

EXHIBIT A

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S.C. SUPREME COURT

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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Jan 27 2026

S.C. SUPREME COURT

Certiorari to Horry County

Honorable Dale Van Slambrook, Circuit Court Judge

MICHAEL J. WALTON,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2025-001516

AMENDED APPENDIX

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1 STATE OF SOUTH CAROLINA) **TRANSCRIPT OF RECORD**
2 COUNTY OF HORRY) CASE NO.:2017-GS-26-02833
3 PLEA

4 -----

5 April 26, 2018

6 **BEFORE:** The Honorable Benjamin Culbertson

7 -----

8 STATE OF SOUTH CAROLINA,

9 Plaintiff,

10 vs.

11 MICHAEL JOHN WALTON,

12 Defendant.

13 -----

14

15 APPEARANCES:

16

17 Leigh Andrew, Esq.
Attorneys for the State.

18

19 Ralph Wilson, Esq.
Attorneys for the Defendant.

20

21 Official Court Reporter
Natalie Dahl, RPR

22

23

24

25

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

2 (MICHAEL WALTON, having been duly sworn,
3 testified as follows:)

4 MS. ANDREW: State of South Carolina, County of
5 Horry versus Michael John Walton. The defendant is
6 charged with criminal sexual conduct with a minor in
7 the second degree. He is present in court with his
8 attorney, Mr. Ralph Wilson. It is my understanding he
9 also has two other charges for criminal sexual conduct
10 with a minor second degree and in the third degree.
11 It is my understanding he'll plead guilty to the one
12 charge of CSC with a minor second degree in exchange
13 for the State's recommendation of twenty years.

14 THE COURT: You represent Michael John Walton on
15 the charge of criminal sexual conduct with a minor in
16 the second degree?

17 MR. WILSON: Yes, sir, I do, Your Honor.

18 THE COURT: Have you discussed with your client
19 the charge against him, his rights as a defendant
20 and the consequences of being convicted of this crime?

21 MR. WILSON: Yes, sir, I have.

22 THE COURT: In your opinion, does your client
23 understand the charge against him, his rights as a
24 defendant and the consequences of being convicted of
25 this crime?

1 MR. WILSON: He does.

2 THE COURT: Does he wish to plead guilty or not
3 guilty?

4 MR. WILSON: Guilty.

5 THE COURT: Do you agree with his decision to
6 plead guilty to this charge?

7 MR. WILSON: I do.

8 THE COURT: Based upon the information you have,
9 if this case proceeded to trial, do you feel that the
10 State could prove your client's guilt beyond a
11 reasonable doubt?

12 MR. WILSON: Yes, sir.

13 THE COURT: Has your client received a competency
14 evaluation?

15 MR. WILSON: No, sir, and I do not believe he is
16 in need of one.

17 EXAMINATION

18 BY THE COURT:

19 Q Your name is Michael John Walton?

20 A Yes, sir.

21 Q Mr. Walton, you have been charged and indicted by
22 the grand jury with criminal sexual conduct with a
23 minor in the second degree, and according to your
24 attorney, you wish to plead guilty to that charge; is
25 that correct?

1 A Yes, Your Honor.

2 Q Before I can accept your guilty plea, I have to
3 go over questions with you to be sure you understand
4 the charge against you, understand your rights as a
5 defendant, the consequences of pleading guilty and I
6 must be sure you are pleading guilty voluntarily.

7 During the past 72 hours, have you taken any
8 medication, consumed any alcohol or drugs or been
9 under any influence that would affect your ability to
10 know why you are here?

11 A No, sir.

12 Q Do you understand why you are here?

13 A Yes, Your Honor.

14 Q Is there anything about this hearing that you
15 want to ask your lawyer or me before we proceed?

16 A No, Your Honor.

17 Q Even though you have been indicted by the grand
18 jury, under the Constitution of the United States, you
19 are presumed to be innocent of this crime. You have
20 the right to have your guilt or innocence determined by
21 a jury trial of your peers. The State bears the burden
22 of proving your guilt beyond a reasonable doubt. You
23 do not have to prove your innocence, and you cannot be
24 compelled to testify against yourself. You have the
25 right to confront and cross-examine anyone who

1 testifies against you. If you choose, you can present
2 a defense to this charge. When you plead guilty, you
3 give up those rights; do you understand that?

4 A Yes, sir.

5 Q And do you want to give up those rights and plead
6 guilty to this charge?

7 A Yes, sir.

8 Q Now, the State recommended that you receive a
9 maximum sentence of 20 years in prison; do you
10 understand that?

11 A Yes, sir.

12 Q Do you understand this crime is classified as a
13 violent crime? What that means is if you are ever
14 convicted of another violent crime conviction, then
15 that subsequent conviction, you would not be eligible
16 for probation and not eligible for parole, and the
17 State will use this guilty plea against you to show a
18 violent crime conviction on your record to keep you
19 from getting probation or parole; do you understand?

20 A Yes, sir.

21 Q You also understand that this is classified as a
22 most serious crime. If you are ever convicted of two
23 most serious crimes, then that second most serious
24 crime conviction, the sentence can be enhanced to life
25 in prison without the possibility of parole, and the

1 State will use this guilty plea against you to show a
2 most serious crime conviction on your record to enhance
3 that sentence; do you understand that?

4 A Yes, sir.

5 Q You also understand -- hold for a second -- that
6 upon your release -- hold on for a second.

7 You also understand you will be required to
8 register as a sex offender for the rest of your life?

9 A Yes, sir.

10 Q And you understand this is a sexually violent
11 offense, what that means is when you are due to be
12 released or ending your sentence, the attorney general
13 can bring a civil action against you to determine
14 whether or not you are a sexually violent predator. If
15 it is determined that you are a sexually violent
16 predator, you can be committed to the Department of
17 Mental Health for an indefinite period of time, up to
18 the rest of your life; do you understand that?

19 A Yes, sir.

20 Q Knowing all of that, do you wish to plead guilty
21 or not guilty to criminal sexual conduct with a minor
22 second degree?

23 A Guilty.

24 Q Has anyone promised you anything or threatened
25 you in any way to get you to plead guilty?

1 A No, sir.

2 Q Are you pleading guilty voluntarily?

3 A Yes, sir.

4 Q Are you satisfied with your lawyer?

5 A Absolutely.

6 Q Are you pleading guilty to this crime because you
7 committed that crime?

8 A Yes.

9 Q Listen carefully while the solicitor gives me the
10 facts of your case.

11 MS. ANDREW: Between the dates of December 1,
12 2014 and December 31, 2016, the defendant made a
13 post-Miranda confession to engaging in oral sex,
14 digital penetration, masturbation in front of and
15 showing porn to his then 14-year-old daughter. By the
16 defendant's own admission, the events happened too
17 many times to count and occurred at least on a weekly
18 basis for more than a year. The victim indicated that
19 the defendant engaged in penial/vaginal penetration on
20 at least two occasions.

21 Q (BY THE COURT) Mr. Walton, you understand what
22 the allegations are against you?

23 A Yes, sir.

24 Q Is that what happened in this case?

25 A Yes, sir.

1 THE COURT: Mr. Wilson, anything in mitigation?

2 MR. WILSON: Yes, sir. Your Honor, first, I
3 would like to hand up some documents that I have
4 received from -- the top document that the Court is
5 looking at is from Celebrate Recovery, which is a
6 program, Your Honor, that the defendant has been
7 engaged in for the past 12, 15 months. It is a
8 Christian-based program where they receive counseling.
9 He's been attending counseling sessions both for group
10 and individual counseling sessions, and he has been
11 doing that for more than a year. This is not
12 something that he started in anticipation of court, he
13 actually started doing this in order to determine what
14 was going on with him and to try to rectify what he
15 had done.

16 Your Honor, let me say that at the outset,
17 obviously, he's pled guilty, and so in no way are we
18 intending to mitigate the seriousness of this offense,
19 because obviously it is. We understand that, and he
20 has pled guilty, so that, in and of itself, speaks for
21 itself. But what I would say on his behalf is that he
22 has done everything since that time to try and -- not
23 make amends, but tried to get his life back in a
24 position where it should have been. You can't undo,
25 unfortunately, when you do these acts that he is

1 accused of and has pled guilty to. You can't undo
2 them, can't undo the harm or pain. You can't undo the
3 things that hurt all of the people that you loved and
4 that you are supposed to protect. He understands
5 that, and he has been trying to deal with that. That,
6 in and of itself, has been a heavy, heavy burden for
7 him over this past year, year-and-a-half since these
8 things have happened.

9 From day one, he always admitted to this offense.
10 He admitted it to his wife, preacher, admitted it to
11 me, admitted it to everyone he came into contact with.
12 He never tried to deny it. And not only has he not
13 tried to deny it, he has made every effort to make
14 sure that these children didn't have to come into this
15 courtroom and go through this process or being exposed
16 to this. He's done everything he could.

17 In his divorce process after this happened, he
18 gave everything -- relinquished everything he had,
19 401-K, his home, home in Texas, everything he had, he
20 turned it over to his wife and left with nothing. He
21 understands that he put himself in that position.
22 Nobody forced him to do these things. He did these of
23 his own volition, and understands that. He also
24 understands that he has to suffer the consequences of
25 his actions; he understands that.

1 I also want to say to the Court, Your Honor, that
2 he has a number of medical issues. First, he's 58
3 years of age, and a 20-year sentence is a life
4 sentence for him. He has hip problems where they have
5 been recommending surgery, but he hadn't had the money
6 or resources to have surgery. I think there is a note
7 from the doctor in there regarding that; if not, I
8 have a copy of it right here. He had an ultrasound on
9 his throat, there is a possibility that he either has
10 a thyroid condition or maybe cancer, we don't know
11 because the ultrasound hasn't been done yet. Again,
12 these are things that have happened to him since all
13 of this has occurred.

14 The other thing, Your Honor, is that this man has
15 tried everything that he knows to become a better
16 person. If you look at, Your Honor, that package I
17 handed you up, there was an assessment or an
18 evaluation that was done by Southeastern Assessment.
19 When he first came to me, to talk to me about this
20 more than a year ago, he said I don't know why I did
21 this, I don't understand. This is a man who was
22 married to his wife for 37 years. Married for 37
23 years. They had four children -- biological children
24 and three adopted children. He has no criminal
25 record, not even traffic tickets, nothing, in his

1 entire life. He is a design engineer and designs
2 trusses for buildings. He does it for four different
3 states: Texas, Massachusetts, North Carolina and
4 Virginia. He's been doing that more than 30 years.
5 He was -- I don't want to say a good father because,
6 obviously, this is a bad thing, but it doesn't mean
7 that he was a bad person for 37 years, because he was
8 not. What he did all happened, as far as everybody
9 knows, for about a year or year-and-a-half during his
10 life. Up until that point, he was a model citizen in
11 every possible way, taking care of his family, working
12 hard, trying to go to church, trying to be a good
13 person.

14 Again, does that mean that what he did is okay?
15 Absolutely not. That is not what we're suggesting to
16 the Court, and I would never do that. What I'm
17 saying, though, is I think 20 years is excessive. I
18 think 20 years is excessive for this offense. Does he
19 have to be punished? The answer is, yes. Does he
20 have to go to jail? Yes. 20 years, I think, is way
21 more than what is required. One, he has to be
22 punished and, two, to rehabilitate him. He's already
23 being punished. As I said, he gave up everything he
24 has. He has nothing left in the world except him. He
25 can't see his children. He can't -- he has a divorce

1 from his wife of 37 years. Again, does he bring all
2 of these things on him himself? Absolutely, he did.
3 Absolutely, he did. He has nobody to blame but
4 himself.

5 He is trying now to recover from that, and he's
6 trying to get back in. All of his children will be 18
7 years of age before the end of this year, all reached
8 the age of majority by the end of this year. When he
9 goes to prison, whether they'll visit or see him, I
10 don't know, and he doesn't know. Right now he can't
11 see it because of the court order from family court.

12 What else I want to say is this. If you look at
13 that report that we got from Southeastern Assessment,
14 they say that his likelihood that he'll be a
15 recidivist or engage in this conduct is at the very
16 lowest level. They are saying like 2 percent chance,
17 2.8 percent chance that there is even a possibility
18 that he would be a recidivist. So it is not likely
19 that he'll be -- if he gets out of prison at some
20 point -- that he's going to engage in this kind of
21 conduct again.

22 What I'm simply asking the Court is to have mercy
23 and not give him 20 years, which would be effectively
24 a life sentence for him. Give him a chance that he
25 can go to prison, do time, get out and have some life

1 left and, hopefully, regain some kind of relationship,
2 if at all possible, with his children. I apologize
3 for taking up a whole bunch of time, but I would ask
4 the Court to hear from a couple of people that would
5 like to say something because they have known him for
6 a period of time and want to share briefly. I
7 explained that this should be brief, but I would ask
8 the Court to hear it.

9 THE COURT: All right. I'll hear from
10 Mr. Walton or whoever wants to speak on his behalf.

11 Your name?

12 MR. CUSEO: My name is Joseph Michael Cuseo, the
13 Third, C-U-S-E-O.

14 THE COURT: What would you like to say?

15 MR. CUSEO: I will be brief, and I appreciate the
16 proceedings because I've been involved in these types
17 of proceedings since about 1986. I lost a military
18 career because of sexually moral acts that I
19 committed, so I know from both sides of the fence what
20 is going on here. I've known Mike about a year. Just
21 four things. Out of the depths I cry to you, oh,
22 Lord. Oh, Lord, hear my voice. Let your ears be
23 attentive to my cry for mercy. If the good Lord kept
24 a record of sins, oh, Lord, who could stand? But with
25 You, there is forgiveness; therefore, You are feared.

1 When I first met Mike, just like myself, it was
2 what is going to happen to me. Over the year that
3 I've had an opportunity to lead Mike to Christ and
4 talk to him about what happened to me, what it took
5 for my life to change and how my life changed and how
6 it has been, I watched Mike evolve into being more
7 concerned about the damage he's caused, not only for
8 himself, but he's put that on the back burner and more
9 concerned about the other people he has hurt, his
10 daughter directly, his other children, wife, destroyed
11 his marriage. I've seen that evolution with Mike. He
12 knows to be forgiven, he has to repent. I've seen
13 repentance. There is always room for growth. I, too,
14 empathize with the victim. We all deserve to be
15 punished, I just ask the Court to take everything into
16 consideration when you determine what to do with Mike.
17 But we're all children of God, not thrown and toss
18 away. We have to suffer the consequence of our
19 actions. I thank you for your time.

20 THE COURT: Thank you.

21 MR. WILSON: Mr. Walton would like to speak.

22 THE COURT: Yes, sir.

23 MR. WALTON: Your Honor, first of all, my victim
24 is not here, so I'm not able to apologize. But for
25 the record, I would like to apologize to my daughter

1 for what I did to her over the course of time that was
2 basically just evil acts. If my ex-wife was here, I
3 would apologize to her for what I've put her through.
4 She has been through a tremendous amount due to the
5 fact of the offense I've done to my daughter.

6 December 10 of 2016, I had to leave because my
7 secret was out. I had damaged my daughter to the
8 point where she just couldn't take it anymore. My
9 wife talked to her, found out, and then I had to
10 leave. On December -- I got a call December 12th of
11 2016, I got a call from my pastor encouraging me to
12 self report. I asked him to go with me, and he did.
13 I went on December 14. I showed up and did confess to
14 the acts I did with my pastor present. Basically, I
15 explained what I did. I was then sent to prison and
16 been on home detention for the last 17 months since
17 that time.

18 Home detention gave me freedom that I didn't
19 deserve, but it allowed me an opportunity, and the
20 opportunity was to get into counseling and get into
21 groups and sessions at Celebrate Recovery. All of
22 this focused on being a part of my recovery from my
23 sex addiction and pedophiliac acts I perpetrated on my
24 daughter. I've learned quite a bit through Celebrate
25 Recovery. It is a crisis center program, and I feel

1 like I've really grown quite a bit in that program.
2 Through my counseling sessions, I was able to dig deep
3 and figure out reasons that may have cause what I did,
4 but it hadn't taken away the fact that I did what I
5 did to my daughter, and that fact remains.

6 I discovered things about my past that might be
7 reasons, but they are not excuses. There is no excuse
8 what I did to my daughter and wife and extended
9 family. Even including my family of origin, with the
10 exception of two brothers and a sister, they have
11 basically quit talking to me.

12 So, anyhow, through Celebrate Recovery, through
13 my counseling sessions, through group therapies, Bible
14 studies and church, I have been able to see a lot of
15 things about myself and grow and recognize my
16 triggers, recognize actions or things that may cause
17 me to go backwards or relapse, which I have been able
18 to grow from that and not do those things. I
19 recognize them as part of -- I also started a business
20 last year that is truss design business, which the
21 hope was to take gentlemen from Life Recovery and J.
22 Reuben Long and other instances that would be able to
23 train them for doing truss designs or framing so they
24 would grow instead of putting down as being a lower
25 part of society. I feel the empathy for them. So

1 this has been successful to a degree. I haven't been
2 able to work with the prison system, for obvious
3 reasons, but I expect that to be a part of it. We
4 have an employee who is wheelchair bound who is doing
5 very well at it, and I expect that to grow.

6 I'm the only one in the business that knows and
7 has 30 years in what I do. So if I'm put in prison,
8 it will put an end to that. But, still, I'm asking
9 the Court for leniency and acceptance of the grief and
10 the guilt that I feel from what I've done. Thank you.

11 THE COURT: All right. Mr. Wilson, anything
12 further?

13 MR. WILSON: Mark.

14 THE COURT: Your name?

15 MR. DELANEY: Mark Delaney.

16 THE COURT: Spell your last name.

17 MR. DELANEY: D-E-L-A-N-E-Y.

18 THE COURT: What would you like to say?

19 MR. DELANEY: I'm a general contractor and I've
20 known Mike for over ten years. Everything about this
21 has shocked all of us. We're very disappointed in
22 what happened, and the thing about being able to come
23 forward like this is just to be able to say that the
24 remorse that he has been showing us since this has
25 happened is true. Just as the attorney has been able

1 to share, this is something they are not denying. He
2 admitted from the beginning what happened. When we
3 all read about it in the papers and saw what was
4 happening and what surrounded us, we just couldn't
5 believe it. Looking at it from a father's point of
6 view, it was just -- again, it was just unbelievable.

7 Mike is truly remorseful for what happened, and
8 he really truly would like to be able to build a
9 relationship with his family. He did surrender
10 everything. The times I have talked to him since he
11 has been out is just been able -- he's worked -- he
12 understood the time would come when he faced his wife
13 and she was going to be so angry, didn't even want to
14 speak or look at him and, yet, he stood and waited
15 patiently to be able to -- what do I need to do to
16 resolve this. So he surrendered everything. They got
17 the divorce finalized. He longed to see his children,
18 but understood he couldn't.

19 For us being here for Mike is to just ask for
20 mercy, to consider less time instead of the full
21 conviction. Thank you, Your Honor.

22 THE COURT: All right.

23 MR. WILSON: Thank you.

24 THE COURT: Anything further?

25 MR. WILSON: No, sir.

1 THE COURT: Anyone here on behalf of the victim?

2 MS. ANDREW: The victim is not present, not
3 because she doesn't feel strongly. I personally have
4 met with her on more than one occasion. She was
5 extremely close to the defendant. She was, quote, a
6 Daddy's girl, and he was raping her, which is why she
7 doesn't want to be here, she just couldn't confront
8 him.

9 THE COURT: You said -- the indictment says from
10 2014 to 2016?

11 MS. ANDREW: I misspoke. She said the last
12 occasion occurred in December of 2016, after some kind
13 of Taste of the Town thing they went to at church.

14 THE COURT: How old was she?

15 MS. ANDREW: Her birthday is [REDACTED] [REDACTED] [REDACTED].
16 This began when she was 14 in the eighth grade, and
17 ended when she was -- so it would have ended in 2016.

18 THE COURT: When she was 16, but you are saying
19 she'll be 18 before the end of the year?

20 MS. ANDREW: She turned 18 last week, Your Honor.

21 THE COURT: I see.

22 Any prior criminal record?

23 MS. ANDREW: Nothing. But the State is null
24 prosing two charges, one for criminal sexual conduct
25 with a minor in the second degree, and one for

1 criminal sexual conduct with a minor in the third
2 degree as part of this agreement.

3 THE COURT: The victim in that is the same
4 victim?

5 MS. ANDREW: Same victim, Your Honor.

6 THE COURT: I find there is a substantial factual
7 basis for this plea and it is made freely,
8 voluntarily, knowingly and intelligently and after the
9 advice of a very competent attorney with whom he says
10 he's satisfied, and I'll accept the plea. Sentence of
11 the Court is that you be confined to the State
12 Department of Corrections for 16 years. You'll be
13 given credit for any time served thus far.

14 (Whereupon, the proceedings concluded.)
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CERTIFICATE OF REPORTER

State of South Carolina)
County of Horry)

I, Natalie Dahl, Official Court Reporter for the
State of South Carolina, do hereby certify that the
foregoing is a true, accurate and complete Transcript
of Record of the evidence introduced in the hearing of
the above-captioned case, relative to appeal, in the
Court of General Sessions for Horry County, South
Carolina, on the 26th day of April, 2018.

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

January 19, 2023

Natalie Dahl, RPR
Court Reporter

FORM 5

STATE OF SOUTH CAROLINA

COUNTY OF HORRY

Michael John Walton 376160

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

v.

State of South Carolina

IN THE COURT OF COMMON PLEAS

2023CP2600337

APPLICATION FOR

POST-CONVICTION RELIEF

INSTRUCTIONS - READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention SCDC - Kirkland Correctional Institution
2. Name and location of Court which imposed sentence 15th Circuit - Horry County, SC
3. Name(s) of co-defendant(s) (if any) — NONE —
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 2017G52602833 C.S.C. 2nd degree
 - (b) _____
 - (c) _____
5. The date upon which sentence was imposed and the terms of the sentence:
 - (a) April 26, 2018 - 16 years
 - (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?
NO
8. If you answered "yes" to (7), list:
- (a) the name of each Court to which you appealed:
- i. _____
- ii. _____
- iii. _____
- (b) the result in each such Court to which you appealed:
- i. _____
- ii. _____
- iii. _____
- (c) the date of each such result:
- i. _____
- ii. _____
- iii. _____
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. _____
- ii. _____
- iii. _____
9. If you answered "no" to (7), state your reasons for not so appealing:
- (a) I was told by my lawyer that I could not appeal
- (b) _____
- (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully: (See "Attachments" - 8 pages)
for 10(a) through 10(m)

- (a) (See "Attachments" - 8 pages - for 10(a) through 10(M))
 (b) " " " " "
 (c) " " " " "

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

- (a) (See "Attachments" - 8 pages - for 11(a) through 11(M))
 (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? NO
 (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? NO
 (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? NO
 (d) any other petitions, motions or applications in this or any other Court? NO

13. If you answered "yes" to any part of (12), list with respect to each petition, motion application:

- (a) the specific nature thereof:
 i. Motion for credit time served
 ii. _____
 iii. _____
 iv. _____
 (b) the name and location of the Court in which each was filed:
 i. 15th Circuit - Horry County, SC
 ii. _____
 iii. _____
 iv. _____
 (c) the disposition thereof:
 i. Granted
 ii. _____
 iii. _____

Horry County
 Clerk of Court
 JAMES A. ELVIS
 JAN 17 A 9:17
 Horry County, SC

- iv. _____
- (d) the date of each such disposition:
- i. September 8, 2022
- ii. _____
- iii. _____
- iv. _____

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

- i. Court - "I will allow credit for time served of 497 days while in house arrest."
- 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) Counsel failed to inform me of my right to direct appeal or file a notice of appeal on my behalf.
- (b) Counsel specifically informed me that I was not eligible for PCR.
- (c) _____

17. Were you represented by an attorney at any time during the course of:

HORRY COUNTY
2023 JAN 19 A 9:17
RENEE N. ELIAS
CLERK OF COURT
HONORARY COURT, SC

- (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? NO
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? NO

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

- (a) the name and address of each attorney who represented you:
- i. Ralph J. Wilson Sr. - 3rd Avenue, Conway, SC
- ii. _____
- iii. _____
- (b) the proceedings at which each such attorney represented you:
- i. Arraignment and plea, Sentencing
- ii. _____
- iii. _____

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

VACATE SENTENCE

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

NO

HORRY COUNTY
2023 JAN 16 A 9:17
RENE ELYS
CLERK OF COURT
HORRY COUNTY, SC

STATE OF SOUTH CAROLINA)

County of Horry)

VERIFICATION

2023CP2600337

I, Michael John Walton, 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.

Michael J. Walton

Sworn to and subscribed before me this 6
day of January, 2023.

NOTARY

Notary Public

(L.S.)

PUBLIC

SOUTH CAROLINA

My Commission Expires: 12-01-2025

HORRY COUNTY
2023 JAN 19 A 9:17
RENEE N. ELVIS
CLERK OF COURT
HORRY COUNTY, SC

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

2023 CP2600337

I, Michael John Walters 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.

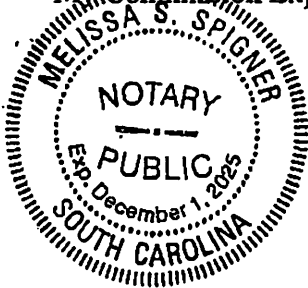

Applicant

SWORN or affirmed to and subscribed before me this

6 day of January, 2023.


Notary Public

My Commission Expires: 12-01-2025



HORRY COUNTY
2023 JAN 19 A 9:17
RENEE N. ELVIS
CLERK OF COURT
HORRY COUNTY, SC

1-6-2023²⁹

FROM: Michael John Walton

2023CP2600337

SCDC# 376160 B2A-14

Kirkland Correctional Institution

4344 Broad River Road

Columbia, SC 29210

TO: Ms. Renee N. Elvis - Horry County Clerk of Court

P.O. Box 677

Conway, SC 29528-0677

RE: Application for Post-Conviction Relief

Good day Ms. Elvis,

Please find enclosed a completed Post-Conviction Relief Application along with supplemental sheets and supporting documents/exhibits.

Please docket this entire packet and return a copy of all pages to me. Also, please bring it to the attention of the court and deliver a copy to the Solicitor and the Attorney General as mandated by § 17-27-40.

Do let me know if you have any questions, need more information, or if there is anything else I need to do so as not to impede the processing of this application. Thank you

Sincerely,

Michael J. Walton

Michael John Walton 376160 - PCR Application

Exhibit #	NUMBER OF PAGES	Containing - pertaining to:
N/A	3	Cover letter and Index of Documents and Exhibits
N/A	7	Post-Conviction Relief Application
N/A	8	"Attachments" pertaining to sections 10(a) through 10(m) and 11(a) through 11(m) of PCR Application
A	11	Copy of correspondence from trial Counsel pertaining to sections 10(b), 10(e), 10(f), 10(h), 11(b), 11(e), 11(f), and 11(h) of PCR Application
B	21	Transcript of 4-26-2018 hearing pertaining to entirety of PCR Application as well as specifically sections 10(i), 10(j), 10(m), 11(i), 11(j), and 11(m) of the PCR Application
C	4	Nolle Prossed indictments pertaining to sections 10(d), 10(g), 10(i), 11(d), 11(g), and 11(i) of the PCR Application

Michael John Walton 376160 - PCR Application

Exhibit #	Number of PAGES	Containing - pertaining to:
D	2	Indictment # 2017-65-26-02833 pertaining to sections 10(b), 10(d), 10(e), 10(f), 10(g), 10(h), 11(b), 11(d), 11(e), 11(f), 11(g), and 11(h) of the PCR Application
E	1	Sentencing Sheet pertaining to sections 10(e), 10(f), 10(g), 10(h), 11(e), 11(f), 11(g), and 11(h) of the PCR Application

HORRY COUNTY
2023 JAN 19 A 9:17
RECEIVED BY: SC
CLERK OF COURT
HORRY COUNTY, SC

PCR Sections 10 and 11 - "Attachments"

page 1 of 8

10(a) Trial counsel failed to provide the effective assistance of counsel guaranteed by the Sixth and Fourteenth Amendments of the United States Constitution and South Carolina law where counsel failed to inform and advise or file a direct appeal on behalf of defendant.

10(b) Trial counsel failed to provide the effective assistance of counsel guaranteed by the Sixth and Fourteenth Amendments of the United States Constitution and South Carolina law where counsel failed to object and preserve for appellate review indictment amendment after expiration of the court term (see Exhibits A and D)

10(c) Trial counsel failed to provide the effective assistance of counsel guaranteed by the Sixth and Fourteenth Amendments of the United States Constitution and South Carolina law when trial counsel grossly misadvised defendant that he was not eligible to file post-conviction relief.

