

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Certiorari to Lexington County

Honorable Jocelyn J. Newman, Circuit Court Judge

MATTHEW DARAZS,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2024-001769

APPENDIX

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State of South Carolina
 County of Lexington

Court of General Sessions

State	)	
	)	
	)	Transcript of Record
v.	)	2018-GS-32-00779
	)	
Matthew Roland Darazas	)	
	)	
<u>Defendant.</u>	)	

March 27, 2018
 Lexington, South Carolina

B E F O R E:

The Honorable William P. Keesley, Judge.

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

Kate Usry, Assist. Solicitor
 Attorney for the State

David Mauldin, Assist. Public Defender
 Attorney for the Defendant

Bethanie K. Creppon
 Circuit Court Reporter

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

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3 THE CLERK: 2017-GS-32-3161, State vs. Matthew
4 Darazas, indicted for criminal sexual conduct with a
5 minor second degree. He's pleading as charged.

6 2017-GS-32-3462, State vs. Matthew Darazas,
7 indicted for assault and battery first degree. He
8 is pleading as charged.

9 2017-GS-32-3453, Matthew Darazas, indicted for
10 criminal sexual conduct with a minor second degree.
11 He is pleading as charged.

12 2017-GS-32-3460, State vs. Matthew Darazas,
13 indicted for incest. He's pleading as charged.

14 2017-GS-32-3454, State vs. Matthew Darazas,
15 indicted for criminal sexual conduct with a minor in
16 the second degree. He's pleading as charged.

17 All indictments are true-billed and he's
18 represented by Mr. Mauldin.

19 Raise your right hand, please.

20 MATTHEW DARAZAS

21 being first duly sworn, testified as follows:

22 THE DEFENDANT: Yes, ma'am.

23 THE COURT: You're Matthew R. Darazas, sir?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: I have an indictment that charges

1 that in Lexington County, on or about or between the
2 dates of January 1, 2012, and June 22nd, 2013, you
3 willfully and unlawfully committed criminal sexual
4 conduct with a minor in the second degree by
5 engaging in a sexual battery with a minor who was
6 under the age of 14 -- I'm sorry, who was 14 years
7 of age or less, but at least 11 years of age, who's
8 named in the indictment.

9 Upon your arraignment on that charge, it
10 appears that you wish to enter a plea of guilty to
11 criminal sexual conduct with a minor in the second
12 degree. Is that right?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: The other indictment charges that
15 in Lexington County, on or about or between the
16 dates of October 1, 2014, and June 17, 2015, you
17 unlawfully offered or attempted to injure another
18 person with the present ability to do so, the act
19 being accomplished by means likely to produce great
20 bodily injury or death. It's alleged that you
21 threatened MINOR 1 with a knife.

22 Upon your arraignment on that charge, it
23 appears that you wish to enter a plea of guilty to
24 assault and battery in the first degree. Is that
25 right?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: Another indictment charges that in
3 Lexington County, on or between the dates of January
4 1, 2012, and December 24th, 2013, you willfully and
5 unlawfully committed criminal sexual conduct with a
6 minor in the second degree by engaging in a sexual
7 battery with a minor who was at least 14 years of
8 age, but less than 16 years of age, who's named in
9 the indictment; you being older than the victim and
10 in a position of familial, custodial, or official
11 authority to coerce or encourage to submit.

12 Upon your arraignment on that charge, it
13 appears that you wish to enter a plea of guilty to
14 criminal sexual conduct with a minor in the second
15 degree. Is that right?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: Another indictment charges that in
18 Lexington County, on or between the dates of
19 December 25th, 2013, and March 31st, 2015, you
20 knowingly, willfully, and unlawfully had carnal
21 intercourse with the person named in the indictment
22 who is your biological daughter.

23 Upon you arraignment on this charge, it appears
24 that you wish to enter a plea of guilty to incest.
25 Is that right?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: Another indictment charges that in
3 Lexington County, on or between the dates of June
4 22nd, 2013, and March 31st, 2015, you willfully and
5 unlawfully committed criminal sexual conduct with a
6 minor in the second degree by engaging in sexual
7 battery with a minor who was at least 14 years of
8 age, but less than 16 years of age, who's named in
9 the indictment; you being older than the victim or
10 being in a position of familial, custodial, or
11 official authority to coerce the victim to submit.

12 Upon your arraignment, it appears that you wish
13 to enter a plea of guilty to criminal sexual conduct
14 with a minor in the second degree. Is that right?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: Mr. Mauldin, have you fully
17 explained to your client the nature and elements of
18 each offense, the possible punishments, and his
19 constitutional rights, including trial by jury?

20 MR. MAULDIN: I have, Your Honor.

21 THE COURT: Are you satisfied there's a factual
22 basis for each plea?

23 MR. MAULDIN: Yes, sir.

24 THE COURT: Do you agree with his decision to
25 enter these pleas?

1 MR. MAULDIN: Yes, Your Honor.

2 THE COURT: Mr. Darazas, today, are you under
3 the influence of any medicine, drug, alcohol,
4 anything affecting your thinking?

5 THE DEFENDANT: No, sir.

6 THE COURT: Do you suffer from any physical or
7 mental problems that affect your thinking?

8 THE DEFENDANT: No, sir.

9 THE COURT: You're clearheaded today and you
10 know what you're doing?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: When you plead guilty, you give up
13 important rights, including your right to remain
14 silent and your right to a jury trial. Do you know
15 that?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: If you want a jury trial, you're
18 presumed to be innocent and the State has to prove
19 you guilty beyond a reasonable doubt to convict you.
20 You get to see, hear, and have your attorney
21 cross-examine every witness against you. You
22 understand all that?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: If you want a jury trial and you
25 wanted to testify, you would be allowed to do that.

1 But if you chose not to testify, the trial judge
2 would tell the jury that they could not hold your
3 silence against you in any way at all. You
4 understand that?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: When you plead guilty, you give up
7 all those right; you give up any defenses you have;
8 you give up any challenges to evidence; you admit
9 the charge is true. You understand that?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: You want a jury trial on any of
12 these cases?

13 THE DEFENDANT: No, sir.

14 THE COURT: So you understand you're giving up
15 your presumption of innocence, you're giving up your
16 right to remain silent, and you're giving up your
17 right to confront the witnesses against you?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: Giving up defenses and challenges
20 to evidence and admitting the charge is true?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: All right. I need you to listen to
23 the solicitor, please.

24 MS. USRY: Thank you, Your Honor. We're here
25 today on a case of -- a chronic sexual abuse case

1 over many years involving the defendant and his
2 biological children, Your Honor.

3 In the course of this investigation, the
4 defendant admitted to sexually abusing four of his
5 eight children. Today, the warrants before Your
6 Honor are involving just two of those children, Your
7 Honor, his oldest daughters, MINOR1 and MINOR2.

8 His oldest child, who was the first to be
9 victimized by the defendant, MINOR3, is present in
10 the courtroom. His abuse occurred in Richland
11 County, so we do not have warrants in Lexington
12 County regarding his abuse.

13 As part of the investigation, the defendant
14 also admitted to sexually abusing another child, a
15 younger child. During her forensic interview, she
16 wasn't ready to fully disclose at that time. Law
17 enforcement made the decision not to bring warrants
18 regarding her abuse.

19 As part of the plea today, the State is
20 dismissing two drug offenses, as well as two other
21 unlawful conduct towards a child. As I mentioned,
22 MINOR3 is present in the courtroom. MINOR1 is
23 present in the courtroom, as well as MINOR2.
24 MINOR1 and MINOR2 are prepared to address Your
25 Honor at the appropriate time.

1 Additionally, the State has investigator Stacey
2 Turner, who is the lead investigator, who would like
3 to address the Court, and investigator Chris Morris
4 who interviewed the defendant during the
5 investigation of this case.

6 This disclosure first came to light on July
7 25th of 2016. [MINOR1] disclosed; she called law
8 enforcement. And when they first responded, she
9 indicated to them -- and I believe it was Ms. Turner
10 that went and interviewed her -- that she wasn't
11 sure who to talk to. She was trying to figure that
12 out. She told them that her father had been
13 sexually abusing her for a long time, up until the
14 point he was kicked out of the house in February of
15 2016.

16 She told law enforcement at that time, in fact,
17 he was the father of her one-year-old baby. She
18 also believed that he had been abusing her brother
19 [MINOR3], her sister [MINOR2], and possibly her
20 sister [MINOR4]. And at that time, she told law
21 enforcement she wasn't sure if her siblings were
22 ready to tell.

23 The following day, law enforcement began
24 investigating this case. They started with
25 interviewing [MINOR1] at the West Columbia Police

1 Department. During that first interview with MINOR1 ,
2 she disclosed that her father began abusing her
3 around the age of 2 up until the age of 16, Your
4 Honor.

5 She indicated, at the height of the sexual
6 abuse, sexual intercourse would occur up to four
7 times a week. She indicated that he took nude
8 photos of her and that he would have her watch porn
9 with minors in it. She told law enforcement that
10 she became pregnant with her father's baby around
11 October of 2014. That child was ultimately born in
12 June of 2015.

13 She told law enforcement that she discussed the
14 abuse recently with her older brother MINOR3 and
15 some with her sister MINOR2 , and that she had
16 caught her dad twice with her younger sister, and
17 when she confronted him about that abuse and
18 catching him in the act or him attempting to commit
19 the act of abuse on her younger sister, that he
20 pulled out a handgun and a knife and threatened her
21 with it.

22 It was clear from that interview, Your Honor,
23 that her father had kept her in fear during this
24 time, as well as taking many steps to groom her over
25 the course of her young life. While she was at the

1 interview, she did submit to a buccal swab of her as
2 well as a buccal swab of her baby.

3 The following day, law enforcement interviewed
4 MINOR2 at the West Columbia Police Department.
5 MINOR2 told law enforcement, among other things,
6 that the father was physically abusive to all the
7 children. He's not indicted for any physical abuse,
8 Your Honor, but the State thinks that's important
9 because of the fact that that would contribute to an
10 environment where children do not feel comfortable
11 in telling.

12 She indicated the sexual abuse for her started
13 around three or four and continued until February of
14 2015 [sic]. Again, that's when the defendant was
15 kicked out of the house in West Columbia, Your
16 Honor. She indicated to law enforcement at that
17 time that he would perform oral sex on her and would
18 touch her breasts and private area two or three
19 times a week.

20 And she indicated, also, that she knew about
21 the abuse with MINOR1 because they talked and that
22 she had witnessed her father pull a gun and -- the
23 gun and knife incident with MINOR1, Your Honor.

24 Law enforcement, during the course of their
25 investigation, found that there were other times

1 that DSS had looked into abuse within the home.
2 Those cases had ultimately come back unfounded with
3 the children. It came down to, many times, the
4 children just weren't ready to tell and denied
5 anything would happen.

6 That same day, on July 27th, law enforcement
7 obtained arrest warrants for two CSCs, one for each
8 girl, and served them on the defendant. He was
9 taken to West Columbia Police Department where he
10 was interviewed, he was Mirandized, and he provided
11 to law enforcement a confession, including a written
12 confession, Your Honor.

13 During the interview, the defendant confessed,
14 with regard to MINOR1, that the incident would start
15 with oral sex and progress to intercourse around the
16 9th grade or when she was around age 15. He
17 admitted to, around the same time, having oral sex
18 with MINOR2 and she was around the age of 14.

19 He also admitted to sexual assaults with the
20 youngest daughter that we, again, don't have
21 indictments on. He admitted to pulling the knife on
22 MINOR1 and telling her if she didn't have an
23 abortion, he would cut the baby out of her. During
24 this interview, his DNA was obtained, Your Honor.

25 For this plea today, Your Honor, I'm handing up

1 a notebook that has the -- a number of items for
2 part of the investigation, including the defendant's
3 written statements and confessions. And I've shown
4 this to defense counsel, Your Honor. However, I am
5 going to put some of the written statement
6 confessions on the record, Your Honor.

7 The defendant wrote, on July 27th of 2016: I
8 started home-schooling because of the behavior MINOR1
9 and MINOR2 were exhibiting, sexual desires of --
10 sexual -- excuse me -- desires of sexual promiscuity
11 at public school. I could not condone them
12 having -- being involved in that manner with
13 immature boys whose affection would be ingenuine.

14 During home-schooling, a relationship
15 progressed that developed into intercourse. She
16 would wear sexually revealing clothing around the
17 house. And I told her that if she continued, she
18 would provoke a sexual response from me. She
19 ignored my warnings and even went as far as to
20 intentionally provoke a sexual response from me on a
21 regular basis. It started as oral sex and
22 progressed to vaginal intercourse. This occurred
23 around the 9th grade for MINOR1. And he's discussing
24 MINOR1 at this point, Your Honor.

25 Around the same time, I also had a similar

1 relationship with MINOR2. We also had a
2 consensual sexual relationship. They knew about the
3 relationship I had with each other. And all three
4 of them in were in my room one time; MINOR2 sat on
5 my face to perform oral sex, and MINOR1 straddled me
6 for intercourse.

7 He also discusses in his statement how MINOR1
8 became pregnant, indicating that he had bought
9 condoms and, at one point, she went on birth control
10 and, eventually, one time, she missed a period and
11 they became worried that she was pregnant.

12 Law enforcement asked him how old was MINOR1
13 when he first started having sexual intercourse, and
14 he said 15. Law enforcement asked: Where would you
15 and MINOR1 have sex? My bed, her house, or the
16 bathroom at [REDACTED] Burnham Street in West Columbia.

17 Your Honor, evidence indicates that the
18 defendant moved to that location in West Columbia
19 around 2012. Prior to that, they did live in
20 Richland County. He does admit to sexual abuse with
21 the children that occurred in Richland County.

22 At this point, our office, as well as West
23 Columbia Police Department, has provided that
24 information to the Richland County authorities, and
25 they have not brought indictments or warrants in

1 that case, Your Honor, or any of those cases.

2 Law enforcement also asked him during this
3 statement: How old was MINOR2 when you began your
4 sexual relationship with her? And he indicates 14.
5 And he also admitted to sexual intercourse with
6 MINOR1 about once a week and sexual encounters with
7 MINOR2 maybe once a month. And, Your Honor, this
8 is what he admits to: The girls will indicate and
9 have indicated that it was more.

10 The following day, Your Honor, law enforcement
11 interviewed the defendant again. He was Mirandized
12 again; he agreed to speak with them again; and he
13 gave another written statement at that time. And in
14 this statement is when he admits the sexual abuse
15 with MINOR3, starting around four years of age.
16 That is the oldest child, Your Honor.

17 And, as I mentioned, MINOR3 is present in the
18 courtroom today. He does not plan to address Your
19 Honor. But the defendant admits to sexual
20 intercourse with him. He kicked MINOR3 out of the
21 house when he was young, about the time they moved
22 to West Columbia Police Department -- or, excuse me,
23 police jurisdiction, Your Honor.

24 He also admits to sexual abuse with MINOR1 at
25 age four. So this is significant, Your Honor,

1 because he admits to an earlier age in this
2 confession. The day before, he was saying they were
3 older -- or MINOR1 was older when it began. He also
4 said the sexual abuse with MINOR2 started around
5 nine years of age, Your Honor, in the second
6 statement, the second time. Again, Your Honor, I've
7 handed up that statement so you can review it as
8 part of the plea today.

9 On August 1st of 2016, MINOR3 was interviewed.
10 In MINOR3's interview, he indicated the sexual
11 abuse with him started around 6 up to the age of 15.
12 And, again, his father kicked him out of the house
13 at the age of 14. The sexual abuse for him was once
14 or twice a month; it was anal and oral sex and it
15 happened in the Columbia jurisdiction.

16 On August 2nd, the SLED DNA analysis came back
17 confirming that the defendant is the biological
18 father of MINOR1's daughter, Your Honor. The State
19 has handed up an incest indictment, and that is
20 because during the time that MINOR1 became pregnant,
21 she would have been just past the age of the CSC
22 second, the 16 -- just past the age of 16.

23 So the incest indictment covers from after her
24 16th birthday up until when the defendant was
25 ultimately kicked out of the house. Both girls

1 indicate sexual abuse continued to occur until he
2 was kicked out of the house.

3 Your Honor, the defendant, as he mentioned in
4 his statement to law enforcement, had home-schooled
5 the girls. They also told our office, as well as
6 law enforcement, they were at home. There were a
7 total of eight children in the home. And being
8 home-schooled, along with the physical abuse, just
9 created an environment where they never felt safe to
10 tell anyone during this time.

11 As I mentioned, they are present. They do wish
12 to address Your Honor at the appropriate time, as
13 well as law enforcement, Your Honor. And after they
14 address the Court, I'd like to briefly address
15 sentencing.

16 THE COURT: All right. Do you admit you're
17 guilty of these charges, sir?

18 THE DEFENDANT: Yes, Your Honor.

19 THE COURT: Has anyone forced you, threatened
20 you, coerced you in any way to get you to enter
21 these pleas against your will?

22 THE DEFENDANT: No, Your Honor.

23 THE COURT: Any plea bargain the State might
24 have made with you? That includes any agreements
25 about dropping charges, recommending a sentence,

1 reducing charges. Anything of that sort, they have
2 to tell me about in open court or you lose what they
3 haven't told me. Do you understand?

4 THE DEFENDANT: I do.

5 THE COURT: Mr. Mauldin, are all the plea
6 agreements on the record?

7 MR. MAULDIN: That's correct, Your Honor. It's
8 the dismissal of the charges, as the solicitor
9 stated.

10 THE COURT: Other than what's on the record,
11 Mr. Darazas, has anyone promised you anything or
12 offered you any hope of reward to get you to plead?

13 THE DEFENDANT: No, sir.

14 THE COURT: Are you fully satisfied with your
15 attorney?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: Is there anything you wanted him to
18 do on the case that he has not done for you?

19 THE DEFENDANT: I can't think of anything, sir.

20 THE COURT: Do you have any complaint against
21 your attorney or the law enforcement officials,
22 anybody who has dealt with your case?

23 THE DEFENDANT: No, Your Honor.

24 THE COURT: Have you met with Mr. Mauldin a
25 sufficient number of times and for a sufficient

1 length of time for him to represent you properly?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: Have you had enough time to make up
4 your own mind about all this?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: All right. Criminal sexual conduct
7 in the second degree is a felony, each count of
8 which carries up to 20 years in prison. Do you
9 understand that?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: It's classified by the Legislature
12 as a violent crime. Do you understand that?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: Do you understand that violent
15 offenders are treated differently by the Department
16 of Corrections and by any other State agency than
17 nonviolent offenders would be?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: If you pick up a second violent
20 crime, you are not eligible for any type of parole.
21 Do you understand that?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: The Legislature has also classified
24 this under what's commonly called
25 two-strikes-you're-out, three-strikes-you're-out.

1 Those things are technically called most-serious
2 offenses and serious offenses. Criminal sexual
3 conduct in the second degree is a most-serious
4 offense. That means it's a strike. If you get the
5 right combination of strikes, you have to do life in
6 prison without parole. Do you understand that?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: Whatever sentence I give you on
9 criminal sexual conduct, I cannot suspend any
10 portion of it or put you on probation. Do you
11 understand that?

12 MR. MAULDIN: I think you can, Your Honor, with
13 regard to that.

14 THE COURT: Hold on a second. Well, let me
15 look at the book again. I apologize.

16 MR. MAULDIN: But he does understand that the
17 sentencing is in Your Honor's discretion.

18 THE COURT: On the two that are coded -- the
19 CDR code is 397, which is criminal sexual conduct
20 with a minor, the victim being under 16 years of
21 age, in the second degree, those do not have the
22 provision about no suspended sentence.

