§ 14-1-213 (Drug Court Surcharge) \$150 \$

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

§ 56-5-2942(J) (Vehicle Assessment) \$40/ea \$

Proviso 90.5 (SCCJA Surcharge) \$5 \$ 5.00

3% to County (if paid in installments) \$ 3.90

TOTAL \$133.90

Clerk of Court/ Deputy Clerk: A. Sealey
Court Reporter: P. Green

Presiding Judge:
Judge Code: 2135
Sentence Date: 8/29/13

SEVENTH JUDICIAL CIRCUIT PUBLIC DEFENDER

CLAY T. ALLEN
CIRCUIT PUBLIC DEFENDER

366 NORTH CHURCH STREET
SUITE 3000
SPARTANBURG, SC 29303



TELEPHONE (864) 596-2561
FAX (864) 596-2284
FAX (864) 562-4412

September 4, 2013

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

RE: State v. Randall Dean Matheny
Case No.: 2011-GS-42-5554, 2011-GS-42-5555, 2011-GS-42-5556

Dear Ms. Kitchings:

Enclosed for filing is the original Notice of Appeal in the above case. Also enclosed are the Proof of Service of the Notice of Appeal on the Respondent and copy of the indictment, verdict, and sentence to be challenged on appeal.

Sincerely yours,

J. Roger Poole
J. Roger Poole

Enclosures: cc: Office of Seventh Judicial Circuit Solicitor
Office of Attorney General
Office of Appellate Defense

RECEIVED

SEP 10 2013

SC Court of Appeals

Seventh Judicial Circuit Public Defender

366 N Church Street, Suite 3000
Spartanburg, South Carolina 29303

**RETURN SERVICE
REQUESTED**

**PRESORTED
FIRST CLASS**



\$ 00.68³
000655657 SEP 10 2013
MAILED FROM ZIP CODE 29303

SEP 10 2013

SC Court of Appeals

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

2921161629 8012