PCR Sections 10 and 11 "Attachments" page 2 of 8

10(d) Trial counsel failed to provide the effective assistance of counsel guaranteed by the Sixth and Fourteenth Amendments of the United States Constitution and South Carolina law in failing to advise defendant of the flawed indictments and to object at the correct time, or develop a strategy where defendant would have proceeded to trial and moved to suppress. (See Exhibits C and D)

10(e) Trial counsel failed to provide the effective assistance of counsel guaranteed by the Sixth and Fourteenth Amendments of the United States Constitution and South Carolina law where trial counsel failed to object and preserve for appellate review the State conducting a post-trial hearing outside the parameters of South Carolina law or Criminal Procedure to amend the indictment and sentencing sheet. (See Exhibits A, D, and E)

10(f) Trial counsel failed to provide the effective assistance of counsel guaranteed by the Sixth and Fourteenth Amendments of the United States Constitution and South Carolina law in failing to object to the Solicitor not forwarding the motion/notice to amend until after the hearing and failing to serve defendant who was technically without legal counsel and the ability to defend. (See Exhibits A, D, and E)

PCR Sections 10 and 11 "Attachments"

page 3 of 8

10(g) Trial counsel failed to provide the effective assistance of counsel guaranteed by the Sixth and Fourteenth Amendments of the United States Constitution and South Carolina law in failing to object that the original indictments deprived the Court of subject matter jurisdiction.
(See Exhibits C, D, and E)

10(h) Trial counsel failed to provide the effective assistance of counsel guaranteed by the Sixth and Fourteenth Amendments of the United States Constitution and South Carolina law in failing to object where jeopardy had attached to the amended indictment after expiration of the sentencing Court term and parameters of Rule 29, SCRCrimP.
(See Exhibits A, D, and E)

10(i) Trial counsel failed to provide the effective assistance of counsel guaranteed by the Sixth and Fourteenth Amendments of the United States Constitution and South Carolina law where counsel failed to object to the malicious prosecution by Solicitor of intentionally introducing information of nolle prossed indictments which were also defectively flawed. (See Exhibits B, C)

PCR sections 10 and 11 "Attachments"

page 4 of 8

10(j) Trial counsel failed to provide the effective assistance of counsel guaranteed by the Sixth and Fourteenth Amendments of the United States Constitution and South Carolina law where counsel failed to object to the malicious prosecution by the Solicitor of intentionally misinforming the Court concerning fictitious statements of victim.
(See Exhibit B)

10(k) Trial counsel failed to provide the effective assistance of counsel guaranteed by the Sixth and Fourteenth Amendments of the United States Constitution and South Carolina law where counsel failed to object to absence of defendant's accusers during the course of defendant's hearings.

10(l) Trial counsel failed to provide the effective assistance of counsel guaranteed by the Sixth and Fourteenth Amendments of the United States Constitution and South Carolina law where counsel failed to object to witness-tampering by the Solicitor.

10(m) Trial counsel failed to provide the effective assistance of counsel guaranteed by the Sixth and Fourteenth Amendments of the United States Constitution and South Carolina law where counsel failed to object to hearsay statements by Solicitor.
(See Exhibit B)

PCR Sections 10 and 11 "Attachments"

page 5 of 8

11(a) During or immediately following sentencing counsel deprived defendant of effective assistance of counsel by failing to properly advise defendant, who pled guilty to a negotiated plea, to a defective indictment, of his right to file a direct appeal, or perfect a notice of appeal, even if such appeal would have been meritless. An indigent defendant has the right to be informed of appeal and manner and method for taking appeal.

2017 JAN 19 A 9:17
 HERPES COUNTY
 CLERK OF COURT
 JENNIFER EVANS
 1000 COURT, 200

11(b) During the course of the post-trial matter outside the parameters of Rule 29, SCRCrimP, counsel failed to object and preserve for appellate review the State incorrectly bringing defendant back before the Court to amend the indictment and sentencing sheet. (See Exhibits A and D)

11(c) During the course of the post-trial matter amending the indictment and sentencing sheet, when specifically asked by defendant, counsel negligently misadvised defendant that he was not eligible for post-conviction relief because defendant entered a plea of guilty.

PCR sections 10 and 11 "Attachments" page 6 of 8

11(d) Trial counsel failed to challenge the validity of the indictments under S.C. Code § 17-19-90 at the correct time; failed to advise defendant of the flawed indictments; or failed to advise defendant that if he proceeded to trial he could have moved to suppress. But for this error defendant would have proceeded to trial. (See Exhibits ~~C~~ and D)

11(e) Trial counsel failed to object and preserve for appellate review the State bringing defendant back before the Court, outside the parameters of Rule 29, SCRCrimP (62 days after sentencing), where the Court, upon motion of the State, illegally amended the indictment and sentencing sheet. (See Exhibits ~~A~~ A, D, and E)

11(f) Trial counsel failed to object to the State bringing defendant back to Court outside of time to amend the indictment and sentencing sheet; failed to timely serve counsel (date of transmittal of motion is 5 days after hearing date - July 2, 2013 v. June 27, 2013 hearing date) and allow consultation; and failed to serve notice on defendant who was technically without counsel or opportunity and competent advice on how to proceed. (See attached correspondence from trial counsel) (See Exhibits ~~A~~ A, D, and E)

PCR Sections 10 and 11 "Attachments"

page 7 of 8

- 11(g) Trial counsel failed to object that the original indictment(s), flawed on the four corners, deprived the Court of subject matter jurisdiction where the nature of the offense(s) (elements) were changed. (See Exhibits C, D, and E)
- 11(h) Trial Counsel failed to enter an objection to double jeopardy at the post-trial hearing to amend the indictment and sentencing sheet where jeopardy had attached after expiration of the court term and procedural rules following sentencing. (See Exhibits A, D, and E)
- 11(i) Trial counsel failed to object to malicious prosecution of Solicitor who intentionally inflamed the passions of the Court by the introduction of Nolle prossed indictments, which were also fatally flawed on the four corners, at a time which severely prejudiced the defendant. (See transcript pages 19 & 20) (See Exhibits B and C)
- 11(j) Trial counsel failed to object to malicious prosecution by the Solicitor who intentionally misinformed and inflamed the passions of the Court by fictitiously stating that the victim did not appear in Court because she informed the Solicitor "he was raping her" where no evidence or statement reveals such and defendant was thereby prejudiced. (See page 19 of attached transcript) (See Exhibit B)

PCR Sections 10 and 11 "Attachments"

page 8 of 8

11(K) Trial counsel failed to object to the absence of the defendant's accusers during the defendant's hearings thereby depriving the defendant his right to face his accusers.

11(L) Trial counsel failed to raise and object to witness-tampering by the Solicitor where trial counsel was made aware of a witness being allowed by the Solicitor to view evidence which would have bolstered this same witness' testimony thereby having a prejudicial effect on the defendant.

11(M) Trial counsel failed to object to and preserve for appellate review hearsay made by Solicitor where statements by Solicitor were not statements by the victim and were intended by the Solicitor to inflame the passions of the Court and prejudice the defendant. (see page 19 of the transcript) (See Exhibit B)

HORRY COUNTY

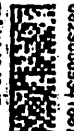
2023 JAN 19 A 9 17

Ralph J. Wilson Attorney at Law PA3
1323 Third Avenue
Post Office Box 1827
Conway SC 29526

CONWAY
SC 29526
1323 Third Avenue
Post Office Box 1827

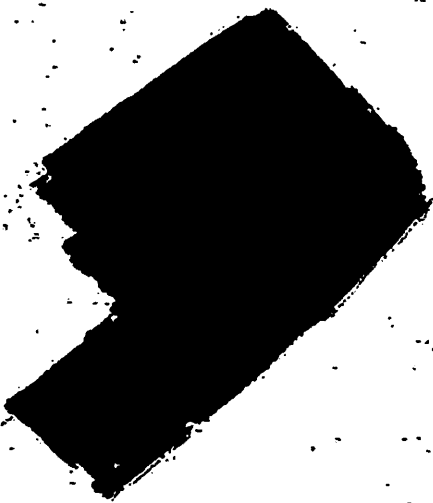


\$0.650
US POSTAGE
FIRST-CLASS
FROM 29526
05/09/2018
stamp
price



376160

1A217



Michael Walton
Perry Correctional Institute
430 Oaklawn Rd.
Pelzer SC 29669-8704

RECEIVED

MAY 14 2019

P.C.I. MAILROOM



RALPH J. WILSON, SR.
ATTORNEY AT LAW, P.A.

1323 Third Avenue
Post Office Box 1827
Conway, South Carolina 29528

Phone (843) 381-0765
Fax 1-888-519-0549
Email: Info@rjwlawpa.com

May 9, 2019

Michael Walton
Perry Correctional Institute
430 Oaklawn Rd.
Pelzer, SC 29669

Re: *State of South Carolina v. Michael Walton*
Criminal Sexual Conduct with minor, or Attempt - Victim under 16 years of age

Dear Mr. Walton:
Enclosed for your records and review are the following documents:

- 1) Copy of Supplemental Discovery received from the State (10pp)

There is nothing that you need to do with these documents at this time. This material is simply being provided to you for your records and to keep you up to date with all material the State has provided relative to your case thus far. When and if additional documents are received, they will, likewise, be forwarded upon receipt.

Upon receipt, please contact my office to schedule an appointment to discuss this information. Any media listed in the Discovery packet can be viewed during your appointment.

Please let me know if you have any questions. I will review these materials with you in more detail as your case progresses.

With kind regards, I am

Truly yours,

Ralph J. Wilson, Sr. Esq.

RJW/add
Enclosures: as stated

HORRY COUNTY
2019 JAN 19 A 9:17
RENEE S. ELVIS
CLERK OF COURT
HORRY COUNTY, SC

STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
COUNTY OF HORRY) CASE NO: 17H00100
STATE OF SOUTH CAROLINA)
VS.) ACKNOWLEDGEMENT OF RECEIPT OF
MICHAEL JOHN WALTON) SUPPLEMENTAL DISCOVERY DOCUMENTS
DEFENDANT.)
_____)

TO: Ralph J. Wilson, Sr., ATTORNEY FOR DEFENDANT

PURSUANT TO YOUR DISCOVERY REQUEST, ENCLOSED PLEASE FIND THE FOLLOWING DOCUMENTS RELATIVE TO THE ABOVE REFERENCED MATTER:

- | | | |
|----|---|---------|
| 1. | Motion to Amend Indictment & Sentence Sheet | 5 pages |
| 2. | Order Amending Sentence Sheet | 1 page |
| 3. | Order Amending Indictment | 1 page |

PLEASE ACKNOWLEDGE RECEIPT OF A COPY OF THE ABOVE DOCUMENT(S) AT THE PLACE PROVIDED BELOW AND RETURN A SIGNED COPY TO THIS OFFICE.

Conway, S. C.

Dated: _____

Ralph J. Wilson, Sr.
ATTORNEY FOR DEFENDANT

C. Leigh Andrew
Assistant Solicitor

Prepared by: Magdalena Salemno July 2, 2018

HORRY COUNTY
2018 JAN 19 A 9:17
FAYE N. EVANS
CLERK OF COURT
HORRY COUNTY, SC

STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
COUNTY OF HORRY) CASE NO: 17H00100
STATE OF SOUTH CAROLINA)
VS.) ACKNOWLEDGEMENT OF RECEIPT OF
MICHAEL JOHN WALTON) SUPPLEMENTAL DISCOVERY DOCUMENTS
DEFENDANT.)
_____)

TO: Ralph J. Wilson, Sr., ATTORNEY FOR DEFENDANT

PURSUANT TO YOUR DISCOVERY REQUEST, ENCLOSED PLEASE FIND THE FOLLOWING DOCUMENTS RELATIVE TO THE ABOVE REFERENCED MATTER:

- | | | |
|----|---|---------|
| 1. | Motion to Amend Indictment & Sentence Sheet | 5 pages |
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| 3. | Order Amending Indictment | 1 page |

PLEASE ACKNOWLEDGE RECEIPT OF A COPY OF THE ABOVE DOCUMENT(S) AT THE PLACE PROVIDED BELOW AND RETURN A SIGNED COPY TO THIS OFFICE.

Conway, S. C.

Dated: _____

Ralph J. Wilson, Sr.
ATTORNEY FOR DEFENDANT

CLH/MLS
C. Leigh Andrew
Assistant Solicitor

Prepared by: Magdalena Salemno July 2, 2018

HORRY COUNTY
2017 JAN 19 A 9:17
RENEE N. ELVIS
CLERK OF COURT
HORRY COUNTY, SC

STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
COUNTY OF HORRY) OF THE FIFTEENTH JUDICIAL CIRCUIT
STATE OF SOUTH CAROLINA) INDICTMENT #: 2017GS2602833
VS.) WARRANT #: 2016A2610701334
MICHAEL JOHN WALTON) CASE #: 17H00100
DEFENDANT,)
ORDER AMENDING SENTENCE SHEET

On April 26, 2018, the Defendant was sentenced on the charge of Criminal Sexual Conduct with a Minor, Second Degree, warrant number 2016A2610701334, to 16 years by the undersigned judge, who now wishes to amend the sentence sheet as follows:

On the face of the sentence sheet, due to a scrivener's error, the statute is erroneously cited as §16-03-655(C). It should read §16-03-655(B).

I find the above amendment to the sentence sheet does not alter or affect the actual charge to which the defendant pled guilty, and under which the defendant was sentenced, and does not alter in any way the sentence previously imposed by the Circuit Court in this matter but is required to correct the record.

IT IS THEREFORE ORDERED that the statute cited on the face of the sentence sheet of Michael John Walton be amended to read:

"In disposition of the said indictment comes now the Defendant who was PLEADS TO Criminal Sexual Conduct w/ Minor, 2nd Degree <16 in violation of §16-03-0655(B) of the S.C. Code of Laws, bearing CDR Code # 0397."

IT IS FUTHER ORDERED that the statute cited in the top right hand corner on the face of the sentence sheet of Michael John Walton be amended to read: §16-03-0655(B)

AND IT IS SO ORDERED.

Date: June 27, 2018
HORRY, SOUTH CAROLINA

M. J. Walton
PRESIDING JUDGE
FIFTEENTH JUDICIAL CIRCUIT

ORIGINAL

STATE OF SOUTH CAROLINA)
COUNTY OF HORRY)
THE STATE OF SOUTH CAROLINA)
VS)
MICHAEL JOHN WALTON)
DEFENDANT)

IN THE COURT OF GENERAL SESSIONS
INDICTMENT NO: 2017GS2602833
WARRANT NO: 2016A2610701334
CASE NO: 17H00100

ORDER AMENDING INDICTMENT

NOW COMES THE State of South Carolina, by and through undersigned counsel, and moves this Court to amend the indictment(s) in this case. Some information was transferred to the indictment(s) by the State in error, and must be amended in the following particulars:

The defendant pled guilty to Criminal Sexual Conduct with a Minor, Second Degree as reflected on the indictment(s); however, the below addressed item was erroneous on the original indictment(s):

- 1) On the face of the indictment, due to a scrivener's error, the statute is erroneously cited as §16-03-655(C). It should read §16-03-655(B).
- 2) On the back of the indictment, due to a scrivener's error, the statute-code section is erroneously cited as §16-03-655(C) and §16-03-655(3). It should read §16-03-655(B) in both instances.
- 3) On the back of the indictment, the language stating: "[formerly Section 16-3-655(3)]" should be stricken.

I find the above amendment to the indictment(s) does not alter or affect the actual charge to which the defendant pled guilty, and under which the defendant was sentenced, and does not alter in any way the sentence previously imposed by the Circuit Court in this matter but is required to correct the record.

THEREFORE, IT IS ORDERED that the indictment(s) in this case be amended as requested.

AND IT IS SO ORDERED.

Margaret T. Culbertson
PRESIDING JUDGE
FIFTEENTH JUDICIAL CIRCUIT

June 27, 2018
DATE
Conway, South Carolina

I SO MOVE:

ORIGINAL

STATE OF SOUTH CAROLINA
COUNTY OF HORRY
THE STATE OF SOUTH CAROLINA
VS
MICHAEL JOHN WALTON

DEFENDANT

IN THE COURT OF GENERAL SESSIONS
INDICTMENT NO: 2017GS2602833
WARRANT NO: 2016A2610701334
CASE NO: 17H00100

MOTION TO AMEND INDICTMENT
AND SENTENCE SHEET

HORRY COUNTY
2018 JAN 27 AM 9:17
RENEE L. EVMS
CLERK OF COURT
HORRY COUNTY, SC

The State of South Carolina, by and through undersigned counsel, hereby requests that this Court amend the above-captioned indictments to reflect the correct statute section.

Michael Walton was arrested and charged with Criminal Sexual Conduct, Second Degree under arrest warrant 2016A2610701334. He was then indicted by the Horry County Grand Jury on June 22, 2017 for the same offense under indictment number 2017GS2602833. A copy of the true billed indictment is attached as **Exhibit A** and incorporated by reference herein. On or about April 26, 2018, the defendant, Michael Walton, pleaded guilty to Criminal Sexual Conduct with a Minor, Second Degree before the Honorable Benjamin Culbertson. Judge Culbertson accepted the guilty plea and sentenced Mr. Walton to 16 years incarceration, and signed a "Sentence Sheet" reflecting the same. A copy of the Sentence Sheet is attached as **Exhibit B** and incorporated by reference herein. It has come to the State's attention that the indictment and Sentence Sheet contain scrivener's errors that need to be corrected.

Specifically, the indictment for Criminal Sexual Conduct with a Minor in the Second Degree contains a scrivener errors in that the statute section is incorrectly cited and there is language in the charge that is superfluous. The State now seeks to correct these scrivener's errors and amend the indictment to reflect:

- The statute section on the front of the indictment should read 16-03-655(B), not 16-03-655(C).
- The statute section on the back of the indictment should read 16-03-655(B), not 16-03-655(3).
- The statute section in the body of the charge language should read 16-03-655(B), not 16-03-655(C).
- The language in the body of the charge language "[formerly Section 16-3-655(3)]" is inapplicable and should be deleted.

Additionally, on the face of the Sentence Sheet, the statute is erroneously cited as §16-03-655(C). It should read §16-03-655(B). The description of the charge, Criminal Sexual Conduct with a Minor, Second Degree, the CDR Code, 0397, and the sentencing range are correct on the face of the Sentence Sheet.

"An indictment is sufficient if it apprises the defendant of the elements of the offense intended to be charged and apprises the defendant what he must be prepared to meet." State v. Wilkes, 353 S.C. 462, 465, 578 S.E.2d 717, 718 (2003). "Further, an indictment is sufficient if the offense is stated with sufficient certainty and particularity to enable the court to know what judgment to pronounce, and the defendant to know what he is called upon to answer and whether he may plead an acquittal or conviction thereon." Id.

Here, the title, caption, and facts alleged in the body of the indictment, allege the charge of Criminal Sexual Conduct with a Minor, Second Degree. The mistakes in identifying the correct subsection of the Criminal Sexual Conduct with a Minor statute on the indictment and Sentence Sheet are nothing more than scrivener's errors. Those errors should be corrected to reflect what actually occurred during the guilty plea and sentencing. At the hearing qualifying the guilty

plea and during the sentencing, which immediately followed, it was clear the Defendant, along with all those present, understood the Defendant was pleading guilty to Criminal Sexual Conduct with a Minor, Second Degree. All references were to Criminal Sexual Conduct with a Minor, Second Degree, and the sentencing range of 0 to 20 years articulated and the sentence imposed, 16 years, reflected the same.

WHEREFORE, for all of the foregoing reasons, the State requests that this Court grant this motion and amend the indictment for Criminal Sexual Conduct with a Minor, Second Degree and the Sentence Sheet to reflect the correct the scrivener's error.

Date: June 25, 2018

RESPECTFULLY SUBMITTED,



C. LEIGH ANDREW
ASSISTANT SOLICITOR

HORRY COUNTY
2018 JUN 19 9:17
RENEE M. ELYS
CLERK OF COURT
HORRY COUNTY, SC

FILED
HORRY COUNTY
2018 JUN 27 AM 8:20
RENEE M. ELYS
CLERK OF COURT
HORRY COUNTY, SC

Ashley Tolda

DOCKET NO. 2017-GS-28- 0402

The State of South Carolina
County of Horry

C. Leigh Andrew

17H00300

COURT OF GENERAL SESSIONS

JUNE, 2017 TERM**ARREST WARRANT NUMBER**

2016A2610701334

CDR: [REDACTED]
DOA: [REDACTED]

ACTION OF GRAND JURY

THE END

Foreperson of Grand Jury
Date:

JUN 22 2017

VERDICT

Foreperson of Petit Jury
Date:

vs.

Michael John Walton
W/M

DOB:
SSN:

ATTORNEY: Ralph J. Wilson Sr.

Indictment for

Criminal Sexual Conduct with a Minor. Second Degree

Jimmy A. Richardson, II, Solicitor

RENÉE M. ELVIS
CLERK OF COURT
for
JOHNS COUNTY, GA.

2023 JAN 19 A 9:17

HORRY COUNTY

ORIGINAL

FILED
HARRY COUNTY

ת"ת ת"ש 3 ח 3:15

FILED N. ELVIS
CLERK OF COURT
COUNTY, SC

DATE RECEIVED FROM
GRAND JURY

EXHIBIT A

Michael Wilson 37666-PCR Application - Exhibit A - page 10/11⁹

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Horry
STATE VS.

EXHIBIT B

Michael John Walton
AKA: _____
Race: WHITE Sex: M Age: 58
DOB: [REDACTED] SS#: [REDACTED]
Address: [REDACTED]
City, State, Zip: [REDACTED]
DL#: [REDACTED] SID#: [REDACTED]
*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐
In disposition of the said indictment comes now the Defendant who was
TO: Criminal Sexual Conduct w/ Minor 2nd Degree < 16

INDICTMENT/CASE#: 2017GS2602833
A/W#: 2016A2510701334
Date of Offense: 1/20/2016
S.C. Code §: 16-03-0655(C)
CDR Code #: 0397

SENTENCE SHEET

☐ CONVICTED OF or ☒ PLEADS

in violation of § 16-03-0655(C) of the S.C. Code of Laws, bearing CDR Code # 0397
☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45

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. 20 yrs
ATTBST: C. Leigh 72898 [Signature] [Signature]
Andrew, C. Leigh 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 16 days/months/years or ☐ under the Youthful Offender Act not to exceed X years
and/or to pay a fine of \$ X; provided that upon the service of X days/months/years and/or payment
of \$ X; plus costs and assessments as applicable*; the balance is suspended with probation for X

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 § 26-25-155.
Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-28 on 16-25-26 (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 \$ 100.00
§ 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) \$ 3.75

TOTAL \$ 128.75 + 140.00 = 268.75

Clerk of Court/ Deputy Clerk: Renee N. Elvis
Court Reporter: Natalie Dahl
SCCA217 (07/2016)

_____ 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 \$ 25.00 beginning 6/26/2014
\$ _____ paid to Public Defender Fund
Other: _____

☐ 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: Margaret Culbertson
Judge Code: 2148
Sentence Date: April 26, 2018

FILED
HORRY COUNTY
2017 JAN 26 PM 4:04

1 STATE OF SOUTH CAROLINA) TRANSCRIPT OF RECORD
2 COUNTY OF HORRY) CASE NO.:2017-GS-26-02833
3 PLEA
4

5 April 26, 2018

6 BEFORE: The Honorable Benjamin Culbertson
7

8 STATE OF SOUTH CAROLINA,
9 Plaintiff,

10 vs.

11 MICHAEL JOHN WALTON,
12 Defendant.
13

14
15 APPEARANCES:

16
17 Leigh Andrew, Esq.
18 Attorneys for the State.

19 Ralph Wilson, Esq.
20 Attorneys for the Defendant.

21 Official Court Reporter
22 Natalie Dahl, RPR
23
24
25

COPY
~~ORIGINAL~~

HORRY COUNTY
2023 JAN 19 A 9:18
RENEE N. ELVIS
CLERK OF COURT
HORRY COUNTY, SC

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

(MICHAEL WALTON, having been duly sworn,
testified as follows:)

MS. ANDREW: State of South Carolina, County of
Horry versus Michael John Walton. The defendant is
charged with criminal sexual conduct with a minor in
the second degree. He is present in court with his
attorney, Mr. Ralph Wilson. It is my understanding he
also has two other charges for criminal sexual conduct
with a minor second degree and in the third degree.

It is my understanding he'll plead guilty to the one
charge of CSC with a minor second degree in exchange
for the State's recommendation of 10 years.

THE COURT: You represent Michael John Walton on
the charge of criminal sexual conduct with a minor in
the second degree?

MR. WILSON: Yes, sir, I do, Your Honor.

THE COURT: Have you discussed with your client
the charge against him, his rights as a defendant and
the consequences of being convicted of this crime?

MR. WILSON: Yes, sir, I have.

THE COURT: In your opinion, does your client
understand the charge against him, his rights as a
defendant and the consequences of being convicted of
this crime?

1 MR. WILSON: He does.

2 THE COURT: Does he wish to plead guilty or not
3 guilty?

4 MR. WILSON: Guilty.

5 THE COURT: Do you agree with his decision to
6 plead guilty to this charge?

7 MR. WILSON: I do.

8 THE COURT: Based upon the information you have,
9 if this case proceeded to trial, do you feel that the
10 State could prove your client's guilt beyond a
11 reasonable doubt?

12 MR. WILSON: Yes, sir.

13 THE COURT: Has your client received competency
14 evaluation?

15 MR. WILSON: No, sir, and I do not believe he is
16 in need of one.

17 EXAMINATION

18 BY THE COURT:

19 Q Your name is Michael John Walton?

20 A Yes, sir.

21 Q Mr. Walton, you have been charged and indicted by
22 the grand jury with criminal sexual conduct with a
23 minor in the second degree, and according to your
24 attorney, you wish to plead guilty to that charge; is
25 that correct?

RENEE N. EGAN
CLERK OF COURT
HARRY COUNTY
SC
2023 JAN 19 4:18 PM

1 A Yes, Your Honor.

2 Q Before I can accept your guilty plea, I have to
3 go over questions with you to be sure you understand
4 the charge against, you understand your rights as a
5 defendant, the consequences of pleading guilty and I
6 must be sure you are pleading guilty voluntarily.

7 During the past 72 hours, have you taken any
8 medication, consumed any alcohol or drugs or been
9 under any influence that would affect your ability to
10 know why you are here?

11 A No, sir.

12 Q Do you understand why you are here?

13 A Yes, Your Honor.

14 Q Is there anything about this hearing that you
15 want to ask your lawyer or me before we proceed?

16 A No, Your Honor.

17 Q Even though you have been indicted by the grand
18 jury, under the Constitution of the United States, you
19 are presumed to be innocent of this crime. You have
20 the right to have your guilt or innocence determined by
21 a jury trial of your peers. The State bears the burden
22 of proving your guilt beyond a reasonable doubt. You
23 do not have to prove your innocence, and you cannot be
24 compelled to testify against yourself. You have the
25 right to confront and cross-examine anyone who

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RENEE M. ELVIS
CLERK OF COURT
HORRY COUNTY, SC

1 testifies against you. If you choose, you can present
2 a defense to this charge. When you plead guilty, you
3 give up those rights; do you understand that?

4 A Yes, sir.

5 Q And do you want to give up those rights and plead
6 guilty to this charge?

7 A Yes, sir.

8 Q Now, the State recommended that you receive a
9 maximum sentence of 20 years in prison; do you
10 understand that?

11 A Yes, sir.

12 Q Do you understand this crime is classified as a
13 violent crime? What that means is if you are ever
14 convicted of another violent crime conviction, then
15 that subsequent conviction, you would not be eligible
16 for probation and not eligible for parole, and the
17 State will use this guilty plea against you to show a
18 violent crime conviction on your record to keep you
19 from getting probation or parole; do you understand?

20 A Yes, sir.

21 Q You also understand that this is classified as a
22 most serious crime. If you are ever convicted of two
23 most serious crimes, then that second most serious
24 crime conviction, the sentence can be enhanced to life
25 in prison without the possibility of parole, and the

1 State will use this guilty plea against you to show a
2 most serious crime conviction on your record to enhance
3 that sentence; do you understand that?

4 A Yes, sir.

5 Q You also understand -- hold for a second -- that
6 upon your release -- hold on for a second.

7 You also understand you will be required to
8 register as a sex offender for the rest of your life?

9 A Yes, sir.

10 Q And you understand this is a sexually violent
11 offense, what that means is when you are due to be
12 released or ending your sentence, the general
13 can bring a civil action against you to determine
14 whether or not you are a sexually violent predator. If
15 it is determined that you are a sexually violent
16 predator, you can be committed to the Department of
17 Mental Health for an indefinite period of time, up to
18 the rest of your life; do you understand that?

19 A Yes, sir.

20 Q Knowing all of that, do you wish to plead guilty
21 or not guilty to criminal sexual conduct with a minor
22 second degree?