23 But on the one that's coded 396, criminal
24 sexual conduct with a minor, the victim being 11 to
25 14 years of age, second degree, it's got, in

1 Strickler's book, no suspended sentence.

2 Do I need to look up the statute? Two of these
3 are coded 397; one is 396 because of the difference
4 in the age. He knows he's going to prison, doesn't
5 he?

6 MR. MAULDIN: Yes, sir, Your Honor. We're not
7 even asking for a straight probation sentence.

8 THE COURT: Who is that wanting to speak?

9 MR. MAULDIN: This is his parents -- this is
10 his mother Carol Kirbin [phonetic] and her second
11 husband Sam Kirbin.

12 THE COURT: She was raising her hand for some
13 reason. Can you find out why?

14 MR. MAULDIN: All right.

15 THE COURT: All right. I don't see in the
16 statute where Strickler picked that up. I don't
17 know if the statute changed.

18 All right. So is everybody in agreement that I
19 could, theoretically, suspend?

20 MS. USRY: Yes, sir.

21 MR. MAULDIN: Theoretically, yes, Your Honor.

22 THE COURT: All right. So then let me correct
23 that.

24 Mr. Darazas, on the criminal sexual conduct
25 with a minor in the second degree, whether it's

1 under either one of those subsections, it indicates,
2 apparently, that I do have the power to suspend some
3 portion of the sentence which would allow me to put
4 you on probation. Do you understand that?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: This is classified by the
7 Legislature under what's commonly called truth in
8 sentencing. Those things are really called
9 no-parole offenses. Criminal sexual conduct with a
10 minor in the second degree is a no-parole offense,
11 which means, basically, that you have to serve at
12 least 85 percent of the time day-for-day before you
13 could possibly be released. You understand that?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: That's no guarantee you get out in
16 85 percent; that's the least time you could possibly
17 do. You understand that?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: You can be required to be on an
20 active electronic monitoring for the rest of your
21 life, if you are released from prison. Do you
22 understand that?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: You have to register as a sex
25 offender for the rest of your life. Do you

1 understand that?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: You have to provide a DNA sample,
4 your DNA profile, that we put it in a central
5 computer registry. Do you understand that?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: All right. You're in criminal
8 court. A separate branch of the court is civil
9 court. There is a civil process by which somebody
10 who is convicted of a crime such as criminal sexual
11 conduct in the second degree can be declared to be a
12 sexually violent predator. Are you aware of that?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: Now, basically, what that boils
15 down to is, if you plead guilty to this, then the
16 Attorney General is authorized to bring an action in
17 civil court to attempt to get you declared to be a
18 sexually violent predator. And if everything were
19 to go against you, then you would be committed,
20 against your will, to have sex offender counseling
21 until it is determined that you are no longer a
22 danger to society. You understand all that?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: In theory, that could mean that you
25 would be held against your will for the rest of your

1 life. Do you understand that?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: Incest is a felony that carries up
4 to ten years in prison. Do you know that?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: It also involves requiring that you
7 register as a sex offender. You understand that?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: And you'd be placed on the child
10 abuse registry. You understand that?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: Assault and battery in the first
13 degree is a felony that carries up to ten years in
14 prison. You understand that?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: Also involves the sex -- I'm sorry,
17 the child abuse registry. You understand that?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: And these things affect your
20 ability to ever be a foster parent or adopt a child.
21 Do you understand that?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: You understand you're facing up to
24 80 years in prison?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: Have you understood everything I've
2 been over with you?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: Are you sure you want to give up
5 your rights and enter these pleas of guilt?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: You're pleading guilty because you
8 are, in fact, guilty?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: You're pleading guilty of your own
11 free will and accord?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Mr. Darazas has made a free,
14 knowing, voluntary, and intelligent decision to
15 waive his rights and plead guilty. He's done so
16 upon the advice of counsel with whom he's fully
17 satisfied. There's a factual basis for each plea.

18 All right. Who wishes to be heard?

19 MS. USRY: Thank you, Your Honor. I will start
20 with the girls. Ms. MINOR2 is present
21 today, Your Honor. She was 17 at the time this case
22 was reported to law enforcement. She was still in
23 high school.

24 As a result of reporting and telling, she was
25 removed from the home. She was placed in a group

1 foster home, along with her younger siblings, Your
2 Honor. She spent her senior year in high school in
3 the group home. Despite that, she is attending USC
4 and is a public health major at this present time,
5 Your Honor.

6 MINOR 2 : Your Honor, my name is
7 MINOR 2 and I want to speak today on how
8 the actions of my father have affected and will
9 continue to affect me. When I look back on those
10 years, all I see is abuse in every form and
11 struggle; struggle to appease my father, struggle to
12 stay out of trouble long enough for my mom to come
13 home.

14 Most days were spent scurrying around to stay
15 out of sight of my dad, whispering to my siblings
16 because if we were too loud, we would suffer a cruel
17 punishment. I used to be terrified every time my
18 mother would leave for work in the morning because I
19 never knew what horrors each day would hold.

20 Most days were spent stealing pieces of bread
21 out of the kitchen because we were hungry and
22 getting choked out for it. Most days were spent
23 being called into my parents' room while my mom was
24 at work and the door being locked behind me so that
25 no one would know what was going on.

1 Growing up, I felt alone in the world. And for
2 a while, I hated God. I hated that he never seemed
3 to answer my prayers; I hated how he just sat by
4 while I had to watch my siblings get kicked in the
5 face or thrown across the house or beaten; I hated
6 that he let me go through years of sexual abuse, all
7 while begging him to save me. I didn't understand
8 why he didn't seem to care that I was suffering.

9 When my mother finally kicked my dad out of the
10 house and I was in survival mode, crippling
11 depression and anxiety crashed down on me, crushing
12 me and leaving me gasping for breath every second of
13 every day. I used to starve myself because even
14 though I couldn't control what I had been through in
15 the past, at least I could control what I ate. I
16 starved myself because not eating was easier than
17 hearing his voice over and over in my head telling
18 me I'll never be good enough for anyone.

19 Then came the self harm. I started cutting
20 myself because I was screaming inside, and maybe if
21 I could just make myself bleed a little, the
22 emotional agony I was in would lessen. I cut myself
23 because I wanted to be the only one capable of
24 hurting me.

25 For the longest time, I was scared to be loved.

1 I didn't want anyone to take advantage of me and I
2 certainly didn't want to let anyone in. How could I
3 be in a relationship where trust is an important
4 factor and not tell them the horrible things that
5 I've been through? However, after years of trying
6 to figure out how to just be happy with myself and
7 my life, after a year of trauma therapy, I can
8 finally say that I am happy.

9 I'm in a year-long relationship with a man who
10 values me and appreciates the little things and
11 would never take me for granted or do anything to
12 hurt me. I'm in college, securing the future that
13 everyone said a foster kid like me would ever have.
14 I'm a survivor.

15 But, survivor or not, I know my future will
16 consist of pain. There's going to be mornings when
17 I wake up and remember that my father is
18 incarcerated because of his actions towards me and
19 my family, but I'll still have to go about my day.
20 There will be beautiful, passionate moments ruined
21 by flashbacks of abuse, and my husband will have to
22 bring me back to reality and remind me that it's
23 just him.

24 I know I will continue to be triggered by
25 things that seem innocent. And I know one day I

1 will have to tell my baby brother where his dad
2 really is and why. And he's going to be so hurt and
3 confused, but there's only one person to blame for
4 that.

5 My faith tells me to forgive even the most
6 horrible sins because only God can judge and he will
7 decide fair punishment. So I have to trust that
8 this is fair punishment because I'm so tired of
9 blaming myself for my past. I need closure so that
10 I can stop wondering and waiting to live my life.

11 This is something someone should never have to
12 go through: Watch as their family gets torn apart,
13 go through unimaginable emotional trauma, be
14 incapable of socializing because they never learned
15 how, listening as someone they don't know describes
16 the horror of their childhood, and, worst of all,
17 watch their father who they loved, even though he
18 hurt them, sit across them in a courtroom as he
19 receives his sentence. But here I am anyways.
20 Thank you, Your Honor.

21 THE COURT: Thank you.

22 MS. USRY: Next is MINOR1. She is 20 years old
23 today. Again, she lived in a home-school
24 environment with the defendant along with her
25 siblings and became pregnant by the defendant. And

1 despite this, she is raising a three-year-old
2 daughter who is healthy and happy and she is now
3 married with a baby on the way. She is the first
4 one that spoke up. And she is present to address
5 Your Honor today.

6 THE COURT: Yes, ma'am. What would you like to
7 say? Would you like me to just read your statement?

8 MS. USRY: Heather, with our office, will
9 speak, Your Honor, the victim advocate in this case.

10 THE COURT: Yes, ma'am.

11 MS. CLAMP: Okay. This is in the words of
12 **MINOR1**: I'm 20 years old. I have been a victim of
13 my father since I was two years old. At the age of
14 two, my childhood was taken and I began to endure a
15 life of abuse. Who was there to tell? By the time
16 I would have been talking well, I had already
17 endured many days and nights with him. This was my
18 life and my normal. I didn't know there was
19 something to tell. The bad touches were coming from
20 the person who was to protect me.

21 Normal? What is normal? How was I to know at
22 that young age that wasn't what every father did? I
23 had a father who showed me child pornography on his
24 computer. He showed me this as if this was what all
25 girls did with their daddy.

1 When other kids and teenagers were dealing with
2 school drama, homework, school projects, and
3 age-appropriate worries, I was in survival mode at
4 home. I never had friends and I still have no
5 friends. I work from home and I rarely leave my
6 house.

7 I don't know how to carry on a conversation or
8 communicate with other people. It is depressing not
9 having friends. I don't know how to trust or form
10 healthy relationships. I continue to have
11 flashbacks, nightmares, anxiety, PTSD, and feelings
12 of worthlessness.

13 I sleep so lightly that I barely rest or sleep.
14 This all comes from him telling me that he would be
15 paying me a visit later that night. So, at night, I
16 would lay there knowing what was to come. And,
17 again, this was my life, my normal, my survival.

18 And even after he was removed from our home, he
19 never left. There are some things that will never
20 leave me. Like when he looked at me and would tell
21 me -- like when I would look at him and tell him
22 that it hurt and I begged him to stop, he would
23 smile back at me and say, it's okay, rape is more
24 fun anyway.

25 I'm only alive and thriving today because of my

1 daughter. I'm not willing to hurt, disappoint, or
2 have her ever question what a parent's love and
3 support should be.

4 In the end, justice needs to be served and my
5 siblings and I need to know that the system can hand
6 out a just sentence for those who are deserving of
7 one. He should be given no less than the maximum
8 sentence for the indescribable scars he has left on
9 my family.

10 THE COURT: Thank you. Anyone else?

11 MS. USRY: Yes, sir, Your Honor. Investigator
12 Stacey Turner with the West Columbia Police
13 Department is the lead investigator in this case.
14 And following her, will be investigator Chris Morris
15 who interviewed the defendant and received the
16 Mirandized statement in this matter.

17 INVESTIGATOR TURNER: Good morning, Your Honor.
18 Stacey Turner with the West Columbia Police
19 Department.

20 THE COURT: Yes, ma'am.

21 INVESTIGATOR TURNER: I'm the lead investigator
22 in this case. I have been working child abuse and
23 sexual assault cases for approximately eight years.
24 In those eight years, I have never seen a case as
25 severe as this. Mr. Darazas chronically sexually

1 abused several of his children for many, many years.

2 The abuse did not stop there. He also
3 emotionally and physically abused them. He
4 threatened them with weapons on multiple occasions
5 and caused the children to live in constant fear of
6 him. Mr. Darazas has no remorse for what he's done
7 to his children, and, in fact, blame them for what
8 happened.

9 In part of his interview, he also told us that
10 he was basically grooming his younger daughter MINOR4
11 in order to do the same to her. If it wasn't for
12 the strength and courage of his children, the abuse
13 most likely would have continued.

14 On behalf of the West Columbia Police
15 Department, we would like to request a consecutive
16 sentence and the max punishment. We believe
17 Mr. Darazas will be unable to fix his issues due to
18 him not taking any accountability for his actions in
19 the chronic abuse of his children. We believe that
20 Mr. Darazas is a threat to society and to other
21 children, and that he cannot be rehabilitated.
22 Thank you for your time and consideration.

23 THE COURT: Thank you.

24 INVESTIGATOR MORRIS: Your Honor, I'm
25 investigator Chris Morris. I'm the one who

1 interviewed Mr. Darazas on July 27th and July 28th.
2 I just wanted to share some of the statements that
3 he made during this interview. A lot of it was
4 victim-blaming his children, saying that his
5 children wanted to do this. As you've heard, it's
6 all they grew up with and all they knew.

7 He continued sex with his daughters, sexual
8 abuse after discovering pregnancy. He even went to
9 the extent of hiding his evidence by putting condoms
10 in the trash can so his wife couldn't find them. A
11 couple statements that he made -- or a quote, he
12 fell out of love with his wife and in love with his
13 daughters. And prior to serving the warrants on
14 him, he, quote, said: It was fun while it lasted.

15 We're asking on behalf of the West Columbia
16 Police Department, as well, for the max consecutive
17 sentence on these charges due to the fact of I don't
18 think he can be rehabilitated at all and he's a
19 threat to society as well. Thank you, Your Honor.

20 MS. USRY: Your Honor, that's the extent of the
21 individuals the State had prepared to address Your
22 Honor this morning. We echo the West Columbia
23 Police Department as well as the victims in asking
24 for a consecutive max sentence, so a total of 80
25 years.

1 The State's concerned about the constant
2 victim-blaming as well. We believe he cannot be
3 rehabilitated. We believe if he's ever released
4 from prison, he poses a significant risk to children
5 and that there's no deterrence in this case for
6 someone like this. And the victims will forever be
7 affected by his actions, Your Honor. Thank you.

8 THE COURT: Mr. Mauldin?

9 MR. MAULDIN: Thank you, Your Honor. With
10 Mr. Darazas is his mother, Carol Kirbin, and her
11 husband, Sam. Sam is not Mr. Darazas' biological
12 father. Mr. Darazas has been in the county jail for
13 608 days.

14 He's 39 years old, originally from Marietta,
15 Georgia, but grew up in the Columbia area. He did
16 graduate high school from Dreher High School. He
17 was in the Army briefly in 1997, but left due to the
18 financial issues. It was an other-than-honorable
19 discharge. He did do basic at Fort Knox, was in
20 Fort Gordon in Augusta, and Fort Lewis in Washington
21 state.

22 He's been married for about 20 years. They
23 have eight children together. After he left the
24 Army, he worked as a surveyor and a land surveyor
25 for about eight years for different companies and

1 then decided to pursue a career as a musician
2 sometime in the middle 2000s, the 2005 or 2006 area.

3 He mainly played the drums. He played for
4 different bands that would play at places in Five
5 Points or musical venues, as well as some functions,
6 museum openings, that kind of thing. He
7 supplemented his income by working as a delivery
8 driver for various locations as well, as well as a
9 bouncer at various clubs in Columbia.

10 Your Honor, his mother and father divorced when
11 he was around seven years old. He had an older
12 brother that had sexually abused him from about the
13 ages of four to ten. And that was never reported
14 and he never received any type of counseling for
15 that.

16 After his brother had left the house -- he got
17 kicked out of the house -- his father and his
18 stepmother put him into a boys home. They had had
19 new children and they just kind of jettisoned him
20 into a boys home in Orangeburg called Brookland
21 Plantation. And he was placed into an older cabin
22 and assaulted there as well by some of the older
23 fellows in the boys home.

24 While he was there at the boys home, his
25 brother died in a car accident. He was 14 years

1 old. It affected him badly. Even though his
2 brother abused him, it was pretty much the only
3 attention that he had gotten through that period of
4 time.

5 Your Honor, when he was approached by police,
6 he did cooperate. And I think you find, in a lot of
7 these cases, people don't cooperate. And when he
8 cooperated, I -- he's accepted accountability for
9 the actions that he's done. He does admit to an
10 incident with the knife. He doesn't admit that
11 there was a gun involved, but there was a knife.

12 They did a search warrant and, I think, he had
13 some computers taken into evidence. And they
14 haven't found any kind of child porn or anything or
15 any kind of porn on those computers that we've been
16 given by the State. And he's denied any kind of
17 physical abuse. He admits to the sexual abuse, but
18 he denies any kind of physical abuse as well.

19 But he did cooperate with the State, and that
20 does show accountability. But that also puts him in
21 a position where, obviously, negotiation, as far as
22 any kind of charges, is very difficult in this
23 stance. And we understand the State's position, but
24 it seems to me that somebody that comes forward and
25 cooperates, they're put in a worse position by doing

1 that in that, you know, the State doesn't have to
2 negotiate and you have people that deny, deny, deny,
3 and then they work out a better plea.

4 But Mr. Darazas was willing to cooperate from
5 the beginning. He's pleading here today. He
6 doesn't want his daughters to have to go through a
7 trial and have to be on the stand for hours at a
8 time to be cross-examined.

9 He knows that he deserves some kind of
10 punishment, Your Honor, obviously. But,
11 unfortunately, he's part of this circle of abuse
12 that's happened. And I have spoken to his mother
13 about it and she wishes that she had been there more
14 for him as a child, but he was with his father and
15 she wasn't able to get custody of him.

16 He knows he deserves punishment, Your Honor.
17 He wants to be able to take advantage of whatever
18 counseling opportunities they have in the department
19 of corrections so he can address the posttraumatic
20 stress that he has from being abused himself as a
21 child and the depression that has come with it.

22 He's 39, Your Honor. So I think that any kind
23 of concurrent prison sentences would put him up in
24 age before he'd be able to be released. And if he
25 is a threat to society, there is that sexually

1 violent predator program as well that he would be
2 subject to, and they would determine whether or not
3 he would be a further threat to society.

4 But he is here today to take responsibility,
5 Your Honor. And we would hope that you would take
6 that into consideration, Your Honor, that he did
7 cooperate, he's not putting his family through a
8 trial. And we would hope that you'd grant him
9 concurrent sentences.

10 Even though he knows he has put the children
11 through a lot, he still feels that he should give
12 them some sort of financial -- he still feels
13 financially responsible and wants to be able to send
14 them whatever money he can in order to support them.
15 There are eight of them, Your Honor; I think six are
16 still in the home or underage. That's all I have,
17 Your Honor.

18 If Ms. Kirbin wishes to speak, I wish you
19 listen to her or anything Mr. Darazas has to say, if
20 he wishes to speak, as well.

21 THE COURT: Yes.

22 MS. KIRBIN: Your Honor, my name is Carol
23 Darazas Kirbin. I'm Matthew's mother.

24 You know, the times that I've been around
25 Matthew and his family, I was not around them as his

1 family grew. But upon being exposed to them, as he
2 had his whole family of eight children, they would
3 come over for Christmas and for Thanksgivings, for
4 Easter. It was a very loving family. They appeared
5 to be very happy and well-adjusted.

6 My daughter and I used to comment that we've
7 never seen such well-mannered and well-behaved
8 children. And we marveled that they were so well,
9 you know, together, that they never fought. Their
10 manners were impeccable. They were just such a
11 delight to be around.

12 They were all musical. They sang together.
13 They brought over musical instruments. They
14 appeared to be a very well-adjusted, happy family.
15 I never saw any indication of the things that,
16 apparently, were going on behind the scenes.