23 A Guilty.

24 Q Has anyone promised you anything or threatened
25 you in any way to get you to plead guilty?

2027 JAN 19 A 8 19
BERRY COUNTY
CLERK OF COURT
HOBBS COUNTY, NC

1 A No, sir.

2 Q Are you pleading guilty voluntarily?

3 A Yes, sir.

4 Q Are you satisfied with your lawyer?

5 A Absolutely.

6 Q Are you pleading guilty to this crime because you
7 committed that crime?

8 A Yes.

9 Q Listen carefully while the solicitor advises the
10 facts of your case.

11 MS. ANDREW: Between the dates of November
12 2014 and December 31, 2016, the defendant made a
13 post-Miranda confession to engaging in oral sex,
14 digital penetration, masturbation in front of and
15 showing porn to his then 14-year-old daughter. By the
16 defendant's own admission, the events happened too
17 many times to count and occurred at least on a weekly
18 basis for more than a year. The victim indicated that
19 the defendant engaged in penial/vaginal penetration on
20 at least two occasions.

21 Q (BY THE COURT) Mr. Walton, you understand what
22 the allegations are against you?

23 A Yes, sir.

24 Q Is that what happened in this case?

25 A Yes, sir.

HORRY COUNTY
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REBECCAH N. ELLIS
CLERK OF COURT
HORRY COUNTY, SC

1 THE COURT: Mr. Wilson, anything in mitigation?

2 MR. WILSON: Yes, sir. Your Honor, first, I
3 would like to hand up some documents that I have
4 received from -- the top document that the Court is
5 looking at is from Celebrate Recovery, which is a
6 program, Your Honor, that the defendant has been
7 engaged in for the past 12, 15 months. It is a
8 Christian-based program where they receive counseling.
9 He's been attending counseling sessions both for group
10 and individual counseling sessions, and he has been
11 doing that for more than a year. This is not
12 something that he started in anticipation of court, he
13 actually started doing this in order to determine what
14 was going on with him and to try to identify that he
15 had done.

16 Your Honor, let me say that at the outset,
17 obviously, he's pled guilty, and so in no way are we
18 intending to mitigate the seriousness of this offense,
19 because obviously it is. We understand that, and he
20 has pled guilty, so that, in and of itself, speaks for
21 itself. But what I would say on his behalf is that he
22 has done everything since that time to try and -- not
23 make amends, but tried to get his life back in a
24 position where it should have been. You can't undo,
25 unfortunately, when you do these acts that he is

1 accused of and has pled guilty to. You can't undo
2 them, can't undo the harm or pain. You can't undo the
3 things that hurt all of the people that you loved and
4 that you are supposed to protect. He understands
5 that, and he has been trying to deal with that. That,
6 in and of itself, has been a heavy, heavy burden for
7 him over this past year, year-and-a-half since these
8 things have happened.

9 From day one, he always admitted this offense.
10 He admitted it to his wife, preacher, admitted it to
11 me, admitted it to everyone he came into contact with.
12 He never tried to deny it. And not only has he not
13 tried to deny it, he has made every effort to make
14 sure that these children didn't have to come into this
15 courtroom and go through this process or being exposed
16 to this. He's done everything he could.

17 In his divorce process after this happened, he
18 gave everything -- relinquished everything he had,
19 401-K, his home, home in Texas, everything he had, he
20 turned it over to his wife and left with nothing. He
21 understands that he put himself in that position.
22 Nobody forced him to do these things. He did these of
23 his own volition, and understands that. He also
24 understands that he has to suffer the consequences of
25 his actions; he understands that.

1 I also want to say to the Court, Your Honor, that
2 he has a number of medical issues. First, he's 58
3 years of age, and a 20-year sentence is a life
4 sentence for him. He has hip problems where they have
5 been recommending surgery, but he hadn't had the money
6 or resources to have surgery. I think there is a note
7 from the doctor in there regarding that; if not, I
8 have a copy of it right here. He had an ultrasound on
9 his throat, there is a possibility that he either has
10 a thyroid condition or maybe cancer, we don't know
11 because the ultrasound hasn't been done yet. Again,
12 these are things that have happened to him all
13 of this has occurred.

14 The other thing, Your Honor, is this man has
15 tried everything that he knows to become a better
16 person. If you look at, Your Honor, that package I
17 handed you up, there was an assessment or an
18 evaluation that was done by Southeastern Assessment.
19 When he first came to me, to talk to me about this
20 more than a year ago, he said I don't know why I did
21 this, I don't understand. This is a man who was
22 married to his wife for 37 years. Married for 37
23 years. They had four children -- biological children
24 and three adopted children. He has no criminal
25 record, not even traffic tickets, nothing, in his

1 entire life. He is a design engineer and designs
2 trusses for buildings. He does it for four different
3 states: Texas, Massachusetts, North Carolina and
4 Virginia. He's been doing that more than 30 years.
5 He was -- I don't want to say a good father because,
6 obviously, this is a bad thing, but it doesn't mean
7 that he was a bad person for 37 years, because he was
8 not. What he did all happened, as far as everybody
9 knows, for about a year or year-and-a-half during his
10 life. Up until that point, he was a model citizen in
11 every possible way, taking care of his family, working
12 hard, trying to go to church, trying to be a good
13 person.

14 Again, does that mean that what he did is okay?
15 Absolutely not. That is not what we're suggesting to
16 the Court, and I would never do that. What I'm
17 saying, though, is I think 20 years is excessive. I
18 think 20 years is excessive for this offense. Does he
19 have to be punished? The answer is, yes. Does he
20 have to go to jail? Yes. 20 years, I think, is way
21 more than what is required. One, he has to be
22 punished and, two, to rehabilitate him. He's already
23 being punished. As I said, he gave up everything he
24 has. He has nothing left in the world except him. He
25 can't see his children. He can't -- he has a divorce

1 from his wife of 37 years. Again, does he bring all
2 of these things on him himself? Absolutely, he did.
3 Absolutely, he did. He has nobody to blame but
4 himself.

5 He is trying now to recover from that, and he's
6 trying to get back in. All of his children will be 18
7 years of age before the end of this year, all reached
8 the age of majority by the end of this year. When he
9 goes to prison, whether they'll visit or see him, I
10 don't know, and he doesn't know. Right now he can't
11 see it because of the court order from Family Court.

12 What else I want to say is this if you look at
13 that report that we got from Southeastern Assessment,
14 they say that his likelihood that he'll be
15 recidivist or engage in this conduct is at the very
16 lowest level. They are saying like 2 percent chance,
17 2.8 percent chance that there is even a possibility
18 that he would be a recidivist. So it is not likely
19 that he'll be -- if he gets out of prison at some
20 point -- that he's going to engage in this kind of
21 conduct again.

22 What I'm simply asking the Court is to have mercy
23 and not give him 20 years, which would be effectively
24 a life sentence for him. Give him a chance that he
25 can go to prison, do time, get out and have some life

1 left and, hopefully, regain some kind of relationship,
2 if at all possible, with his children. I apologize
3 for taking up a whole bunch of time, but I would ask
4 the Court to hear from a couple of people that would
5 like to say something because they have known him for
6 a period of time and want to share briefly. I
7 explained that this should be brief, but I would ask
8 the Court to hear it.

9 THE COURT: All right. I'll hear from
10 Mr. Walton or whoever wants to speak on his behalf.

11 Your name?

12 MR. CUSEO: My name is Joseph Michael Cuseo, the
13 Third, C-U-S-E-O.

14 THE COURT: What would you like to say?

15 MR. CUSEO: I will be brief, and I appreciate the
16 proceedings because I've been involved in these types
17 of proceedings since about 1986. I lost a military
18 career because of sexually moral acts that I
19 committed, so I know from both sides of the fence what
20 is going on here. I've known Mike about a year. Just
21 four things. Out of the depths I cry to you, oh,
22 Lord. Oh, Lord, hear my voice. Let your ears be
23 attentive to my cry for mercy. If the good Lord kept
24 a record of sins, oh, Lord, who could stand? But with
25 You, there is forgiveness; therefore, You are feared.

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BENEFIT N. HELVIS
CLERK OF COURT
HERRY COUNTY, SC
FORRY COUNTY

1 When I first met Mike, just like myself, it was
2 what is going to happen to me. Over the year that
3 I've had an opportunity to lead Mike to Christ and
4 talk to him about what happened to me, what it took
5 for my life to change and how my life changed and how
6 it has been, I watched Mike evolve into being more
7 concerned about the damage he's caused, not only for
8 himself, but he's put that on the back burner and more
9 concerned about the other people he has hurt, his
10 daughter directly, his other children, he destroyed
11 his marriage. I've seen that evolution with Mike. He
12 knows to be forgiven, he has to repent. I've seen
13 repentance. There is always room for growth. I, too,
14 empathize with the victim. We all deserve to be
15 punished, I just ask the Court to take everything into
16 consideration when you determine what to do with Mike.
17 But we're all children of God, not thrown and tossed
18 away. We have to suffer the consequence of our
19 actions. I thank you for your time.

20 THE COURT: Thank you.

21 MR. WILSON: Mr. Walton would like to speak.

22 THE COURT: Yes, sir.

23 MS. WALSH: Your Honor, first of all, my victim
24 is not here, so I'm not able to apologize. But for
25 the record, I would like to apologize to my daughter

1 for what I did to her over the course of time that was
2 basically just evil acts. If my ex-wife was here, I
3 would apologize to her for what I've put her through.
4 She has been through a tremendous amount due to the
5 fact of the offense I've done to my daughter.

6 December 10 of 2016, I had to leave because my
7 secret was out. I had damaged my daughter to the
8 point where she just couldn't take it anymore. My
9 wife talked to her, found out, and then I had to
10 leave. On December -- I got a call December 12th of
11 2016, I got a call from my pastor encouraging me to
12 self report. I asked him to go with me and he did.
13 I went on December 14. I showed up and did confess to
14 the acts I did with my pastor present. Basically, I
15 explained what I did. I was then sent to prison and
16 been on home detention for the last 17 months since
17 that time.

18 Home detention gave me freedom that I didn't
19 deserve, but it allowed me an opportunity, and the
20 opportunity was to get into counseling and get into
21 groups and sessions at Celebrate Recovery. All of
22 this focused on being a part of my recovery from my
23 sex addiction and pedophiliac acts I perpetrated on my
24 daughter. I've learned quite a bit through Celebrate
25 Recovery. It is a crisis center program, and I feel

1 like I've really grown quite a bit in that program.
2 Through my counseling sessions, I was able to dig deep
3 and figure out reasons that may have cause what I did,
4 but it hadn't taken away the fact that I did what I
5 did to my daughter, and that fact remains.

6 I discovered things about my past that might be
7 reasons, but they are not excuses. There is no excuse
8 what I did to my daughter and wife and extended
9 family. Even including my family of origin, with the
10 exception of two brothers and a sister, they have
11 basically quit talking to me.

12 So, anyhow, through Celebrate Recovery, through
13 my counseling sessions, through group therapies, Bible
14 studies and church, I have been able to see a lot of
15 things about myself and grow and recognize my
16 triggers, recognize actions or things that may cause
17 me to go backwards or relapse, which I have been able
18 to grow from that and not do those things. I
19 recognize them as part of -- I also started a business
20 last year that is truss design business, which the
21 hope was to take gentlemen from Life Recovery and J.
22 Reuben Long and other instances that would be able to
23 train them for doing truss designs or framing so they
24 would grow instead of putting down as being a lower
25 part of society. I feel the empathy for them. So

1 this has been successful to a degree. I haven't been
2 able to work with the prison system, for obvious
3 reasons, but I expect that to be a part of it. We
4 have an employee who is wheelchair bound who is doing
5 very well at it, and I expect that to grow.

6 I'm the only one in the business that knows and
7 has 30 years in what I do. So if I'm put in prison,
8 it will put an end to that. But, still, I'm asking
9 the Court for leniency and acceptance of the grief and
10 the guilt that I feel from what I've done. Thank you.

11 THE COURT: All right. Mr. Wilson, anything
12 further?

13 MR. WILSON: Mark.

14 THE COURT: Your name?

15 MR. DELANEY: Mark Delaney.

16 THE COURT: Spell your last name.

17 MR. DELANEY: D-E-L-A-N-E-Y.

18 THE COURT: What would you like to say?

19 MS. DRAIN: I'm a general contractor and I've
20 known Mike for over ten years. Everything about this
21 has shocked all of us. We're very disappointed in
22 what happened, and the thing about being able to come
23 forward like this is just to be able to say that the
24 remorse that he has been showing us since this has
25 happened is true. Just as the attorney has been able

HOPKINS COUNTY
2023 JAN 19 A 9:18
RENEE N. ELVIS
CLERK OF COURT
HOPKINS COUNTY, MO

1 to share, this is something they are not denying. He
2 admitted from the beginning what happened. When we
3 all read about it in the papers and saw what was
4 happening and what surrounded us, we just couldn't
5 believe it. Looking at it from a father's point of
6 view, it was just -- again, it was just unbelievable.

7 Mike is truly remorseful for what happened, and
8 he really truly would like to be able to build a
9 relationship with his family. He did surrender
10 everything. The times I have talked with him since he
11 has been out is just been able -- he's worked he
12 understood the time would come when he faced his wife
13 and she was going to be so angry, didn't even want to
14 speak or look at him and, yet, he stood and waited
15 patiently to be able to -- what do I need to do to
16 resolve this. So he surrendered everything. They got
17 the divorce finalized. He longed to see his children,
18 but understood he couldn't.

19 For us being here for Mike is to just ask for
20 mercy, to consider less time instead of the full
21 conviction. Thank you, Your Honor.

22 THE COURT: All right.

23 MR. WILSON: Thank you.

24 THE COURT: Anything further?

25 MR. WILSON: No, sir.

1 THE COURT: Anyone here on behalf of the victim?

2 MS. ANDREW: The victim is not present, not
3 because she doesn't feel strongly. I personally have
4 met with her on more than one occasion. She was
5 extremely close to the defendant. She was, quote, a
6 Daddy's girl, and he was raping her, which is why she
7 doesn't want to be here, she just couldn't confront
8 him.

9 THE COURT: You said -- the indictment says from
10 2014 to 2016?

11 MS. ANDREW: I misspoke. She said the last
12 occasion occurred in December of 2016, for some kind
13 of Taste of the Town thing they went to together.

14 THE COURT: How old was she?

15 MS. ANDREW: Her birthday is [REDACTED]
16 This began when she was 14 in the eighth grade, and
17 ended when she was -- so it would have ended in 2016.

18 THE COURT: When she was 16, but you are saying
19 she'll be 18 before the end of the year?

20 MS. ANDREW: She turned 18 last week, Your Honor.

21 THE COURT: I see.

22 Any prior criminal record?

23 MS. ANDREW: Nothing. But the State is null
24 prosing two charges, one for criminal sexual conduct
25 with a minor in the second degree, and one for

1 criminal sexual conduct with a minor in the third
2 degree as part of this agreement.

3 THE COURT: The victim in that is the same
4 victim?

5 MS. ANDREW: Same victim, Your Honor.

6 THE COURT: I find there is a substantial factual
7 basis for this plea and it is made freely,
8 voluntarily, knowingly and intelligently and after the
9 advice of a very competent attorney with whom he says
10 he's satisfied, and I'll accept the plea. Sentence of
11 the Court is that you be confined to the Department of Corrections for 16 years.
12 Department of Corrections for 16 years.
13 given credit for any time served thus far.

14 (Whereupon, the proceedings conclude.)

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CERTIFICATE OF REPORTER

State of South Carolina)

County of Horry)

I, Natalie Dahl, Official Court Reporter for the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the evidence introduced in the hearing of the above-captioned case, relative to appeal, in the Court of General Sessions for Horry County, South Carolina, on the 26th day of April, 2018.

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

September 30, 2019

Natalie Dahl, RPR

Court Reporter

HORRY COUNTY
2023 JAN 19 A 9:18
RENEE N. ELVIS
CLERK OF COURT
HORRY COUNTY, SC

WITNESSES

Brian Scales Horry County Police Department

Ashley Tolda

ARREST WARRANT NUMBER

2017GS2602831

CDR: [REDACTED]

DOA: [REDACTED]

ACTION OF GRAND JURY

TRUE BILL

Rick Churchill
Foreperson of Grand Jury
Date:

JUN 22 2017

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2017-GS-26-02831

The State of South Carolina

County of Horry

C. Leigh Andrew

17H00100

COURT OF GENERAL SESSIONS

JUNE, 2017 TERM

THE STATE

vs.

Michael John Walton

W/M

DOB: [REDACTED]

SSN: [REDACTED]

ATTORNEY: Ralph J. Wilson, Sr.

Indictment for

CRIMINAL SEXUAL CONDUCT WITH A

MINOR

SECOND DEGREE

Jimmy A. Richardson, II, Solicitor

ORIGINAL

**FILED
HORRY COUNTY**

2017 JUN 23 PM 3:15

RENEE N. ELVIS
CLERK OF COURT
HORRY COUNTY, SC

DATE RECEIVED FROM
GRAND JURY

NP
5-1-18

RENEE N. ELVIS
CLERK OF COURT
HORRY COUNTY
2017 JUN 19 A 9:18

Michael John Walton 376160 - PCR Application - Exhibit C - page 1/4

STATE OF SOUTH CAROLINA)
COUNTY OF HORRY)

INDICTMENT

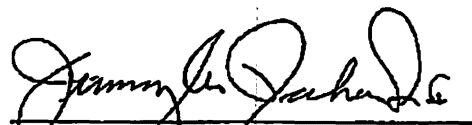
At a Court of General Sessions, convened on June 22, 2017, the Grand Jurors of Horry County present upon their oath:

CRIMINAL SEXUAL CONDUCT WITH A MINOR
SECOND DEGREE

CDR: 0397 16-03-0655(3)

That Michael John Walton did in Horry County, State of South Carolina, on or about January 20, 2016, willfully and unlawfully commit the crime of Criminal Sexual Conduct with a Minor in the Second Degree by engaging in sexual battery with a minor who was at least fourteen (14) years of age but who was less than sixteen (16) years of age, to wit: [REDACTED] whose date of birth is [REDACTED] and the Defendant was in a position of familial, custodial, or official authority to coerce the victim to submit or was older than the victim, in violation of Section 16-3-655(C) [formerly Section 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.


JIMMY A. RICHARDSON, II
FIFTEENTH CIRCUIT SOLICITOR

HORRY COUNTY
2023 JAN 19 A 18
RENEE N. ELVIS
CLERK OF COURT
HORRY COUNTY, SC

WITNESSES

Brian Scales Horry County Police Department

Ashley Tolda

ARREST WARRANT NUMBER

2017GS2602832

DOA: [REDACTED]

ACTION OF GRAND JURY

TRUE BILL

Nick Carroll
Foreperson of Grand Jury

Date: JUN 22 2017

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2017-GS-26-02832

The State of South Carolina

County of Horry

C. Leigh Andrew

17H00100

COURT OF GENERAL SESSIONS

JUNE, 2017 TERM

THE STATE

vs.

Michael John Walton

W/ M

DOB: [REDACTED]

SSN: [REDACTED]

ATTORNEY: Ralph J. Wilson, Sr.

Indictment for

CRIMINAL SEXUAL CONDUCT WITH A MINOR - 3RD DEGREE

Jimmy A. Richardson, II, Solicitor

ORIGINAL

FILED
HORRY COUNTY

2017 JUN 23 PM 3:15

RENEE N. ELVIS
CLERK OF COURT
HORRY COUNTY, SC
DATE RECEIVED FROM
GRAND JURY

NP
6-1-18

Michael John Walton 376166 - PCR Application - Exhibit C - page 3/4

STATE OF SOUTH CAROLINA)
COUNTY OF HORRY)

INDICTMENT

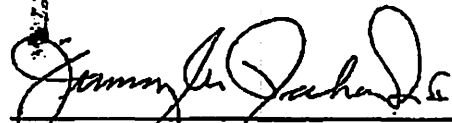
At a Court of General Sessions, convened on June 22, 2017, the Grand Jurors of Horry County present upon their oath:

CRIMINAL SEXUAL CONDUCT WITH A MINOR - 3RD DEGREE
CDR: 3661 16-03-0655(C)

That Michael John Walton being 58, did in Horry County on or about January 20, 2016, willfully and lewdly commit or attempt to commit a lewd or lascivious act upon or with the body, or its parts, of a child, less than sixteen (16) years of age, with the intent of arousing, appealing to, or gratifying the lust or passions or sexual desires of said defendant or of the victim, in violation of Section 16-03-0655(C), S. S. Code of Laws, 1976, as amended.

HORRY COUNTY
2023 JAN 19 A 9:18
RENEE N. ELVIS
CLERK OF COURT
HORRY COUNTY, SC

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



JIMMY A. RICHARDSON, II
FIFTEENTH CIRCUIT SOLICITOR

DOCKET NO. 2017-GS-26- 02833

WITNESSES

Brian Scales Horry County Police Department

Ashley Jolda

The State of South Carolina

County of Horry

C. Leigh Andrew

17H00100

COURT OF GENERAL SESSIONS

JUNE, 2017 TERM

THE STATE

vs.

Michael John Walton

W M

DOB:

SSN:

ATTORNEY: Ralph J. Wilson, Sr.

Indictment for

Criminal Sexual Conduct with a Minor. Second Degree.

Jimmy A. Richardson, II, Solicitor

 ORIGINAL

FILED
Horry County

3:15

FILED N. ELVIS
CLERK OF COURT
COUNTY, SC

DATE RECEIVED FROM
GRAND JURY

ARREST WARRANT NUMBER

2016-12610701334

CDR:

DOA

ACTION OF GRAND JURY

THIS FILE

Foreperson of Grand Jury

Date _____

JUN 22 2017

VERDICT

Foreperson of Petit Jury

Date.

RENÉE N. ELVIS
CLERK OF COURT
HONOLULU COUNTY, HAWAII

2023 JAN 19 A 0:14

HORRY COUNTY.

STATE OF SOUTH CAROLINA)
COUNTY OF HORRY)

INDICTMENT

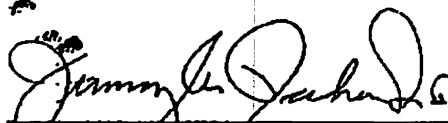
At a Court of General Sessions, convened on June 22, 2017, the Grand Jurors of Horry County present upon their oath:

CRIMINAL SEXUAL CONDUCT WITH A MINOR
SECOND DEGREE

CDR: 0397 16-03-0655(3)

That Michael John Walton did in Horry County, State of South Carolina, on or between the dates of December 1, 2014 and December 14, 2016, willfully and unlawfully commit the crime of Criminal Sexual Conduct with a Minor in the Second Degree by engaging in sexual battery with a minor who was at least fourteen (14) years of age but who was less than sixteen (16) years of age, to wit: [REDACTED] whose date of birth is [REDACTED], and the Defendant was in a position of familial, custodial, or official authority to coerce the victim to submit or was older than the victim, in violation of Section 16-3-655(C) [formerly Section 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.



JIMMY A. RICHARDSON, II
FIFTEENTH CIRCUIT SOLICITOR

STATE OF SOUTH CAROLINA

COUNTY OF
STATE

Horry
VS.

Michael John Walton

AKA:

Race: WHITE Sex: M Age: 40

DOB: [REDACTED] SS#: [REDACTED]

Address: [REDACTED]

City, State, Zip: [REDACTED]

DL#: [REDACTED] SID#: [REDACTED]

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

In disposition of the said indictment comes now the Defendant who was
TO: Criminal Sexual Conduct w/ Minor 2nd Degree < 16

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

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS (ESC) w/minor 1st or 2nd 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 20 y

ATTEST: C. Leigh [Signature] 72898 SC Bar# [REDACTED] Defendant [Signature] Attorney for Defendant [Signature] SC Bar# [REDACTED]

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections; ☐ County Detention Center,
for a determinate term of 16 days/months/years or ☐ under the Youthful Offender Act not to exceed X years
and/or to pay a fine of \$ X; provided that upon the service of X days/months/years and/or payment
of \$ X; plus costs and assessments as applicable*; the balance is suspended with probation for X

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 16-25-25 (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	\$100.00
§ 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)		\$3.75

TOTAL \$128.75 + \$40.00 = \$168.75

Clerk of Court/ Deputy Clerk Ronee N. Elvis
Court Reporter: Natalie Dahl
SCCA/217 (07/2016)

INDICTMENT CASE: 2017GS2603873

A/W#: 2016A2610701334

Date of Offense: 1/20/2016

S.C. Code § : 16-03-0655(C)

CDR Code #: 0397

SENTENCE SHEET

☐ CONVICTED OF or ☒ PLEADS

FILED
Horry County
2018 JAN 10
CLERK OF COURT
RECEIVED
2018 JAN 10
CLERK OF COURT
RECEIVED
2018 JAN 10
CLERK OF COURT
RECEIVED

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 \$ 25.00 beginning 6/26/2018
\$ paid to Public Defender Fund
Other:

☐ 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 [Signature]
Judge Code: 2148
Sentence Date: April 26, 2018

STATE OF SOUTH CAROLINA
COUNTY OF HORRY

Michael J. Walton, #376160,

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS
FOR THE FIFTEENTH JUDICIAL CIRCUIT

Case No.: 2023-CP-26-00337

**RETURN AND
PARTIAL MOTION TO DISMISS**

(Counsel Appointed)

FILED
HORRY COUNTY
CLERK OF COURT
2023 SEP 19 PM 1:11
HORRY COUNTY, SC

The State of South Carolina ("Respondent" or "the State") hereby makes its Return to the post-conviction relief ("PCR") application filed by Michael J. Walton ("Applicant") on January 19, 2023. Respondent would respectfully show this Court:

I. PROCEDURAL HISTORY

Applicant is presently confined to the South Carolina Department of Corrections ("SCDC"), serving a sixteen (16) year sentence. On June 22, 2017, the Horry County Grand Jury indicted Applicant for two (2) counts of criminal sexual conduct with a minor ("CSC with a minor"), second degree (2017-GS-26-02831; 02833) and criminal sexual conduct with a minor, third degree (2017-GS-26-02832). On April 26, 2018, Applicant pled guilty before the Honorable Benjamin Culbertson. Assistant Solicitor Leigh Andrew prosecuted the case. Applicant was represented by Ralph Wilson, Esq. ("Counsel"). In exchange for Applicant's plea, one count of CSC with a minor, second degree (-02831) and CSC with a minor, third degree (-02832) were

¹ Respondent's Return was due to be filed within sixty days of receipt. *See* Rule 12(a), SCRPC ("[T]he State of South Carolina shall answer or otherwise respond to an application for post-conviction relief within 60 days after service of the application, if it arises out of a guilty plea, and 90 days if it arises out of a trial.") Now, having completed the Return required in this matter, and in light of no demonstrable prejudice to Applicant as a consequence of the delay, Respondent respectfully asks this Court to accept this Return as timely filed. *See* S.C. Code Ann. § 17-27-70(a) (establishing that the Court may fix the time in which the State must respond and that "respondent shall file with its answer the record or portions thereof that are material to the questions raised in the application"); *Guinyard v. State*, 260 S.C. 220, 195 S.E.2d 392 (1973) (holding the trial court may extend the time for filing and that the time limit prescribed by the statute is not mandatory, but discretionary with the trial court).

nolle prosequi. The State recommended a sentence of twenty (20) years. Judge Culbertson sentenced Applicant to sixteen (16) years. Applicant did not appeal. On July 2, 2018, Judge Culbertson issued orders to amend the sentencing sheet and indictments to correct a scrivener's error regarding an erroneously cited statute (correcting "16-03-655(C)" to "16-03-655(B)").

II. FACTUAL HISTORY

Between December 1, 2014, and December 31, 2016, Applicant gave a post-*Miranda* confession to engaging in oral sex, digital penetration, masturbation in front of, and showing pornography to his then fourteen (14) year old daughter ("minor victim"). (Tr. 7). Applicant further admitted the events happened too many times to count and occurred at least on a weakly basis for more than a year. (Tr. 7). Minor victim indicated that Applicant engaged in penial/vaginal penetration on at least two occasions. (Tr. 7).

III. CURRENT APPLICATION

In his current PCR application, Applicant alleges he is being held unlawfully based on the following:²

- I. Ineffective Assistance of Counsel
 - a. Failure to inform Applicant of right to a direct appeal.
 - b. Failure to file a direct appeal on Applicant's behalf.
 - c. Failure to object to the amendment of an indictment after the expiration of the court term.
 - d. Misadvising Applicant that he was illegible to file a PCR.
 - e. Failure to develop a strategy for Applicant to proceed to trial.
 - f. Failure to object to the State conducting a post-trial hearing to amend the indictment and sentencing sheet.
 - g. Failing to object to the State not forwarding a motion and notice to amend until after the hearing and failing to serve Applicant who was without legal counsel.
 - h. Failure to object to the original indictments that deprived court of subject matter jurisdiction.
 - i. Failure to object to malicious prosecution of the solicitor introducing *nolle* processed indictments that were defectively flawed.

² Unless quoted, Applicant's allegations have been summarized for brevity and clarity.

- j. Failure to object to the solicitor intentionally misinforming the court concerning fictitious statements of victim.
- k. Failure to object to absence of Applicant's accusers during the course of the hearings.
- l. Failure to object to witness-tampering and witness bolstering by the solicitor.
- m. Failure to object to hearsay made by solicitor that were intended by the solicitor to inflame the passions of the court.

Applicant requests relief as follows: vacate sentence.³

Attached to this Return and incorporated herein are the records of the Horry County Clerk of Court records regarding the subject convictions, Applicant's records from SCDC, and the PCR application. The State reserves the right to amend this Return upon receipt of any relevant materials.

IV. MOTION TO DISMISS

Failure to Comply with Statute of Limitations

The State moves to dismiss Applicant's application for failure to comply with the statute of limitations. Summary dismissal of an application is permitted under S.C. Code Ann. § 17-27-70(B) (2014). Summary dismissal of a PCR application without a hearing is appropriate when (1) it is apparent on the face of the application that there is no need for a hearing to develop facts, and (2) the applicant is not entitled to post-conviction relief. S.C. Code Ann. § 17-27-70(b)-(c) (2014); *Leamon v. State*, 363 S.C. 432, 611 S.E.2d 494 (2005). When considering the State's motion to dismiss a PCR application, the court must assume the facts presented in the application are true

³ If this Court finds a defect in the original proceedings, the appropriate remedy is to grant a new trial on the original indictments. *Gilstrap v. State*, 252 S.C. 625, 628, 168 S.E.2d 88, 89 (1969) (stating the relief to be granted is remand for a new trial); *Smith v. State*, 413 S.C. 194, 195, 775 S.E.2d 696, 696 (2015) ("We now clarify the proper remedy is a new trial").

If this Court finds Applicant did not knowingly and intelligently waive his right to a direct appeal, the appropriate remedy is to grant Applicant a belated appeal. *White v. State*, 263 S.C. 110, 208 S.E. 35 (1974).

and view the facts in the light most favorable to the applicant. *Leamon*, 363 S.C. at 434, 611 S.E.2d at 494.

A PCR application must be filed within one (1) year of the conviction or within one (1) year of the remittitur to the lower court from an appeal, whichever is later. S.C. Code Ann. § 17-27-45(A) (2014). The statute of limitations applies to PCR applications filed after July 1, 1996. *Peloquin v. State*, 321 S.C. 468, 469 S.E.2d 606 (1996). Ignorance of the statute of limitations for filing a PCR application is not an excuse for late filing. *Leamon*, 363 S.C. at 435, 611 S.E.2d at 496. The statute of limitations does not apply to a claim that an applicant was denied his right to a direct appeal. *Wilson v. State*, 348 S.C. 215, 559 S.E.2d 581 (2002).

Applicant filed his application untimely. Applicant pled guilty and was convicted on April 26, 2018. Applicant did not appeal his conviction. To be timely, Applicant was required by statute to file his PCR application by April 26, 2019. Applicant filed his application on January 19, 2023, outside of the one (1) year statutory period. Thus, Applicant's application is untimely, and this Court should dismiss and bar all of the allegations contained in the application except Applicant's allegation that he did not waive his right to a direct appeal.

V. REQUEST FOR AN EVIDENTIARY HEARING

Since the statute of limitations does not bar allegations regarding waiver of the right to a direct appeal, the State requests an evidentiary hearing *solely* on the issue of whether Applicant waived his right to a direct appeal. *See Sharper v. State*, 279 S.C. 264, 265, 305 S.E.2d 247, 248 (1983) (providing an evidentiary hearing shall be held when a PCR application "alleges specific instances of ineffective assistance of counsel which are not conclusively refuted by the record before the lower court"); *Wilson*, 348 S.C. 215, 559 S.E.2d 581 (2002) (statute of limitations does not bar claims regarding denial of applicant's right to a direct appeal).

VI. ANY FUTURE AMENDMENTS AND INVOCATION OF DISCOVERY PROCESS

Applicant must specify any claims he intends to raise at the PCR evidentiary hearing. All claims should be made well in advance of the evidentiary hearing. Applicant's attorney is required to file amendments to this application, as necessary. Rule 71.1(a), SCRPC; *see* Rule 11, SCRPC. *Pro se* filings should not be considered at the PCR hearing. The State reserves the right to request that any amendments withheld until the last minute be stricken because of undue prejudice to the State, or alternatively, the State will request a continuance in the matter.⁴ If Applicant fails to file a timely and responsive amended application setting forth specific allegations for relief, the State reserves the right to move to dismiss any claim(s) or allegation(s). S.C. Code Ann. §§ 17-27-10 to -160; Rule 71.1, SCRPC; *see also* Rules 15(a)-(b), SCRPC.

Pursuant to S.C. Code Ann. § 17-27-150 (2014), Applicant may not invoke formal discovery processes to issue subpoenas or otherwise obtain discovery materials unless granted leave from the Court upon a showing of good cause. Furthermore, the State requests that all potential exhibits and materials used to produce potential expert witness testimony be sent to the State well in advance of the evidentiary hearing.

VII. GENERAL DENIAL

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

[Conclusion and signature follow on next page.]

⁴ *See Love v. State*, 428 S.C. 231, 245, 834 S.E.2d 196, 203 (2019) (Kittredge, J., dissenting) ("If, however, the proposed amendment... would truly prejudice the State, the better course of action would be to continue the matter and thus remove any possibility of prejudice resulting from the belated amendments").

VIII. CONCLUSION

WHEREFORE, the State respectfully requests this Court grant its partial motion for summary dismissal as set forth in section IV, and thereafter, convene an evidentiary hearing *solely* on the issue of whether Applicant was denied his right to a direct appeal.

Respectfully submitted,

ALAN WILSON
Attorney General

DON ZELENKA
Deputy Attorney General

BRYAN T. HALL
Assistant Attorney General

By:



ATTORNEYS FOR THE STATE
Office of the Attorney General
P.O. Box 11549
Columbia, SC 29212

September 17, 2024

STATE OF SOUTH CAROLINA
COUNTY OF HORRY

Michael J. Walton
SCDC No. 376160

Applicant,

v.

State of South Carolina

Respondent.

IN THE COURT OF COMMON PLEAS
FOR THE FIFTEENTH JUDICIAL CIRCUIT

Case No.: 2023-CP-26-00337

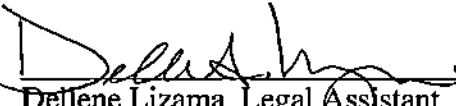
Certificate of Service by Mail

FILED
HORRY COUNTY
CLERK OF COURT
KEEN N. ELVIS
HORRY COUNTY, SC
2024 SEP 19 P 4:13

1. I am an employee of the Respondent in the above-captioned action.
2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.
3. I have this day served a copy of the Return and Partial Motion to Dismiss for Post-Conviction Relief in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

Steven W. Fowler, Esquire
730 Main St., Unit 237
North Myrtle Beach, SC 29582

DATED this 17th day of September 2024.


Dellene Lizama, Legal Assistant
For Respondent

Ms. Renee N. Elvis
 Horry County Clerk of Court
 P.O. Box 677
 Conway, SC 29528-0677

February 24, 2025

FILED
 HORRY COUNTY
 2025 MAR -4 P 4:55
 RENEE N. ELVIS
 CLERK OF COURT
 HORRY COUNTY, SC

Re: PCR application amendments
 Civil action #2023-CP-26-0033

Dear Ms. Elvis,

Enclosed with this letter you will find amendments/additions to the case stated above. They are labeled 10(N), 10(O), and 10(P) along with their corresponding support labeled 11(N), 11(O), and 11(P). Please file these with my case referenced above.

Could you also forward a copy that is stamped as received by your office to: Mr. Steven W. Fowler (attorney appointed to this case) and to Chelsey F. Marto (Assistant Attorney General), as well as to me for my records.

I am filing this directly to your office as a matter of necessity due to the fact that Mr. Fowler, the attorney appointed to me, has not responded to any requests or correspondence I have sent him.

I, Michael John Walton, SCDC#376160, certify and verify under the penalty of perjury that the foregoing statements and the statements within the attachments are true and correct.

Respectfully,
 Michael J. Walton
 M.J. Walton 2-24-25

Michael John Watten 376160 - PCR application
Attachments for amending sections 10 and 11.

Civil action #2023-CP-26-00337

page 1 of 4

10(N) Trial Counsel failed to provide the effective assistance of counsel guaranteed by the Sixth and Fourteenth Amendments of the United States Constitution and South Carolina law where counsel failed to pursue dismissal of defendant's confession on grounds of duress.

10(O) Trial Counsel failed to provide the effective assistance of counsel guaranteed by the Sixth and Fourteenth Amendments of the United States Constitution and South Carolina law where counsel placed the defendant at great risk of harm and prejudice when presenting certain unreliable information in defense.

10(P) Trial Counsel failed to provide the effective assistance of counsel guaranteed by the Sixth and Fourteenth Amendments of the United States Constitution and South Carolina law where counsel failed to suppress a non-custodial confession.

Michael John Walton 376160 - PCR application
Attachments for amending sections 10 and 11.

Civil action # 2023-CP-26-00337

page 2 of 4

11.(N) During trial, counsel deprived defendant of effective assistance of counsel by failing to pursue dismissal of defendant's confession on grounds of confession being made under mental duress. During a prior meeting with counsel the defendant expressed his concern that though he signed a miranda form he was under great mental duress, was ill-advised by his pastor and would have signed anything while under the strain of mental duress. Defendant expressed to counsel that while he was facing many unknown outcomes the mental duress caused him to make unwise decisions. Counsel responded negatively and would not consider defendant's request to pursue this defense.

Michael John Walton 376160 - PCR application
Attachments for amending sections 10 and 11.

Civil action # 2023-CP-26-00337

page 3 of 4

11(0) During the course of the trial counsel deprived defendant of effective assistance of counsel by submitting a defense which placed the defendant at great risk, harm, and prejudice. Counsel advised defendant to submit to an evaluation by Dr. Burke of Southeastern Assessments, Inc. which included a PPG exam (Penile Plethysmograph). This PPG exam has not been accepted by courts as valid even prior to defendant's arrest and trial. Counsel should have investigated and known this as there are published cases concerning this. Counsel raised the PPG exam results as a defense when in actuality it had great potential for further harm thereby putting defendant at great risk of prejudice from the prosecution. The PPG exam was done upon counsel's advice and was not requested by the prosecution or the defendant.

Michael John Walton 376160 - PCR application
Attachments for amending sections 10 and 11:

Civil action # 2023-CP-26-00337

Page 4 of 4

11(P) During the course of the trial Counsel failed to suppress defendant's non-custodial confession which occurred without proper presence of and representation by legal counsel. The failure to suppress errantly allowed the State opportunities to inject and highlight portions of the non-custodial confession. This resulted in inflaming the passions of the Court thereby prejudicing the outcome of trial to be against the defendant.



Steve Fowler <myfowlerlaw@gmail.com>

Walton vs. SC 2023-CP-26-00337

1 message

Steve Fowler <myfowlerlaw@gmail.com>

Thu, Feb 27, 2025 at 2:00 PM

To: Ryan Kowalski <ryankowalski@scag.gov>, Russ Barlow <russbarlow@scag.gov>

2 27 25

To: SC Attorney General Ryan T. Kowalski
RE: Walton vs. SC 2023-CP-26-00337
PCR, Horry County Common Pleas Court

Attorney General Kowalski:

You are listed as the Respondent's attorney. This confirms our communication today that the above case scheduled for Wednesday, March 19, 2025 will exclusively and only be a *White Hearing* as to the issues regarding the request for an appeal by the Applicant. I spoke with the Applicant today by telephone and notified him of this scheduling at that time.

I am copying the Applicant on this confirmation email and have enclosed a printed copy of the Return and Partial Motion to Dismiss filed by your office on September 19, 2024 to him.

Thank you.

Attorney Steve Fowler
Fowler Law Firm
Court-appointed counsel

cc: Horry County Clerk of Court (this page to file and SC Courts online search portal)

FILED
HORRY COUNTY
2025 MAR 10 P 3:48
RENEE H. ELYS
CLERK OF COURT
HORRY COUNTY, SC

1 STATE OF SOUTH CAROLINA **TRANSCRIPT OF RECORD**
2 COUNTY OF HORRY CASE NO.: 2023-CP-26-00337
3

4 *PCR ORIGINAL*

5 -----

6 March 19, 2025

7 **BEFORE:** The Honorable Dale van Slambrook

8 -----

9 MICHAEL JOHN WALTON,

10 Applicant,

11 vs.

12 THE STATE OF SOUTH CAROLINA,

13 Respondent.

14 -----

15

16 APPEARANCES:

17

18 Michael J. Walton
19 Appearing Pro Se

20 Ryan Kowalski, Esq.
21 Bryan Hall, Esq.
22 Appearing for the Respondent.

23 Official Stenographer Court Reporter
24 Natalie Dahl, RPR
25 National Registered Professional Reporter

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Transcript Legend

Dash (--)	Indicates an interruption in speech
Ellipses (...)	Indicates trailing off in speech
Phonetic (ph)	Indicates a phonetic word
(sic)	Indicates word(s) is as said

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

2 THE COURT: Are we ready to proceed with
3 Mr. Walton?

4 You are Mr. Walton?

5 MR. WALTON: I am.

6 THE COURT: Good morning, Mr. Walton.

7 MR. WALTON: Good morning.

8 THE COURT: I'll ask the Attorney General to
9 call the case.

10 MR. KOWALSKI: Yes, Your Honor. May it
11 please the Court. Ryan Kowlaski on behalf of the
12 State, joined by Assistant Attorney General Bryan
13 Hall. This is the post-conviction relief matter of
14 Michael Walton v. South Carolina, 2023-CP-26-00337,
15 out of Horry County.

16 Applicant is presently confined to the South
17 Carolina Department of Corrections serving a
18 16-year sentence. On June 22, 2017, the Horry
19 County Grand Jury indicted Applicant for two counts
20 of criminal sexual conduct with a minor in the
21 second degree, and criminal sexual conduct with a
22 minor in the third degree.

23 On April 26, 2018, Applicant pled guilty
24 before the Honorable Benjamin Culbertson.
25 Assistant Leigh Andrew prosecuted the case. The

1 Applicant was represented by Ralph Wilson, Esquire.

2 In exchange for Applicant's plea, one count
3 of CSC with a minor in the second degree, and CSC
4 with a minor in the third were nolle prosequi. The
5 State recommended a sentence of 20 years. Judge
6 Culbertson sentenced the Applicant to 16 years.
7 Applicant didn't appeal.

8 On July 2, 2018, Judge Culbertson issued
9 orders to amend the sentencing sheet and
10 indictments to correct a scrivener's error
11 regarding an erroneously cited statute, correcting
12 16-03-655(c) to 16-03-655(b).

13 In the current PCR application, the Applicant
14 is alleging he's being held unlawfully based on
15 multiple allegations and ineffective assistance of
16 counsel, and also that the Applicant was denied to
17 his right to a direct appeal. Applicant requested
18 relief of the vacation of the sentence.

19 Before this Court are the records from the
20 Horry County Clerk of Court, and regarding the
21 subject convictions, his records from the SCDC, and
22 his PCR application.

23 Before I get into the State's motion to
24 dismiss, accompanying a White hearing, I understand
25 that Mr. Walton or opposing counsel may have a

1 motion to make.

2 THE COURT: All right.

3 Mr. Fowler.

4 MR. FOWLER: Your Honor, on February 27th,
5 2025, I spoke with Mr. Walton at length at Perry
6 Correctional Institution. I thought it was a good
7 conversation. We went over the case. I provided
8 him some additional information about this. Soon,
9 thereafter, I believe the Attorney General's Office
10 sent me some -- sent me some amended application,
11 Your Honor, that was done pro se by Mr. Walton.
12 And certainly, you know -- you know, it's his
13 prerogative, and what have you. You know, he
14 indicated that he would pray about something, and I
15 thought we had a good conversation. It was very
16 positive. I did not receive much feedback -- I
17 mean much brushback about my performance or law
18 firm's performance. We seemed to be fine and go
19 forward.

20 Well, today, when I go in there, Mr. Walton
21 -- I was in there for about eight to ten minutes,
22 something like that, and he focused on my
23 performance, and not his performance in this PCR.
24 We did not speak of anything substantive about this
25 case today because of his various criticisms of my

1 and my law firm's performance. He indicated that I
2 sent him a return that was dated in September
3 fairly recently. He also indicated that he tried
4 to call several times and was not able to get in
5 touch with me, and this is all after our discussion
6 of the 29th, I believe, as I said earlier. Yes
7 -- excuse me, the 27th.

8 So I think the Attorney General would
9 understand that, you know, I've sent letters to Mr.
10 Walton, to the Attorney General, to the Court. The
11 White hearing is very specific. It is a very
12 intricate point of law that I spoke with Mr. Walton
13 about at length, and my discussions with him, I
14 believe, show that we had a good communication, but
15 it makes it a day.

16 I went back there. He said he tried to call
17 me a few times, said he couldn't get through, said
18 I was a hard man to get in touch with. I probably
19 am, but I do make time for my PCR clients, and I do
20 make time to discuss things with them. But at the
21 end of the conversation, he indicated -- you see he
22 has a very large box of forms here. My
23 understanding is that his transcript is only 20
24 pages -- or at least the one provided to me.

25 So, the point is, he indicated at the end of

1 our conversation, in that room, right here off the
2 courtroom, he said that he would like for me to be
3 his stand-by counsel, and that he would proceed pro
4 se.

5 Now, you know, things are fluid, and what
6 have you. But the point is, when a client tells me
7 that they want to proceed pro se, that is a legal
8 term of art to this specific situation. And he
9 also wanted me -- he indicated that he wanted me to
10 hang around as stand-by counsel, which I try not to
11 do, Your Honor, because that creates -- in my
12 opinion, it creates confusion, possible
13 miscommunication. What am I responsible for? What
14 is the pro se Applicant responsible for? So I try
15 to avoid that as much as possible.

16 But when he said he would represent himself
17 pro se, and I don't think I misunderstood it, and
18 that I could be his second chair/stand-by counsel,
19 that raises a red flag with me. Because if he does
20 not want me to represent him, that's his
21 prerogative. He certainly can proceed pro se. He
22 can make a motion to, you know, have this hearing
23 continued until the next time. He is certainly --
24 I found him very articulate and spoke well, and I
25 was very impressed in a lot of ways. But when it

1 comes down to my ethics and my -- the situation of
2 attorney/client privilege and attorney/client
3 communication, when I've been led to believe one
4 thing, and it comes out he wishes to represent
5 himself in some fashion, then that's a red flag to
6 me that says I need to bring this to somebody's
7 attention.

8 We're here in the courtroom. I cannot
9 communicate to him today about his case because of
10 his criticisms about me and my law firm, so I
11 cannot go forward with this today in any capacity.
12 Most importantly, though, because he indicated that
13 he would be willing to represent himself pro se,
14 I'm moving at this point to withdraw from
15 representation of him, and he can represent himself
16 pro se or ask for another attorney. But I feel,
17 based on my conversations with him today, and what
18 he has indicated to me, that I need to withdraw
19 from this case, and he needs to move on pro se or
20 get another attorney.

21 THE COURT: Thank you, Mr. Fowler.

22 Mr. Walton, I'll put you under oath.

23 (MICHAEL JOHN WALTON, having been duly
24 sworn, testified as follows:)

25 THE COURT: You heard Mr. Fowler?

1 MR. WALTON: I did.

2 THE COURT: Did you want him relieved as your
3 attorney?

4 MR. WALTON: Going back to the conversation
5 we had just a few minutes ago, he gave me the
6 option to either go first or let him go first, and
7 I went first. I stated, first, my disappointment
8 with his communications, which I have a whole
9 litany of communication problems with his -- I
10 mean, I had four letters that he didn't answer. I
11 filed -- sent him a letter last September. I hate
12 we're going through this right now before we get
13 into the meat of the issue, but since he has
14 brought this up, last September I sent him a letter
15 saying, hey, I want to add two amendments to it.
16 That would be "N" and "O" in your files. And I
17 said do you have a return from the State yet? I
18 got no answer on that.

19 So we did have a good conversation on the
20 27th, I believe it was, when I was at Perry. Did
21 have a good conversation, because I wanted to hear
22 what he had to say. I didn't want to be combative.
23 I wasn't being combative. I was just stating a
24 fact. So I listened to what he said over the phone
25 while I was at Perry, and I said did you receive a

1 return from the State? And he said, Yes. When I
2 asked him to send it to me, he sent it to me and it
3 was clocked by the clerk of court on the 19th of
4 September. My letter to him was the 11th of
5 September last year. So I asked why I didn't get
6 any -- get it then, and he said, Well, I don't
7 know. I don't know. So I said, Well, what I'm
8 really interested in -- in our discussion in
9 here -- you know, are you willing to represent me?
10 Are you going to be looking out for my best
11 interest, or do I have to proceed pro se? Whatever
12 you would like to do.

13 So other than getting into the details of his
14 lack of communication, I would be glad to do that,
15 if you would like.

16 THE COURT: And, I guess, the question,
17 again, is: Do you want him to be relieved as your
18 attorney?

19 MR. WALTON: Well, at the end of our
20 discussion in there, I said your turn, basically,
21 and he just got up and left. So I haven't had a
22 chance to discuss it with him.

23 THE COURT: Mr. Fowler has asked to be
24 relieved as your attorney based upon his
25 understanding and the conversation with you. Do

1 you want him to be relieved as your attorney?

2 MR. WALTON: Yes.

3 THE COURT: Okay. Thank you. Now, that
4 leads to the next question.

5 MR. WALTON: Okay. Go ahead.

6 THE COURT: Do you want to proceed pro se and
7 represent yourself?

8 MR. WALTON: Yes, sir. Yes, Your Honor.

9 THE COURT: I'll give you some warnings on
10 that, because it's risky business representing
11 yourself.

12 MR. WALTON: Understood.

13 THE COURT: After we achieve that, I'll ask
14 follow-up questions. If you represent yourself --
15 and you may know this already or already told this
16 -- it is dangerous. You have the right to legal
17 assistance. You have been appointed counsel, but
18 you can, and it's your option, to proceed pro se or
19 self-representation, if you wish. However,
20 criminal law by itself, and post-conviction relief
21 in particular, is specialized. There is a lot of
22 information, a lot of law applicable to it that
23 lots of lawyers aren't familiar with, let alone pro
24 se folks. It's not a criticism as to you in any
25 fashion, that's just a statement of fact.

1 Do you understand?

2 MR. WALTON: Yes, sir.

3 THE COURT: All right. There is defenses,
4 sometimes arguments, things like that that can be
5 made that you might not be aware of, and that you
6 are held to the same standard as an attorney would
7 be. You can't claim a lack of understanding of the
8 law, unawareness of the rules as any kind of a
9 defense. There is no additional protection or edge
10 given to you because you are pro se.

11 You understand?

12 MR. WALTON: I understand, Your Honor.

13 THE COURT: And, sometimes, there is
14 consequences of what you do that affect not only
15 this, but other matters, collateral consequences,
16 and I can't even imagine what some of those would
17 be unless there was specific application. Do you
18 understand that there might be things going on that
19 you have no idea as a non-attorney that would
20 affect your case or your future? You understand
21 that?

22 MR. WALTON: Well, with it being an unknown,
23 I'm not sure how to understand it.

24 THE COURT: There are things that can come up
25 and have an effect on you that you are unaware of

1 because of your status as a pro se litigant. Do
2 you understand that?

3 MR. WALTON: I do.

4 THE COURT: Okay. All right. I'm granting a
5 request to relieve him. Are you proceeding pro se;
6 that's what you are asking me to do?

7 MR. WALTON: Yes, Your Honor.

8 THE COURT: Are you prepared to go forward
9 with the hearing today?

10 MR. WALTON: Yes, Your Honor.

11 THE COURT: You are prepared to go forward
12 today?

13 MR. WALTON: I am.

14 THE COURT: Mr. Fowler?

15 MR. FOWLER: Your Honor, he's indicated twice
16 that he wishes to have me relieved as counsel. At
17 this moment, I'm through with my docket for today,
18 Your Honor. I will be -- if it's acceptable with
19 you, I'll be leaving the courtroom so there is no
20 confusion.

21 THE COURT: Let me clarify that. If I --
22 make sure you understand, Mr. Walton, if I -- in
23 relieving Mr. Fowler, I'm relieving him completely.
24 I'm not putting him into an advisory or stand-by
25 capacity.

1 MR. WALTON: I understand. Yes, sir.

2 THE COURT: And you are here by yourself. He
3 will leave the room and no longer be your
4 representative. Do you understand that?

5 MR. WALTON: Yes, sir.

6 THE COURT: I'll hear from the AG's office
7 before I let you leave.

8 MR. KOWALSKI: The State just asks that you
9 ask the Applicant if he's making this decision
10 voluntarily.

11 THE COURT: You are right.
12 Are you doing this voluntarily?

13 MR. WALTON: Yes, Your Honor.

14 THE COURT: Anyone forcing you, threatening
15 you, coercing you, making you do it against your
16 will?

17 MR. WALTON: No, Your Honor.

18 THE COURT: Are you under the influence of
19 drugs, alcohol, mental stress, anything like that
20 that would affect your ability to understand what
21 you are doing today?

22 MR. WALTON: No, Your Honor.

23 THE COURT: Do you know why I'm asking that
24 question? You understand that?

25 MR. WALTON: That, I do.

1 THE COURT: Okay. All right.

2 Anything further from the Attorney General's
3 Office?

4 MR. KOWALSKI: No position from the State.
5 Again, it's up to your discretion as to....

6 THE COURT: All right. I'll relieve Mr.
7 Fowler. Mr. Fowler, you are excused, if you wish
8 to leave.

9 MR. FOWLER: I'm now leaving the courtroom
10 for the rest of the day. Thank you, Your Honor.

11 THE COURT: Thank you.

12 Mr. Walton, I'll hear from you.

13 MR. WALTON: Opening?

14 THE COURT: Yes.

15 MR. WALTON: Thank you.

16 MR. KOWALSKI: The State has its motion to
17 dismiss, first and foremost.

18 THE COURT: You're right. I probably need to
19 address the motions first before we proceed with
20 the substantive portion. Thank you for reminding
21 me of that. I got sidetracked.

22 Mr. Walton, we'll hear the motions first.

23 Mr. Kowalski, your motion.

24 MR. KOWALSKI: Yes, Your Honor. The State
25 now makes its motion to dismiss the Applicant's

1 allegations for failure to comply with the statute
2 of limitations. PCR application must be filed
3 within one year of the conviction or within one
4 year of the remittitur to the lower court for the
5 appeal, whichever is later. The statute of
6 limitations does not apply to a claim that an
7 Applicant was denied his right to a direct appeal,
8 and that is *Wilson v. State*, 348 S.C. 215, from
9 2002.

10 As has been discussed in this, the Applicant
11 makes allegations that he was denied his right to a
12 direct appeal. Applicant filed his application
13 untimely. The Applicant pled guilty and was
14 convicted on April 26, 2018. He did not appeal his
15 conviction to be timely. The Applicant was
16 required by statute to file his PCR application by
17 April 26, 2019. The Applicant filed his
18 application on January 19, 2023, almost four years
19 outside of the one-year statutory period. Thus,
20 Applicant's application is untimely, and the Court
21 should dismiss and bar all allegations that the
22 Applicant is proceeding on, except for his
23 allegations that he did not waive his right to a
24 direct appeal, and we request an evidentiary
25 hearing on that particular issue.

1 THE COURT: Okay. All right.

2 Mr. Walton, let me hear from you regarding,
3 number one, the late filing; and, number two, the
4 appeal.

5 MR. WALTON: Okay. Well, I appreciate the
6 Court, Attorney General for allowing me to appear
7 and standing here and talking with you. I very
8 much appreciate that.

9 Ever since the time I've been arranging this,
10 my situation has reminded me of the story of
11 Nehemiah in the Bible. It parallels mine very much
12 in the sense that Nehemiah is -- Jerusalem was in
13 shambles after the exile, and my family was in
14 shambles after my imprisonment. Nehemiah was
15 pleading with the king. I'm pleading with you,
16 Your Honor, the Court. Nehemiah was hoping for
17 relief of service to rebuild Jerusalem. I'm hoping
18 for vacating my sentence and release so that I may
19 grieve my son, Jonathan, who committed suicide
20 December 2nd of '23, and that I may mentor and
21 minister to my other sons. I still have four other
22 sons. So I can get a job so I may build funds
23 necessary in case the State appeals or moves
24 otherwise. Nehemiah asked for papers for safe
25 traveling and materials to rebuild. For me, I'm

1 asking for no restrictions on movement after PR
2 bond so I may move freely in business and personal
3 travel. I need better colostomy bag care. I have
4 a permanent colostomy bag. And I need dental work
5 that has not been done in four years, and I need
6 heart work.

7 So to move on here, quoting Fox --
8 paraphrasing Judge Holm (ph), "One who would defend
9 the Fourth Amendment -- and I interjected here, the
10 Constitution and the laws of South Carolina -- my
11 share of foxholes with scoundrels of every sort,
12 but to abandon the post because of poor company is
13 to sell freedom cheaply."

14 He then goes on to quote United States v.
15 Rabinowitz, "It's a fair summary of history to say
16 that the safeguards of liberty have often been
17 forged because controversies involving not very
18 nice people."