17 During the time that Matthew has been
18 incarcerated, in the letters, he continues to
19 express his love for his family and his concern for
20 the children. He continues to express his love for
21 his wife and for the children, his concerns about
22 the finances of the family.

23 I continue to regret the abuses that Matthew
24 suffered when he was young, the fact that I was
25 emotionally too weak to protect him. I didn't know

1 about the abuse that he suffered at the hands of his
2 brother when he was young until he told me when he
3 was about 20. And, at that time, he told me that he
4 had been raped by his brother when he was young, in
5 the custody of his father.

6 And I spoke with him on the phone yesterday and
7 he told me that he had been a -- that there had been
8 rape attempts at this Brookland Plantation that his
9 father sent him to and that he had been beaten
10 there. He was sent to that school because I was
11 trying to get custody of him at that time and his
12 father and stepmother sent him there rather than
13 give me custody and give me child support. He was
14 opposed to giving me child support, so his answer
15 was to put him in that school. His older brother
16 was also put in John de la Howe where he was abused.
17 I guess that's why Matthew was abused.

18 But I believe Matthew can be rehabilitated. I
19 believe that the programs that can be offered to him
20 in the prison system and, you know, from the
21 State -- you know, my son has a loving heart. And I
22 love Matthew. You know, I -- I love this man. And
23 I pray for him. I believe that he can be helped.
24 And I don't think that having consecutive sentences
25 will gain any benefit to anyone anywhere.

1 THE COURT: Thank you, ma'am.

2 MS. KIRBIN: I pray for mercy.

3 THE COURT: Did you want to say anything, sir?

4 THE DEFENDANT: Just that I regret what I've
5 done. Most of my life, I've been depressed and
6 detached. And after my brother died, I really was
7 not mentally there for probably at least a decade.
8 I had seven children in the process at that time. I
9 wasn't mentally or emotionally prepared for any of
10 that. I lived in hopelessness. I didn't really
11 think about the consequences of my actions at the
12 time. I'm just glad it's over. I love my family.
13 I'm very remorseful to what happened.

14 THE COURT: Anything else from the defense,
15 Mr. Mauldin?

16 MR. MAULDIN: No, Your Honor.

17 THE COURT: Thank you.

18 It's going to take me a while to write all
19 this. You-all have a seat. Court is in recess for
20 about ten minutes. Thank you.

21 (Brief recess.)

22 THE COURT: All right. Mr. Darazas, do you
23 understand that by pleading guilty, you basically
24 waive a whole bunch of rights that might relate to
25 any appeal you might make? Do you understand that?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: But if, for any reason, you were to
3 want to file any type of appeal from this
4 proceeding, it has to be done in writing and it has
5 to be done very quickly. So you need to tell
6 Mr. Mauldin if you wish to file any type of appeal.
7 Do you understand that?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: And on these offenses that are
10 no-parole offenses, you understand that if you get
11 out of prison, you're going to have to go through a
12 period of community supervision after you get out of
13 prison?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: If you violate community
16 supervision, that would mean that you might be sent
17 back to prison. You understand that?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: All right. The Court renews the
20 findings that were previously made.

21 On indictment 2017-GS-32-03453, accepting this
22 plea and all other pleas of guilty, the sentence for
23 criminal sexual conduct with a minor in the second
24 degree involving MINOR1 is that you be committed to
25 the South Carolina Department of Corrections for 20

1 years, plus costs and assessments. You're given
2 credit for jail time under Section 24-13-40 that
3 will be calculated and applied by the Department of
4 Corrections. You're placed on child abuse and
5 neglect registry. Restitution is deferred for this
6 and any other cases where the finding is provided in
7 the statute.

8 I'm finding that the sexual battery was not
9 consensual. You're placed on active electronic
10 monitoring, if you're ever released. You're to be
11 on the sex offender registry, if you're ever
12 released. You're to have no contact with the
13 victim. And you're to pay court costs within one
14 year of being released from prison.

15 On Indictment 3454, criminal sexual conduct
16 with a minor in the second degree related to
17 **MINOR 2**, the sentence is that you be committed to
18 the South Carolina Department of Corrections for a
19 period of 20 years, plus costs and assessments,
20 consecutive. All the other conditions are the same
21 as on Indictment 3453.

22 On this incest charge, Indictment 3460, the
23 sentence is that you be committed to the South
24 Carolina Department of Corrections for a period of
25 ten years consecutive, and the conditions are the

1 same as on 3452.

2 On Indictment 3462, which is assault and
3 battery in the first degree, the sentence is that
4 you be committed to the South Carolina Department of
5 Corrections for five years, plus costs and
6 assessments, concurrent. You are given credit for
7 jail time under Section 24-13-40 to be calculated
8 and applied by the Department of Corrections. Other
9 conditions of the sentence are the same as 3453.

10 On criminal sexual conduct with a minor, this
11 is involving MINOR 2, between the ages of 11 and
12 14, the sentence is 20 years concurrent, plus costs
13 and assessments. You're given credit for jail time
14 under Section 24-13-40 to be calculated and applied
15 by the Department of Corrections. The conditions of
16 sentence are the same as on Indictment 3543.

17 The net effect of that is intended to be a
18 50-year sentence. Do you understand?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: Anything else from the State?

21 MS. USRY: Nothing further from the State.

22 THE COURT: Anything further from the defense?

23 MR. MAULDIN: No, Your Honor.

24 THE COURT: Thank you very much.

25 -- END OF TRANSCRIPT OF RECORD --

1 C E R T I F I C A T E

2

3 STATE OF SOUTH CAROLINA

4 COUNTY OF LEXINGTON

5

6 I, the undersigned, Bethanie K. Creppon, Circuit
7 Court Reporter for the Eleventh Judicial Circuit of
8 the State of South Carolina, do hereby certify that
9 the foregoing is a true, accurate and complete
10 transcript of record of all the proceedings had and
11 the evidence introduced in the hearing of the
12 captioned cause, relative to appeal in the Criminal
13 Court for Lexington County, South Carolina, on the
14 27th of March, 2018.

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

17

18

November 1, 2019

19

20

s/ *Bethanie K. Creppon*

21

22

Bethanie K. Creppon
Circuit Court Reporter

23

24

25

FORM 5

STATE OF SOUTH CAROLINA)

County of LEXINGTON)

MATTHEW ROLAND DARRAZS 375805)

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

v.)

State of South Carolina)

IN THE COURT OF COMMON PLEAS

2019-CR-32-03166

APPLICATION FOR

POST-CONVICTION RELIEF

2019 AUG -8 AM 11:44

LEE H. CORNER
CLERK OF COURT
LEXINGTON COUNTY
SOUTH CAROLINA

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 LEE CORRECTIONAL INSTITUTION
2. Name and location of Court which imposed sentence ELEVENTH JUDICIAL CIRCUIT, COURT OF GENERAL SESSIONS, LEXINGTON COUNTY
3. Name(s) of co-defendant(s) (if any) _____
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 2017 GS 3203453-454
 - (b) 2017 GS 3203460 - 462

- (c) _____
5. The date upon which sentence was imposed and the terms of the sentence:
 (a) MARCH 27, 2018 50 years violent (85%)
 (b) _____
 (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?
YES
8. If you answered "yes" to (7), list:
 (a) the name of each Court to which you appealed:
 i. SOUTH CAROLINA COURT OF APPEALS
 ii. _____
 iii. _____
 (b) the result in each such Court to which you appealed:
 i. THE MATTER WAS DISMISSED
 ii. _____
 iii. _____
 (c) the date of each such result:
 i. SEPT 26, 2018
 ii. _____
 iii. _____
 (d) if known, citations of any written opinion or orders entered pursuant to such results:
 i. unknown
 ii. _____
 iii. _____
9. If you answered "no" to (7), state your reasons for not so appealing:
 (a) _____
 (b) _____

- (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:
- (a) I WAS DENIED EFFECTIVE ASSISTANCE OF COUNCIL
- (b) MY RIGHT TO THE DUE PROCESS OF LAW WAS VIOLATED
- (c) I RESERVE THE RIGHT TO AMEND THIS APPLICATION
11. State concisely and in the same order the facts which support each of the grounds set out in (10):
- (a) _____
- (b) _____
- (c) _____
12. Prior to this application have you filed with respect to this conviction:
- (a) any petition in a State Court under South Carolina Law? YES
- (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. APPEAL POST-CONVICTION TO THE SC. COURT OF APPEALS
- ii. _____
- iii. _____
- iv. _____
- (b) the name and location of the Court in which each was filed:
- i. S.C. COURT OF APPEALS
- ii. _____
- iii. _____
- iv. _____

(c) the disposition thereof:

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

(d) the date of each such disposition:

- i. SEPTEMBER 26, 2018
- ii. _____
- iii. _____
- iv. _____

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

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

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

No

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

(a) which grounds have been presented:

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

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

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

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

- (a) This is my first PCR
 (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? _____
 (c) your sentencing? YES
 (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? YES
 (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed?

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

- (a) the name and address of each attorney who represented you:
 i. DAVID M. MAULDIN, ELEVENTH CIRCUIT PUBLIC DEFENDER, 202 E. MAIN STREET, LEXINGTON, SC 29072
 ii. _____
 iii. _____
 (b) the proceedings at which each such attorney represented you:
 i. BOND REDUCTION HEARING - JANUARY 2017
 ii. PLEA BARGAIN HEARING - MARCH 2018
 iii. _____

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

I AM SEEKING A NEW TRIAL
I WOULD LIKE MY CONVICTION OVERTURNED

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

NO

STATE OF SOUTH CAROLINA)

County of LEXINGTON)

VERIFICATION

I, MATTHEW ROLAND DARRAZ, 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.

Matthew Darraz

SWORN to and subscribed before me this 6
day of Aug., 2019.

Debra Eastwood (L.S.)
Notary Public

My Commission Expires: 3/3/2021

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

I, MATTHEW ROLAND DARAZS, 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.

Matthew Darazs
Matthew Darazs Applicant

SWORN or affirmed to and subscribed before me this
6 day of Aug, 2014.

Debra Estrada
Notary Public

My Commission Expires: 3/3/2016

7/31/2019

(Page 3 Attachment)

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

(a) I was misinformed by my attorney as to the outcome of my guilty plea, and would have never plead guilty had I been properly informed; My attorney failed to interview/call many witnesses who would have been vital to my receiving a fair and just plea agreement; I am certain there are many other clear examples of my attorneys' ineffectiveness which severely effected the outcome of my guilty plea in an unjust way towards me.

(b) My right to due process was violated in a way that resulted in a very unjust outcome of my guilty plea; I am certain that there are numerous other violations that I would need to discuss with a qualified attorney (as mentioned above).

(c) I am not an attorney and therefore am not qualified to thoroughly review and present my case properly, and I am asking the Court to provide me with qualified representation in which to discuss these issues with and amend this application if necessary.

FILED

7/31/2019

Lisa M. Comer
Lexington County Clerk Of Court
205 E. Main Street
Ste. 146
Lexington, SC 29072

2019 AUG -8 AM 11:44

LISA M. COMER
CLERK OF COURT
7/31/2019

I am respectfully requesting to Clock-Stamp the enclosed document in order to file my Motion for Post-Conviction Relief, and ask that you please return one (1) copy for my records. Your timely assistance in this matter is greatly appreciated.

Respectfully Submitted,



Matthew Darazs #375805
Lee Correctional Institution/F6A – 1113
990 Wisacky Highway
Bishopville, SC 29010

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF LEXINGTON	)	FOR THE ELEVENTH JUDICIAL CIRCUIT
	)	
Matthew Roland Darazs, #375805,	)	Case No.: 2019-CP-32-3166
	)	
Applicant,	)	RETURN AND MOTION FOR A
	)	MORE DEFINITE STATEMENT
v.	)	
	)	
State of South Carolina,	)	
	)	
Respondent.	)	

The State (Respondent), making its return to the application for post-conviction relief filed by Matthew Roland Darazs (Applicant) on August 8, 2019, would respectfully show this Court:

I. Procedural History

Applicant is presently incarcerated according to an order of commitment of the Lexington County Clerk of Court. During its October of 2017 term, the Lexington County Grand Jury indicted Applicant for first-degree assault and battery (2017-GS-32-3462), incest (2017-GS-32-3460), and three counts of second-degree criminal sexual conduct with a minor (2017-GS-32-3453; -3454; -3461).¹ Applicant was represented by Assistant Public Defender David Michael Mauldin (plea counsel) and Assistant Solicitor Kate Whetstone Usry, of the Thirteenth Circuit Solicitor's Office, prosecuted the case. On March 27, 2018, Applicant appeared before the Honorable William P. Keesley and pleaded guilty as indicted without recommendations from the State; however, in accordance with a plea agreement, the State dismissed charges against Applicant for unlawful conduct towards a child (warrant 2016A3221100408), unlawful conduct towards a child (warrant 2016A3221100407), the possession of a controlled substance, first offense (warrant

¹ The indictments concern Applicant's sexually abusing two of his minor daughters, one of whom he impregnated, over a period of years. Plea Transcript 9-10.

2016A3220400164), and possession of a controlled substance with intent to distribute, first offense (warrant 2016A3220400163).

For second-degree criminal sexual conduct with a minor (2017-GS-32-3453), Judge Keesley sentenced Applicant to imprisonment for twenty years, plus costs and assessments, with credit for time served; he also ordered that Applicant be placed on the registry for child abuse and neglect, deferred restitution, found that Applicant committed non-consensual sexual battery, ordered Applicant to be placed on active electronic monitoring if he is ever released, ordered that Applicant be placed upon the sex offender registry if he is ever released, ordered Applicant that he is to have no contact with the victim, and ordered him to pay the court costs within one year of being released from prison. For second-degree criminal sexual conduct with a minor (2017-GS-32-3454), Judge Keesley sentenced Applicant to imprisonment for twenty years, to be served consecutively to the previous term, plus costs and assessments; he also put in place all other conditions imposed in the previous sentence. For second-degree criminal sexual conduct with a minor (2017-GS-32-3461), Judge Keesley sentenced Applicant to imprisonment for twenty years, to be served concurrently with the previous sentence, plus costs and assessments; he also put in place all other conditions imposed in the first sentence. For incest, Judge Keesley sentenced Applicant to imprisonment for ten years, consecutive to the first sentence; he also put in place all other conditions imposed in the first sentence. For first-degree assault and battery, Judge Keesley sentenced Applicant to imprisonment for five years, to be served concurrently with the first sentence, plus costs and assessments, with credit for time served; he also put in place all other conditions imposed in the first sentence.

Plea counsel filed a timely notice of appeal. Plea counsel indicated to the South Carolina Court of Appeals that he did not believe there existed a good faith basis to appeal the convictions

and sentences, and informed Applicant that Applicant would have to inform the Court of Appeals in writing of any issues Applicant wished to present to the Court. Applicant did not file a pro se explanation. The Court of Appeals dismissed the appeal, finding Applicant did not provide a sufficient explanation for the appeal as required by Rule 203(d)(1)(B)(iv), SCACR. State v. Darazs, S.C. Ct. App. Order filed September 26, 2016. The Remittitur was issued on October 17, 2018.

II. Current Application

On August 8, 2019, Applicant filed an application for post-conviction relief, in which he alleges he is entitled to relief on the following grounds:

1. Ineffective assistance of counsel:
 - a. "I was misinformed by my attorney as to the outcome of my guilty plea, and would have never plead guilty had I been properly informed;
 - b. "My attorney failed to interview/call many witnesses who would have been vital to my receiving a fair and just plea agreement; and
 - c. "I am certain that are many other clear examples of my attorneys' ineffectiveness which severely effected the outcome of my guilty plea in an unjust way towards me"; and
2. Due process violation:
 - a. "My right to due process was violated in a way that resulted in a very unjust outcome of my guilty plea"; and
 - b. "I am certain that are numerous other violations that I would need to discuss with a qualified attorney".

Applicant prays that the PCR court would grant relief by granting him a new trial and overturning his convictions. Attached to this return and incorporated by reference are the records of the Lexington County Clerk of Court regarding the subject convictions, the records from the Lexington County Clerk of Court regarding the charges dismissed as a part of the plea deal, the transcript from Applicant's plea hearing, and the application for post-conviction relief. Respondent reserves the right to amend this return upon receipt of any relevant materials.

III. Ineffective Assistance of Counsel

Applicant, like all other defendants, has the right to the assistance of effective counsel as provided by the Sixth Amendment to the United States Constitution. Strickland v. Washington, 466 U.S. 668 (1984); Lomax v. State, 379 S.C. 93, 665 S.E.2d 164 (2008). Applicant has the burden of proving the allegations in his post-conviction relief action, and when alleging that counsel was constitutionally ineffective, he must prove that “counsel’s conduct so undermined the proper functioning of the adversarial process that it cannot be relied upon as having produced a just result.” Strickland, 466 U.S. at 686. In evaluating allegations of ineffective assistance of counsel, the reviewing court applies the two-pronged test outlined in Strickland, 466 U.S. 668. First, Applicant must prove that counsel’s performance was deficient. Id.; Cherry v. State, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989). Under this prong, the court measures an attorney’s performance by its “reasonableness under prevailing professional norms.” Cherry, at 117, 386 S.E.2d at 625 (quoting Strickland, at 690). The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985). “Counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment.” Id. (citing Strickland, 466 U.S. at 690). Applicant must overcome this presumption to receive relief. Cherry, 300 S.C. at 118, 386 S.E.2d at 625. Second, counsel’s deficient performance must have prejudiced Petitioner 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. With respect to guilty plea counsel, Applicant must show that there is a reasonable probability that, but for counsel’s alleged errors, he would not have pleaded guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S.

52 (1985). The “prejudice prong ordinarily requires more than simply a defendant’s assertion that but for counsel’s deficient performance he would not have pled but would have gone to trial.” Stalk v. State, 383 S.C. 559, 563, 681 S.E.2d 592, 595 (2009). A defendant who pleads guilty on the advice of counsel may collaterally attack the plea only by showing: (1) counsel was deficient and (2) there is a reasonable probability that but for counsel’s errors, the defendant would not have pleaded guilty and would have insisted on going to trial. Roscoe v. State, 345 S.C. 16, 546 S.E.2d 417 (2001).

The standards do not establish mechanical rules; the ultimate focus of inquiry must be on the fundamental fairness of the proceeding whose result is being challenged. A court need not first determine whether counsel’s performance was deficient before examining the prejudice suffered by the defendant as a result of the alleged deficiencies. If it is easier to dispose of an ineffectiveness claim on the ground of lack of sufficient prejudice, that course should be followed. Strickland, 466 U.S. 668. Moreover, Strickland does not require a finding of ineffectiveness merely for deviation from some rigid rule of representation. Rather, Strickland requires the post-conviction relief applicant to prove “counsel made errors so serious that counsel was not functioning as the ‘counsel’ guaranteed the defendant by the Sixth Amendment.” Id. at 697. Therefore, the function of the post-conviction relief court is to determine if “in light of all the circumstances, the identified acts or omissions were outside the wide range of professional competent assistance” required of a criminal defense attorney. Id. at 690.