19 Today, in these discussions, who the poor
20 company, the scoundrel or the not very nice people
21 are may depend on the very seat that you are
22 sitting in and the view you take; but, obviously,
23 I'm wearing orange so, therefore, I may be all
24 three of those. But, rather, today, my hope is
25 that the facts of the case will bring about a fair

1 and equitable --

2 COURT REPORTER: You need to slow down.

3 MR. WALTER: I apologize. I'm told it
4 happens.

5 Rather, today, my hope is that the facts of
6 the case will bring about a fair and equitable
7 resolution to an obvious miscarriage of justice.
8 Despite the finger pointing, which may offend the
9 one pointed to, let's together take the higher path
10 towards the safeguarding of liberty.

11 Why I didn't appeal: We were in a courtroom
12 like this, and I was waiting in the seats back
13 there with a couple of friends. Mr. Wilson wasn't
14 anywhere. I'm sure he had business to do, take
15 care of, but he suddenly appears, pulls me into a
16 room, which probably -- back off there some place,
17 in the back. He pulls me into the room, says,
18 Plead guilty to one second degree, then they'll
19 nolle pros the second and third degree. I asked
20 about an appeal, and he said, If you plead guilty?
21 I said, Okay, if I plead guilty --

22 MR. HALL: Objection, Your Honor. If I may?
23 I believe Mr. Walton is getting into testimony at
24 this time. We ask that if he's going to testify
25 about communications with his attorney, that he

1 take the stand so we have the opportunity to cross
2 examine him.

3 THE COURT: All right. You are testifying,
4 and they are going to be entitled to cross
5 examination.

6 MR. WALTON: Okay.

7 THE COURT: I'll have you step up to the
8 stand and testify from there.

9 MR. WALTON: Okay.

10 THE CLERK: He's already sworn, right?

11 THE COURT: Yes.

12 And I'll remind you, Mr. Walton, you have
13 already been sworn in.

14 At this stage, again, I don't want to limit
15 you too much, but primarily what we're looking at
16 is what is relative to why there was no appeal. So
17 that's going to be the focus of my inquiry. If we
18 go beyond that, then we may get into more things.
19 So I'll hear from you.

20 MR. WALTON: I can go? Okay. So as -- as I
21 asked him, as he was showing that I could plead
22 guilty for one 20-year, I asked him about an
23 appeal. He said it would be ridiculous to appeal
24 because I'm pleading guilty. The judge would only
25 look at me as what am I doing. That's why I did

1 not appeal. That's why there was no appeal done.
2 I presume that he knew what he was talking about,
3 and that if there was any ability to appeal at all,
4 that he would advise me to do so. He didn't advise
5 me not only to do that, but also the manner and
6 method for taking an appeal. So I relied on his
7 expertise. I left it alone based on his inference
8 I just stated.

9 Shall I move to PCR, untimely PCR?

10 THE COURT: Did you understand that there was
11 the possibility of an appeal?

12 MR. WALTON: Not once he told me it would be
13 ridiculous to file one.

14 THE COURT: Okay.

15 MR. WALTON: He basically, in my mind,
16 negated that possibility. And whether it was
17 necessary at that time, you know -- I wasn't
18 familiar with an appeal, but since that was
19 mentioned, I asked him about it. But, again, you
20 know, he's saying that the judge would look at me
21 like it's ridiculous because I pled guilty, that
22 led me to believe that it was not a possibility.

23 THE COURT: Who was the attorney?

24 MR. WALTON: Mr. Ralph Wilson, Senior.

25 THE COURT: Okay. As to the appeal issue,

1 I'll allow cross examination now, and we'll circle
2 back. I know we're breaking it up, but I'll let
3 you ask any questions relative to that.

4 Let him first finish.

5 Mr. Walton, anything further you want to
6 address relative to that narrow issue regarding why
7 there was no appeal? Anything else you want to
8 share?

9 MR. WALTON: Not at this moment.

10 THE COURT: Okay. This is the moment.

11 MR. WALTON: I got you.

12 THE COURT: So I'll let them cross examine
13 you relative to that.

14 Mr. Kowalski.

15 MR. KOWALSKI: Thank you, Your Honor.

16 **CROSS EXAMINATION**

17 **BY MR. KOWALSKI:**

18 **Q** Good afternoon. So, Mr. Walton, at your
19 guilty plea you testified that you were pleading
20 guilty voluntarily, right?

21 **A** Say that again.

22 **Q** At your guilty plea, during the colloquy with
23 the judge --

24 **A** Okay.

25 **Q** -- you testified that you were pleading

1 guilty voluntarily, right?

2 A That's correct.

3 Q And you told the plea judge that you were
4 satisfied with Mr. Wilson's representation?

5 A I was at that time, yes.

6 Q And didn't you tell the plea judge you were
7 pleading guilty because you committed the crime?

8 A Correct.

9 Q And you pled guilty to the facts as
10 articulated by the Solicitor there, right?

11 A That's correct. That's within the transcript
12 as well.

13 Q And you were going to give a statement at
14 your guilty plea?

15 A Pardon?

16 Q You were going to give a statement during
17 your guilty plea?

18 A Yes.

19 Q And you described meeting with your pastor
20 who encouraged you to self-report what you did,
21 right?

22 A Correct.

23 Q And while you were speaking on your own
24 behalf, you confessed during the guilty plea of
25 committing pedophiliac acts against your adoptive

1 daughter, right?

2 **A** Understood. Yes.

3 **MR. KOWALSKI:** Beg the Court's indulgence.

4 (A brief pause in the proceedings.)

5 **Q (BY MR. KOWALSKI)** So after the guilty plea,
6 did you bring up to Mr. Wilson that you were
7 interested in appealing?

8 **A** After the guilty plea?

9 **Q** Yes, after you were sentenced.

10 **A** I would say, no. Because it would not have
11 ever crossed my mind because I have already asked
12 him the question that after this happens, or
13 however this happens, can I appeal, and the answer
14 was, No, you are pleading guilty, it would look
15 ridiculous.

16 **MR. KOWALSKI:** No further questions.

17 **THE COURT:** Okay. I'm not going to make a
18 ruling at this time relative to that issue. I'll
19 hear the substantive portion relative to the PCR at
20 this time.

21 **MR. HALL:** We would like to put up a reply
22 witness.

23 **THE COURT:** Reply witness?

24 **MR. HALL:** Before Your Honor makes a ruling
25 on that issue.

1 THE COURT: Would that reply witness testify
2 relative to the substance as well?

3 MR. HALL: To the direct appeal issue, yes.

4 THE COURT: Right. But as to the grounds
5 provided that we go forward with the PCR, is this
6 reply witness going to testify to that as well?

7 MR. KOWALSKI: Your Honor, do you mean in its
8 entirety?

9 THE COURT: Yes.

10 MR. KOWALSKI: Yes, the witness can testify.

11 THE COURT: Let's do this. Let's wait and do
12 it all at once, okay.

13 MR. KOWALSKI: All right.

14 THE COURT: I broke it up with him. I want
15 to make sure I focused on it, but I'll shift gears
16 and do the reply witness all at once.

17 MR. KOWALSKI: All right. Thank you.

18 THE COURT: Happy to hear from you.

19 MR. WALTON: I step down?

20 THE COURT: No, you're still on the stand.
21 What do you want to tell me about the grounds of
22 the post-conviction relief?

23 MR. WALTON: Okay. I plea for the Court to
24 allow me to analogize for a better understanding.
25 After 30-plus years as a designer, salesman,

1 manager of structural components of residential and
2 commercial buildings, my credentials would qualify
3 me as an expert in my trade. My reputation in the
4 industry caused various homeowners, builders,
5 architects, and structural engineers to seek out my
6 advice, assistance, services, and design expertise
7 for their various projects. This occurred not only
8 in Horry and Georgetown Counties, but in the latter
9 years of my career also occurred in places such as
10 Oregon, Texas, Virginia, North Carolina,
11 Massachusetts, and Tennessee. As an expert, those
12 who sought my services could trust that I was
13 looking out for their best interest, and that the
14 end result would be a product that met and exceeded
15 their expectations --

16 MR. KOWALSKI: Objection, Your Honor, as to
17 relevance.

18 THE COURT: All right.

19 MR. WALTON: I'm laying a ground for why I
20 feel that I could trust my lawyer.

21 THE COURT: Trust your lawyer?

22 MR. WALTON: Trust Mr. Wilson as my
23 representative at that time.

24 THE COURT: I'll give you some leeway.

25 MR. WALTON: If after four years they had

1 structural problems, their trust would disappear.
2 When seeking out an attorney to represent me, Mr.
3 Wilson was recommended to me as someone who had
4 many years of experience as an attorney in criminal
5 law, as well as a stint in the solicitor's office,
6 and I believe a time under Jim Dunn's purview.
7 This instilled in me a high level of trust in
8 Mr. Wilson's abilities to proper handle my case
9 while bringing about the best possible outcome.

10 When meeting with Mr. Wilson, he confirmed
11 what I had been told and assured me he could
12 properly maneuver my case through the court system
13 and achieve the best results possible. I had not
14 seen nor been given any indication that Mr. Wilson
15 had anything but my best interest in mind, and that
16 he would follow all procedures within the law to
17 accomplish the best results without fault or
18 compromise.

19 After sentencing, I was immediately
20 transported to J. Reuben Long Detention Center. On
21 April 30 of 2018, I was transported to R&E at
22 Kirkland Correctional Institution. On July 31,
23 2018, I was shipped to Perry Correctional where I
24 soon started work at the chaplain's office while
25 attending classes, including the Seven Habits

1 Program.

2 Early in 2019, I began experiencing medical
3 issues. It began with heart issues, followed by an
4 inguinal hernia. In November of 2019, I began
5 experiencing intestinal issues, which turned worse.
6 January 2 of 2020, after passing out in the dorm, I
7 was sent to the hospital. I was in and out -- in
8 the hospital for the better part of four months in
9 early 2020, only getting out in May 4 of 2020, and
10 then being sent from that infirmary to another
11 infirmary within SCDC on June 2 of 2020. I had
12 lost 70 pounds. I lost my large intestine, and my
13 ability to be -- because of Covid, we did not have
14 access to the law library. Okay.

15 It wasn't until early 2022 that I was able to
16 obtain some kind of discussion about legal
17 dialogue. I took a class in legal dialogue with
18 other inmates. So that started to turn the light
19 on for me that there were some problems at that
20 point, is when I learned more about legal dialogue,
21 that I began to question what was taken care of.

22 The first issue I hit was monitor house
23 arrest, so I took care of that. My searching
24 through legal situations for monitoring house
25 arrest has led to an enlightening of more problems

1 with my case. My trust in Mr. Wilson's legal
2 competency continued to wane to the point where I
3 knew I had to do something to combat the effects
4 they had to me. As forwarded, I show you the super
5 plain errors and omissions which brought about the
6 filing of my PCR, which will likely lead to
7 reversal and vacating of my sentence.

8 June 27 of 2018, after the R&E facility, I
9 was transferred to Horry County Courthouse. I had
10 no prior notice of this, had no idea or indication
11 why I was going there.

12 After arrival, I was escorted to a room.
13 After a few minutes, Mr. Wilson walked in, Ralph
14 Wilson, Senior. I was surprised to see him, and I
15 inquired as to why I was there and what it was
16 about. Mr. Wilson told me that someone at SCDC
17 found a mistake in the paperwork, and this is --
18 why I was there was to correct the mistake. And he
19 stated with great bravado that Ms. Leigh Andrew
20 just wanted to take care of it without me there,
21 but I -- Mr. Wilson -- insisted on bringing you
22 back to court and make her pay the cost.

23 At that time, I was still trusting Mr.
24 Wilson's abilities. I had heard about PCRs while
25 at R&E, so I asked Mr. Wilson about it. He stated

1 that I couldn't do a PCR because I pled guilty.
2 That's the very plain statement. He stated that I
3 couldn't do a PCR because I had pled guilty.

4 After leaving the courtroom, I asked Mr.
5 Wilson if what just happened changed anything, to
6 which he said, No. I still felt -- still felt at
7 that time that Mr. Wilson was looking out for my
8 best interest. When my R&E roommate asked what
9 happened, and I told him, he responded it didn't
10 sound right. I took that as an attack on Mr.
11 Wilson, and told my roommate that I trusted Mr.
12 Wilson to do the right thing.

13 It wasn't until around May or June of '22
14 when I was out of the hospital -- I lived in the
15 infirmary at McCormick for 16 months, and finally
16 got out into the general population, GP, to where I
17 interacted with other inmates that had some
18 capacity to help me learn the law library and help
19 me with my case to learn different aspects that it
20 made me aware that he was incorrect in stating that
21 I could not do a PCR. That's why it took four
22 years.

23 THE COURT: All right. Anything further?

24 MR. WALTON: Not until we get to the points
25 of the PCR.

1 THE COURT: All right. I'll be happy to hear
2 from you on that as well.

3 MR. KOWALSKI: Your Honor, we ask for an
4 opportunity to cross examine.

5 THE COURT: Sorry?

6 MR. KOWALSKI: We ask for an opportunity to
7 cross examine.

8 THE COURT: All right. Well, why don't we do
9 all of the cross examination at once; how is that?

10 I'll be happy to hear from you relative to
11 the points you want to raise regarding the
12 post-conviction relief.

13 MR. WALTON: We're moving to post-conviction
14 relief?

15 THE COURT: Yes.

16 MR. WALTON: Some of my materials are on my
17 desk. Can I bring them up here?

18 THE COURT: What materials do you need?

19 MR. WALTON: Probably about five, six items,
20 if I can step back to retrieve them.

21 THE COURT: Yeah. Go ahead and step down and
22 retrieve them.

23 (A brief pause in the proceedings.)

24 MR. HALL: If we may, we're asking for
25 clarity. I know he just testified about why he

1 filed untimely. It's our understanding that the
2 Court is hearing everything at once?

3 THE COURT: Yeah. That's correct. I broke
4 it up before and realized that that probably wasn't
5 the most efficient way to do it. So we'll hear
6 everything in full, and you can cross examine in
7 full, okay.

8 MR. HALL: Thank you, Your Honor.

9 MR. WALTON: Maybe a little more than five or
10 six, pardon me.

11 We're moving into the points of the PCR, Your
12 Honor.

13 THE COURT: Glad to hear from you.

14 MR. WALTON: Going first, 10A, trial counsel
15 failed to provide effective assistance of counsel
16 guaranteed by the Sixth and Fourteenth Amendments
17 of the United States Constitution of law.

18 COURT REPORTER: Slow down.

19 MR. WALTON: Sorry. Where counsel failed to
20 inform or advise or file a direct appeal on behalf
21 of the defendant. We've already discussed this at
22 this point.

23 10B: Trial counsel failed -- everything
24 starts with the same, so I'll proceed from that
25 point on.

1 Counsel failed to object and preserve for
2 appellant review indictment amendment after
3 expiration of the court term. Personnel at South
4 Carolina Department of Corrections found what is
5 considered a mismatch code or code verbiage by SCDC
6 on the commitment order, Page 8 -- that's my note,
7 Page 8. SCDC Policy 2109-1074 states, Incomplete
8 orders will be entered on the convict screen and an
9 e-mail will be sent to all parties involved, the
10 solicitor, inmate's attorney --

11 THE COURT: Is that what resulted in the
12 resentencing?

13 MR. WALTON: Yes.

14 THE COURT: So that has been effectively
15 resolved.

16 What is the next issue you have?

17 MR. WALTON: That has effectively been
18 resolved?

19 THE COURT: From my understanding, yeah, that
20 there was a resentencing that resolved what was a
21 clerical error; is that not correct?

22 MR. WALTON: That is a part of the problem,
23 Your Honor.

24 MR. KOWALSKI: It wasn't a resentencing, just
25 an amendment, Your Honor.

1 THE COURT: Not a resentencing. You are
2 right. I used the wrong term.

3 MR. WALTON: They called it a scrivener's
4 error.

5 THE COURT: So there is an error associated
6 with that?

7 MR. WALTON: An error and even bringing me
8 back to court for that.

9 THE COURT: Go ahead.

10 MR. WALTON: SCDC policy states incomplete
11 orders will be entered on the convict scene, and an
12 e-mail will be sent to all parties involved,
13 solicitor, inmate's attorney, DPPS, and
14 notification will be given to the inmate will be
15 for clarification. The grammatical error is
16 theirs, not mine.

17 I never received any notification of the
18 mismatch code verbiage from SCDC or Mr. Wilson.
19 The action above resulted in my being brought back
20 to court 62 days after my April 26th sentencing.
21 This is a direct violation of 17-19-90 and
22 17-19-100, as well as Rule 29 of the South Carolina
23 Rules of Criminal Procedure where this action was
24 done untimely, and as it was past the ten-day
25 tolling.

1 The reason given me for the hearing by Mr.
2 Wilson was just stated, for a scrivener's error
3 correction.

4 The second hearing was illegal, and Mr.
5 Wilson failed to object to it. He also had a
6 second opportunity to object to flawed indictments,
7 but failed to do so. He also failed to object to
8 the expiration of the court term.

9 State v. Campbell states a trial judge is
10 without jurisdiction to consider a criminal matter
11 once the term of court during which judgment was
12 entered expires, and each week of court is a
13 separate term, plea court that had entered a plea
14 agreement in a murder case, after the term of court
15 had ended to resentence defendant. I feel that
16 this scrivener's error hearing, as it was called,
17 is of the same circumstance.

18 In State v. Bruce and State v. Floyd, the
19 judge who presided over these scrivener's error
20 hearings -- I'm stating that the judge who
21 presided, Judge Culbertson, who presided over the
22 scrivener's error hearing couldn't preside over
23 that since he was the original judge per State v.
24 Bruce and State v. Floyd. He couldn't preside over
25 his own ruling, and he was basically the -- the

1 Court was performing a harmless error analysis of
2 his own ruling, which cannot be done.

3 That's 10B and 11B.

4 10C and 11C is when trial counsel grossly
5 misadvised defendant that he was not eligible to
6 file post-conviction relief. I think we have
7 already covered that sufficiently.

8 I'm restating for the record that when I was
9 brought back for these scrivener's error hearings,
10 as they were called, and it's not a scrivener's
11 error, as I will show later, what they called a
12 scrivener's error hearing, Mr. Wilson -- when I
13 asked about PCR -- told me I could not because I
14 pled guilty.

15 10D, again, they all start the same, so I
16 will pick up where counsel failed to advise
17 defendant of the flawed indictments and to object
18 at the correct time or develop a strategy where the
19 defendant would have proceeded to trial and move to
20 suppress.

21 11D says that trial counsel failed to
22 challenge the validity of the indictments under
23 South Carolina Code 17-19-90 at the correction
24 time, failed to advise defendant of the flawed
25 indictments, or failed to advise defendant that if

1 he proceeded to trial, he could have moved to
2 suppress. But for this error, defendant would have
3 proceeded to trial.

4 May I address the flawed indictments at this
5 time, Your Honor?

6 THE COURT: Certainly.

7 MR. WALTON: Okay. The indictments if -- the
8 indictments were also flawed because of erroneous
9 statements made on the indictments, different code
10 references, a second degree versus a third degree.
11 This, in itself, was enough as ambiguity was enough
12 to keep the grand jury from being able to true bill
13 them. So that's part of my argument, that the
14 grand jury could not even true bill an ambiguous
15 indictment.

16 Secondly, the ambiguous indictment deprived
17 the Court of subject matter jurisdiction. That is
18 in State v. Riddle, State v. Ellison, and State v.
19 Lynch. A correction of the indictments or
20 amendments of the indictments was not a scrivener's
21 error as defined by Black's Law. They were not
22 minor mistakes.

23 In State v. Riddle, quote, "An amendment of
24 an indictment at the close of evidence of trial,
25 which increased the lesser charge of assault with

1 intent to commit" -- continuing on -- "was improper
2 as it exceeded the terms of 17-19-100, which
3 permits amendment of an indictment provided that
4 the nature of the offense charge is not changed."

5 The indictment -- the scrivener's error, as
6 they called it -- I don't like to call it that
7 because I don't feel it was, but since it was their
8 terminology, I will use "scrivener's error" for the
9 sake of the record. It changed the indictment from
10 third degree to second degree. It's an amendment
11 of the indictment that's illegal according to
12 17-19-90 and 17-19-100 and Rule 29. They cannot do
13 that.

14 In State v. Ellison, the indictment was
15 insufficient to confer subject matter jurisdiction
16 on trial court to convict defendant. Okay. These
17 indictments have to be changed. If they are going
18 to be objected to, they have to be changed prior to
19 trial. Once the trial is over, they cannot be
20 altered or amended as such, especially when it is
21 an increase in a charge, and that was going from
22 third degree to second degree.

23 I feel that the indictments were fatally
24 flawed, and that, in essence, what should have
25 happened is Mr. Wilson should have objected to not

1 only the introduction of these indictments from the
2 very beginning where the effect would have been to
3 cancel that hearing for that day and allow the
4 State to re-indict with new indictments that had no
5 errors. That would have been potentially what
6 would have happened that day.

7 He also missed a second opportunity to object
8 to the flawed indictments at the scrivener's error
9 hearing. He missed both opportunities.

10 State v. Lynch, "When an amendment to an
11 indictment changes an offense to one with increased
12 punishment, the circuit court is deprived of
13 subject matter jurisdiction. An amendment to an
14 indictment may deprive the circuit court of
15 jurisdiction, even if it does not change a
16 penalty."

17 So going from third degree to second degree
18 was an upgrade in the charge; and, therefore, I
19 feel that that was flawed. They had a scrivener's
20 error hearing that should have never happened, and
21 Mr. Wilson should have objected to it.

22 10E, trial counsel failed to object and
23 preserve for appellant review the State conducting
24 a post-trial hearing outside the parameters of
25 South Carolina law, and for criminal procedure to

1 amend the indictment and sentencing sheet.

2 Beyond what has already been stated, trial
3 counsel failed to object and preserve for appellant
4 review the State bringing defendant back before the
5 Court outside the parameters of Rule 29 of the
6 South Carolina Rules of Criminal Procedure, which
7 this hearing was held 62 days after the sentencing
8 hearing where the Court, upon motion of the state,
9 illegally amended the indictment and sentencing
10 sheet.

11 They have a ten-day time frame where they
12 were outside of that time frame. Nothing was
13 filed. Nothing was done until 62 days later. In
14 fact, in the State's return -- since I laid this
15 down, I can bring it up. In the State's own
16 return, they mentioned the date of July 2. That is
17 incorrect. The date of amendment was June 27th,
18 the scrivener's error hearing, not July 2nd.

19 And while we're talking about that -- again,
20 keeping in mind that Mr. Wilson said that I could
21 not file a PCR because I had pled guilty.
22 June 27th was that hearing of 2018, and I'm still
23 trusting that everything is right. Up until 2022,
24 I trusted that.

25 But I received on May 14 of 2019 a letter

1 from Mr. Wilson, which his letter was dated May 9
2 of 2019. Copies of the enclosed for your records
3 and review of the following documents: Copy of
4 supplemental discovery received from the State.
5 This was the scrivener's error hearing, and I only
6 get the paperwork for it ten-and-a-half months
7 after the hearing.

8 Adding to that, he doesn't seem to understand
9 that I was in prison, because the letter is stated
10 as such that -- as if I was on the street waiting
11 for trial. There is nothing you need to do --
12 quote, "There is nothing you need to do with these
13 documents at this time. This material is simply
14 being provided to you for your records to keep you
15 up-to-date with all material the State has provided
16 relative to your case thus far. When and if
17 additional documents are received, they will
18 likewise be forwarded upon receipt."

19 That's what I received May of 2019 when the
20 hearing originally was April 26 of 2019, and the
21 scrivener's error hearing, which these are
22 referring to, was June 27 of 2018. Not only that,
23 but these were all dated July 2nd of 2018, which is
24 after the hearing. I feel that's an error on his
25 part.

1 MR. KOWALSKI: Your Honor, just to mention
2 the date discrepancy, the July 2nd date we have
3 down is when the order was filed for that hearing.

4 MR. WALTON: Correct.

5 THE COURT: Yeah. You can clarify that with
6 cross examination.

7 MR. WALTON: I apologize for the mess, Your
8 Honor.

9 We are on F.

10 THE COURT: Is it your intention to go
11 through all of the various subparts as well?

12 MR. WALTON: This is my understanding with
13 the intent that we were covering PCR, yes.

14 THE COURT: No. That was my question to you:
15 Is that what you want to do, go through each one?

16 MR. WALTON: Yes, Your Honor.

17 THE COURT: Okay.

18 MR. WALTON: If I can keep it all straight.
19 There is so many papers here.

20 Counsel failed -- same beginning as the rest.
21 He failed in failing to object to the Solicitor not
22 forwarding the motion notice to amend until after
23 the hearing, and in failing to serve the defendant,
24 who was technically without legal counsel, the
25 ability to defend. That, I just covered, Your

1 Honor.

2 G, trial counsel failed to object that the
3 original indictments deprived the Court of subject
4 matter jurisdiction. I believe that we have
5 covered that, along with the fact where the nature
6 of the offense of the elements were changed, okay.
7 And there are exhibits backing that up.

8 H, trial counsel failed in failing to object
9 where jeopardy had attached to the amended
10 indictment after expiration of the sentencing court
11 term and parameters of Rule 29 of the South
12 Carolina Rules of Criminal Procedure. In this
13 reading 11, trial counsel failed to enter an
14 objection to double jeopardy at the post-trial
15 hearing to amend the indictment and sentencing
16 sheet where jeopardy had attached after the
17 expiration of the court term and procedural rules
18 following sentencing.

19 In essence, in the scrivener's -- and I hate
20 to use the word they used because it is not a
21 scrivener's error, but in this hearing on
22 June 27th, the State provided an opportunity --
23 or actually they put me in double jeopardy by
24 providing an opportunity for the judge to give me
25 more time. The fact that the changes made were

1 going from third to second degree provided that
2 opportunity, along with the fact that had the judge
3 -- had the judge mentioned that he thought he was
4 ruling on third the first time, and now it's
5 second, he had an opportunity to give me more time.
6 I feel that that was something that Mr. Wilson
7 should have objected to.

8 Where counsel failed to object to the
9 malicious prosecution of Solicitor by intentionally
10 introducing information of nolle prossed documents,
11 which were also defectively flawed. Nolle prosequi
12 documents were introduced after the beginning of
13 the trial, and he did not object to the fact that
14 that may be prejudicial against me.

15 J, where counsel failed to object to the
16 malicious prosecution by the Solicitor of
17 intentionally misinforming the Court concerning
18 fictitious statements of victim. Trial counsel
19 failed to object to malicious prosecution by the
20 Solicitor who intentionally misinformed and
21 inflamed the passions of the Court by fictitiously
22 stating that the victim did not appear in court
23 because she informed the Solicitor he was raping
24 her, where no statements or evidence revealed such,
25 and the defendant was thereby prejudiced.

1 Trial counsel failed to object to absence of
2 defendant's accusers during the course of the
3 hearings. That's pretty plain.

4 Trial counsel failed to object to the absence
5 of the defendant's accusers during the defendant's
6 hearings, thereby depriving the defendant the right
7 to face his accusers.

8 L, trial counsel failed to provide the
9 effective assistance of counsel where counsel
10 failed to object to witness tampering by the
11 Solicitor. In this, Your Honor, trial counsel
12 failed to raise -- despite the fact that I brought
13 this conversation up with Mr. Wilson in times
14 before I went to trial. I brought this up in
15 discussions with Mr. Wilson. Trial counsel failed
16 to raise and object to witness tampering by the
17 Solicitor where trial counsel was made aware of a
18 witness being allowed by the Solicitor to view
19 evidence which would have bolstered the same
20 witness' testimony, thereby having a prejudicial
21 effect on the defendant.

22 I understand we did not have trial and did
23 not have witnesses appearing, but this subject
24 should have been raised as prejudicial to me. My
25 wife is the one I'm talking about where she came to

1 visit me in my apartment and began to discuss the
2 confession tape. I knew she had to see it because
3 of what she was discussing about it.

4 M, trial counsel failed to object to hearsay
5 statements by Solicitor. The Solicitor made
6 statements as shown in the transcript. Trial
7 counsel failed to object to and preserve for
8 appellate review hearsay made by Solicitor where
9 statements by Solicitor were not statements by the
10 victim and were intended by the Solicitor to
11 inflame the passions of the Court and prejudice the
12 defendant.

13 Page 19 of the transcript shows where the
14 Solicitor was making statements as if they were
15 stated in court. They were not made in court, as
16 the victim was not there, and neither was a
17 witness. So she could not have said what she had
18 said on Page 19 of the transcript.

19 Now, I'll go to where they should have copies
20 -- do you have copies of M, N and O?

21 Beg the Court's indulgence. Um, I'm severely
22 limited here, guys. Could you help me out here and
23 pick that up for me?

24 10N, O and P, trial counsel failed to provide
25 the effective assistance of counsel guaranteed by

1 the Sixth and Fourteenth Amendments of the United
2 States Constitution and South Carolina law where
3 counsel failed to pursue dismissal of defendant's
4 confession on the grounds of duress.

5 During trial, counsel deprived defendant of
6 effective counsel by failing to pursue dismissal of
7 defendant's confession that he made on a mental
8 duress. During a prior meeting with counsel, the
9 defendant expressed his concern that though he
10 signed a Miranda form, he was under great mental
11 duress, which was ill-advised by his pastor, and
12 would have signed anything while under the strain
13 of mental duress.

14 Defendant expressed to counsel that while he
15 was facing many unknown outcomes, the mental duress
16 caused him to make unwise decisions. Counsel
17 responded negatively and would not consider
18 defendant's request to pursue this defense.

19 I add to the fact that he said that I had
20 taken power out of his hands when I confessed
21 without an attorney present.

22 100, trial counsel failed to -- I won't read
23 that again for the sake of the Court's time.

24 Counsel placed a defendant at great risk of
25 harm and prejudice when presenting certain

1 unreliable information and defense. During the
2 course of the trial, counsel deprived defendant of
3 effective assistance of counsel by submitting a
4 defense which placed the defendant at great risk,
5 harm, and prejudice. Counsel advised defendant to
6 submit to an evaluation by Dr. Burke of
7 Southeastern Assessments, Incorporated, which
8 included a PPG exam. That is a penial
9 plethysmograph. This PPG exam has not been
10 accepted by courts as valid, even prior to
11 defendant's arrest and trial. Counsel should have
12 investigated and known this, as there are published
13 cases concerning this.

14 Counsel raised the PPG exam results as a
15 defense, when, in actuality, it had a great
16 potential for further harm, thereby putting
17 defendant at great risk of prejudice from the
18 prosecution. The PPG exam was done upon counsel's
19 advice, and not requested by the prosecution or the
20 defendant. This was -- this is addressed in The
21 Matter Of Daley, which drives cases all the way
22 back to Bilton. Even though Daley was later than a
23 2016 case, there are cases cited all the way back
24 through where the courts do not accept the PPG
25 exams because they do not have standardized

1 standards -- they are not accepted standards, in
2 other words. There are multiple cases where they
3 have been thrown out because of their
4 unreliability.

5 Lastly, on this, trial counsel failed to
6 suppress a non-custodial confession. During the
7 course of the trial, counsel failed to suppress
8 defendant's non-custodial confession, which
9 occurred without proper presence of and
10 representation by legal counsel.

11 The failure to suppress allowed the State
12 opportunities to inject and highlight portions of
13 the non-custodial confession. This resulted in
14 inflaming the passions of the Court, thereby
15 prejudicing the outcome of trial to be against the
16 defendant. Again, I got back to his statements
17 where he said that I took power -- his words, "You
18 took power away from me." That's me, I took power
19 away from him as an attorney.

20 That ends those.

21 And in my inquiring of my files of my case, I
22 had the right to receive all of my files for my
23 case. As I requested them from Mr. Wilson, these
24 are the ones I received when I requested them,
25 along with a letter that stated please send me a

1 256 gigabyte thumb-drive so you can get your
2 electronic files, which of course you can't have in
3 prison, and he knew that.

4 I followed up with two letters saying there
5 was information missing, and that I can't get him a
6 thumb-drive, and I never heard back.

7 When I filed my PCR -- by the way, this is
8 118 pages. When I filed PCR, Mr. Wilson sent the
9 file in, and it came in a box, not this. Kirkland
10 would not let me have the box. When he sent his
11 files after I filed my PCR, which then he was
12 required to send, this is 430 pages, along with a
13 thumb drive, which I was not allowed to keep.

14 That's it, Your Honor. Rest for now.

15 THE COURT: We've reached a point we'll take
16 a break. It is a quarter to 1:00. We'll start
17 back at 1:30 and proceed with cross examination at
18 that point.

19 MR. HALL: Thank you, Your Honor.

20 (A lunch recess was taken.)

21 THE COURT: Mr. Walton, you are still under
22 oath. Mr. Walton, my understanding is that you
23 have rested your case, is that correct, subject to
24 the cross examination? We'll wait until after
25 cross examination.

1 Go ahead.

2 MR. HALL: For the record, while
3 cross-examining -- changing its motion to dismiss
4 or waiving its affirmative defense to statute of
5 limitations.

6 THE COURT: So noted. Thank you.

7 **CROSS EXAMINATION**

8 **BY MR. HALL:**

9 **Q** Mr. Walton, isn't it true that you were read
10 your Miranda rights, and afterwards you confessed
11 to engaging in oral sex, digital penetration, and
12 masturbation in front of your 14-year-old daughter?

13 **A** That is true.

14 **Q** Isn't it true that you admitted to the events
15 that occurred as the State recited them to the plea
16 judge?

17 **A** Say that again?

18 **Q** Isn't it true that the State stated those
19 facts at your plea hearing, and you admitted?

20 **A** I believe that is on the record.

21 **Q** And isn't it true that you informed the plea
22 judge you were pleading guilty because you were,
23 indeed, guilty of those crimes?

24 **A** That is what is on the record, yes, sir.

25 **Q** Mr. Walton, isn't it true that the judge

1 asked you whether you wanted to ask your lawyer
2 anything before you proceeded to plead guilty, and
3 you said, No?

4 **A** I would have to go back to the transcript to
5 be sure.

6 **Q** It's on transcript Page 4. Would you refute
7 that?

8 **A** If you say it, I'll take your word for it.
9 And that -- say that again, please. Is it true
10 that, what, again?

11 **Q** The judge asked you if you wanted to ask your
12 lawyer anything before proceeding to your guilty
13 plea, and you said, No?

14 **A** Okay.

15 **Q** All right. And isn't it true, Mr. Walton,
16 that before you pled guilty, the judge explained to
17 you your Constitutional rights?

18 **A** Yes.

19 **Q** And the judge explained to you that you had
20 the right to have a jury trial; isn't that correct?

21 **A** On the record.

22 **Q** And the judge explained to you that in your
23 jury trial, the State would have the burden of
24 proving you guilty?

25 **A** Yes. That's correct.

1 **Q** And the judge explained to you that in the
2 jury trial, you would have the right to confront
3 and cross examine witnesses against you; isn't that
4 right?

5 **A** I believe that is on the transcript, yes.

6 **Q** And the judge also explained to you that if
7 you chose to plead guilty, you were waiving your
8 right to present any defenses to these charges;
9 isn't that right?

10 **A** I would have to read it to be sure, but I
11 presume you are reading it off of the transcript.

12 **Q** Yes. And that is on transcript Page 5.
13 Would you refute that that's on the transcript,
14 Page 5?

15 **A** No. I can't refute it right this moment, no.

16 **Q** And after being explained those rights and --
17 I'll withdraw that question.

18 The judge also informed you that you had the
19 right to remain silent; isn't that right?
20 Transcript Page 4, Line 22.

21 **A** I'm trying to find my transcript.

22 **Q** I'll read it to you, Mr. Walton. Transcript
23 Page 4, Line 22, the judge said, "You do not have
24 to prove your innocence, and you cannot be
25 compelled to testify against yourself."

1 **A** Okay. Yeah.

2 **Q** Right. Okay. And knowing all of that, the
3 judge asked if you wanted to give up those rights
4 and plead guilty, and you said, Yes. Right?

5 **A** Correct.

6 **Q** Mr. Walton, you indicated that counsel
7 informed you that you couldn't file a PCR because
8 you pled guilty?

9 **A** That's correct.

10 **Q** And do you recall when that was?

11 **A** June 27th, and I couldn't tell you the time
12 of day. June 27, 2018.

13 **Q** 2018?

14 **A** That was prior to the hearing.

15 MR. HALL: Beg the Court's indulgence.

16 (A brief pause in the proceedings.)

17 **Q** **(BY MR. HALL)** You said it was June 27 of
18 2018?

19 **A** Uh-huh.

20 **Q** Okay. Mr. Walton, are you aware that your
21 PCR was due on April 26 of -- I withdraw that
22 question.

23 Do you have any documentation from that
24 incident, a letter or anything, to substantiate
25 what you're saying?

1 **A** No, I certainly do not. You have to take my
2 word for it.

3 **Q** And you are asking the Court --

4 **A** I'm asking the Court to believe the fact that
5 despite --

6 **Q** Yes or no, Mr. Walton?

7 **A** Thank you.

8 **Q** And, again, you indicated to the plea court
9 you were satisfied with your attorney; is that
10 right?

11 **A** I was at that time.

12 MR. HALL: Thank you. No further questions,
13 Your Honor.

14 THE COURT: All right. And, normally, I
15 would ask your attorney if there was any redirect,
16 so anything further you want to add relative to the
17 cross examination as may have been brought up by
18 the cross examination, Mr. Walton?

19 MR. WALTON: I would like to reiterate the
20 fact that, yes, I see according to law that my PCR
21 was untimely filed. But when I read the statute on
22 that, I understand that under -- within one year,
23 under newly discovered evidence, which I consider
24 this to be -- this is newly discovered, the fact
25 that he did not represent me properly and did not

1 object to fatally flawed indictments and object to
2 the June 27th hearing, amongst other things
3 already stated in court.

4 THE COURT: All right. Thank you. Do you
5 have any other witnesses, Mr. Walton?

6 MR. WALTON: No, sir.

7 THE COURT: Any other evidence or anything
8 else you want me to consider as a part of your
9 case?

10 MR. WALTON: Indulgence of the Court, please.

11 (A brief pause in the proceedings.)

12 THE COURT: Do you wish to rest your case at
13 this point?

14 MR. WALTON: Yes.

15 THE COURT: Okay.

16 MR. KOWALSKI: No further questions for Mr.
17 Walton.

18 THE COURT: Okay. You can step down, Mr.
19 Walton.

20 THE COURT: Mr. Kowalski.

21 MR. KOWALSKI: We call Mr. Ralph Wilson.

22 (RALPH WILSON, SENIOR, having been duly
23 sworn, testified as follows:)

24 **DIRECT EXAMINATION**

25

1 BY MR. KOWALSKI:

2 Q Good afternoon.

3 A Good afternoon.

4 Q How long have you been practicing law?

5 A 48 years in November.

6 Q How much of that practice has been criminal?

7 A All of it.

8 Q How did you come about representing Mr.

9 Walton?

10 A He came to my office and retained me.

11 Q So in the time that you represented him, did

12 you have enough time to meet and speak with him

13 regarding his case?

14 A Absolutely. We met multiple times. In fact,

15 during the course of representation, he was

16 constantly in my office because he wanted to

17 travel, and each time he wanted to travel --

18 because he was housed on home detention -- we had

19 to get a new order for modification, and a new

20 order in order for him to travel.

21 MR. WALTON: Objection; relevance.

22 THE COURT: I'll allow it. Thank you.

23 Go ahead.

24 A So I was -- he was constantly in the office

25 doing that, so we were back and forth a lot.

1 Q (BY MR. KOWALSKI) Did you ever tell Mr.
2 Walton about his right to an appeal?

3 A Absolutely. And whenever we started
4 discussing the case -- because at the very
5 beginning, at the very outset of this whole matter,
6 when he came to me, he had already confessed. He
7 already had given a statement to law enforcement,
8 so we knew that -- so we knew -- as far as we knew,
9 as far as trial was concerned, that it was going to
10 be an uphill battle. We understood that at the
11 outset based on our conversations.

12 I explained to him that even though -- even
13 though they had a confession, had a statement from
14 him, and even though he confessed to his pastor, we
15 still could have a trial, but if he had a trial,
16 that the State would use the victim, who was his
17 daughter, to come in and testify, and that that
18 would weigh heavily against him in appearances,
19 especially after he confessed to it, and then
20 forced her to a trial would be even worse. I tried
21 to explain that to him.

22 And I explained to him what he was facing,
23 the number of years on each count. I went through
24 that with him. We talked about that. And we
25 talked about that if he was convicted, he could

1 appeal. He understood both, that he could appeal
2 -- he understood when we ended, that he could
3 appeal his plea, if he wanted to.

4 The problem for him was that even if he got a
5 new hearing -- because the Solicitor was always
6 asking for 20 years. We were lucky enough to get
7 16. We hoped for 12 and ended with 16. That's
8 where the problem started. But there was no -- we
9 had no viable defense, because he had already
10 admitted everything in detail.

11 Q Did you see any grounds to appeal in this
12 case?

13 A There was no grounds for an appeal after the
14 plea. There was no grounds. Absolutely no
15 grounds. It was a straight-up plea. And he gave a
16 long colloquy throughout the process himself, even
17 beyond what I do. Most of the time, most
18 defendants won't go beyond what the lawyer said.
19 He took it upon himself and went beyond all of
20 that, admitting to all of the things that he's been
21 discussing here today.

22 But, no, there was no question in my mind, he
23 understood that he had a right to appeal his guilty
24 plea. He never asked me to appeal that guilty
25 plea, ever.

1 **Q** So by pleading guilty, did he waive the right
2 to challenge the sufficiency of the indictments in
3 this case?

4 **A** Yes. And the judge explained that to him,
5 but he already knew that, again, before we went in
6 there. He understood when I take a guilty plea,
7 part of taking a guilty plea is that you have to
8 admit your guilt, first of all, and also admit that
9 you are waiving or giving up all of these
10 constitutional rights we normally have if you chose
11 to go to trial. He understood that, and we
12 discussed that.

13 As I said, we had I know at least eight,
14 nine, ten discussions about this over a period of a
15 year or year-and-a-half.

16 **Q** So can you tell the Court about the
17 amendments made to the indictments and the
18 sentencing sheet?

19 **A** Yes. Yes. The indictment on its face was
20 proper. The issue was they had what is called CDR
21 codes. Unfortunately, whoever put the CDR code
22 in -- because the indictment clearly says criminal
23 sexual conduct second degree, which is what we knew
24 from day one, which is what the warrant said, which
25 is what he was told in court, which is what I told

1 him, which is what I explained to him.

2 On the face of the indictment, it clearly
3 says criminal sexual conduct second degree. That's
4 what he is pleading to. That's what the judge
5 asked for in the guilty plea. So there was never
6 ever a misunderstanding about that.

7 What happened is when they did the CDR code,
8 instead of putting -- I think it was they should
9 have been C or B, and put C, or vice-versa, because
10 the statute is the same. I think it's 16-55 or
11 6-55, whatever the number was. But the numbers
12 were right just that in parentheses instead of "B,"
13 they put "C." That was the only difference.

14 Q So did that have any effect on the sentence
15 he received?

16 A Absolutely not.

17 Q Do you remember the Solicitor misinforming
18 the Court concerning victim statements?

19 A What he's talking about, as I understand it,
20 his wife did not want to be present. In fact, she
21 called me the night before, and he knew this. She
22 called me the night before to let me know she would
23 not be there. He was trying to talk her into
24 coming to say something about him to try to help
25 reduce his sentence. And she called me the night

1 before and said, Look, I'm not doing it. I'm not
2 coming. I'm not going to help him. He deserves
3 whatever he gets. Those were her words to me. He
4 knew that before we went into court that day.

5 Q Did you notice any witness tampering or
6 bolstering by the Solicitor?

7 A No. No. No, I did not.

8 Q Did Mr. Walton want to plead guilty?

9 A Nobody wants to plead guilty. He didn't have
10 much choice. It was either that or a trial. Those
11 were the only two choices he had, and a trial would
12 not make sense in his case.

13 Q Did Mr. Walton ever express an interest in
14 going to trial?

15 A No. No. We talked about it, but there was
16 never a serious discussion about having a jury
17 trial. Because, one, his preacher would have come
18 to testify against him if he had gone to trial.
19 His wife was going to testify against him, because
20 he confessed to her, too. The police -- he
21 confessed to law enforcement once he was arrested,
22 and gave them a detailed statement. In fact, he
23 admitted that he had been doing this for over a
24 year, almost daily, or whatever it was, molesting
25 this child. So all of that was there out in the

1 open. Plus, the child gave a statement to Child
2 Recovery, a video about what he did to her over
3 that period of time. He knew that, too.

4 Q Did you have Mr. Walton undergo a PPG test?

5 A No. All right -- yes and no. Let me explain
6 that to you. When he came to me, what he said was,
7 Look, I know what they have on me, but I want to
8 try to mitigate as much as I can by showing that
9 I'm not likely to be a recidivist. So I did
10 arrange for him to go to a doctor in Charleston --
11 and I can't remember the name at this point -- who
12 did this kind of thing. I used that doctor in the
13 past. I don't -- I didn't know specifically what
14 tests they were going to perform. But what we
15 wanted was the doctor to come and testify -- if we
16 had a trial or if we had good results, we wanted
17 the doctor to testify, you know, that he was not a
18 likely recidivist. Unfortunately, the test was
19 okay, but it wasn't as glowing as we hoped it would
20 be.

21 Now, they did perform -- based on my reading,
22 they did perform that test on him at the time our
23 supreme court had not yet ruled that that test was
24 improper or illegal or shouldn't be done or wasn't
25 admissible, whatever the word might be. They later

1 have. In fact, I think that's only been in the
2 last year maybe that the court has come out and
3 said that that test should not be performed. It
4 was not -- the supreme court had not ruled on it at
5 that point.

6 Q Did the results of his test play any impact
7 in the sentence he received?

8 A If anything, it helped. If anything, it
9 helped. Because they did come back and say that
10 his likelihood of being a recidivist was, like,
11 1.5 percent or 1.2, some very low number. So that
12 helped tremendously, yes.

13 Q Were you aware of any mental duress that Mr.
14 Walton may have been suffering from when he pled
15 guilty?

16 A The only duress that I thought that he was
17 under was guilt. Do I believe that he felt guilty
18 about what he had done to his daughter afterwards?
19 Yeah, I do believe that he felt guilty. Do I
20 believe that that was some mental illness that was
21 undiagnosed? No.

22 Q Did you tell Mr. Walton he could not do a
23 PCR?

24 A Absolutely not. Not only would I not tell
25 him that, I wouldn't tell any defendant that,

1 because it's just not true. It makes no sense.
2 Why would I tell him that he can't do a PCR? It
3 doesn't make sense for a lawyer to do a criminal --
4 a criminal lawyer to tell any defendant that.

5 MR. KOWALSKI: Beg the Court's indulgence.

6 (A brief pause in the proceedings.)

7 Q (BY MR. KOWALSKI) Going back to the amendment
8 of the indictment and the sentencing, did Judge
9 Culbertson issue an order amending the sentencing
10 sheet?

11 A He did.

12 MR. KOWALSKI: Beg the Court's indulgence.

13 (A brief pause in the proceedings.)

14 MR. KOWALSKI: I have the order amending the
15 sentencing sheet -- withdrawn, Your Honor. I'm
16 sorry.

17 (State's Exhibit 1 marked.)

18 Q (BY MR. KOWALSKI) Do you recognize this?

19 A Yes.

20 Q Could you tell the Court --

21 A This is the order that Judge Culbertson
22 signed back in June of 2018, and attached to that
23 are the indictments.

24 MR. KOWALSKI: At this time we seek to enter
25 this into evidence.

1 THE COURT: How is it identified?

2 MR. KOWALSKI: State's Exhibit 1.

3 THE COURT: Any objection to State's Exhibit
4 1?

5 MR. WALTON: What are you submitting?

6 (A brief pause in the proceedings.)

7 MR. WALTON: It's already in the record, but
8 no objection.

9 THE COURT: Without objection?

10 MR. WALTON: Without objection.

11 THE COURT: Entered without objection,
12 State's 1.

13 (State's Exhibit 1 admitted.)

14 MR. KOWALSKI: Beg the Court's indulgence --
15 no further questions from the State.

16 THE COURT: Cross examination, Mr. Walton?

17 MR. WALTON: Yes, Your Honor.

18 **CROSS EXAMINATION**

19 **BY MR. WALTON:**

20 **Q** Good afternoon, Mr. Wilson.

21 **A** Good afternoon.

22 **Q** Good to see you again, not under these
23 current circumstances, but....

24 Mr. Wilson, how many clients do you have,
25 guesstimate?

1 **A** Now, or at the time?

2 **Q** Per year.

3 **A** I don't know. Forty, 50 maybe.

4 **Q** So in your career of -- 45 years, did you
5 say?

6 **A** Yeah, 48 years.

7 **Q** But that's impressive. So are you able to
8 remember details of every case that you have
9 handled?

10 **A** No.

11 **Q** So is it possible that details can slip your
12 memory?

13 **A** Sure. Absolutely.

14 **Q** Is it possible that you may not recall them
15 exactly?

16 **A** In fact, that's true. And when I was sitting
17 here earlier, and you were talking about our
18 conversation in the room, I had forgotten. I told
19 the attorney general staff people that it brought
20 back what actually happened in that room that day.
21 I had forgotten about it. But you are absolutely
22 right, there are things that you forget, and
23 something triggers that memory and brings it back.

24 **Q** So it's of your opinion that you did not tell
25 me that I couldn't appeal?

1 **A** It's not my opinion. I didn't tell you that.

2 **Q** Mr. Wilson, it has been stated already that
3 that actually did happen?

4 **A** What did happen?

5 **Q** That you had told the defendant that I could
6 not file a PCR?

7 MR. KOWALSKI: This has been asked and
8 answered, and also argumentive.

9 THE COURT: I'm going to allow you to
10 continue. Just frame it in the form of a question.

11 MR. WALTON: Thank you.

12 **Q** **(BY MR. WALTON)** Mr. Wilson, you stated a
13 little bit earlier about the conversation with my
14 ex-wife, Donna?

15 **A** Yes.

16 **Q** Do you recall what that discussion was about?

17 **A** I've had two or three different conversations
18 with your ex-wife during the course of my
19 representation. The first one was at your
20 insistence to call her and talk to her to try to
21 get her to agree to talk with the Solicitor to try
22 to see if she would ask them to be more lenient in
23 their dealings. She called me on her own the last
24 occasion, which would have been the night before we
25 went to court. She called me on her own. I did

1 not expect her call. She called me and told me
2 that you tried to get her to come to court to
3 testify to help you, and that she was not going to
4 do it. She wasn't coming.

5 Q But you would say that it is still possible
6 you don't remember the exact words?

7 A I don't remember verbatim the conversation
8 because it was probably a six-, seven-minute
9 conversation. So I don't remember every syllable,
10 but I remember that was the gist, is that she was
11 not coming, she was not going to be there, and
12 neither was your daughter.

13 Q The point of the State's question, though,
14 was about my statement -- might be a better way to
15 put it, she told me about having heard or seen the
16 confession video. Do you recall our discussion
17 about that?

18 A Our discussion?

19 Q Yes, sir.

20 A I'm not saying it didn't happen, but do I
21 remember having a conversation with you about you
22 telling me that your wife knew about the video from
23 the CRC? She would know about it anyway. She's
24 the mother of the victim, and the victim was at
25 that time a minor, so I can't see how she would not

1 have known about it. In fact --

2 Q Do you know that she's on the record as a
3 witness?

4 A Yeah. Yeah. Because she caught you coming
5 out of the bedroom of the victim's, which is how
6 this all got started.

7 Q "Yes" is enough, or "no" is enough.

8 THE COURT: No, Mr. Walton. You can ask a
9 question, he can say yes or no and explain if he
10 needs to.

11 A Great.

12 Q (BY MR. WALTON) So do you recall that my
13 discussion with you about her seeing that was in
14 the March of the year prior?

15 A Rephrase that.

16 Q March of 2017 is when I told you that she had
17 come to me with that information. Do you recall
18 that conversation?

19 A I do not.

20 Q Thank you. Thank you.

21 Mr. Wilson, you had the opportunity to see
22 the indictments ahead of time?

23 A I did.

24 Q At what point did you see that they were
25 fatally flawed?

1 **A** I don't think they were fatally flawed. I
2 assume that's your opinion. I don't think that
3 they are fatally flawed. They say right in the
4 indictment, right at the beginning of the
5 indictment, you are pleading guilty to criminal
6 sexual conduct second degree, and then it goes into
7 detail about the victim is under the age of 16.
8 Those are the primary elements.

9 **Q** What is the -- are you aware of the fact that
10 the indictment has an erroneous arrest date?

11 **A** Erroneous -- why would the indictment have an
12 arrest date?

13 **Q** Are you aware that the date of arrest on the
14 indictment is incorrect?

15 **A** The date of arrest wouldn't be in the
16 indictment.

17 **Q** It's on the front. Shall I show it to you?

18 **A** Yeah. Show me what you are talking about.

19 **Q** Left side, middle, DOA.

20 **A** This says June 22 it was true billed.

21 **Q** No. Left side in black type, "DOA."

22 **A** Date of arrest: 12/15/2016. Is that right?
23 Is that what you are talking about? Okay.

24 **Q** Do you know what my date of arrest was?

25 **A** I do not, not offhand.

1 Q So then you wouldn't know that that was
2 incorrect?

3 A Even if it was, of what importance is it?

4 Q Thank you. Thank you.

5 What is -- in your opinion, what is the most
6 important part of the indictment, the heading or
7 the body?

8 A Well, it's all important. All of the face of
9 the indictment. What you are pointing to there is
10 the back of the indictment. The face of the
11 indictment is important because it should detail
12 what you are charged with and give you information
13 sufficient to let you know what it is that you are
14 pleading guilty to or going to trial for. This
15 indictment does exactly that. It says you are
16 being charged with criminal sexual conduct second
17 degree. It goes on to say in the body that this
18 victim was under the age of 16, between the ages of
19 14 and 16, when these instances occurred to her;
20 that you are being charged with sexual battery with
21 her while she's under the age of 16.

22 Q Are you aware of the differences between
23 second and third degree?

24 A Absolutely.

25 Q What is the difference?

1 **A** The difference is if it's a third degree,
2 usually it is a lewd act on a minor. But that's
3 not what you are charged with in this particular
4 indictment.

5 **Q** So the body of the indictment, would you say,
6 that it's pretty important to have that correct?

7 **A** Yeah, I think so.

8 **Q** Is it your opinion that had these errors been
9 caught ahead by you, that it would have provided
10 opportunity for them to be corrected then?

11 **A** Yeah. Yeah. Sure. If I had caught it then,
12 we could have corrected it. Would it have changed
13 anything? Absolutely not.

14 **Q** Not my question.

15 **A** That's my answer, though.

16 **Q** You are presenting a question. That's not my
17 question.

18 **A** No. I'm not asking you anything. I'm saying
19 as a matter of fact that it would not have changed
20 anything --

21 **Q** Would it have changed --

22 THE COURT: Let him finish.

23 **A** It would not have changed what you were
24 indicted for.

25 **Q** **(BY MR. WALTON)** Would it have changed what

1 happened that day?

2 **A** No, sir. Absolutely not.

3 **Q** So if there is an ambiguous indictment, which
4 I presented there was, if it was fatally flawed, as
5 I presented it was, and had you caught that, could
6 you have had that stopped at that time for the
7 state to indict correctly?

8 **A** The indictment was not fatally flawed. It
9 was not fatally flawed. The indictment said
10 exactly what it needed to say to have you be guilty
11 of criminal sexual conduct in the second degree.

12 **Q** Did you at any time wonder if they weren't
13 fatally flawed because they had to be corrected?

14 **A** No. My understanding -- and I don't know how
15 this all started, but my understanding is that you
16 complained that -- to the Department of Corrections
17 about it. The Department of Corrections contacted
18 the solicitor's office. The solicitor's office
19 contacted me about the error. That's how I
20 understood it started.

21 **Q** That's not what is presented today, and I
22 believe I already stated the fact that it was --

23 MR. KOWALSKI: Objection; he's testifying.

24 MR. WALTON: Pardon me?

25 THE COURT: Mr. Walton, you have to ask

1 questions, not testify.

2 MR. WALTON: All right. Thank you, sir.

3 Q (BY MR. WALTON) So I want to ask that
4 question again, if I may. If you had found the
5 errors that I was brought back to court to be
6 corrected, if you had found them April 26, could
7 you have had the process stopped that day to allow
8 the State to re-indict?

9 MR. KOWALSKI: Objection; asked and answered.

10 THE COURT: Go ahead. I'll let you go
11 forward with it.

12 A The answer is, No. What would have
13 happened -- because it's happened many, many times
14 before -- no indictment -- I say "no indictment,"
15 but very rarely you have a perfectly written
16 indictment. Sometimes there are scrivener's
17 errors, as what happened in your case, just like in
18 most cases, and the judge -- it would be called to
19 someone's attention, and the judge would have the
20 same hearing we had when you appeared later, and
21 the judge would make the same ruling he did then,
22 that it was a scrivener's error. It was harmless.
23 You were well aware of the contents of the
24 indictment, and the trial would have proceeded or
25 plea would have proceeded in that fashion.

1 **Q** **(BY MR. WALTON)** It forces me to reiterate the
2 question. Could you have objected to the flawed
3 indictment?

4 **A** If you believe -- and I don't -- but if you
5 believe it was flawed, and that that flaw was
6 material, then the answer is, yes.

7 **Q** I believe it was already stated today that
8 they were, but, okay.

9 Concerning the PPG, was this done at your
10 advice?

11 **A** It was done at your request to me to ask --
12 you asked me to help you find a doctor who could
13 come in and -- psychiatrist come in and testify in
14 your behalf to try to mitigate on your behalf.
15 That's why you went there.