An applicant who enters a plea on the advice of counsel may only attack the voluntary and intelligent character of the plea by showing that counsel’s representation fell below an objective standard of reasonableness and that there is a reasonable probability that, but for counsel’s errors, the defendant would not have pleaded guilty, but would have insisted on going to trial. See Roscoe

v. State, 345 S.C. 16, 546 S.E.2d 417 (2001); Richardson v. State, 310 S.C. 360, 426 S.E.2d 795 (1993). While most claims that a plea was involuntary require a showing of ineffective assistance of counsel, there are two exceptions: (1) the applicant was not represented by counsel at the guilty plea; or (2) the plea was rendered involuntary based on the State's failure to disclose exculpatory evidence based on Brady v. Maryland, 373 U.S. 83 (1963). To find a guilty plea is voluntarily and knowingly entered into, the record must establish the defendant had a full understanding of the consequences of his plea and the charges against him. Boykin v. Alabama, 395 U.S. 238 (1969). 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." Roddy v. State, 339 S.C. 29, 34, 528 S.E.2d 418, 421 (2000) (citing State v. Ray, 310 S.C. 431, 437, 427 S.E.2d 171, 174 (1993)). A guilty plea is a solemn, judicial admission of the truth of the charges against an individual; thus, 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, 137-38, 654 S.E.2d 870, 874 (S.C. Ct. App. 2007) (citing Blackledge v. Allison, 431 U.S. 63 (1977)). Therefore, statements made during a guilty plea should be considered conclusive unless a criminal inmate presents valid reasons why he should be allowed to depart from the truth of his statements. Crawford v. United States, 519 F.2d 347 (4th Cir. 1975). "Indeed, where a thorough colloquy is conducted, courts must exercise caution in setting aside the guilty plea." Garren v. State, 423 S.C. 1, 12, 813 S.E.2d 704, 712 (2018); see 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").

A defense attorney has a duty to undertake reasonable investigations or to make a decision

that renders a particular investigation unnecessary. Strickland, at 691. Thus, “[a] criminal defense attorney has the duty to conduct a reasonable investigation to discover all reasonably available mitigation evidence and all reasonably available evidence tending to rebut any aggravating evidence introduced by the State.” McKnight v. State, 378 S.C. 33, 46, 661 S.E.2d 354, 360 (2008). A defense attorney’s “[f]ailure to conduct an independent investigation does not constitute ineffective assistance of counsel when the allegation is supported only by mere speculation as to the result.” Moorehead v. State, 329 S.C. 329, 334, 496 S.E.2d 415, 417 (1998) (citing Kibler v. State, 267 S.C. 250, 227 S.E.2d 199 (1976)). An applicant alleging that his attorney failed to prepare for the case must show how additional preparation would have resulted in a different outcome. Skeen v. State, 325 S.C. 210, 214, 481 S.E.2d 129, 132 (1997). Moreover, counsel’s decision not to investigate should be assessed for reasonableness under all the circumstances with heavy deference to counsel’s judgment. Simpson v. Moore, 367 S.C. 587, 597, 627 S.E.2d 701, 706 (2006). “[A] court deciding an actual ineffectiveness claim must judge the reasonableness of counsel’s challenged conduct on the facts of the particular case, viewed as of the time of counsel’s conduct.” Id. at 690; Bagwell v. State, 410 S.C. 259, 265, 763 S.E.2d 630, 633-34 (S.C. Ct. App. 2014).

Respondent submits that Applicant cannot likely cannot show that he is entitled to relief because he cannot meet his burden in showing that his attorney’s performance was deficient and that Applicant would not have pleaded guilty but for the deficiency. At his plea hearing, the plea court informed Applicant that he had the right to a jury trial, during which he would have trial rights, including the right to cross-examine the State’s witnesses; Applicant affirmed that he understood those rights. Transcript 8. Applicant affirmed that he understood that, by pleading guilty, he was giving up the right to challenge the State’s evidence and was instead admitting his

guilt. Transcript. 9. Respondent requests an evidentiary hearing in order to address the questions of fact raised that the record may not conclusively refute. See Sharper v. State, 279 S.C. 264, 265, 305 S.E.2d 247, 248 (1983) (holding that an evidentiary hearing is required when an application for post-conviction relief alleges specific instances of ineffectiveness that are not conclusively refuted by the record) (citing Norman v. State, 276 S.C. 278, 277 S.E.2d 707 (1981)).

IV. Motion for a More Definite Statement

Respondent moves for a more definite statement as to Applicant's allegations. Applicant alleges plea counsel was constitutionally ineffective for failing to call witnesses who would have been beneficial to Applicant, but Applicant fails to provide the names of these supposed witnesses or explain what benefit would have been gained through their testimonies. Applicant alleges his due process rights were violated, but fails to explain the way in which those rights were supposedly violated. Applicant alleges plea counsel misinformed him about his pleas, but does not explain what the nature of counsel's misinformation was. Applicant alleges plea counsel committed other errors, but does not explain what those alleged errors were. Applicant fails to set forth with specificity the facts and circumstances upon his claims are based. The Uniform Post-Conviction Procedure Act requires that Applicant must "specifically set forth the grounds upon which the application is based." Section 17-27-50 of the Code of Laws of South Carolina (1976). In an application for post-conviction relief, it is incumbent upon Applicant to make at least a prima facie showing which would entitle him to relief before an evidentiary hearing will be scheduled and held. Welch v. MacDougall, 246 S.C. 258, 143 S.E.2d 455 (1965); Blandshaw v. State, 245 S.C. 385, 140 S.E.2d 784 (1965). The Supreme Court of South Carolina has provided that:

[M]ere allegations of incompetency or ineffectiveness of counsel will not ordinarily suffice as grounds for a new trial under the Post-Conviction Procedure Act. The bare assertion by the appellant that he was deprived of counsel is insufficient.

Coardes v. State, 262 S.C. 493, 497, 206 S.E.2d 264, 265 (1974).

Furthermore, Rule 8(a), SCRCRCP, requires all civil pleadings include “a short and plain statement of the facts showing that the pleader is entitled to relief.”

Applicant has failed to state with any specificity the specific facts giving rise his allegations. Respondent moves pursuant to Rule 12(e), SCRCRCP, to require Applicant to provide a more definite statement of his claims. Respondent moves to require Applicant to file an amended application well in advance of any evidentiary hearing scheduled in this matter. If Applicant fails to file a timely and responsive amended application setting forth specific allegations for relief, Respondent reserves the right to move to dismiss the relevant allegation(s).

V. Denial of All Other Allegations

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

VI. Future Amendments and the Discovery Process

Applicant must specify any claims he intends to raise at the post-conviction relief evidentiary hearing. All claims should be made well in advance of the evidentiary hearing. Because Applicant has been appointed counsel, that attorney and not the Applicant is the only individual authorized to file amendments to this application for post-conviction relief. See Rule 11, SCRCRCP. Pro se filings will not be considered at the evidentiary hearing. Respondent reserves the right to request that any amendments withheld until the last minute be stricken because of undue prejudice to Respondent pursuant to Love v. State, Op. No. 27921 (S.C. Sup. Ct. filed October 2, 2019) (Shearhouse Adv. Sh. No. 39 at 14), or, alternatively, Respondent will move for a continuance in the matter. See Love, at 24 (Kittredge, J., dissent) (“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.”).

VII. Conclusion

WHEREFORE, Respondent requests that the PCR Court require Applicant to provide a more definite statement as requested herein and hold an evidentiary hearing regarding Applicant's allegations.

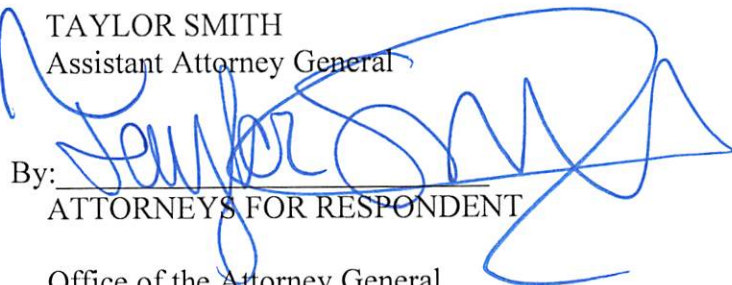
Respectfully submitted,

ALAN WILSON
Attorney General

W. JEFFREY YOUNG
Chief Deputy Attorney General

MEGAN HARRIGAN JAMESON
Senior Assistant Deputy Attorney General

TAYLOR SMITH
Assistant Attorney General

By: 
ATTORNEYS FOR RESPONDENT

Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211
Telephone: (803) 734-3737

March 4, 2020

STATE OF SOUTH CAROLINA	)	
	)	
COUNTY OF LEXINGTON	)	IN THE COURT OF COMMON PLEAS
	)	ELEVENTH JUDICIAL CIRCUIT
MATTHEW DARAZS,	)	CASE NO.: 2019-CP-32-03166
	)	
Applicant,	)	
	)	
v.	)	AMENDMENT TO APPLICATION
	)	FOR POST CONVICTION RELIEF
STATE OF SOUTH CAROLINA,	)	
	)	
Respondent.	)	
	)	

Applicant, by and through his undersigned attorney, hereby amends his application for Post-Conviction Relief filed August 8, 2019. This amended complaint adopts and includes all grounds in the original application. Applicant further alleges as additional grounds regarding his claim of ineffective assistance of counsel and denial of Due Process as follows:

1. Applicant's counsel David Mauldin failed to request to withdraw the plea or to object during the guilty plea, to a request by the states witness, Investigator Turner for "a consecutive sentence and the max punishment" (page 35 line 15-16). This was after the applicant was informed that the only plea agreement was for a dismissal of the other charges (p.20, lines 7-9) and there was not supposed to be a recommendation by the state for a sentence.
2. Applicant's counsel David Mauldin failed to request to withdraw the plea or to object during the guilty plea to a request by the states witness, Investigator Morris for "the max consecutive sentence on these charges" (page 36 line 15-17). This was after the applicant was informed that the only plea agreement was for a dismissal of the other charges (p.20, lines 7-9) and there was not supposed to be a recommendation by the state for a sentence.
3. Applicant's counsel David Mauldin failed to request to withdraw the plea or object during the guilty plea to a request by the Asst. Solicitor Kate Usry for "a consecutive max sentence, so a

total of 80 years” (page 36 line 22-25) This was after the applicant was informed that the only plea agreement was for a dismissal of the other charges (p.20, lines 7-9) and there was not supposed to be a recommendation by the state for a sentence.

4. Applicant was not allowed to have David Mauldin relieved as his counsel following the denial of a previous motion by applicant and applicant felt coerced by this.

5. Applicant’s counsel David Mauldin failed to interview MINOR 5 or other witnesses to offer mitigation in response to the states witnesses.

6. Applicant’s counsel David Mauldin failed to file a motion to reconsider the sentence or to discuss this with applicant following the plea.

7. Applicant’s counsel David Mauldin failed to properly investigate this case or prepare applicant for his plea.

8. Applicant’s counsel David Mauldin failed to review evidence with applicant.

Furthermore, the Applicant requests that he be permitted to Amend his PCR application to conform to the evidence presented at the PCR hearing should any new or unaddressed issues arise during the course of the hearing that have not been specifically addressed in the Application. See Simpson v. Moore, 367 S.C. 587, 627 S.E.2d 701 (2006).

Respectfully submitted,



OLA JOHNSON
 Attorney for Applicant
 P.O. Box 549
 Lexington, SC 29071
 803-360-8692 Phone
 olajohnsonlaw@gmail.com

This 16 day of June, 2021.

STATE OF SOUTH CAROLINA

COUNTY OF LEXINGTON

MATTHEW DARAZS,

Applicant,

v.

STATE OF SOUTH CAROLINA,

Respondent.

IN THE COURT OF COMMON PLEAS
ELEVENTH JUDICIAL CIRCUIT**CASE NO.:** 2019-C-P32-03166**CERTIFICATE OF SERVICE**

I, Ola Johnson, hereby certify on that on June 16, 2021, I served a copy of the AMENDMENT TO APPLICATION FOR POST CONVICTION RELIEF on Taylor Z. Smith, Assistant Attorney General by Email and U.S. Mail to the following address:

Taylor Z. Smith, Asst. Attorney General

SC Attorney General's Office

P.O. Box 11549

Columbia, S.C. 29211

Date

6-16-21



OLA JOHNSON

State of South Carolina
County of Lexington

Court of General Sessions

Matthew Darazs,	)	
	)	
Applicant	)	
	)	
v.	)	Transcript of Record
	)	2017-GS-32-3453
	)	2017-GS-32-0454
State of South Carolina,	)	2017-GS-32-3460
	)	2017-GS-32-3461
<u>Respondent.</u>	)	2017-GS-32-3462

June 8, 2023
Lexington, South Carolina

B E F O R E:

The Honorable Jocelyn Newman, Judge.

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

Ola Johnson, Esquire
Attorney for the Applicant

Taylor Z. Smith, Assistant Attorney General
Attorney for the Respondent

Bethanie K. Creppon
Circuit Court Reporter

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1

E X H I B I T S

2

NO.DESCRIPTIONID.EVD.

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(No Exhibits.)

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

2 * * *

3 THE COURT: All right. From the State?

4 MR. SMITH: May it please the Court?

5 THE COURT: Yes, sir.

6 MR. SMITH: This is the case of
7 Darazs v. State, spelled D-a-r-a-z-s. Case number
8 is 2019-CP-32-3166.

9 Mr. Darazs is imprisoned in South Carolina
10 right now. In October of 2017, he was indicted for
11 first degree assault and battery incest and three
12 counts of CSC with a minor second.

13 On March 27th, 2018, he appeared before Judge
14 Keesley and pleaded guilty as indicted without a
15 recommendation, and the State dismissed certain
16 charges against him including unlawful conduct
17 towards a child; unlawful conduct towards a child,
18 again; possession of controlled substance first; and
19 possession of a controlled substance with intent to
20 distribute first.

21 Judge Keesley sentenced him to 20 years
22 imprisonment for criminal sexual conduct with a
23 minor in the second degree and other orders with
24 that along -- that Mr. Darazs would be on the sexual
25 offender registry and be placed on electronic

1 monitoring if he's ever released, and then imposed
2 another consecutive sentence for 20 years for CSC
3 with a minor second degree, and then an additional
4 consecutive sentence for criminal sexual conduct
5 with a minor second for 20 years so that -- my math
6 may be off, but the aggregate sentence was 50 years.

7 THE COURT: So it was 10 years on the incest.
8 That other CSC, the second CSC, was 20 years
9 concurrent to the first CSC. It looks like 20 and
10 then a consecutive 20 and then a third 20 years that
11 was concurrent and then 10 years on incest, which
12 was consecutive.

13 MR. SMITH: Right. I'm sorry, Judge. Thank
14 you for the clarification.

15 On appeal, Mr. Darazs's lawyer did not believe
16 there was good-faith bases to appeal, and Mr. Darazs
17 did not file his own guilty plea explanation to the
18 Court of appeals, which then dismissed the appeal on
19 the basis that there was insufficient explanation
20 for the appeal under Rule 203. And since then,
21 Mr. Darazs has filed his application.

22 The issues raised in the pro se application
23 were that, one, he was misinformed about the outcome
24 of the guilty plea and, two, a due process
25 violation, which might be the same thing as the

1 first. And then Mr. Johnson has filed an amended
2 application, and I'd like Mr. Johnson to confirm
3 that those are the only issues before the Court
4 today.

5 MR. JOHNSON: That's correct, Your Honor, with
6 my amended application. Do you have a copy of that,
7 Judge?

8 THE COURT: Yes. I do this time.

9 MR. JOHNSON: That's all we have. If I may
10 proceed, I'll call my first witness.

11 THE COURT: Yes, sir, call your first witness.

12 MR. JOHNSON: Thank you, Your Honor.

13 I call Mr. Darazs.

14 MATTHEW DARAZS

15 being first duly sworn, testified as follows:

16 THE DEFENDANT: Yes, ma'am.

17 THE CLERK: Have a seat and state your full
18 name for the record, please.

19 THE DEFENDANT: Matthew Darazs.

20 DIRECT EXAMINATION

21 BY MR. JOHNSON:

22 Q. Mr. Darazs, who represented you in this matter?

23 A. David Mauldin.

24 Q. And when you went forward with this, explain;
25 did he properly inform you of what the potential

1 outcome of this plea could be and what your sentence
2 could be?

3 A. He informed me that, I guess, it was just an
4 open plea from zero to 80.

5 Q. Okay. And you put in here in your application
6 failed to call witnesses. Tell me about that.

7 A. He didn't provide any, you know, character
8 witnesses, character references.

9 Q. Okay. And as representation with you -- as we
10 go forward, I'll cite in the amended application --
11 during this guilty plea, do you recall where there
12 was an Investigator Turner testifying, requesting a
13 consecutive sentence in the max punishment? Do you
14 remember that?

15 A. Yes, sir.

16 Q. And at that time, did Mr. Mauldin request to
17 withdraw the plea or object to that?

18 A. No, sir.

19 Q. Was it your understanding that that -- under
20 your impression, this would be a situation where
21 there would be no recommendations?

22 A. Right.

23 Q. And did you feel as though he should have done
24 something to address that; to either withdraw the
25 plea or object to it?

1 A. Yes. Right. I mean, I could have gone to
2 trial instead of, you know...

3 Q. Okay. And referencing, Judge, I put on there
4 page 35, lines 15 through 16 just to be exact. That
5 was the statement by Investigator Turner, introduced
6 by the State.

7 Let's see. Referencing page 20, lines 7
8 through 9, do you recall that there was a statement
9 made by the Court that the only plea agreement is
10 for dismissal of other charges?

11 A. Yes, sir.

12 Q. So there wasn't supposed to be any
13 recommendation at all about sentencing from the
14 State?

15 A. No.

16 Q. And moving to Number 2, out of the amended
17 application -- once again, this being Investigator
18 Morris -- page 36, lines 15 through 17, do you
19 recall Investigator Morris stating -- requesting the
20 max consecutive sentence on these charges?

21 A. Yes, sir.

22 Q. And that, once again, you heard the Court say
23 you've been advised by your attorney that there
24 would be no recommendations as was straight up
25 planned.

1 A. That's correct.

2 Q. And going to Number 3, where the solicitor,
3 Ms. Usry, stated --

4 And, Judge, I'll just reference, this was
5 moving to page 36, lines 22 through 25.

6 During the guilty plea to request by
7 assistance, solicitor asked for consecutive max
8 sentence so a total of 80 years, and this was after
9 the Applicant was informed of the length of plea
10 agreements for dismissal of other charges. Do you
11 recall the solicitor stating that at your plea?

12 A. Yes, sir.

13 Q. Did Mr. Mauldin do anything to object or to
14 withdraw your plea?

15 A. No, sir.

16 Q. Was it your understanding that was not supposed
17 happen? There was not supposed to be a
18 recommendation?

19 A. Yes, sir.

20 Q. And you were advised that by Mr. Mauldin?

21 A. Yes, sir. He did not indicate that they would
22 be going for maximum consecutive.

23 MR. JOHNSON: Excuse me, Judge, just one
24 second.

25 THE COURT: Yes, sir.

1 BY MR. JOHNSON:

2 Q. And I'll just -- to recite the language from
3 the solicitor -- stated by Ms. Usry, we echo the
4 West Columbia Police Department as well as the
5 victim in asking for consecutive max sentence, so a
6 total of 80 years.

7 And you recall that that took place with no
8 objection by Mr. Mauldin?

9 A. Yes, sir.

10 Q. Did you attempt to relieve Mr. Mauldin as your
11 attorney or have him relieved?

12 A. Yes, sir.

13 Q. What happened when you made that effort?

14 A. He brought me in front of Judge McMahon, and he
15 refused to relieve him as my counsel.

16 Q. And did you -- did Mr. Mauldin interview

17 MINOR 5 or other witnesses that you
18 requested?

19 A. No, sir.

20 Q. And as you stated -- under Number 5 is what I'm
21 referencing -- failed to offer any witnesses in
22 mitigation response to State's witnesses?

23 A. That's correct. Basically no defense.

24 Q. Do you feel like you were coerced in the
25 preparation of this case so you had to do -- had to

1 enter a guilty plea?

2 A. It just felt hopeless. I mean, it didn't feel
3 like he was helping me. You know, I tried to
4 relieve him as counsel and then they -- you know,
5 they brought me to my plea, you know. And then at
6 the end, you know, he asks me, you know, "Are you
7 happy with your lawyer or any of this?" I mean,
8 it's like -- it felt like a joke.

9 Q. Moving to Number 6, Judge, on the amended
10 application.

11 Did Mr. Mauldin file a motion to reconsider
12 after you -- did you request that of him?

13 A. I'm sorry. Say again.

14 Q. Did you request that Mr. Mauldin file a motion
15 to reconsider the sentence?

16 A. Yes -- I -- I'm not sure.

17 Q. Do you remember if you asked him to do that?

18 A. Was that at the very end of the appeal?

19 Q. After -- the end of the plea.

20 A. That's the appeal part?

21 Q. Before the appeal, did you ask -- after the
22 sentencing, did you ask Mr. Mauldin to file a motion
23 to reconsider the sentence?

24 A. I'm not sure.

25 Q. Now, did Mr. Mauldin -- do you feel he did a

1 sufficient investigation of your case?

2 A. No, sir.

3 Q. Did he ever have a private investigator come
4 talk to you?

5 A. Not that I know of.

6 Q. Did he ever sit down with you and review the
7 evidence in this case?

8 A. No, sir.

9 Q. How many times did Mr. Mauldin sit down and
10 come visit you to talk about this case?

11 A. Two or three times in the 20 months I was in
12 the County.

13 Q. Just to be clear, you said two or three times?

14 A. Two or three, yeah. They were very brief.

15 Q. Do you feel like you were adequately prepared
16 for this plea?

17 A. No, sir.

18 Q. Did you fully understand the sentencing and all
19 the possible sentences that could occur or be handed
20 down by the Court?

21 A. He did not indicate that I'd be receiving that
22 sort of time.

23 Q. You got the impression you'd get less?

24 A. It was -- I mean, my understanding that most
25 plea bargains are concurrent sentencings, and he

1 didn't indicate anything otherwise.

2 Q. Did he say anything to you to give you that
3 understanding?

4 A. He definitely didn't say otherwise. When I
5 asked him what his opinion was about what I'd
6 receive, he said he was hoping for 20. And that was
7 kind of confusing, but he didn't elaborate.

8 Q. Okay.

9 A. So if --

10 Q. Anything else you feel like he should have
11 done?

12 A. I was just going to say, if he knew that that's
13 what they were going to recommend, he didn't share
14 that with me. And if he didn't know then, he was
15 blindsided by it. Then he, you know, certainly
16 didn't object to -- override that.

17 Q. And you feel the plea should not have gone
18 forward once that was done by the State?

19 A. I didn't know that was an option but, yes.

20 Q. You don't know, but you feel at that time --

21 A. If he could have even objected and withdrawn
22 the plea, that would have been preferable. You
23 know, you waive all your rights at a plea. And at a
24 trial you get a fair bite of the apple.

25 Q. Okay.

1 MR. JOHNSON: Your Honor, I have no more
2 questions.

3 THE COURT: Cross-examination?

4 MR. SMITH: Thank you.

5 CROSS-EXAMINATION

6 BY MR. SMITH:

7 Q. Mr. Darazs, you did have more meetings than two
8 or three with Mr. Mauldin, didn't you?

9 A. It's been six years.

10 Q. So you don't remember how many meeting you had?

11 A. It didn't seem like that many.

12 Q. And when he met with you, he reviewed the
13 evidence, though, didn't he?

14 A. We never went over my discovery.

15 Q. So you pled guilty -- that's your testimony,
16 that you pled guilty without ever reviewing your
17 evidence?

18 A. Yes, sir.

19 Q. Didn't you admit to Mr. Mauldin that you were
20 guilty?

21 A. Yes.

22 Q. Okay. And you said earlier that Mr. Mauldin
23 talked to you about the potential sentences you
24 could get, right?

25 A. Yes.

1 Q. Okay. And you testified earlier that, at the
2 plea hearing, you heard when Judge Keesley say the
3 plea is -- the terms of the plea don't have to be on
4 the record, right?

5 A. I don't recall.

6 Q. You don't remember? Okay.

7 And you remember when you told Judge Keesley
8 that no one had made you any promises in exchange
9 for your plea?

10 A. That's correct.

11 Q. And you told him you were satisfied with
12 Mr. Mauldin's representation and couldn't think of
13 anything else you wanted him to do?

14 A. Well, again, it seemed like the question was --
15 you know, I mean, I'm at the mercy of what's going
16 on here. So when I try to relieve him and I can't
17 relieve him, you know, there's not really much --

18 Q. I'm talking about the date of your plea
19 hearing.

20 A. Yes, sir.

21 Q. Judge Keesley -- you were under oath, right?
22 Right?

23 A. Right.

24 Q. And Judge Keesley asked you were you satisfied
25 with what Mr. Mauldin has done for you. You told

1 him you were, right?

2 A. I only said that because I knew that there was
3 nothing that was going to be done to get me better
4 representation.

5 Q. You didn't ask for that, right?

6 A. I did.

7 Q. You didn't bring that up?

8 A. I asked to relieve him.

9 Q. In -- the day of your plea hearing?

10 A. No.

11 Q. And you agreed with Judge Keesley, you couldn't
12 think of anything else you wanted Mr. Mauldin to do,
13 right? Yes?

14 A. At the time, yes. I hadn't slept in four days.

15 Q. Okay. Did you tell Judge Keesley you were
16 confused and hadn't slept in four days?

17 A. No.

18 Q. Got plenty of sleep for today?

19 A. No.

20 Q. Okay. And you agreed with Judge Keesley, you
21 had met with Mr. Mauldin a sufficient number of
22 times?

23 A. I don't recall.

24 Q. You don't remember? Okay.

25 And didn't you agree with Judge Keesley, you

1 understood he could give you up to 80 years in
2 prison?

3 A. Yes, I did.

4 Q. And you told him, even after all that, you
5 wanted to waive your rights and plead guilty, right?

6 A. Yes.

7 Q. What witnesses did you want Mr. Mauldin to
8 interview?

9 A. Any one of them would have been -- you know,
10 any -- any would have been great.

11 Q. "Of them," who?

12 A. Family members.

13 Q. What family members?

14 A. Children -- my children, my wife.

15 Q. Which ones?

16 A. The ones that were living in the house when
17 these things occurred.

18 Q. Someone different than the ones you molested?

19 A. Yes, sir. People who could have verified that
20 the living conditions weren't hostile as the victims
21 stated in their testimony.

22 Q. Are they here today?

23 A. Sir?

24 Q. Are they here today?

25 A. I don't have glasses. I don't know what's

1 going on.

2 MR. SMITH: Okay. No more questions. Thank
3 you.

4 THE COURT: Any redirect?

5 MR. JOHNSON: No, Judge.

6 THE COURT: All right. You can go sit back
7 next to your lawyer.

8 Call your next witness.

9 MR. JOHNSON: We have no more witnesses.

10 THE COURT: From the State?

11 MR. SMITH: Your Honor, we'd call Mr. David
12 Mauldin.

13 DAVID MAULDIN

14 being first duly sworn, testified as follows:

15 THE WITNESS: Yes, ma'am.

16 THE CLERK: Have a seat and state your full
17 name, please.

18 THE WITNESS: My name is David Mauldin,
19 M-a-u-l-d-i-n.

20 DIRECT EXAMINATION

21 BY MR. JOHNSON:

22 Q. Mr. Mauldin, when were you admitted to practice
23 in South Carolina?

24 A. 1997.

25 Q. Can you give me a summary of your legal

1 experience since then?

2 A. After law school, I worked for George Sink for
3 about eight months or so and decided that wasn't for
4 me and that I wanted to do criminal law. And I
5 ended up working in Aiken from 1999 to the end of
6 2008. And I've been working here in Lexington at
7 the public defender's office. I've been at the
8 public defender's office here since 2008 with like a
9 ten-month break in 2012. I took a little
10 sabbatical.

11 Q. How did you get involved in Mr. Darazs's case?

12 A. Our office got appointed and the file was
13 assigned to me by Beth Fullwood.

14 Q. What do you remember about the facts of the
15 case?

16 A. Mr. Darazs was accused of molesting two of his
17 daughters over several years. He impregnated one of
18 them. He also was accused of molesting his son.
19 That was in Richland County. That was his CSC
20 first. And it's typical -- Richland let Lexington
21 take care of everything. And they thought that was
22 fine -- Lexington did -- and they dropped the charge
23 over there.

24 He confessed to molesting both of his children.
25 One of them was impregnated and the DNA showed that

1 it was his child. And that was about it.

2 Q. How many times did you meet with Mr. Darazs?

3 A. Had an initial visit with him August 19th of
4 2016. I visited him on December 9th of 2016 to
5 discuss a bond hearing that we were going to have on
6 January 5th, which we had together. Visited him on
7 April 19th of '17 to talk about having Dr. McKee
8 evaluate him psychosexually to see if there would be
9 anything to argue in mitigation on the report.

10 I met with him May 16th of '17. We reviewed
11 the discovery. In September 22nd of '17, I reviewed
12 the case with him again. We discussed that
13 Dr. McKee was going to come visit him in October.

14 On January 4th of '18, the plea offer came
15 through. I reviewed that with him. There were some
16 direct indictments that were presented besides the
17 ones that he had. I don't remember the exact
18 configuration. There were quite of number of
19 charges.

20 Let's see. I negotiated with the solicitor.
21 Didn't go far because, like I said, he had confessed
22 and there was DNA evidence that he impregnated one
23 of his children. So they did not really have a lot
24 of incentive to plea bargain.

25 Let's see. After that discussion with the

1 solicitor, I went to him in February 22nd of '18,
2 reviewed my discussions with the solicitor with him
3 and informed him that the solicitor wanted him to --
4 he either plead or he would go to trial in April,
5 that she wouldn't negotiate nonviolent charges.

6 Visited him again February 28th of '18. He had
7 not made up his mind yet regarding the plea bargain.
8 There was some communication, I guess, between them,
9 maybe on the phone, but then I met with him on
10 March 8th of '18 to discuss the court date and the
11 services of the indictments. And he did --
12 indicated that he wanted to plea.

13 Visited him March 22nd of '18 to discuss the
14 plea date again and to go over the plea, and he gave
15 me numbers for his sister and mother. And then on
16 March 27th of '18 was the day of the plea.

17 Q. So that's more than two or three meetings,
18 right?

19 A. Yes.

20 Q. Did you communicate with Mr. Darazs outside of
21 those meetings by phone, letter, or e-mail?

22 A. Usually phone. I'm not as good as to write
23 down phone calls as I am visits because sometimes I
24 take those on the fly. I don't go file on --

25 Q. Right. How many phone calls do you think you

1 had with him?

2 A. I couldn't tell you.

3 Q. Was it maybe more than five? less than five?

4 A. It's hard to say. I mean, really -- I'm in
5 court a lot, and I miss a lot of calls. And people
6 aren't happy with that, but I try to get to see them
7 every couple of months or so at least.

8 Q. Okay. So you mentioned that you discussed the
9 discovery with Mr. Darazs. Do you remember what was
10 in the discovery?

11 A. Well, as I mentioned, he had confessed. I
12 believe there was a written confession and, again,
13 the DNA showing that he had fathered a child with
14 his daughter.

15 Q. Did he indicate to you that he didn't
16 understand the evidence?

17 A. No.

18 Q. The significance of it?

19 A. No. Not at all. And he never denied any of
20 it. And even when our office screener went to the
21 jail to get the initial information, he admitted it
22 then from -- from rip, from the get-go.

23 Q. So did he admit to you that he was guilty?

24 A. Yes.

25 Q. Okay. What sort of investigation did you do in

1 this case?

2 A. Well, there wasn't much factual investigation
3 to do when he confessed and the DNA was against him.
4 And he -- he wasn't denying it, but, I mean, with
5 that kind of evidence, it would not really be a good
6 case for a trial.

7 Q. Did he --

8 A. And apparently it wasn't a good case for a plea
9 either, but there you are.

10 Q. Did he make any suggestions to you about
11 investigations he wanted you to do?

12 A. No.

13 Q. Did he ask you to interview any witnesses?

14 A. Not that I recall.

15 Q. Okay. What about MINOR5 ?

16 A. Not that I recall. When he -- he would ask
17 for -- I think I called his mom regarding a bond
18 hearing and contacted what family he wanted me to
19 contact to show up for the bond hearing or the plea.

20 Q. Did you do those things when he asked you to?

21 A. Yes.

22 Q. Did you ever have serious discussions about
23 trial in this case?

24 A. I didn't recommend it, obviously, with the
25 evidence that there was. I mean, in looking on

1 hindsight, if I knew he was going to get 50 years, I
2 would have told him to go to trial because that's a
3 life sentence.

4 Q. Did he --

5 A. The hope was that he wouldn't get, you know,
6 that much time. And I had hoped for maybe for more
7 concurrent sentences than was given, maybe in the 20
8 to 30 range, but that was exceeded.

9 Q. Did you tell him you hoped for something like
10 that?

11 A. Yes, I did.

12 Q. Did you make any promises?

13 A. No. I didn't say that's what he's going to
14 get. I just said that the hope would be that.

15 Q. Did you go over with him the possible
16 sentencing range he could get?

17 A. Yes.

18 Q. Okay. Did he --

19 A. I think it was mentioned before, but, again,
20 yes, I did.

21 Q. Okay. Did he give you any reason to believe he
22 didn't understand that?

23 A. No.

24 Q. Did he tell you he wanted a trial at any point?

25 A. No. He wanted a better plea deal, but --

1 Q. Right. Okay. You mentioned earlier about
2 having a psychosexual examination. Tell me about
3 that.

4 A. Dr. McKee examined him and, without going into
5 any kind of HIPAA stuff about what the doctor said,
6 I didn't think the report would be a favorable one
7 to use in mitigation.

8 Q. Okay. How many plea offers did you get in this
9 case?

10 A. Just the one.

11 Q. Okay. Tell me about the terms of that plea
12 deal.

13 A. It was the -- it's basically to plead straight
14 up to a number of charges, and the other charges
15 would be dismissed.

16 Q. Was part of that plea deal that both sides were
17 free to ask for whatever they wanted?

18 A. Well, I'll explain it like this -- and if I'm
19 wrong, I'm wrong. But usually, when I'm doing a
20 recommendation, it's usually something I've agreed
21 on with the solicitor. They were kind of agreeing.

22 I think there might have been one time or two I
23 said -- the solicitor said, "Oh, Mr. Mauldin is free
24 to argue lower." They did ask for that. I don't
25 think there was any indication from the solicitor

1 that they were intending to ask for the max or
2 anything like that during plea negotiations. And if
3 I failed by not objecting -- I didn't object --
4 okay, because it was done.

5 They asked for the max; they clicked the box
6 without recommendation; so -- but, like I said,
7 typically my understanding is, when you're doing a
8 recommendation or negotiation, kind of everybody is
9 on board with that.

10 Q. Okay. So when the -- you agree to pleading
11 straight up, did you think that that meant neither
12 side would ask for anything or that both sides
13 were --

14 A. Well, I think the defense always asks for
15 something even though it says without negotiations
16 or recommendations, typically.

17 Q. So what did you tell Mr. Darazs about the terms
18 of the plea deal?

19 A. That the Judge could give him up to 80 years
20 and that the hope was that he wouldn't get it that
21 bad.

22 Q. Did you tell him that there wouldn't be any
23 recommendations?

24 A. Yeah. That was -- I just -- straight-up plea,
25 yeah.

1 Q. Did it come up whether anybody could ask for
2 something more?

3 A. I don't recall.

4 Q. Okay.

5 A. But it happened.

6 Q. Okay. So I'm just trying to explain did you go
7 over with him -- did you talk with him about what
8 does it mean to plead straight up?

9 A. I don't think so.

10 Q. Okay.

11 A. I mean, basically -- like I said, typically,
12 when I'm doing a recommendation, it's something we
13 work out kind of together that we suggest to the
14 Judge that we think this is a good sentence.

15 Q. Okay. So you don't remember what you told
16 Mr. Darazs specifically?

17 A. No. Just straight-up plea; that they're not
18 recommending anything.

19 Q. Did you have any idea ahead of time that two
20 police officers would ask for a max sentence?

21 A. No.

22 Q. Okay. Did you have any idea that the solicitor
23 was going to ask for the max?

24 A. Nope.

25 Q. Okay.

1 A. That's the "Lexington special" sometimes.

2 Q. What did you do with Mr. Darazs to prepare for
3 the plea hearing?

4 A. Just discussed what I was going to say in my
5 speech, to call his family members.

6 Q. All right.

7 A. I mean, this is not a great case. There's not
8 really a good way to spin these facts.

9 Q. He had several children there making
10 statements, asking for sentences, right?

11 A. If that's in the record. I'm vague as to --

12 Q. In this case, Judge Keesley did not give him
13 the max, though, right?

14 A. Same difference. I mean, yeah, it's 30 years
15 less than 80, but it is still a significant
16 sentence.

17 Q. Okay. At the time, did you see any reason to
18 object when the solicitor and the officers asked for
19 the max?

20 A. I didn't think about it. I didn't do it,
21 obviously. It did not cross my mind at the time,
22 like I said. That's -- usually when it's a
23 recommendation, it's something worked out.

24 Q. And you remember you asked for concurrent
25 sentences?

1 A. Yes, I did.

2 Q. Okay. Did you discuss with Mr. Darazs whether
3 you should move for reconsideration?

4 A. No. I don't have any notes about that. He did
5 ask for an appeal and I did file that. So if he
6 would have asked for one, I would have done it.

7 MR. SMITH: Okay. No more questions. Thank
8 you.

9 THE COURT: Cross-examination?

10 MR. JOHNSON: Thank you, Your Honor.

11 CROSS-EXAMINATION

12 BY MR. JOHNSON:

13 Q. Mr. Mauldin, how many times total -- I can't
14 remember what you said. How many times total did
15 you visit with Mr. Darazs?

16 A. Including the plea date and bond hearing,
17 around -- between like 10 and 12.

18 Q. Okay. Did you deliver a physical copy of the
19 discovery to him?

20 A. Yes.

21 Q. Did you review any audio or video recordings
22 with him?

23 A. I don't recall.

24 Q. Did you ever have a private investigator meet
25 with him?

1 A. No, I did not.

2 Q. Did you interview anybody in the household?

3 A. Not that I recall.

4 Q. And during the plea, Investigator Turner
5 stated -- asking for a consecutive sentence max
6 punishment, on page 35. Did you respond to that
7 with any type of objection or sidebar to discuss
8 with your client or motion to withdrawal?

9 A. I did not.

10 Q. And when you had the statement by Investigator
11 Morris asking for max consecutive sentence on these
12 charges, did you do anything in response to that?

13 A. No, I did not.

14 Q. And when the solicitor asked for max sentence,
15 80 years, did you do anything in response to that?

16 A. No, I did not.

17 Q. Did you tell Mr. Darazs this would be a
18 straight-up plea where nobody would make
19 recommendations?

20 A. Again, typically, yes. I mean, we're getting
21 into semantics here. But, typically, when there is
22 a recommendation, it's something that we worked out
23 and you're all kind of on board with it.