16 Now, what you and he discussed once you got
17 there, I have absolutely no idea. I wasn't there.
18 I wasn't privy to it. All I got was a report some
19 weeks later. I received a report, and that was one
20 of the tests that you and your doctor agreed to do.

21 **Q** Are you familiar with the matter of Daley?

22 **A** If you want to tell me what it is.

23 **Q** It's concerning the PPG exams.

24 **A** I'm very familiar with PPG exams. I have
25 tried cases involving the PPG exam. And as I said

1 earlier, the supreme court has decided that it's
2 not usable now in our courts. That was not the
3 case in 2017 and '18.

4 Q Would you be surprised if I told you it was
5 ruled prior to 2016?

6 A Not by South Carolina.

7 Q And are you aware that there are cases that
8 it's not reliable?

9 A I am aware of that. I'm aware of that. But
10 in your case, it actually helped you. In fact, it
11 was one of the strongest points that you had to
12 make to the Court, I am not a likely recidivist.

13 Q Mr. Wilson, can the prosecutor use the PPG
14 exam against a defendant?

15 A Now?

16 Q Ever?

17 A Sorry. Go ahead.

18 Q Ever?

19 A Now?

20 Q I don't put a time frame to the question.

21 Can a prosecutor use a PPG exam against a
22 defendant?

23 A As I said to you --

24 Q That's just a "yes" or "no."

25 A No, it's not a "yes" or "no." As I said to

1 you, in 2018, our supreme court had not said that
2 you could not use that test. They did maybe a
3 year-and-a-half ago say that you can't. So at this
4 time, the response would be, no, you cannot use it.

5 Q And your words are that that assessment
6 constituted a large majority of my defense?

7 A I'm not --

8 Q Do you recall your words where you said that
9 the PPG exam -- the fact that it came back pretty
10 good, you are saying that it was a majority or a
11 big portion of our defense?

12 A Well, we argued to the Court, essentially,
13 that this report, in general, which included the
14 PPG, was favorable to you. Yes, we did argue that.

15 Q So out of 21 pages, we have three lines that
16 refer to that, and that's it. Would you say that
17 was a large portion of the defense?

18 A It depends. In your case, because one of the
19 issues that we were trying to convince the Court of
20 was that it's not likely that you are going to do
21 what you did again, that you would not be out there
22 molesting or raping young girls or young children,
23 we wanted to make that clear to the Court. So in
24 your case, yes, that PPG actually helped you.
25 While it has not been the case in most of the other

1 cases I've had, but in your case, yes.

2 Q So you have not studied -- have you studied
3 the matter of Daley?

4 A You keep using a word I don't know what it
5 is.

6 Q It's a case about PPG exams not being
7 reliable, therefore -- there are several cases
8 cited back in the body of that which go farther
9 back than 2016. Are you aware of anything that
10 Daley may refer to that goes back beyond 2016?

11 A Not familiar with Daley. I am familiar with
12 the PPG and how we got to this point with it. As I
13 said, I've done other cases involving PPG. I've
14 had trials involving PPG, actually. And,
15 hopefully, those trials will be overturned because
16 the fact that the PPG was used, and we were arguing
17 against its use. So, yeah, I'm very familiar with
18 it. But in your case, unfortunately for you, it
19 was good.

20 Q That would be your opinion, correct?

21 A That's what the doctor said.

22 MR. WALTON: In the process of Court, Your
23 Honor, can I rebut anything he said?

24 THE COURT: I'm not sure what you are asking.

25 MR. WALTON: In other words, am I going back

1 to the stand to rebut anything, or not?

2 THE COURT: You will have an opportunity for
3 rebuttal, yes.

4 MR. WALTON: In that case, Your Honor, that
5 will take care of it.

6 THE COURT: Redirect?

7 MR. KOWALSKI: None from the State, Your
8 Honor.

9 THE COURT: You may step down, Mr. Wilson.
10 Is he under subpoena?

11 MR. HALL: Yes, Your Honor. May he be
12 excused?

13 THE COURT: Any objection, Mr. Walton?

14 MR. WALTON: No. No objection.

15 MR. WILSON: Thank you very much.

16 THE COURT: Thank you, sir.

17 Mr. Kowalski.

18 MR. KOWALSKI: No further witnesses from the
19 State.

20 THE COURT: Mr. Walton, you wish to present a
21 rebuttal?

22 MR. WALTON: Yes, sir. From the stand, or
23 here?

24 THE COURT: Stand, if you are going to
25 testify.

1 MR. WALTON: Okay. Thank you.

2 THE COURT: I'll be happy to hear from you.

3 MR. WALTON: Thank you. As I asked -- I
4 heard many things that were incorrect in his recall
5 of events which took place, particularly concerning
6 the ex-wife, particularly about the reason for the
7 PPG exam, which was not at my request. It was at
8 his direction, Mr. Wilson's direction. Thank you.

9 THE COURT: Anything further?

10 MR. WALTON: No, Your Honor.

11 THE COURT: Cross examination?

12 MR. KOWALSKI: None from the State.

13 THE COURT: You can step down. Thank you,
14 Mr. Walton.

15 All right. Any further rebuttal, Mr. Walton?

16 MR. WALTON: No, Your Honor.

17 THE COURT: Anything further from the State?

18 MR. HALL: We would ask for time to offer
19 closing argument, briefly?

20 THE COURT: All right. I'll be happy to hear
21 from you, if you wish to make a closing, Mr.
22 Walton.

23 MR. WALTON: You would like to go first?

24 MR. HALL: You have the burden.

25 MR. WALTON: Got you.

1 Your Honor, I have presented today that Mr.
2 Wilson was ineffective. Despite the heinous acts
3 that might have been told about, what we're in here
4 for is to figure judicially if he was ineffective
5 in his assistance of counsel. I believe we have
6 made those points through the ambiguous of the
7 indictments, through the fact that he did not pay
8 close attention to Daley, through the fact that he
9 instigated things to happen which actually put me
10 in prejudicial harm. I know I made this case as
11 best as I can make it. I believe the evidence is
12 in there. If the evidence is reviewed,
13 particularly in the amending of documents or
14 indictments, which was illegal.

15 At this point, I would like to say I have not
16 enjoyed prison, nor do I wish to stay there. You
17 can see by my PCR application I'm asking for
18 vacating the sentence. I think I expressed my
19 desires what I would do after that, grieving my
20 son's loss and ministering and mentoring my four
21 remaining sons. But, Your Honor, I couldn't afford
22 the education -- sorry -- I couldn't afford the
23 education I've received in the last eight years,
24 and I'm not talking about the two-year Biblical
25 studies degree I got from Columbia International

1 University. I was grateful for that. But I thank
2 God that I was sent to prison because of the change
3 it's made, because of the fact that I saw something
4 that I was so prejudicial about. It's an education
5 that I won't forget. I wouldn't want to do it
6 again, nor will I, but it has afforded me to
7 understand the knowledge and opportunities --
8 including upon release -- to be able to advocate,
9 and so I appreciate that.

10 Again, I reiterate, I believe I made my case
11 as far as ineffective assistance of counsel.

12 Thank you.

13 MR. HALL: May it please the Court?

14 THE COURT: Yes.

15 MR. HALL: Judge, I would like to begin with
16 offering argument. I think Mr. Walton perhaps is
17 misunderstanding the purpose of PCR. The relief
18 available is that Mr. Walton goes back and gets a
19 new trial on the original indictments, which means
20 that any that were dismissed will be brought back.
21 The CSC with a minor second degree carries up to 20
22 years. So if he goes back and gets convicted in
23 this case, that's a good possibility because of the
24 overwhelming evidence of guilt. He could get 20
25 years, which is more than the 16 he has now.

1 Getting into the substance of the argument,
2 and while we are here today, the State moved to
3 dismiss this application because Mr. Walton filed
4 four years too late. He filed this case outside of
5 the statute of limitations; and, so, therefore, the
6 application is barred. The only application he can
7 get relief on is the direct appeal issue, and we
8 heard testimony regarding that under *Turner v.*
9 *State*. There is no constitutional duty for counsel
10 to inform their clients of the right to appeal
11 after a guilty plea. But in this case, Mr. Wilson
12 testified that Mr. Walton did not indicate his
13 desire to appeal. Also, Mr. Wilson testified that
14 he wouldn't have told him that he did not have a
15 right to a direct appeal or PCR. That's not
16 something that he would have told Mr. Walton or any
17 other client.

18 So we ask Your Honor to grant the motion to
19 dismiss all of the other allegations and find that
20 he failed to meet his burden on the direct appeal
21 issue.

22 If Your Honor is inclined to allow Mr. Walton
23 to go forward on all of the allegations, you heard
24 testimony from Mr. Wilson that he's been working in
25 law for over 45 years. He reviewed the indictment

1 with Mr. Walton, didn't see anything that was that
2 invalidated on the indictment. Mr. Walton was
3 aware of his case. He confessed numerous times and
4 decided to plead guilty, decided to waive his right
5 to a jury, waived his right to cross examine, and
6 he chose to plead guilty and receive his 16-year
7 sentence with an awareness of the charges against
8 him, his constitutional rights, and the possibility
9 of the penalties. So we ask that you deny his
10 application at this time.

11 THE COURT: Mr. Walton, anything further?

12 MR. WALTON: May it please the Court? I'm
13 not sure if it's proper at this time, but I didn't
14 believe that Mr. Wilson properly recalled the
15 facts. And when he says these things about
16 properly advising me of an appeal, they were
17 incorrect statements. Do I have anything in
18 writing? No, I don't.

19 When he states what he believes about the PCR
20 and what he said, that goes against what I said.
21 He has thousands of clients. I have one lawyer. I
22 can remember -- I can remember jobs I designed 20
23 years ago, but that's in the expertise that I was
24 in. I'm not an expert in the law. I just know
25 that I can remember things better with one than a

1 lawyer who has thousands of clients.

2 As far as direct appeal, he did not. As far
3 as PCR, he did not. So I'm just asking the court
4 to consider that, consider the fact of the improper
5 documents, and to vacate.

6 THE COURT: Thank you, Mr. Walton.

7 MR. WALTON: Thank you. May I say one more
8 thing, sir?

9 THE COURT: Go ahead.

10 MR. WALTON: As far as allowing for an
11 appeal, which would be if I'm get the phrasing
12 right, belated appeal, I feel it would only be
13 another exercise in not only these guys driving
14 eight hours for the day, but use of the Court's
15 time. So if a belated appeal is what has to
16 happen, I understand that. I receive that. I just
17 wish for the judge to rule in my favor on this PCR.

18 Thank you.

19 THE COURT: Thank you, Mr. Walton.

20 Thank you, gentlemen.

21 I'll take it under advisement. I'll issue,
22 in all likelihood, a Form Four abbreviated, and
23 then a more full order to follow after that. I'll
24 tend to that as quickly as I can.

25 Thank you.

1 (Whereupon, the PCR hearing concluded.)

2 **CERTIFICATE OF REPORTER**

3 State of South Carolina)

4 County of Horry)

5

6 I, Natalie Dahl, Official Court Reporter for
7 the State of South Carolina, do hereby certify that
8 the foregoing is a true, accurate and complete
9 Transcript of Record of the proceedings had and
10 evidence introduced in the hearing of the captioned
11 case, relative to appeal, in the Court of Common
12 Pleas for Horry County, South Carolina, on the 19th
13 day of March, 2025.

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

16

17 May 18, 2025

18

19 *Natalie Dahl, RPR*

20 _____
Natalie Dahl
21 Registered Professional Reporter
State of South Carolina Official Court Reporter

22

23

24

25

STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
COUNTY OF HORRY) OF THE FIFTEENTH JUDICIAL CIRCUIT
STATE OF SOUTH CAROLINA) INDICTMENT #: 2017GS2602833
VS.) WARRANT #: 2016A2610701334
MICHAEL JOHN WALTON) CASE #: 17H00100
DEFENDANT,) ORDER AMENDING SENTENCE SHEET

FILED
HORRY COUNTY
2018 JUL -2 AM 11:55
RENEE N. ELY
CLERK OF COURT
HORRY COUNTY

On April 26, 2018, the Defendant was sentenced on the charge of Criminal Sexual Conduct with a Minor, Second Degree, warrant number 2016A2610701334, to 16 years, by the undersigned judge, who now wishes to amend the sentence sheet as follows:

On the face of the sentence sheet, due to a scrivener's error, the statute is erroneously cited as §16-03-655(C). It should read §16-03-655(B).

I find the above amendment to the sentence sheet does not alter or affect the actual charge to which the defendant pled guilty, and under which the defendant was sentenced, and does not alter in any way the sentence previously imposed by the Circuit Court in this matter but is required to correct the record.

IT IS THEREFORE ORDERED that the statute cited on the face of the sentence sheet of Michael John Walton be amended to read:

"In disposition of the said indictment comes now the Defendant who was PLEADS TO Criminal Sexual Conduct w/ Minor, 2nd Degree <16 in violation of §16-03-0655(B) of the S.C. Code of Laws, bearing CDR Code # 0397."

IT IS FUTHER ORDERED that the statute cited in the top right hand corner on the face of the sentence sheet of Michael John Walton be amended to read: §16-03-0655(B)

AND IT IS SO ORDERED.

Date: June 27, 2018
HORRY, SOUTH CAROLINA

Margaret C. Cullen
PRESIDING JUDGE
FIFTEENTH JUDICIAL CIRCUIT

ORIGINAL

STATE OF SOUTH CAROLINA

COUNTY OF
STATE

Horry

VS.

Michael John Walton

AKA:

Race: WHITE Sex: M Age: 58

DOB: [REDACTED] SS#: [REDACTED]

Address: [REDACTED]

City, State, Zip: Conway, SC 29526

DL#: [REDACTED] SID#: [REDACTED]

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was
TO: Criminal Sexual Conduct w/ Minor 2nd Degree < 16

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

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lowd Act) ☐ §17-25-45The 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. 2048ATTEST: C. Leigh 72898 Michael John Walton Andrew C. Leigh SC Bar# 6176 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 16 days/months/years ☐ under the Youthful Offender Act not to exceed X years
and/or to pay a fine of \$ X; provided that upon the service of X days/months/years and/or payment
of \$ X; plus costs and assessments as applicable*; the balance is suspended with probation for Xmonths/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 § 17-25-136.
Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-20 (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	\$100.00
§ 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)		\$5.75

TOTAL

\$128.75 + \$40.00 =

\$168.75

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (07/2016)

Renee N. Ellis
Natalie Oanh0-20 YRS Sex Offender Reg.
IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2017GS2602833

A/W#: 2016A2610701334

Date of Offense: 1/20/2016

S.C. Code § : 16-03-0655(C)

CDR Code #: 0397

SENTENCE SHEET

☐ CONVICTED OF or ☒ PLEADS☐ 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: 2148

Sentence Date:

April 26, 2018

FILED
Horry County
2017 APR 26 PM 2:04

WITNESSES

Brian Scales Horry County Police Department

Ashley Tolda

ARREST WARRANT NUMBER

2016A2610701334

CDR: 0397 16-03-0655(C)

DOA: 12/15/2016

ACTION OF GRAND JURY

TRUE BILL

Michael Carroll
Foreperson of Grand Jury

Date:

JUN 22 2017

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2017-GS-26- **02833**

The State of South Carolina

County of Horry

C. Leigh Andrew

17H00100

COURT OF GENERAL SESSIONS

JUNE, 2017 TERM

THE STATE

vs.

Michael John Walton

W/ M

Conway, SC 29526

DOB:

SSN:

ATTORNEY: Ralph J. Wilson, Sr.

Indictment for

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

Jimmy A. Richardson, II, Solicitor

**FILED
HORRY COUNTY**

JUN 23 PM 3:15

**PAUL H. ELVIS
CLERK OF COURT
HORRY COUNTY, SC**

DATE RECEIVED FROM

GRAND JURY

181

ORIGINAL

STATE OF SOUTH CAROLINA)
)
 COUNTY OF HORRY)

INDICTMENT

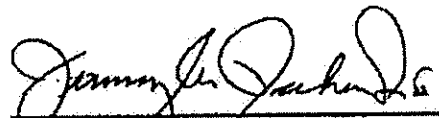
At a Court of General Sessions, convened on June 22, 2017, the Grand Jurors of Horry County present upon their oath:

CRIMINAL SEXUAL CONDUCT WITH A MINOR
SECOND DEGREE

CDR: 0397 16-03-0655(3)

That Michael John Walton did in Horry County, State of South Carolina, on or between the dates of December 1, 2014 and December 14, 2016, willfully and unlawfully commit the crime of Criminal Sexual Conduct with a Minor in the Second Degree by engaging in sexual battery with a minor who was at least fourteen (14) years of age but who was less than sixteen (16) years of age, to wit: [REDACTED] whose date of birth is [REDACTED], and the Defendant was in a position of familial, custodial, or official authority to coerce the victim to submit or was older than the victim, in violation of Section 16-3-655(C) [formerly Section 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.


 JIMMY A. RICHARDSON, II
 FIFTEENTH CIRCUIT SOLICITOR

STATE OF SOUTH CAROLINA)

COUNTY OF HORRY)

INDICTMENT

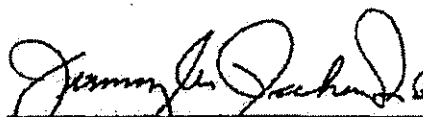
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Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



JIMMY A. RICHARDSON, II
 FIFTEENTH CIRCUIT SOLICITOR

ARREST WARRANT

2016A2610701334

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Horry

THE STATE

16114727

against

Michael John Walton

Address:

Conway, SC 29526-7826

Phone:

SSN:

Sex: M Race: W Height: 6 Weight: 240

DL State: SC DL #:

DOB: Agency ORI #: SC0260400

Prosecuting Agency: Horry County Police Department

Prosecuting Officer: Brian Scales - 8122

Offense: Sex / Criminal sexual conduct with minor, or

Attempt - victim under 16 years of age - Second

Offense Code: 0397

Code/Ordinance Sec: 16-03-0655(B)(2)

The warrant is CERTIFIED FOR SERVICE in the

☐ County/ ☐ Municipality of

The accused

is to be arrested and brought before me to be
dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to

defendant

on

Michael John Walton

12/14/16

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

General Sessions
PO Box 677
1301 2nd Avenue
Conway, SC 29528

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Horry

Personally appeared before me the affiant Brian Scales

being duly sworn deposes and says that defendant Michael John Walton

did within this county and state on or about 1/20/2016

State of South Carolina (or ordinance of

☒ County/☐ Municipality of

Horry

in the following particulars:

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

I further state that there is probable cause to believe that the defendant named above did commit
the crime set forth and that probable cause is based on the following facts:At unknown dates and times within the past year, in the Conway section of Horry County one Michael Walton did commit the
offense of Criminal Sexual Conduct with a minor in the second degree in that he did perform oral sex as well as other sexual acts on
his adopted daughter, who was between the ages of 15 and 16 at the time of multiple incidents. The defendant did provide a post
Miranda confession to molesting his daughter approximately 1 time per week for approximately 1 year.

Signature of Affiant

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Horry

Affiant's Address 2560 N. Main Street

Conway, SC 29526-

Affiant's Telephone

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 1/20/2016

defendant Michael John Walton

did violate the criminal laws of the State of South Carolina (or ordinance of

☒ County/ ☐ Municipality of Horry

) as set forth below:

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

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or
her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as
soon thereafter as is practicable.Sworn to and subscribed before me
on 12/14/2016

(L.S.)

Signature of Issuing Judge
Bradley Dwyer Mayers
Judge Code: 5081

Judge's Address

Conway, SC 29526-5105

Judge's Telephone (843)915-5290

Issuing Court:

☒ Magistrate☐ Municipal☐ Circuit

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

Form Approved by
S.C. Attorney General
April 21, 2009
SCCA 318

AFFIDAVIT

**State of South Carolina
Office of the Solicitor
Fifteenth Judicial Circuit**

Scott R. Hixson
Chief Deputy Solicitor

1301 2nd Avenue
P.O. Drawer 1276
Conway, SC 29528
Phone: (843) 915-5460
Fax: (843) 915-6461



JIMMY A. RICHARDSON, II
Solicitor

Alicia A. Richardson
Deputy Solicitor

401 Cleland Street
P.O. Box 1688
Georgetown, SC 29442
Phone: (843) 545-3169
Fax: (843) 545-3268

DISMISSAL/NOLLE PROSSE FORM

TO: Horry County Clerk of Court

FROM: C. Leigh Andrew, Assistant Solicitor

DATE: ~~NOVEMBER 6, 2017~~ April 26, 2018

RE: STATE OF SC VS. MICHAEL JOHN WALTON
CASE NO: 17H00100

RECEIVED
CLERK OF COURT
Horry County, SC

2018 MAY -1 AM 7:53

FILED

PLEASE BE ADVISED THAT THE CHARGE(S) LISTED BELOW HAVE BEEN DISMISSED OR NOLLE PROSSED (PLEASE PLACE X IN APPROPRIATE COLUMN).

Warrant #	Charge	Indict #	T/B Date	D/M	N/P	DOA
2017GS2602831	CSC w/Minor 2nd <16	2017GS2602831	6/22/2017		XXX	12/15/2016
2017GS2602832	CSC w/Minor 3rd	2017GS2602832	6/22/2017		XXX	12/15/2016

Assistant Solicitor

ORIGINAL

WITNESSES

Brian Scales Horry County Police Department

Ashley Tolda

ARREST WARRANT NUMBER

2017GS2602831

CDR: 0397 16-03-0855(C)

DOA: 12/15/2016

ACTION OF GRAND JURY

TRUE BILL

Rock Curran
Foreperson of Grand Jury
Date:

JUN 22 2017

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2017-GS-26-02831

The State of South Carolina

County of Horry

C. Leigh Andrew

17H00100

COURT OF GENERAL SESSIONS

JUNE, 2017 TERM

THE STATE

vs.

Michael John Walton

W/M

Conway, SC 29526

DOB: [REDACTED]

SSN: [REDACTED]

ATTORNEY: Ralph J. Wilson, Sr.

Indictment for

CRIMINAL SEXUAL CONDUCT WITH A

MINOR

SECOND DEGREE

Jimmy A. Richardson, II, Solicitor

ORIGINAL

**FILED
HORRY COUNTY**

2017 JUN 23 PM 3:15

RENÉE N. ELVIS
CLERK OF COURT
HORRY COUNTY, SC

DATE RECEIVED FROM
GRAND JURY

*NP
5-1-18*

STATE OF SOUTH CAROLINA)
COUNTY OF HORRY)

INDICTMENT

At a Court of General Sessions, convened on June 22, 2017, the Grand Jurors of Horry County present upon their oath:

CRIMINAL SEXUAL CONDUCT WITH A MINOR
SECOND DEGREE

CDR: 0397 16-03-0655(3)

That Michael John Walton did in Horry County, State of South Carolina, on or about January 20, 2016, willfully and unlawfully commit the crime of Criminal Sexual Conduct with a Minor in the Second Degree by engaging in sexual battery with a minor who was at least fourteen (14) years of age but who was less than sixteen (16) years of age, to wit: [REDACTED] whose date of birth is [REDACTED], and the Defendant was in a position of familial, custodial, or official authority to coerce the victim to submit or was older than the victim, in violation of Section 16-3-855(C) [formerly Section 16-3-855(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.


JIMMY A. RICHARDSON, II
FIFTEENTH CIRCUIT SOLICITOR

STATE OF SOUTH CAROLINA)
)
COUNTY OF HORRY)

INDICTMENT

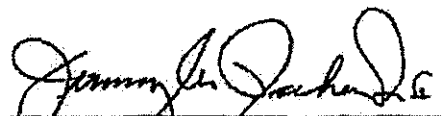
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SECOND DEGREE

CDR: 0397 16-03-0655(3)

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



JIMMY A. RICHARDSON, II
FIFTEENTH CIRCUIT SOLICITOR

WITNESSES

Brian Scales Horry County Police Department

Ashley Tolda

ARREST WARRANT NUMBER

2017GS2602832

CDR: 3661 16-03-0655(C)

DOA: 12/15/2016

ACTION OF GRAND JURY

TRUE BILL

Rich Carroll
Foreperson of Grand Jury

Date: JUN 22 2017

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2017-GS-26-02832

The State of South Carolina

County of Horry

C. Leigh Andrew

17H00100

COURT OF GENERAL SESSIONS

JUNE, 2017 TERM

THE STATE

vs.

Michael John Walton

W/ M

Conway, SC 29526

DOB: [REDACTED]

SSN: [REDACTED]

ATTORNEY: Ralph J. Wilson, Sr.

Indictment for

**CRIMINAL SEXUAL CONDUCT WITH A
MINOR - 3RD DEGREE**

Jimmy A. Richardson, II, Solicitor

ORIGINAL

FILED
HORRY COUNTY

2017 JUN 23 PM 3:15

RENEE N. ELVIS
CLERK OF COURT
HORRY COUNTY, SC

DATE RECEIVED FROM

GRAND JURY

NP
6-1-18

STATE OF SOUTH CAROLINA)

COUNTY OF HORRY)

INDICTMENT

At a Court of General Sessions, convened on June 22, 2017, the Grand Jurors of Horry County present upon their oath:

CRIMINAL SEXUAL CONDUCT WITH A MINOR – 3RD DEGREE

CDR: 3861 16-03-0655(C)

That Michael John Walton being 58, did in Horry County on or about January 20, 2016, willfully and lewdly commit or attempt to commit a lewd or lascivious act upon or with the body, or its parts, of a child, less than sixteen (16) years of age, with the intent of arousing, appealing to, or gratifying the lust or passions or sexual desires of said defendant or of the victim, in violation of Section 16-03-0655(C), S. S. 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.



JIMMY A. RICHARDSON, II
FIFTEENTH CIRCUIT SOLICITOR

STATE OF SOUTH CAROLINA)
)
COUNTY OF HORRY)

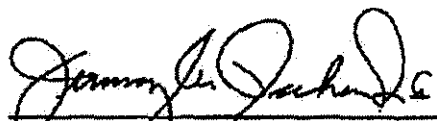
INDICTMENT

At a Court of General Sessions, convened on June 22, 2017, the Grand Jurors of Horry County present upon their oath:

CRIMINAL SEXUAL CONDUCT WITH A MINOR -- 3RD DEGREE
CDR: 3661 16-03-0655(C)

That Michael John Walton being 58, did in Horry County on or about January 20, 2016, willfully and lewdly commit or attempt to commit a lewd or lascivious act upon or with the body, or its parts, of a child, less than sixteen (16) years of age, with the intent of arousing, appealing to, or gratifying the lust or passions or sexual desires of said defendant or of the victim, in violation of Section 16-03-0655(C), S. S. 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.



JIMMY A. RICHARDSON, II
FIFTEENTH CIRCUIT SOLICITOR

FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF HORRY
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE
CASE NUMBER 2023CP2600337

Michael John Walton

South Carolina State Of

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: Clerk of Court

Attorney for: ☐ Plaintiff ☐ Defendant
☐ Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. ☐ See Page 2 for additional information.
- ☐ **ACTION DISMISSED (CHECK REASON):** ☐ Rule 12(b), SCRPC; ☐ Rule 41(a), SCRPC (Vol. Nonsuit);
☐ Rule 43(k), SCRPC (Settled); ☐ Other: _____
- ☐ **ACTION STRICKEN (CHECK REASON):** ☐ Rule 40(j) SCRPC; ☐ Bankruptcy;
☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other: _____
- ☐ **STAYED DUE TO BANKRUPTCY**
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other: _____

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order; (formal order to follow) ☒ Statement of Judgment by the Court:

ORDER INFORMATION

Applicant's petition for relief is Denied. Formal Order to be prepared by Attorney Ryan Kowalski.
Applicant waived his right to a direct appeal. Further, the application was not timely and constitute a failure to comply with the statute of limitations.

This order ☒ ends ☒ does not end the case.

Additional Information for the Clerk: _____

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
N/A	N/A	N/A

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.

E-Filing Note: In E-Filing counties, the Court will electronically sign this form using a separate electronic signature page.

Circuit Court Judge

2781

Judge Code

3/19/2025

Date

For Clerk of Court Office Use Only

This judgment was entered on , and a copy mailed first class or placed in the appropriate attorney's box on¹, to attorneys of record or to parties (when appearing pro se) as follows:

Michael John Walton Perry Correctional Institution Q1A-109
430 Oaklawn Road Pelzer, SC 29669
Steven Willard Fowler 730 Main Street Unit # 237 North
Myrtle Beach, SC 29582

Alan McCrory Wilson S.C. Attorney General's Office PO
Box 11549 Columbia, SC 29211-1549

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Court Reporter - Natalie Dahl

Renee N. Elvis - Clerk of Court

Court Reporter:

E-Filing Note: In E-Filing counties, the date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgement to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.

ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

To: Mrs. Renee N. Elvis

March 20, 2025

Harry County Clerk of Court

P.O. Box 677

Conway, SC 29528-0677

FILED
HARRY COUNTY
2025 MAR 24 P 1:07
RENEE N. ELVIS
CLERK OF COURT
HARRY COUNTY

Re: Civil Action #2023-CP-26-00

Dear Mrs. Elvis,

As Mr. Steven Fowler has been relieved from my case and as of pre-hearing yesterday he does not nor did he represent me in my PCR hearing, please have all filings sent directly to me. The judge in my PCR hearing has, or will be, filing his decision. Please have that filing ~~sent~~ and any future filings by the judge sent to me as soon as possible.