24 I did not know -- if I had known the State was
25 going to ask for the max, I would have informed him

1 of that before the plea hearing. And that would
2 have been a consideration, obviously, in whether or
3 not he might have proceeded with the plea or not. I
4 don't know.

5 But, like I said, this wasn't a great case for
6 a trial either, but had I known he'd get that much
7 time, I probably would have gone to trial.

8 Q. Do you recall Mr. Darazs making a motion or
9 attempt to have you relieved as counsel prior to the
10 plea?

11 A. When he testified about it, it kind of jogged
12 my recollection a little bit. But, often, when you
13 have these serious cases and the plea dealings
14 aren't great, they -- your services are not
15 appreciated.

16 Q. But, basically, the resolution was you remained
17 his counsel?

18 A. That's correct. And I don't remember if it was
19 one of those things like, if I take Mr. Mauldin off,
20 you're going to have to represent yourself or -- you
21 know, or just a straight denial.

22 Q. Just, specifically, you never had MINOR 5
23 [REDACTED] interviewed?

24 A. No.

25 Q. No other witnesses interviewed for mitigation

1 of the plea?

2 A. I did call his mother and sister. I didn't
3 read the transcript, if they said something during
4 the plea. They might not have. Typically, if
5 family comes, I ask them if they want to say
6 anything, and if they don't, they don't. I mean, I
7 don't force them to get up.

8 So if they said something, then, yeah, but if
9 they didn't say anything, it's because they didn't
10 want to say anything.

11 Q. Is it possible that Mr. Darazs did request the
12 motion to reconsider sentence but you just don't
13 remember that or?

14 A. Typically, when they request stuff like an
15 appeal or a motion to reconsider, I do that.
16 Nothing is 100 percent, obviously, but -- but
17 appeal, definitely.

18 Q. Okay. Did you properly explain all the
19 potential sentences to Mr. Darazs?

20 A. That's right.

21 Q. Okay. And you felt he understood everything?

22 A. Yes, I do.

23 Q. And after speaking with the doctor, you felt
24 like producing that report -- presenting that
25 testimony would not be helpful?

1 A. That is correct.

2 Q. Is that a doctor you've used before?

3 A. Yes. He used to be on the SVP board with the
4 department of mental health.

5 MR. JOHNSON: Okay. No more questions,
6 Your Honor.

7 THE COURT: Redirect?

8 MR. SMITH: Yes, Your Honor.

9 REDIRECT EXAMINATION

10 BY MR. SMITH:

11 Q. Mr. Mauldin, what is the doctor's first name?

12 A. Geoffrey McKee, G-e-o-f-f- --

13 Q. Is it your habit to file a motion to reconsider
14 if your client asked for it?

15 A. Yes.

16 Q. Do you think you would have done that in a
17 situation where a client got a -- such a lengthy
18 sentence, if he asked you?

19 A. I might have. Sometimes I explain to the
20 client that it would be really beneficial to present
21 something extra if there was something not
22 presented, and we would work on that. Because,
23 typically, I guess, in my mind, a motion to
24 reconsider has got to be based on something new that
25 hadn't been presented to the judge before, or at

1 least I've had some judges tell me that so like --
2 other than just "Come on, Judge," that kind of
3 stuff; so...

4 MR. SMITH: Thank you. No more questions.

5 THE COURT: Anything further, Mr. Johnson?

6 MR. JOHNSON: Just one question.

7 RECROSS EXAMINATION

8 BY MR. JOHNSON:

9 Q. Did you ever advise Mr. Darazs about the
10 possibility of a motion to reconsider?

11 A. Probably not.

12 Q. Probably not? Okay.

13 A. The kind of cases I do, I would be doing
14 motions to reconsider on every case.

15 Q. Okay.

16 MR. JOHNSON: No more questions, Your Honor.

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

18 MR. SMITH: Your Honor, I'd call Kate Usry
19 next.

20 KATE USRY

21 being first duly sworn, testified as follows:

22 THE WITNESS: I do.

23 THE CLERK: Please have a seat and state your
24 full name, ma'am.

25 THE COURT: Kate Usry.

1 DIRECT EXAMINATION

2 BY MR. SMITH:

3 Q. Ms. Usry, when were you admitted to practice in
4 South Carolina?

5 A. In 2007.

6 Q. Can you give me a summary of your legal
7 experience since then?

8 A. Sure. So the first year after I graduated from
9 law school, I clerked for a judge, and then after
10 that I joined the Lexington County Solicitor's
11 Office. I stayed there for approximately 11 years.
12 And now I'm in private practice with the law firm of
13 Whetstone, Perkins & Fulda.

14 Q. How did you become involved in Mr. Darazs'
15 case?

16 A. As a solicitor, you're simply assigned cases,
17 and this is one of the ones that I was assigned. I
18 didn't have any control over --

19 Q. Okay.

20 A. -- how that would have been assigned to me.

21 Q. Okay. Can you tell me how the plea
22 negotiations developed in this case?

23 A. Sure. So when this case came from West
24 Columbia -- criminal sexual conduct cases depend on
25 the age of the victim. And, in this case, because

1 we had two different victims and it was chronic
2 sexual abuse, meaning it was over a number of years,
3 it looked -- when I first got the case -- and, like,
4 the West Columbia Police Department may have
5 attempted to do a good job on their warrants, but
6 some of the ages were just a little off. So I did a
7 graph, graphed out where the ages were and where
8 their abuse -- because there was movement in the
9 household location from Richland County to Lexington
10 County -- where the abuse happened at particular
11 ages for these two young ladies.

12 There was also an older brother, who was the
13 first victim in this case, and he essentially aged
14 out of abuse, but his abuse primarily occurred in
15 Richland County. So that wasn't appropriate in
16 Lexington for jurisdiction purposes.

17 But once I did that and reindicted the case on
18 two sexual conducts with respect to the younger
19 daughter and one criminal sexual conduct second
20 degree with a minor with respect to the older one,
21 there was also the incest charge that we decided to
22 go forward with, based on the fact that he
23 impregnated his daughter. And it looked, based on
24 the timeline after we graphed it out, that she had
25 aged out of the criminal sexual conduct statue.

1 When the abuse occurred, she was still a
2 minor -- when he impregnated her. But the statutes
3 didn't allow us to go with the criminal sexual
4 conduct, so that was an incest charge.

5 Once I indicted those -- I think what I did is
6 e-mailed defense counsel and would have told him
7 these are the new indictments that are being
8 presented to the grand jury and then he can plead
9 straight up to these.

10 There were some related drug charges in this
11 case that happened as a result of a search warrant
12 on his home after he was arrested. Those were
13 dismissed as part of the plea deal.

14 We also dismissed the two counts of unlawful
15 conduct towards a child because what we had done is,
16 after evaluating the case and seeing where the ages
17 of the children were, we indicted on what we thought
18 were the proper charges, had those served on him,
19 and then he pled on those.

20 Q. Okay. What were the terms of the plea deal as
21 you discussed it with Mr. Mauldin?

22 A. It was a straight-up plea to three counts of
23 criminal sexual conduct with a minor in the second
24 degree, one count of assault and battery, and one
25 count of incest.

1 Q. Okay. Did you and Mr. Mauldin discuss what it
2 meant to plead straight up?

3 A. We didn't go into detail; both of us had been
4 in practice a long amount of time at that point. A
5 straight-up plea is he can argue for what he wants,
6 and the State will argue for what they want in the
7 case. There was no negotiations or recommendations
8 with respect to the plea.

9 Q. Okay. Give me just one moment, please.

10 MR. SMITH: Okay. No more questions. Thank
11 you.

12 THE WITNESS: Thank you.

13 THE COURT: Cross-examination?

14 MR. JOHNSON: No questions.

15 THE COURT: All right. Thank you.

16 THE WITNESS: Thank you.

17 THE COURT: Good to see you.

18 Any additional witnesses?

19 MR. SMITH: The State rests.

20 THE COURT: All right. Any argument,
21 Mr. Johnson?

22 MR. JOHNSON: No, ma'am. We're just going to
23 stand on the record. Thank you.

24 THE COURT: I'm going to take this one under
25 advisement and let y'all know.

1 -- END OF TRANSCRIPT OF RECORD --
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C E R T I F I C A T E

STATE OF SOUTH CAROLINA
COUNTY OF LEXINGTON

I, the undersigned, Bethanie K. Creppon, Circuit Court Reporter for the Second 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 Criminal Court for Lexington County, South Carolina, on the 8th of June, 2022.

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

June 8, 2023

s/Bethanie K. Creppon

Bethanie K. Creppon
Circuit Court Reporter

FILEDSTATE OF SOUTH CAROLINA
COUNTY OF LEXINGTON

2024 SEP 23

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IN THE COURT OF COMMON PLEAS
FOR THE ELEVENTH JUDICIAL CIRCUIT

Matthew Roland Darazs, SCDC #37586

LISA M. COMER
CLERK OF COURT
LEXINGTON SC

Case No. 2019-CP-32-3166

Applicant,

v.

State of South Carolina,

Respondent.

ORDER OF DISMISSAL

This matter comes before the Court by way of a post-conviction relief (PCR) action commenced by Matthew Roland Darazs (Applicant) on August 8, 2019, alleging he is entitled to post-conviction relief based on ineffective assistance of counsel. The State filed a Return and Motion for a More Definite Statement on March 4, 2020. Applicant filed an Amended Return on June 16, 2021. A hearing into the matter convened before the undersigned on June 8, 2022, at the Lexington County Courthouse. Applicant was present at the hearing and represented by Ola Johnson, Esquire. Assistant Attorney General Taylor Z. Smith appeared on behalf of the State. At the hearing, testimony was heard from three witnesses: Applicant; Applicant's trial counsel, David Mauldin; and the prosecuting solicitor, Kate Usury. In addition to testimony from those individuals, this Court had before it: (1) the transcript from Applicant's March 27, 2018 guilty plea (hereafter "Tr."); (2) records from the Lexington County Clerk of Court regarding Applicant; (3) Applicant's inmate records from the South Carolina Department of Corrections; and (4) the pleadings filed in the instant post-conviction relief action.

Following a thorough review of the record and the testimony and evidence presented at the evidentiary hearing, this Court finds Applicant failed to meet the high burden required for a grant of post-conviction relief pursuant to Rule 71.1, SCRCP, and the Uniform Post-Conviction

Procedure Act¹. For the reasons discussed below, this Court denies relief and dismisses this action with prejudice.

I. PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment from the Lexington County Clerk of Court. Applicant was arrested in July of 2016, following an investigation into a series of chronic sexual abuses that occurred in Lexington County between 2012 and 2016. (Tr. pp. 4-7; Tr. pp. 9-19.)

On March 27, 2018, Applicant appeared before the Honorable William P. Keesley, and pleaded guilty to 3 counts of criminal sexual conduct with a minor second degree (2017-GS-32-3161; 2017-GS-32-3453; and 2017-GS-32-3454); assault and battery first degree (2017-GS-32-3462); and incest (2017-GS-32-3460). (Tr. p. 1, l. 1 -p. 7, l. 15.) At the time of his plea Applicant had four outstanding warrants, two for unlawful conduct towards a child; one for possession of a controlled substance, first offense; and one for possession of a controlled substance with intent to distribute, first offense. All four of these charges were dropped in exchange for Applicant's guilty pleas. (Tr. p. 10, l. 19-21; see also PCR, p. 4.)

Following the plea and mitigation arguments, the Court sentenced Applicant to a term of twenty years for CSC with a minor in the second degree (3453), a term of twenty years consecutive for CSC with a minor in the second degree (3454), ten years consecutive for the incest, five years concurrent for the Assault and Battery in the first degree, and twenty years concurrent for the CSC with a minor between ages 11 and 14 (3161), for an aggregate total of fifty years. (Tr. p. 45, l. 21 – p. 47, l. 19.)

¹ S.C. Code Ann. §§ 17-27-10 to -160.

Applicant filed a timely notice of appeal. On August 15, 2018, the Court of Appeals gave Applicant twenty days from the date of Counsel's transmittal letter to inform the Court of any arguable basis that there were issues preserved for appeal. Applicant failed to respond and the Court of Appeals dismissed the appeal on September 26, 2018 under SCACR Rule 203(d)(1)(B)(iv) due to an insufficient explanation. (PCR, p. 5, l. 15-21.) Applicant was notified of the dismissal and this PCR followed.

II. FACTUAL HISTORY

According to the factual basis set out in the plea record, on July 25th, 2016, one of Applicant's daughters, MINOR1, called law enforcement. MINOR1 told the officers who arrived that Applicant had been sexually abusing her for a long time, and that the abuse continued until the point when Applicant was kicked out of the house in February of 2016. MINOR1 told law enforcement that Applicant was the father of her one-year-old baby and that although she wasn't sure if her siblings were ready to tell, she believed that Applicant also had been abusing her brother MINOR3 her sister MINOR2 and her sister MINOR4. (Tr. p. 11, l. 6- p. 13, l. 2.)

The following day, July 26th, 2016, law enforcement began investigating the case, starting with a formal interview of MINOR1 at the West Columbia Police Department. During that interview, MINOR1 disclosed that Applicant began abusing her around the age of 2 and continued up until the age of 16. She indicated, at the height of the abuse, sexual intercourse would occur up to four times a week. She disclosed that Applicant took nude photos of her and that he would have her watch porn with minors in it. She told law enforcement that she became pregnant with Applicant's baby around October of 2014. That child was ultimately born in June of 2015. At the same interview, MINOR1 allowed a buccal swab of her and a buccal swab of her baby. MINOR1 told law enforcement that she had discussed the abuse with her older brother MINOR3 and her sister MINOR2, and that

she had caught her dad twice with her younger sister. When MINOR1 confronted her dad, Applicant pulled out a handgun and a knife and threatened her with it. (*Id.*)

On July 27th, law enforcement interviewed Applicant's other daughter, MINOR2 at the West Columbia Police Department. MINOR2 told law enforcement, among other things, that Applicant was physically abusive to all the children. She indicated the sexual abuse for her started around age three or four and continued until February of 2016 when Applicant was kicked out of the house in West Columbia. She indicated to law enforcement that Applicant would perform oral sex on her and would touch her breasts and private area two or three times a week. MINOR2 also indicated that she knew about the abuse with MINOR1 because they talked and she had witnessed the gun and knife incident described by MINOR1 (Tr. p. 13, l. 3-23)

The same day, July 27th, law enforcement obtained arrest warrants for two CSCs, one for each girl, and served them on Applicant. He was taken to the West Columbia Police Department where he was interviewed, mirandized, and confessed on video and in writing. (Tr. p. 14, l. 6-12.) In his written confession on July 27th of 2016, Applicant wrote:

I started home-schooling because of the behavior MINOR1 and MINOR2 were exhibiting, desires of sexual promiscuity at public school. I could not condone them being involved in that manner with immature boys whose affection would be ingenuine. During home-schooling, a relationship progressed that developed into intercourse MINOR1 would wear sexually revealing clothing around the house. And I told her that if she continued, she would provoke a sexual response from me. She ignored my warnings and even went as far as to intentionally provoke a sexual response from me on a regular basis. It started as oral sex and progressed to vaginal intercourse. This occurred around the 9th grade for MINOR1. . . Around the same time, I also had a similar relationship with MINOR2 We also had a consensual sexual relationship. They knew about the relationship I had with each other.

(Tr. p. 15, l. 7- p. 16, l. 3.) Applicant also admitted to pulling the knife on MINOR1 and telling her if she didn't have an abortion, he would cut the baby out of her. (Tr. at p. 14, l. 19-24.) During that interview, Applicant's DNA was obtained to conduct a paternity test on MINOR1's baby. (*Id.*)

During the July 27th interview, law enforcement asked Applicant how old MINOR1 was when he first started having sexual intercourse with her, and he said 15. Law enforcement also asked Applicant how old MINOR2 was when he began his sexual relationship with her, and he indicated 14. Applicant also admitted to sexual intercourse with MINOR1 about once a week and sexual encounters with MINOR2 “maybe once a month.” (Tr. pp. 15-17.)

The following day, July 28th, law enforcement interviewed Applicant again and he provided conflicting testimony from the previous day’s interview. In the second interview, Applicant admitted to sexual abuse with MINOR1 at age four, an earlier age than his confession the previous day when he stated that the intercourse started at 15. (Tr. p. 17, l. 24- p. 18, l. 6.) Applicant also stated that the sexual abuse with MINOR2 started around nine years of age in the second interview, which differs from the day before where he indicated that the abuse with MINOR2 started at age 14. (Id.)

On August 2nd, the SLED DNA analysis came back confirming that Applicant is the biological father of MINOR1 daughter. The State then presented an incest indictment because during the time that MINOR1 became pregnant, she would have been just past the age of the CSC second, and just past the age of 16. Per the solicitor, the incest indictment was intended to cover the period from after MINOR1 16th birthday up until when Applicant was ultimately kicked out of the house. Both MINOR1 and MINOR2 indicated that Applicant’s sexual abuse of them continued until he was kicked out of the house. (Tr. p. 18, l. 16- p. 19, l. 2.)

III. ALLEGATIONS BEFORE THE COURT

On August 8, 2019, Applicant filed a post-conviction relief application, alleging he is being held in custody unlawfully because he “was denied effective assistance of counsel” and his “right to the due process of law was violated.” (PCR Application, 8/8/2019 at p. 3.) In support of the

alleged violations, Applicant claimed that he was “misinformed by [his] attorney as to the outcome of [his] guilty plea, and would have never plead guilty had [he] been properly informed.” (PCR Application, 8/8/2019 at page 3 attachment.)

On March 4, 2020, the State filed a return and motion for a more definite statement. On June 16, 2021, an “Amendment to Application for Post Conviction Relief” was filed by Applicant. The Amendment adopted the grounds of Applicant’s original filing and further alleged as additional grounds supporting his claim of ineffective assistance of counsel that:

- (1) Applicant’s counsel failed to request to withdraw the plea or to object during the guilty plea when the State violated the terms of the plea agreement, after the Applicant was informed that there was not supposed to be a recommendation by the State for a sentence and the following persons argued:
 - a. Investigator Turner, for “a consecutive sentence and the max punishment;”
 - b. Investigator Morris, for “the max consecutive sentence on these charges;” and
 - c. Assistant Solicitor Kate Usry, for “a consecutive max sentence, so a total of 80 years.”
- (2) Applicant’s request to relieve his counsel (following the court’s denial of a previous motion) was denied and as a result, Applicant felt coerced into pleading guilty.
- (3) Applicant’s Counsel failed to interview Applicant’s daughter and other witnesses to offer mitigation in response to the State’s witnesses.
- (4) Applicant’s counsel failed to file a motion to reconsider the sentence or to discuss this with Applicant following his plea.
- (5) Applicant’s counsel failed to properly investigate the case and prepare Applicant for his plea.
- (6) Applicant’s counsel failed to review evidence with Applicant.

(Amendment to Application for Post Conviction Relief, 6/16/2021.)

At the PCR Hearing on June 8, 2022, the grounds in Applicant’s original Application and Amendment to Application for Post Conviction Relief were argued by Applicant’s PCR Counsel. Findings have been made on each of the points argued at the hearing.

IV. FINDINGS OF FACT AND CONCLUSIONS OF LAW

Standard of Review

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

As aforementioned, the Applicant has the burden of establishing both deficiency and prejudice

in order to be entitled to relief. Hughes v. State, 346 S.C. 554, 558, 552 S.E.2d 315, 317 (2001); Rule 71.1(e), SCRPC. To prove deficient performance, the applicant must establish that, in light of all the circumstances, the acts or omissions complained of “were outside the wide range of competence” demanded of attorneys in criminal cases. Strickland, 466 U.S. at 688. To prove prejudice, the applicant must establish that “there is a reasonable probability that, but for counsel’s unprofessional errors, the result of the proceeding would have been different.” Id. at 694. A reasonable probability is a probability “sufficient to undermine confidence in the outcome.” Id. Significantly, “the ultimate focus of inquiry must be on the fundamental fairness of the proceeding whose result is being challenged.” Id. at 696.

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). When reviewing a guilty plea, the analysis of counsel’s performance under the first prong of Strickland remains unchanged—the applicant must show that counsel’s representation fell below an objective standard of reasonableness demanded of attorneys in criminal cases. Hill, 474 U.S. at 58–59; accord Thompson v. State, 340 S.C. 112, 115, 531 S.E.2d 294, 296 (2000). An applicant alleging his guilty plea was induced by ineffective assistance of counsel must prove counsel’s advice to plead guilty was not “within the competence demanded of attorneys in criminal cases.” Hill, 474 U.S. at 56. The second, or “prejudice” prong, however, “focuses on whether counsel’s constitutionally ineffective performance affected the outcome of the plea process.” Id. at 58–59. Specifically, when an applicant claims counsel’s deficient performance caused him to accept a plea, the applicant “must

show that there is a reasonable probability that, but for [plea] counsel's [alleged] errors, he would not have pleaded guilty and would have insisted on going to trial." Id. at 59.

This inquiry "focuses on a defendant's 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. 357, 364-365, 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).

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).

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)). 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; see also 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”).

An applicant who enters a plea on the advice of counsel may “only attack the voluntary 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, 345 S.C. at 20, 546 S.E.2d at 419 (citations omitted).

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. 356, 371, 66, 137 S. Ct. 1958, 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. 356, 371, 137 S. Ct. 1958, 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 guilty plea and the evidence presented at the PCR hearing. Harres v. Leeke, 282 S.C. 131, 134, 318 S.E.2d 360, 361 (1984).

V. FINDINGS AS TO CLAIMS RAISED

Applicant has alleged six specific claims of ineffective assistance of trial counsel and asks that as a result of Counsel’s purported errors, this court overturn his conviction (by vacating his plea) and grant him a new trial. This Court finds Applicant has failed to meet his requisite burden of proof as to each allegation. Each allegation is addressed below:

Allegation #1: Applicant’s counsel was ineffective for failing to object to or request to withdraw the plea when the State violated the terms of the plea agreement by arguing at sentencing.

Applicant first asserts that Counsel was constitutionally ineffective because Applicant was under the impression that there would be no recommendations as to sentencing and on three separate occasions the State made recommendations during the sentencing hearing. Specifically, Applicant points to the plea transcript where at pages 35 and 36, Investigator Turner requested “a consecutive sentence and the max punishment;” Investigator Morris requested “the max consecutive sentence;” and the Solicitor asked for “a consecutive max sentence, so a total of 80 years.” (Tr. pp. 35-36.)

While Applicant’s statements regarding the sentences the witnesses above requested appear correct, I do not find Counsel’s failure to object to or to request to withdraw the plea constitute ineffective assistance of counsel. Before the plea was accepted, the Court specifically covered with Applicant that any plea bargain, “[t]hat includes any agreements about dropping charges,

recommending a sentence, [or] reducing charges”, had to be discussed in open court or it was lost. (Tr. p. 19, l. 18 – p. 21, l. 7; see also Tr. p. 7, l. 16 – p. 9, l. 22.) Then, after being informed that if any plea bargain had been made or there was any external agreement regarding a sentence it needed to be on the record or he would lose whatever may have been promised, Applicant was asked if he understood. (Tr. p. 19, l. 23 – p. 20, l. 13.) Applicant indicated that he understood and that he was promised nothing other than what was on the record, which was that, in exchange for the plea straight up to the five charges, four other charges would be dropped. (Id.)

Applicant’s possible exposure as a result of pleading guilty was covered again when, after individually covering the possible sentences, the Court asked “you understand you’re facing up to 80 years in prison?” (Tr. pp 21-26 (generally); Tr. p. 27, l. 1-3 (Court’s specific questioning.)) Applicant responded “Yes, sir.” (Tr. p. 26, l. 23-25.) After this, the Court then asked, “Have you understood everything I’ve been over with you?” To this, Applicant also responded “Yes, sir.” (Tr. p. 27, l. 1-3.) At the plea, Applicant clearly indicated that he understood the potential sentences for the crimes he was pleading guilty to and that if there was an agreement to reduce his exposure it needed to be put on the record. (Tr. p. 21, l. 6 - p. 27, l. 3.)

Further colloquy occurred between the trial court and Counsel, and Applicant and Counsel, and all parties agreed they understood the extent of the plea agreement was the dismissal of charges, as stated by the solicitor. (Tr. p. 9, l. 24- p. 10, l. 21; Tr. p. 19, l. 23- p. 20, l. 13.)

Not only was sentencing covered by the trial judge, I found credible Counsel’s testimony at the evidentiary hearing that he went over the possible sentencing range and made no promises to the Applicant. (PCR, p. 24, l. 15-20; see also PCR, p. 26, l. 17-21 (Responding to the question, “So what did you tell Mr. Darazs about the terms of the plea deal?”, Counsel testified “That the Judge could give him up to 80 years and that the hope was that he wouldn’t get it that bad”); see

also PCR, p. 32, l. 18-22 (Counsel was asked “Did you properly explain all the potential sentences to [Applicant]?” and he responded affirmatively. Counsel was then asked, “And you felt he understood everything?” and replied “Yes, I do.”))

The Applicant’s apparent assertion is that as a part of the plea bargain that the state had agreed to make no recommendation at all during the proceedings. However, the record reflects that this was a “straight up” plea with no agreed recommendation as part of the negotiation between the State and the defense. Thus, when the prosecution made its request for the maximum sentence, it was not in violation of the agreement. The sentencing judge was free to sentence up to the maximum of eighty years and the prosecution was unrestricted to make any recommendation it chose to do. PCR, p. 38, l. 1-8. Prosecutor Usry testified that it was a “straight-up” plea deal. She indicated that under a straight up plea deal, either the prosecution or the defense for what they want in there case. Usry credibly indicated that both counsel Mauldin and her had been in practice long enough to understand a what a straight up plea was. Id. This Court concurs in her understanding of a straight-up plea as not muting either side from freely making a request or recommendation. (The individual sentencing sheets were consistent and had checked : “without negotiations or recommendation” as opposed to either “negotiated sentence” or “recommendation by the State.”) . See State v. Rikard, 371 S.C. 295, 297, n. 4, 638 S.E.2d 72, 73, n.4 (Ct. App. 2006) (straight up plea and State requests maximum sentence, distinguishing in Jordan v. State, 297 S.C. 52, 374 S.E.2d 683 (1988)).

Ultimately the choice and the decision to plead were the Applicant’s. He was advised of the potential maximum sentences he could face and freely, voluntarily, knowingly, and intelligently chose to plead guilty. This Court concludes as a matter of law and fact that there was no broken plea agreement. This Court finds Applicant has not established any deficiency of Counsel regarding not

objecting to or asking to withdraw the plea during the plea hearing. Applicant has not shown Counsel's decision not to object or withdraw the plea was not within the competence demanded of attorneys in criminal cases. Moreover, Applicant, who was also advised by the court regarding the possible sentence and indicated he understood and then voluntarily chose to go forward with the plea, has not established that, but for the alleged error, there is a reasonable probability that he would not have pled guilty and, instead, would have insisted on going to trial.

Accordingly, this Court denies and dismisses this allegation with prejudice.

Allegation #2: Applicant's request to relieve his counsel was denied, resulting in the Applicant feeling coerced to plead guilty.

Applicant next asserts that he felt coerced into pleading guilty as a result of the court denying his motion to relieve counsel David Mauldin. Applicant's testimony on this point at the evidentiary hearing was brief. Applicant was asked if he attempted to have Counsel relieved as his attorney and responded "Yes, sir." When asked what happened when he made that effort, he responded that Counsel brought him in front of the Judge McMahon earlier and "he refused to relieve my counsel." (PCR, p. 10, l. 10-15.) This motion, according to Applicant, was made after the court denied a different and earlier motion that Applicant felt should have been granted. (See Amendment to Application for PCR, at p. 2, item 4.) However, the reasons for the request and how it negatively impacted on the Applicant's decision were never developed before this Court.

To the extent Applicant is alleging that a motion to relieve counsel was improperly denied, a PCR proceeding is not the appropriate forum to raise this issue. See Roscoe v. State, 345 S.C. 16, 20, 546 S.E.2d 417, 419 (2001) (noting that allegations of trial court error are not cognizable on PCR); Stepney v. State, 278 S.C. 47, 292 S.E.2d 41 (1982) (explaining that issues that could have been raised on direct appeal cannot be considered on PCR application absent claims of ineffective assistance of appellate counsel); State v. Gentry, 363 S.C. 93, 101, 610 S.E.2d 494 499

(2005) (“Circuit courts obviously have subject matter jurisdiction to try criminal matters.”).

To the extent that Applicant is claiming the denial of the motion made him feel coerced into pleading, the record does not support this allegation. At the plea, Applicant clearly indicated that was both guilty of the crimes he was pleading to, and that no one forced him, threatened him, or coerced him in any way to plead against his will. (Tr. p. 19, 16-22; see also Tr. p. 7, l. 16- p. 9, l. 21.)

Later, after covering sentencing and other consequences of a plea and reminding Applicant he was facing up to eighty years in prison, the Court again asked Applicant “Are you sure you want to give up your rights and enter these pleas of guilty?” (Tr. p. 25, l. 24- p. 27, l. 5.) Applicant responded “Yes, sir.” (Tr. p. 27, l. 6.) The Court then asked, “You’re pleading guilty because you are, in fact, guilty?”, and “You’re pleading guilty of your own free will and accord?” (Tr. p. 27, l. 7-12.) Applicant again replied “Yes, sir” to the Court’s questions. (*Id.*) With these affirmative answers on the record, the Court then acknowledged that “Mr. Darazas [sic] has made a free, knowing, voluntary, and intelligent decision to waive his rights and plead guilty. He’s done so upon the advice of counsel with whom he’s fully satisfied. There’s a factual basis for each plea.” (Tr. p. 27, l. 13-17.)

I find the evidence and proceedings, as contained in the plea transcripts and evidentiary hearing, refute Applicant’s claim that Counsel coerced him into pleading guilty and thus rendered ineffective assistance. I also found no prejudice resulting from Applicant’s decision to plead has been established.

Accordingly, this Court denies and dismisses this allegation with prejudice.

Allegation #3: Applicant’s Counsel was ineffective for failing to interview Applicant’s daughter and other witnesses to offer mitigation in response to the State’s witnesses.

Applicant next asserts that Counsel was ineffective because he failed to interview appropriate witnesses for the mitigation phase of sentencing. In support of this claim, Applicant alleged in his amended Application for PCR that Counsel did not interview his daughter MINOR5 or other witnesses that he requested, and that Counsel offered “[b]asically no defense.” (PCR, p. 10, l. 16-23.) When asked what witnesses Applicant wanted Counsel to interview that Counsel did not interview, Applicant was not initially forthcoming but later indicated “people” who were living in the house, other than those he had molested, who “could have verified the living conditions weren’t as hostile as the victims stated in their testimony.” (PCR, p. 17, l. 16-21.) Applicant was asked if any of the people were present in the courtroom at the PCR hearing and did not point anyone out. (PCR, p. 17, l. 22- p. 18, l. 1.)

At the same hearing, Counsel testified that he both prepared Applicant for the plea and also discussed what he (Counsel) was going to say and who he’d call at mitigation. (PCR, p. 28, l. 2-5.) This included calling certain family members. (*Id.*) Applicant’s daughter MINOR5 was not one of the witnesses called. Counsel testified he did not recall Applicant asking him to interview MINOR5 and that he did things Applicant asked him to. (PCR, p. 23, l. 11-21.) The record of the plea proceeding shows Counsel did argue for Applicant and put-up certain family members at mitigation. (Tr. p. 37, l. 8- p. 44, l. 16.)

The record reflects Counsel’s strategy for mitigation during sentencing involved showing that Applicant was also a victim of abuse, that he cooperated with law enforcement from the first request, and that he accepted responsibility, as demonstrated by his pleading. (*Id.*) Counsel specifically put on the record that he felt Applicant’s cooperation from the start, acceptance of responsibility, and decision to not put his family through a trial should be considered and “was worth something.” (Tr. p. 37, l. 8 – p. 41, l. 17.) Counsel also retained the assistance of Dr. Geoffry

McKee, a forensic psychologist who performed a psychosexual examination for the defense. However, in light of the unfavorable results, counsel decided not to present the matter in his mitigation for the Applicant. PCR, p. 25, 1.1-7.

In light of the overwhelming evidence of Applicant's guilt, including both the written and oral confession, Counsel's strategy is not one that is outside the competence demanded of attorneys in criminal cases. Hill, 474 U.S. at 56. Further, Applicant indicated to the trial court at the time that he was fully satisfied with Counsel; that there was not anything Applicant wanted Counsel to do on the case that Counsel had not done; and that Applicant had no complaint with Counsel or anyone who had dealt with his case. (Tr. p. 20, l. 14-23.) As stated previously, the Applicant's statements made during a guilty plea carry a presumption of verity and should be considered conclusive unless Applicant presents credible and cogent reasons why he should not be held to the truth of his statements. Blackledge, 431 U.S. at 73-74. Applicant further, has provided no credible evidence of 6th Amendment prejudice resulting from Counsel's alleged failures. He has failed to show either deficient performance or prejudice under Strickland.

Accordingly, this Court denies and dismisses this allegation with prejudice.

Allegation #4: Applicant's Counsel was ineffective for failing to file a motion to reconsider his sentence or to discuss such a motion with Applicant following his plea.

Applicant next asserts that Counsel was ineffective because he failed to discuss with Applicant and then file a motion to reconsider Applicant's sentence following his plea. At the PCR hearing, Applicant testified he was not sure if he requested Counsel file a motion to reconsider the sentence. (PCR, p. 11, l. 11-24.) On this point, Counsel testified at the hearing that he had no notes about discussing a motion for reconsideration with Applicant, but that "[h]e did ask for an appeal and I did file that. So if he would have asked for [a motion to reconsider], I would have done it."

(PCR, p. 29, l. 2-6.) On redirect, Counsel testified affirmatively when asked if it is his habit to file a motion to reconsider if a client asks for it. (PCR, p. 33, l. 13-15.) On recross, Counsel further testified that this would be in keeping with his normal practice as it is his habit to file a motion to reconsider if a client asks for it. (PCR, p. 33, l. 13-15.)

When Counsel was asked if he ever advised Applicant about the possibility of a motion to reconsider, he responded “probably not.” (PCR, p. 34, l. 9-11.) Counsel’s rationale for not filing a motion to reconsider Applicant’s sentence was based on his conclusion there was nothing new to present. The trial court had before it the relevant and important factors when it sentenced Applicant. With no new information to present, Counsel saw no reason to file a motion to reconsider. (PCR, p. 33, l. 16- p. 34, l. 3.) Counsel did file a motion for appeal and, further, indicated that if asked, he would have filed a motion to reconsider. (PCR, p. 29, l. 2-6.)

Counsel’s performance, in terms of deciding which post-trial motions to file and then filing a motion to appeal instead of a motion for reconsideration of Applicant’s sentence, was within an objective standard of reasonableness. The aggregate 50 year sentence the Applicant received was within the statutory limits, consistent with the terms of the negotiations and less than the maximum sentence and the prosecution’s request. Moreover, in this case where the evidence against Applicant was so overwhelming and Applicant presented no reason (in terms of new evidence) for such a motion to be made, Applicant has not established that Counsel’s decision to file a notice of appeal instead of filing a motion to reconsider prejudiced Applicant. See Brooks v. State, 325 S.C. 269, 271, 481 S.E.2d 712, 713 (1997) (“A trial [court] is allowed broad discretion in sentencing within statutory limits.”); State v. Conally, 227 S.C. 507, 510, 88 S.E.2d 591, 593 (1955) (holding an appellate court “has no jurisdiction to disturb, because of alleged excessiveness, a sentence which

is within the limits prescribed by statute, unless: (a) the statute [is unconstitutional], or (b) the sentence is the result of partiality, prejudice, oppression, or corrupt motive”).

Accordingly, this Court denies and dismisses this allegation with prejudice.

Allegation #5: Applicant’s Counsel was ineffective for failing to properly investigate the case and prepare Applicant for the plea.

Next, Applicant asserts that Counsel was ineffective for allegedly failing to properly investigate the case and prepare Applicant for his plea. At the PCR hearing, Applicant testified that Counsel came to visit him to talk about the case “two to three times in the 20 months [he] was in the County” and he did not feel like he (Applicant) was adequately prepared for the plea. (PCR, p. 12, l. 9-17.)

Counsel credibly testified very differently on this point. This Court finds Counsel met with Applicant on nine specific dates and credibly gave a brief statement about what was discussed each time. (PCR, p. 20, l. 2- p. 22, l. 24.) Counsel also communicated with Applicant by phone. (*Id.*) Counsel met with Applicant to discuss discovery multiple times, the plea multiple times, and regarding having Applicant psychosexually evaluated “to see if there would be anything to argue in mitigation on the report.” (PCR, p. 20, l. 2-9.) Discovery was discussed with Applicant by counsel, including the fact it contained Applicant’s written and oral confessions and the damaging results of the DNA test indicating he had fathered a child with one of his daughters. (PCR, p. 22, l. 8-14.) During Counsel’s meetings with Applicant, Applicant did not indicate that he did not understand the evidence and never denied the authenticity of it. (PCR, p. 22, l. 15-20.) This Court finds Counsel’s testimony on these points credible.

Regarding Applicant’s allegation that Counsel failed to properly investigate the case, the law is clear. “[C]ounsel has a duty to make reasonable investigations or to make a reasonable decision that makes particular investigations unnecessary.” Strickland v. Washington, 466 U.S.

Further, Counsel testified that the Applicant never indicated that he didn't understand the evidence or the significance of the evidence. (PCR, p. 22, l. 15-19.)

There is no established "minimum number of meetings between counsel and client prior to trial necessary to prepare an attorney to provide effective assistance of counsel." United States v. Olson, 846 F.2d 1103, 1108 (7th Cir.1988) (there is no constitutional minimum number of meetings between attorney and client and observes that an experienced attorney may get more out of a single meeting than a neophyte); Moody v. Polk, 408 F.3d 141, 148 (4th Cir. 2005); Campbell v. Polk, 447 F.3d 270, 279, n.2 (4th Cir. 2006) ("we cannot conclude that the fact that Campbell's counsel only met with him five times before trial made them ineffective."). "[B]revity of consultation time between a defendant and his counsel, alone, 'cannot support a claim of ineffective assistance of counsel.'" Davis v. State, 44 So. 3d 1118, 1130 (Ala. Crim. App. 2009) (quoting Murray v. Maggio, 736 F.2d 279, 282 (5th Cir. 1984)); White v. Godinez, 301 F.3d 796, 800 (7th Cir. 2002) ("A brief consultation does not by itself establish that counsel's performance was inadequate."); Chavez v. Pulley, 623 F. Supp. 672, 685 (E.D. Cal. 1985) ("brevity of consultation time between a defendant and his counsel alone cannot support a claim of ineffective assistance of counsel," especially where the defendant "fails to allege what purpose further consultation with his attorney would have served and fails to demonstrate how further consultation with his attorney would have produced a different result").

This Court finds Counsel's testimony on this point credible. This Court further finds Counsel's performance, including in terms of meeting with Applicant a sufficient number of times and reviewing the evidence, was within an objective standard of reasonableness. This Court finds Applicant has not shown Counsel's behavior was not within the competence demanded of attorneys

in criminal cases. Moreover, Applicant has not established either a 6th Amendment deficiency by Counsel or the requisite 6th Amendment prejudice as a result.

Accordingly, this Court denies and dismisses this allegation with prejudice.

VI. CONCLUSION

After careful consideration of Applicant's Application and Amended Application for Post-Conviction Relief, the Record of the case, and the testimony at the evidentiary hearing, this Court finds Applicant has not established any constitutional violations or deprivations that would require this Court to grant his application for post-conviction relief. To satisfy the two prongs of Strickland, Applicant must show that Counsel was deficient and also show the deficiency resulted in prejudice. Strickland v. Washington, 466 U.S. 668, 687, 104 S. Ct. 2052, 80 L.Ed.2d 674 (1984). Applicant's Counsel was not deficient, but rather, offered "reasonably effective assistance" under "prevailing professional norms." Cherry v. State, 300 S.C. at 317 (1989). Further, I do not find any presumptions of prejudice. See Cronic v. U.S., 446 U.S. 648 (1984); Nance v. Ozmint, 367 S.C. 547 (2006). This case was "fact heavy" and I find Counsel's actions and decisions were based upon strategic decision. See Roseboro v. State, 317 S.C. 292 (1996); see also Solomon v. State, 347 S.C. 635 (2001) regarding strategic trial management. Applicant has not met his burden on any of the allegations made. Therefore, the Court denies Applicant's requested relief in this matter.

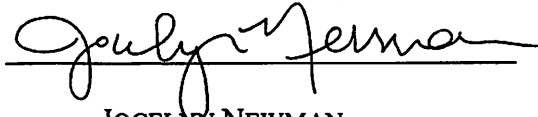
This Court notes if Applicant desires to appeal this Order, he must file and serve a notice of appeal within thirty days from the receipt of this Order through his counsel of record. See Rule 203 and 243, SCACR. Pursuant to Austin v. State, 305 S.C. 453 (1991), an applicant has a right to an appellate counsel's assistance in seeking review of the denial of post-conviction relief. Rule 71.1(g), SCRCP, provides if the Applicant wishes to seek appellate review, post-conviction relief

counsel must serve and file a Notice of Appeal on the Applicant's behalf. Applicant is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

IT IS THEREFORE ORDERED:

1. This application for post-conviction relief is denied and dismissed with prejudice; and
2. Applicant shall remain in the custody of the State.

AND IT IS SO ORDERED this 19th day of September, 2024.

A handwritten signature in black ink, appearing to read "Jocelyn Newman", written over a horizontal line.

JOCELYN NEWMAN
Presiding Judge
Eleventh Judicial Circuit

Columbia, South Carolina

WITNESSES

West Columbia Police Department

Stacy Turner

Law Enforcement Case #: 1620787

KWU

ARREST WARRANT NUMBER**2016A3221100405**

ACTION OF GRAND JURY

TRUE BILL

Sheryl R. Ferguson

Foreperson of Grand Jury

Date: *10-16-17*

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2017GS3203453**The State of South Carolina****County of Lexington**

COURT OF GENERAL SESSIONS

OCTOBER TERM 2017

THE STATE**vs.****Matthew R Darazs**

CDR #: 0397

Indictment for**Criminal Sexual Conduct with a Minor -
Second Degree****§ 16-03-0655(B)(2)**

S.R. Hubbard III, SOLICITOR

STATE OF SOUTH CAROLINA	)	INDICTMENT FOR
	)	Criminal Sexual Conduct with a Minor - Second
COUNTY OF LEXINGTON	)	Degree
	)	
		§ 16-03-0655(B)(2)

At a Court of General Sessions, convened on October 2017, the Grand Jurors of Lexington County present upon their oath:

That Matthew R Darazs did in Lexington County, South Carolina, on or between January 1, 2012 and December 24, 2013, willfully and unlawfully commit criminal sexual conduct with a minor in the second degree by engaging in sexual battery upon a minor who was at least fourteen (14) years of age but who was less than sixteen (16) years of age, to wit: sexual battery upon MINOR 1, date of birth 1997 and the Defendant was older than the victim or was in position of familial, custodial, or official authority to coerce the victim to submit; in violation of Section 16-3-655(B)(2), [formerly 16-3-655(3)] 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

WITNESSES

West Columbia Police Department

Stacy Turner

Law Enforcement Case #: 1620787

KWU

ARREST WARRANT NUMBER

2016A3221100406

ACTION OF GRAND JURY

TRUE BILL*Sheryl R. Fugerson*
Foreperson of Grand Jury

Date: 10-16-17

VERDICT

Foreperson of Petit Jury
Date:**DOCKET NO. 2017GS3203454****The State of South Carolina****County of Lexington**

COURT OF GENERAL SESSIONS

OCTOBER TERM 2017

THE STATE**vs.****Matthew R Darazs**

CDR #: 0397

Indictment for**Criminal Sexual Conduct with a Minor -
Second Degree****§ 16-03-0655(B)(2)**

S.R. Hubbard III, SOLICITOR

STATE OF SOUTH CAROLINA	)	INDICTMENT FOR
	)	Criminal Sexual Conduct with a Minor - Second
COUNTY OF LEXINGTON	)	Degree
	)	
		§ 16-03-0655(B)(2)

At a Court of General Sessions, convened on October 2017, the Grand Jurors of Lexington County present upon their oath:

That Matthew R Darazs did in Lexington County, South Carolina, on or between June 22, 2013 and March 31, 2015, willfully and unlawfully commit the offense of criminal sexual conduct with a minor in the second degree by engaging in sexual battery upon a minor who was at least fourteen (14) years of age but who was less than sixteen (16) years of age, to wit: **MINOR 2**, date of birth **■■■■**/1999, and the Defendant was older than the victim or was in position of familial, custodial, or official authority to coerce the victim to submit; in violation of Section 16-3-655(B)(2), [formerly 16-3-655(3)], 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

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WITNESSES

West Columbia Police Department

Stacy Turner

Law Enforcement Case #: 1620787

KWU

ARREST WARRANT NUMBER

17-STR-00552

ACTION OF GRAND JURY

TRUE BILL

Sheryl R. Ferguson
Foreperson of Grand Jury

Date: 10-16-17

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2017GS3203460

The State of South Carolina

County of Lexington

COURT OF GENERAL SESSIONS

OCTOBER TERM 2017

THE STATE

vs.

Matthew R Darazs

CDR #: 0090

Indictment for

Incest

§ 16-15-0020

S.R. Hubbard III, SOLICITOR

STATE OF SOUTH CAROLINA)
)
COUNTY OF LEXINGTON)
)

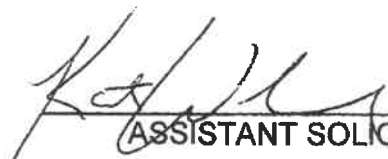
INDICTMENT FOR
Incest

§ 16-15-0020

At a Court of General Sessions, convened on October 2017, the Grand Jurors of Lexington County present upon their oath:

That **Matthew R Darazs** did in Lexington County, South Carolina on or between December 25, 2013 and March 31, 2015, knowingly, willingly, and unlawfully, have carnal intercourse with **MINOR 1**, who is his biological daughter, in violation of § 16-15-20, 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

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WITNESSES

West Columbia Police Department

Stacy Turner

Law Enforcement Case #: 1620787

KWU

ARREST WARRANT NUMBER

17-STR-00553

ACTION OF GRAND JURY

TRUE BILL

Sheryl R. Ferguson

Foreperson of Grand Jury

Date: 10-16-17

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2017GS3203461

The State of South Carolina

County of Lexington

COURT OF GENERAL SESSIONS

OCTOBER TERM 2017

THE STATE

vs.

Matthew R Darazs

CDR #: 0396

Indictment for

**Criminal Sexual Conduct with a Minor -
Second Degree**

§ 16-03-0655(b)(1)

S.R. Hubbard III, SOLICITOR

STATE OF SOUTH CAROLINA)
) INDICTMENT FOR
COUNTY OF LEXINGTON) Criminal Sexual Conduct with a Minor - Second
) Degree
)
 § 16-03-0655(b)(1)

At a Court of General Sessions, convened on October 2017, the Grand Jurors of Lexington County present upon their oath:

That **Matthew R Darazs** did in Lexington County, South Carolina on or between January 1, 2012 and June 22, 2013, willfully and unlawfully commit 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: **MINOR 2**, date of birth **1999**, in violation of Section 16-3-655(B)(1), [formerly 16-3-655(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

WITNESSES

West Columbia Police Department

Stacy Turner

Law Enforcement Case #: 1620787

KWU

ARREST WARRANT NUMBER

2016A3221100409

ACTION OF GRAND JURY

TRUE BILL

Sheryl R. Ferguson
Foreperson of Grand Jury
Date: 10-16-17

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2017GS3203462

The State of South Carolina

County of Lexington

COURT OF GENERAL SESSIONS

OCTOBER TERM 2017

THE STATE

vs.

Matthew R Darazs

CDR #: 3412

Indictment for

Assault and Battery 1st Degree

§ 16-03-0600(C)(1)

S.R. Hubbard III, SOLICITOR

STATE OF SOUTH CAROLINA)
)
COUNTY OF LEXINGTON)
)

INDICTMENT FOR
Assault and Battery 1st Degree
§ 16-03-0600(C)(1)

At a Court of General Sessions, convened on October 2017, the Grand Jurors of Lexington County present upon their oath:

That Matthew R Darazs did in Lexington County, South Carolina, on or between October 1, 2014 and June 17, 2015, unlawfully offer or attempt to injure another person with the present ability to do so, and the act is accomplished by means likely to produce death or great bodily injury; to wit: threatening **MINOR 1** with a knife, in violation of §16-03-600(C) of the South Carolina Code of Laws of 1976, as amended.

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


ASSISTANT SOLICITOR

0-2011

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STATE OF SOUTH CAROLINA

COUNTY OF Lexington
STATE VS.
Matthew R Darazs

AKA:

Race: Sex: M Age: 39

DOB: 1978 SS#: [REDACTED]

Address:

City, State Zip: Leno, SC 29063

DL#: [REDACTED] SID#:

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

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

TO: Sex / Criminal sexual conduct with minor, or Attempt - victim under 16 years of age - Second degree

in violation of § 16-03-0655(B)(2) of the S.C. Code of Laws, bearing CDR Code # 0397

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

ATTEST:

[Signature]
Solicitor

76118
SC Bar#

[Signature]
Defendant

[Signature]
Attorney for Defendant

14174
SC Bar#

WHEREFORE, the Defendant is committed to the

☒ State Department of Corrections,

☐ County Detention Center,

for a determinate term of 20 days/months/years or ☐ under the Youthful Offender Act not to exceed years

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

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

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

☐ CONCURRENT or ☒ CONSECUTIVE to sentence on:

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

Department of Corrections.

☒ 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 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

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

Total: \$ plus 20% fee: \$

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:

	\$
§ 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 61.6 (Public Def/Probation)	\$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
3% to County (if paid in installments)	\$

TOTAL

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (07/2016)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2017GS3203454

A/W#: 2016A3221100406

Date of Offense: 1/1/2012

S.C. Code § : 16-03-0655(B)(2)

CDR Code #: 0397

SENTENCE SHEET

☐ CONVICTED OF or ☒ PLEADS

in violation of § 16-03-0655(B)(2) of the S.C. Code of Laws, bearing CDR Code # 0397

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

ATTEST:

[Signature]
Attorney for Defendant

14174
SC Bar#

☒ State Department of Corrections,

☐ County Detention Center,

for a determinate term of 20 days/months/years or ☐ under the Youthful Offender Act not to exceed years

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

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

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

☐ CONCURRENT or ☒ CONSECUTIVE to sentence on:

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

Department of Corrections.

☒ 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 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

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

Total: \$ plus 20% fee: \$

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:

	\$
§ 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 61.6 (Public Def/Probation)	\$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
3% to County (if paid in installments)	\$

TOTAL

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (07/2016)

Presiding Judge

Judge Code: 2050

Sentence Date: MARCH 27, 2018

Other: SEX WAS NOT CONSENSUAL; ACTIVE ELECTRONIC MONITORING; SEX OFFENDER REGISTRY; NO CONTACT WITH VICTIMS; PAY COURT COSTS W/IN 1 YR. OF RELEASE FROM PRISON

0-20yrs

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF
STATE

Lexington

VS.

Matthew R Darazs

AKA:

Race:

Sex: M

Age:

39

DOB:

-1978

SS#:

Address:

City, State, Zip:

Irmo, SC 29063

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☒ PLEADS

TO: Sex / Criminal sexual conduct with minor, or Attempt - victim under 16 years of age - Second degree

in violation of § 16-03-0655(B)(2) of the S.C. Code of Laws, bearing CDR Code # 0397

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

(CSC 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.

ATTEST:


Solicitor76118
SC Bar#
Defendant
Attorney for Defendant14174
SC Bar#

WHEREFORE, the Defendant is committed to the

☒ State Department of Corrections,☐ County Detention Center,for a determinate term of 20 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years

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

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

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

☐ CONCURRENT or ☒ CONSECUTIVE to sentence on:☐ The Defendant is to be given credit for time served pursuant to S.C. Code Department of Corrections.2017-GS-32-03453 & 3460

§24-13-40 to be calculated and applied by the State

☒ 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 (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:

*Fine:

§ 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 61.6 (Public Def/Probation)

\$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

\$

3% to County (if paid in installments)

\$

TOTAL

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (07/2016)

☐ Appointed PD or appointed other counsel,

§Proviso 61.6 requires \$500 be paid to Clerk during probation and shall be collected before any other fees.

Presiding Judge

Judge Code:

Sentence Date:

_____ 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: SEXUAL BATTERY WAS NOT CONSENSUAL;SAME AS 2017-GS-32-03453

Presiding Judge

Judge Code:

Sentence Date:

2050
MARCH 27, 2018

0-10yrs

145

STATE OF SOUTH CAROLINA

COUNTY OF
STATE

Lexington

VS.

Matthew R Darazs

AKA:

Race: Sex: M Age: 39

DOB: 1978 SS#

Address:

City, State, Zip: Irmo, SC 29063

DL#: SID#:

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was
TO: Sex / Incest

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2017GS3203460

A/W#: 17-STR-00552

Date of Offense: 12/25/2013

S.C. Code §: 16-15-0020

CDR Code #: 0090

SENTENCE SHEET

☐ CONVICTED OF or ☒ PLEADS

in violation of § 16-15-0020 of the S.C. Code of Laws, bearing CDR Code # 0090

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45
(CSC 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.ATTEST: [Signature] 76118 [Signature] 14174
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 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 Department of Corrections.☒ 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 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

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

Total: \$ plus 20% fee: \$

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:

§ 14-1-206 (Assessments 107.5 %) \$

§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$100

§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$

§ 56-5-2995 (DUI Assessment) \$12 \$

§ 56-1-286 (DUI Breath Test) \$25 \$

Proviso 61.6 (Public Def/Probation) \$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 \$

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

TOTAL

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (07/2016)

PTUP

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: SAME AS 2017-GS-32-03453

☐ Appointed PD or appointed other counsel,
§ Proviso 61.6 requires \$500 be paid to Clerk
during probation and shall be collected before
any other fees.

Presiding Judge

Judge Code: 2050

Sentence Date: March 27, 2018

0-2045

STATE OF SOUTH CAROLINA

COUNTY OF
STATE

Lexington

VS.

Matthew R Darazs

AKA:

Race:

Sex: M

Age:

39

DOB:

1978

SS#:

Address:

City, State, Zip:

Irmo, SC 29063

DL#:

SID#:

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

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

TO: Sex / Criminal sexual conduct with minor, or Attempt - victim 11 to 14 yrs of age inclusive - Second deg.

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 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.

ATTEST:

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

20

days/months/years or

☐ under the

Youthful Offender Act

not to exceed

years

and/or to pay a fine of \$

; provided that upon the service of

days/months/years and/or payment

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

probation for

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

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code Department of Corrections.

§ 24-13-40 to be calculated and applied by the State

☐ 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 (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:

*Fine:

§ 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 61.6 (Public Def/Probation)

\$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

\$

3% to County (if paid in installments)

\$

TOTAL

\$

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (07/2016)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#:

2017GS3203461

A/W#:

17-STR-00553

Date of Offense:

1/1/2012

S.C. Code § :

16-03-0655(b)(1)

CDR Code #:

0396

SENTENCE SHEET

☐ CONVICTED OF or☒ PLEADS☐ Mandatory GPS☐ §17-25-45

(CSC 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.

ATTEST:

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

20

days/months/years or

☐ under the

Youthful Offender Act

not to exceed

years

and/or to pay a fine of \$

; provided that upon the service of

days/months/years and/or payment

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

probation for

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

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code Department of Corrections.

§ 24-13-40 to be calculated and applied by the State

☐ 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 (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:

*Fine:

§ 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 61.6 (Public Def/Probation)

\$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

\$

3% to County (if paid in installments)

\$

TOTAL

\$

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (07/2016)

☐ Appointed PD or appointed other counsel,

§ Proviso 61.6 requires \$500 be paid to Clerk during probation and shall be collected before any other fees.

Presiding Judge

Judge Code:

Sentence Date:

William P. Hensley

2050

MARCH 27, 2018

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Lexington
 STATE VS.
Matthew R Darazs
 AKA: _____
 Race: _____ Sex: M Age: 39
 DOB: 1978 SS#: _____
 Address: _____
 City, State, Zip: Irmo, SC 29063
 DL#: _____ SID#: _____

INDICTMENT/CASE#: 2017GS3203462
 A/W#: 2016A3221100409
 Date of Offense: 1/1/2015
 S.C. Code §: 16-03-0600(C)(1)
 CDR Code #: 3412

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐
 In disposition of the said indictment comes now the Defendant who was
 TO: Assault / Assault & Battery 1st degree

☐ CONVICTED OF or ☒ PLEADS

in violation of § 16-03-0600(C)(1) of the S.C. Code of Laws, bearing CDR Code # 3412
☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45
 (CSC 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.
 ATTEST: _____

Raf. C. M. 7618 10 D. P. S. 14174
 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 5 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.

☒ 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 (Domestic
 Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

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

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

Payment Terms: _____

☐ Set by SCDPPPS _____

Recipient: _____

*Fine: _____ \$

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

§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$100

§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$

§ 56-5-2995 (DUI Assessment) \$12 \$

§ 56-1-286 (DUI Breath Test) \$25 \$

Proviso 61.6 (Public Def/Probation) \$500 \$

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

§ 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) \$

TOTAL 125

Clerk of Court/ Deputy Clerk Lisa Cooper

Court Reporter: Bethanne Clapper

SCCA217 (07/2016)

PTUP _____

_____ 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: SAME AS 2017-GS-32-03453

☐ Appointed PD or appointed other counsel,

§ Proviso 61.6 requires \$500 be paid to Clerk

during probation and shall be collected before

any other fees.

Presiding Judge William P. Massey

Judge Code: 2050

Sentence Date: MARCH 27, 2018