In other matters, I would like to receive a copy of the transcript of yesterday's hearing. Please have the court recorder send me notice of the cost so I may secure the necessary funds.

Respectfully,

Michael J. Walton

Michael J. Walton

Michael John Walton

SCDC #376160 QIA-109

Perry Corn Inst.

430 Oaklawn Road

Pelzer, SC 29669

Fowler Law Firm
 730 Main Street #237
 North Myrtle Beach, SC 29582
 843 663 0006
 myfowlerlaw@gmail.com

March 2, 2025

Mr. Michael J. Walton, 376160
 Perry CI, SCDC

FILED
 Horry County
 2025 APR 14 P 1:40
 RENEE M. ELYS
 CLERK OF COURT
 Horry County, SC

Re: Walton vs. SC, PCR, Horry County
 Case No 2023-CP-26-00337

Mr. Walton:

Enclosed you will find an email from the South Carolina Attorney General regarding your case. This email is procedural in nature and not attorney-client confidential information in my opinion. Please contact our office if you have any further questions. This is a follow up to our telephone conversation of February 27, 2025.

Sincerely,



Attorney Steve Fowler

Fowler Law Firm

Court-appointed legal counsel

Enclosure: February 27, 2025, email from Ryan T. Kowalski, SC Attorney General

cc: County Clerk of Court, all pages to file and SC Courts online case search portal



Steve Fowler <myfowlerlaw@gmail.com>

Walton vs. SC 2023-CP-26-00337

Steve Fowler <myfowlerlaw@gmail.com>

Thu, Feb 27, 2025 at 2:00 PM

To: Ryan Kowalski <ryankowalski@scag.gov>, Russ Barlow <russbarlow@scag.gov>

2 27 25

To: SC Attorney General Ryan T. Kowalski
RE: Walton vs. SC 2023-CP-26-00337
PCR, Horry County Common Pleas Court

Attorney General Kowalski:

You are listed as the Respondent's attorney. This confirms our communication today that the above case scheduled for Wednesday, March 19, 2025 will exclusively and only be a *White Hearing* as to the issues regarding the request for an appeal by the Applicant. I spoke with the Applicant today by telephone and notified him of this scheduling at that time.

I am copying the Applicant on this confirmation email and have enclosed a printed copy of the Return and Partial Motion to Dismiss filed by your office on September 19, 2024 to him.

Thank you.

Attorney Steve Fowler
Fowler Law Firm
Court-appointed counsel

cc: Horry County Clerk of Court (this page to file and SC Courts online search portal)

Ryan Kowalski

Thu, Feb 27,
2:56 PM (3
days ago)

to me

Steve,

I should note, as part of the *White* hearing, the PCR Court at the hearing is required to address the partial motion to dismiss in addition to the issue of a belated appeal so there will not have to be another PCR hearing later in which we secure rulings which should have been made initially. See *Garner v. State*, 371 S.C. 1, 636 S.E.2d 860 (2006), *Pruitt v. State*, 310 S.C. 254, 423 S.E.2d 127 (1992). I hope this clarifies things!

Thank you,

Ryan T. Kowalski

Assistant Attorney General
Post-Conviction Relief

South Carolina Attorney General's Office
Post-Conviction Relief Section
Post Office Box 11549
Columbia, SC 29211
(803) 734-2765
RyanKowalski@scag.gov



Steve Fowler <myfowlerlaw@gmail.com>

Walton vs. SC 2023-CP-26-00337

Ryan Kowalski <RyanKowalski@scag.gov>
To: Steve Fowler <myfowlerlaw@gmail.com>

Steve,

I should note, as part of the *White* hearing, the PCR Court at the hearing is required to address the partial motion to dismiss in addition to the issue of a belated appeal so there will not have to be another PCR hearing later in wt

Thank you,



Ryan T. Kowalski
Assistant Attorney General
Post-Conviction Relief

South Carolina Attorney General's Office
Post-Conviction Relief Section
Post Office Box 11549
Columbia, SC 29211
(803) 734-2765
RyanKowalski@scag.gov

[Quoted text hidden]

Renee N. Elvis

April 8, 2025

Horry County Clerk of Court

P.O. Box 677

Conway, SC 29528-0677

Re: Case No.: 2023-CP-26-00337

MOTION TO PRESERVE FILING
OF 59(e) MOTION

Dear Ms. Elvis,

Please find enclosed above-mentioned
MOTION along with a copy of the Form 4 order
and a copy of the dated envelope.

Please file these and forward a copy
of all to the Judge who presided over
the hearing of this case on 3-19-2025.
The Judge's signature was illegible so as
to determine his name and his name was
not on the Form 4 order therefore making
it necessary to transmit the enclosed to
him through you.

Thank you for your cooperation and
assistance. I look forward to receiving
clocked copies back from you.

Respectfully,

Michael J. Walton

Michael J. Walton

SCDC #376160 Q1A-109

Perry Correctional Institution

430 Oaklawn Road

Pelzer, SC 29669

cc: Ryan T. Kowalski

FILED
HORRY COUNTY
2025 APR 17 P 3:48
RENEE N. ELVIS
CLERK OF COURT
HORRY COUNTY, SC

State of South Carolina) In the Court of Common Pleas
County of Horry) For the Fifteenth Judicial Circuit
)
Michael John Walton, #376160) Case No.: 2023-CP-26-00337
) Applicant,)
) v.) MOTION TO PRESERVE
State of South Carolina,) FILING OF 59(e) MOTION
) Respondent)

The Applicant in the above-entitled case motions this Honorable Court to preserve filing of a 59(e) motion for the following reasons:

- 1) Hearing was held 3-19-2025 before this Honorable Court.
- 2) Representation by:
 - Michael John Walton, Applicant, pro se
 - Ryan T. Kowalski, SC Attorney General
- 3) Copy of Form 4 order, dated 3-19-2025, was received by Applicant at Perry Correctional Institution on 4-1-2025 (see attached dated envelope).
- 4) Form 4 order did not state the facts and conclusions of law relating to each claim raised.
- 5) Formal order is to be prepared by SC Attorney General Ryan T. Kowalski per order attached.

Applicant is requesting to preserve the right to file a 59(e) motion to alter/amend judgment if need be.

Applicant has filed this motion within the 10-day time limit (see attached dated envelope).

I, Michael John Walton, #376160, certify and verify under the penalty of perjury that the foregoing is true and correct.

Michael John Walton

M. J. Walton 4-8-2025
Applicant

The following parties were served by United States mail:

• Reece N. Elvis, Horry County Clerk of Court,
PO Box 627, Conway, SC 29528-0627

• Ryan T. Kowalski, SC Attorney General
PO Box 11549, Columbia, SC 29211-1549

FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF HORRY
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE
CASE NUMBER 2023CP2600337

Michael John Walton

South Carolina State Of

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: Clerk of Court

Attorney for: ☐ Plaintiff ☐ Defendant
☐ Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- ☐ JURY VERDICT: This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ DECISION BY THE COURT: This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. ☐ See Page 2 for additional information.
- ☐ ACTION DISMISSED (CHECK REASON): ☐ Rule 12(b), SCRPC; ☐ Rule 41(a), SCRPC (Vol. Nonsuit);
☐ Rule 43(k), SCRPC (Settled); ☐ Other: _____
- ☐ ACTION STRICKEN (CHECK REASON): ☐ Rule 40(j) SCRPC; ☐ Bankruptcy;
☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other: _____
- ☐ STAYED DUE TO BANKRUPTCY
- ☐ DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):
☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other: _____

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order; (formal order to follow) ☒ Statement of Judgment by the Court:

ORDER INFORMATION

Applicant's petition for relief is Denied. Formal Order to be prepared by Attorney Ryan Kowalski.
Applicant waived his right to a direct appeal. Further, the application was not timely and constitutes failure to comply with the statute of limitations.

This order ☒ ends ☐ does not end the case.

Additional information for the Clerk: _____

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
N/A	N/A	N/A

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.

E-Filing Note: In E-Filing counties, the Court will electronically sign this form using a separate electronic signature page.

Circuit Court Judge

2781

Judge Code

3/19/2025

Date

For Clerk of Court Office Use Only

This judgment was entered on _____, and a copy mailed first class or placed in the appropriate attorney's box on _____, to attorneys of record or to parties (when appearing pro se) as follows:

Michael John Walton Perry Correctional Institution Q1A-109
430 Oaklawn Road Pelzer, SC 29669
Steven Willard Fowler 730 Main Street Unit # 237 North
Myrtle Beach, SC 29582

Alan McCrory Wilson S.C. Attorney General's Office PO
Box 11549 Columbia, SC 29211-1549

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Court Reporter - Natalia Dahl

Renee N. Elvis - Clerk of Court

Court Reporter:

E-Filing Note: In E-Filing counties, the date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgment to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.

ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

Renee N. Elvis
Horry County Clerk of Court
PO Box 677
Conway, SC 29528-0677

1A109

376160

Michael Walton
Perry Correctional Institution Q1A 109
430 Calhoun Road
P.O. Box 29609

RECEIVED

APR 01 2025

PCI MAILROOM

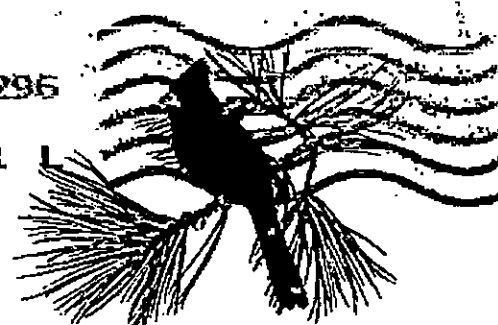
Michael John Walton
SCDC#376160 Q1A-109
Perry Correctional Institution
430 Oaklawn Road
Pelzer, SC 29669

RECEIVED
APR 08 2025
PCI MAILROOM

Renee N. ELVIS
Horry County Clerk of Court
P.O. Box 677
Conway, SC 29528-0677

GREENVILLE SC 296

9 APR 2025 PM 1



FOREVER / USA

29528-067777



STATE OF SOUTH CAROLINA
COUNTY OF HORRY

FILED
HORRY COUNTY

IN THE COURT OF COMMON PLEAS
FOR THE FIFTEENTH JUDICIAL CIRCUIT

Michael J. Walton # 376160

APR 28 P 3 58

Case No.: 2023-CP-26-00337

Applicant **RENEE N. ELVIS**
CLERK OF COURT
HORRY COUNTY, SC

v.

ORDER RELIEVING COUNSEL

State of South Carolina,

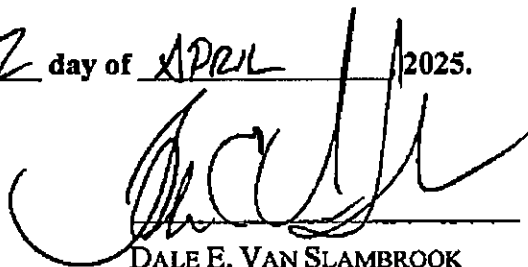
Respondent.

This matter comes before the Court by way of the post-conviction relief ("PCR") action filed by Michael Walton ("Applicant") on January 19, 2023. An evidentiary hearing was held on Wednesday, March 19, 2025. The Court finds good cause to issue an order relieving counsel, as Applicant sought to proceed *pro se* at the outset of the evidentiary hearing.

On the day of the hearing, Applicant moved to relieve counsel and proceed *pro se*. This Court explained to Applicant the risks, dangers, and disadvantages of representing himself pursuant to *Faretta v. California*, 422 U.S. 806 (1975). Applicant indicated he understood what was explained to him, and in light of what was advised, still wished to represent himself. This Court further questioned Applicant under oath regarding his decision. Applicant indicated that his decision was being made freely and voluntarily, and he was not being forced or coerced to represent himself. Applicant further indicated that he was not suffering from any mental or physical issues that would have impaired his ability to understand what he was doing at the hearing.

Thus, this Court finds Applicant's waiver of counsel and decision to represent himself was made freely, voluntarily, knowingly, and intelligently with awareness of the risks and dangers of self-representation. Accordingly, this Court relieves Steven W. Fowler, Esquire as counsel of record.

AND IT IS SO ORDERED on this 22 day of APRIL 2025.



DALE E. VAN SLAMBROOK
Presiding Judge
Fifteenth Judicial Circuit

Marsha C. South Carolina

F

STATE OF SOUTH CAROLINA
COUNTY OF HORRY

FILED
HORRY COUNTY

IN THE COURT OF COMMON PLEAS
FIFTEENTH JUDICIAL CIRCUIT

Michael J. Walton # 376160, 2025 APR 28 10 58 AM CASE NO. 2023-CP-26-00337

Applicant, RENEE N. ELVIS
CLERK OF COURT
HORRY COUNTY, SC

v.

**ORDER OF DISMISSAL
WITH PREJUDICE**

State of South Carolina,

Respondent.

Presiding Judge:	Hon. Dale E. Van Slambrook
Applicant's Attorney:	Steven W. Fowler, Esq.
Respondent's Attorney:	Ryan T. Kowalski, Esq. & Bryan T. Hall, Esq.
Plea Counsel:	Ralph J. Wilson, Sr., Esq.
Solicitor:	Leigh Andrew, Esq.
Date of Hearing:	March 19, 2025

This matter comes before the Court by way of a post-conviction relief (PCR) application filed by Michael J. Walton (Applicant) on January 19, 2023. Respondent, the State of South Carolina, made its return and partial motion to dismiss on September 19, 2024, moving to dismiss the application as untimely and requesting an evidentiary hearing.

The evidentiary hearing convened on March 19, 2025, at the Horry County Courthouse, before the Honorable Dale E. Van Slambrook. Applicant was present and represented by Steven W. Fowler, Esq. Assistant Attorneys General Ryan T. Kowalski and Bryan T. Hall represented Respondent. At the hearing, Applicant moved to have his PCR counsel relieved and proceed *pro se*. This Court explained to Applicant the risks, dangers, and disadvantages of representing himself pursuant to *Faretta v. California*, 422 U.S. 806 (1975). Applicant indicated he understood what was explained to him, and in light of what was advised, still wished to represent himself. This Court further questioned Applicant under oath regarding his decision. Applicant indicated that his

decision was being made freely and voluntarily, and he was not being forced or coerced to represent himself.

Thus, this Court found Applicant's waiver of counsel and decision to represent himself was made freely, voluntarily, knowingly, and intelligently with awareness of the risks and dangers of self-representation. Accordingly, this Court relieved Steven W. Fowler, Esq. as counsel of record. Representing himself at the evidentiary hearing, Applicant proceeded forward on the claims as set forth in his application. Respondent presented testimony from Ralph J. Wilson, Sr. (Plea Counsel).

This Court finds that the application was filed untimely and grants Respondent's motion to dismiss all allegations except for the direct appeal issue. On the direct appeal issue, this Court finds that Applicant knowingly and voluntarily waived his right to an appeal. Therefore, the application is denied and dismissed.

PROCEDURAL HISTORY

Applicant is presently confined to the South Carolina Department of Corrections (SCDC), serving a sixteen (16) year sentence. On June 22, 2017, the Horry County Grand Jury indicted Applicant for two (2) counts of criminal sexual conduct with a minor (CSC with a minor), second degree (2017-GS-26-02831; 02833) and criminal sexual conduct with a minor, third degree (2017-GS-26-02832). On April 26, 2018, Applicant pled guilty before the Honorable Benjamin Culbertson. Assistant Solicitor Leigh Andrew prosecuted the case. Applicant was represented by Ralph J. Wilson, Esq. In exchange for Applicant's plea, one count of CSC with a minor, second degree (-02831) and CSC with a minor, third degree (-02832) were *nolle prosequi*. The State recommended a sentence of twenty (20) years. Judge Culbertson sentenced Applicant to sixteen (16) years. Applicant did not appeal. On July 2, 2018, Judge Culbertson issued orders to amend



the sentencing sheet and indictments to correct a scrivener's error regarding an erroneously cited statute (correcting "16-03-655(C)" to "16-03-655(B)").

FACTUAL HISTORY

Between December 1, 2014, and December 31, 2016, Applicant gave a post-*Miranda* confession to engaging in oral sex, digital penetration, masturbation in front of, and showing pornography to his then fourteen (14) year old daughter. (Tr. 7). Applicant further admitted the events happened too many times to count and occurred at least on a weekly basis for more than a year. (Tr. 7). Minor victim indicated that Applicant engaged in penial/vaginal penetration on at least two occasions. (Tr. 7).

CURRENT APPLICATION

In his current PCR application, Applicant alleges he is being held unlawfully based on the following:¹

I. Ineffective Assistance of Counsel

- a. Failure to inform Applicant of right to a direct appeal.
- b. Failure to file a direct appeal on Applicant's behalf.
- c. Failure to object to the amendment of an indictment after the expiration of the court term.
- d. Misadvising Applicant that he was illegible to file a PCR.
- e. Failure to develop a strategy for Applicant to proceed to trial.
- f. Failure to object to the State conducting a post-trial hearing to amend the indictment and sentencing sheet.
- g. Failing to object to the State not forwarding a motion and notice to amend until after the hearing and failing to serve Applicant who was without legal counsel.
- h. Failure to object to the original indictments that deprived court of subject matter jurisdiction.
- i. Failure to object to malicious prosecution of the solicitor introducing nolle processed indictments that were defectively flawed.
- j. Failure to object to the solicitor intentionally misinforming the court concerning fictitious statements of victim.
- k. Failure to object to absence of Applicant's accusers during the course of the hearings.
- l. Failure to object to witness-tampering and witness bolstering by the solicitor.

¹ Applicant's allegations have been summarized for brevity and clarity.

W

- m. Failure to object to hearsay made by solicitor that were intended by the solicitor to inflame the passions of the court.

Applicant requested relief in the form of a vacated sentence.²

FINDINGS OF FACT & CONCLUSIONS OF LAW

Before this Court are the records of the Horry County Clerk of Court records regarding the subject convictions, Applicant's records from SCDC, and the PCR application. In analyzing these claims, this Court has considered the legal arguments by counsel and thoroughly reviewed the record in its entirety. This Court additionally heard the testimony presented at the evidentiary hearing and was able to observe the witnesses, which allowed the Court to evaluate and scrutinize their credibility. Upon conducting and completing its analysis, this Court finds that Applicant has failed to establish any constitutional violations or deprivations that would require this Court to grant his application for post-conviction relief. See Rule 71.1(e), SCRCP (stating that in a post-conviction relief action, "[t]he applicant has the burden of establishing his entitlement to relief by a preponderance of the evidence."); *Lucero v. State*, 414 S.C. 238, 244, 777 S.E.2d 409, 412 (Ct. App. 2015) ("In a PCR proceeding, the applicant bears the burden of establishing that he or she is entitled to relief."); *Butler v. State*, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985) ("The burden of proof is on the Applicant in post-conviction proceedings to prove the allegations in his application.").

RESPONDENT'S MOTION TO DISMISS

Respondent moved for summary dismissal of this application because Applicant has failed to comply with the filing procedures of the Uniform Post-Conviction Procedure Act (the Act).

² The appropriate remedy would be to grant a new trial on the original indictments. *Gilstrap v. State*, 252 S.C. 625, 628, 168 S.E.2d 88, 89 (1969) (stating the relief to be granted is remand for a new trial); *Smith v. State*, 413 S.C. 194, 195, 775 S.E.2d 696, 696 (2015) ("We now clarify the proper remedy is a new trial"). If this Court finds Applicant did not knowingly and intelligently waive his right to a direct appeal, the appropriate remedy is to grant Applicant a belated appeal. *White v. State*, 263 S.C. 110, 208 S.E. 35 (1974).



S.C. Code Ann. § 17-27-10 to -160. Summary dismissal of a claim is appropriate if (1) it is apparent on the face of the application that there is no need for a hearing to develop facts, and (2) the applicant is not entitled to post-conviction relief. S.C. Code Ann. § 17-27-70(b)-(c) (2014); *Leamon v. State*, 363 S.C. 432, 434, 611 S.E.2d 494, 495 (2005). When considering the State's motion for summary dismissal, the Court must assume the facts presented in the application are true and view those facts in the light most favorable to the Applicant. *Leamon*, 363 S.C. at 434, 611 S.E.2d at 495.

Summary Dismissal Based on Statute of Limitations

Pursuant to the Act, a PCR application “must be filed within one year after the entry of judgment . . . or within one year after the sending of the remittitur, whichever is later.” § 17-27-45(a). The statute of limitations applies to all PCR applications filed after July 1, 1996. *Peloquin v. State*, 321 S.C. 468, 470, 469 S.E.2d 606, 607 (1996). A motion for summary judgment may be used to raise the defense of statute of limitations. *McDonnell v. Consol. Sch. Dist. Of Aiken*, 315 S.C. 487, 489, 445 S.E.2d 638, 639 (1994).

In the present case, Applicant failed to timely file his PCR application within a year of sentencing as required by the Act. Applicant pled guilty and was convicted on April 26, 2018. Applicant did not appeal his conviction. To be timely, Applicant was required by statute to file his PCR application by April 26, 2019. Applicant filed his application on January 19, 2023, outside of the one (1) year statutory period.

At the evidentiary hearing, Applicant testified that Plea Counsel told him he could not file a PCR application because he pled guilty. Equitable tolling has been deemed available where extraordinary circumstances prevented the plaintiff from filing despite his due diligence, the plaintiff actively pursued his or her judicial remedies by filing a defective pleading during the



statutory period, or the claimant has been induced or tricked by the defendant's misconduct into allowing the filing deadline to pass, and the plaintiff, despite all due diligence, is unable to obtain vital information bearing on the existence of his or her claim. *Pelzer v. State*, 378 S.C. 516, 521, 662 S.E.2d 618, 619-20 (Ct. App. 2008).

This Court finds Applicant has failed to meet his burden to show that he is entitled to equitable tolling. Plea Counsel credibly testified that he did not tell Applicant, or any client he has represented, that they were ineligible to file a PCR application. Thus, Applicant's application is untimely, and this Court dismisses and bars all allegations contained in the application except Applicant's allegation that he did not waive his right to a direct appeal, because the statute of limitations does not apply to a claim that an applicant was denied his right to a direct appeal. *Wilson v. State*, 348 S.C. 215, 559 S.E.2d 581 (2002).

INEFFECTIVE ASSISTANCE OF COUNSEL

The Sixth and Fourteenth Amendments to the United States Constitution guarantee Applicant, like all other defendants, the right to effective assistance of counsel. *Strickland v. Washington*, 466 U.S. 668 (1984); *Taylor v. State*, 404 S.C. 350, 359, 745 S.E.2d 97, 101 (2013). Ordinarily, PCR allegations are centered upon an allegation that the applicant did not receive *effective* assistance of counsel guaranteed by the Sixth Amendment. The allegation of denial of such representation sets forth a *prima facie* violation of this constitutional right and raises a question of fact that can only be determined by an evidentiary hearing. *Rogers v. State*, 261 S.C. 288, 291, 199 S.E.2d 761, 762 (1973).

In a PCR action, the applicant bears the burden of proving the allegations by a preponderance of the evidence—a mere allegation of ineffective assistance is not sufficient to warrant granting relief. Rule 71.1(e), SCRCP; *Butler v. State*, 286 S.C. 441, 442, 334 S.E.2d 813,

814 (1985). 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; *accord. 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)).

Allegation: Plea Counsel Failed to File a Direct Appeal

Applicant alleged Plea Counsel was ineffective for failing to file a direct appeal on Applicant's behalf, denying Applicant his right to appeal. This Court finds that Plea Counsel informed Applicant of his right to appeal, and that Applicant waived that right.

Generally, there is no constitutional deprivation in not being advised of the right to appeal from a guilty plea absent extraordinary circumstances, such as when there is a reason to think a rational defendant would want to appeal—where a non-frivolous ground exists to appeal—or defendant reasonably demonstrated an interest in appealing. *Turner v. State*, 380 S.C. 223, 225, 670 S.E.2d 373, 374 (2008) (citing *Roe v. Flores-Ortega*, 528 U.S. 470, 120 S.Ct. 1029, 145 L.Ed.2d 985 (2000); *Weathers v. State*, 319 S.C. 59, 459 S.E.2d 838 (1995)).

At the evidentiary hearing, Applicant testified that he did not file an appeal because Plea Counsel told him it would be “ridiculous”. Applicant testified that he relied on Plea Counsel's advice when deciding not to appeal.

On direct examination, Plea Counsel testified that he informed Applicant of his right to

appeal his guilty plea. Plea Counsel testified that Applicant did not ask him to file an appeal. On cross-examination, Plea Counsel testified that he did not tell Applicant that he could not appeal his guilty plea.

This Court finds Applicant knowingly and voluntarily waived his right to a direct appeal after being advised of that right. Further, this Court finds that Applicant failed to prove Plea Counsel was deficient by not advising him of his right to appeal. Plea Counsel credibly testified Applicant did not inform him he wished to appeal his guilty plea after being advised of his right to an appeal. Plea Counsel also credibly testified that he did not tell Applicant he was ineligible to appeal his conviction. Therefore, this allegation is **DENIED** and **DISMISSED WITH PREJUDICE**.

CONCLUSION

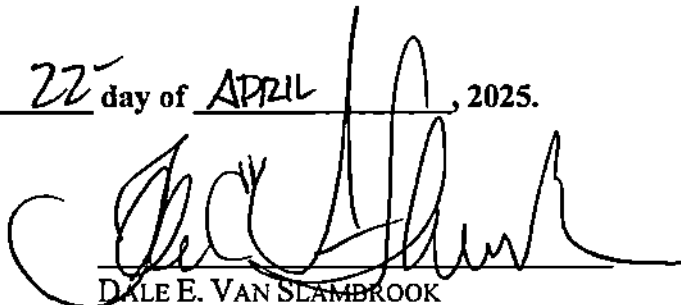
Based on all the foregoing, this Court finds and concludes that Applicant has not established any constitutional violations or deprivations that would require this Court to grant his application. Therefore, this application for post-conviction relief must be **DENIED** and **DISMISSED with PREJUDICE**.

This Court notifies Applicant that he must file and serve a notice of appeal within thirty (30) days from the receipt by counsel of written notice of entry of judgment to secure the appropriate appellate review. *See* Rule 203, SCACR. Pursuant to *Austin v. State*, 305 S.C. 453, 409 S.E.2d 395 (1991), an applicant has a right to an appellate counsel's assistance in seeking review of the denial of PCR. Rule 71.1(g), SCRCP, provides that PCR counsel must serve and file a Notice of Appeal on Applicant's behalf if Applicant wishes to seek appellate review. Your attention is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

IT IS THEREFORE ORDERED:

1. That the Application for Post-Conviction Relief shall be denied and dismissed with prejudice; and
2. The Applicant shall be remanded to the custody of the South Carolina Department of Corrections.

AND IT IS SO ORDERED this 22nd day of APRIL, 2025.



DALE E. VAN SLAMBROOK
Presiding Judge
Fifteenth Judicial Circuit

Moncks Can, South Carolina



STATE OF SOUTH CAROLINA	) IN THE COURT OF COMMON PLEAS
COUNTY OF HORRY	) FOR THE FIFTEENTH JUDICIAL COURT
	)
Michael J. Walton #376160,	) CASE NO. 2023-CP-26-00337
Applicant	)
v.	) (59(e)) MOTION TO ALTER
	) OR AMEND JUDGMENT
State of South Carolina,	)
Respondent	)
_____	)

FILED
 HORRY COUNTY
 2025 MAY 22 P 3:47
 JEREE N. ELVIS
 CLERK OF COURT
 HORRY COUNTY, SC

This 59(e) MOTION TO ALTER OR AMEND JUDGMENT comes before this Court and the Honorable Dale E. Van Slambrook as a response/reply to a judgment signed April 22, 2025. The judgment in question, entitled "ORDER OF DISMISSAL WITH PREJUDICE" (Order) was a result of the Post-Conviction Relief (PCR) hearing held March 19, 2025 and was prepared by Ryan T. Kowalski of the South Carolina Attorney General's office (Respondent). The Applicant motions this Court to alter and amend the Order for the following reasons:

1. Applicant did in fact and by several proofs meet the requirements for timely filing his PCR. Pursuant to §17-27-45(c), Applicant could file "...within one year after the date of actual discovery of the facts of newly discovered evidence." Accordingly, Applicant testified in Court showing the facts leading up to his decision to file a PCR which included facts of discovering evidence which proved Ralph J. Wilson, Sr. (Plea Counsel) was ineffective in his defense of Applicant. These facts are also revealed within the Applicant's PCR application. The transcript of the March 19, 2025 PCR hearing (when available) will also reveal the Applicant testified of the circumstances, evidence, exhibits, and discoveries with credibility.
2. The record needs corrected to reflect the conversations which transpired in the courtroom both prior to and after the Applicant's presence in the courtroom. Mr. Steven W. Fowler, PCR Attorney assigned to the Applicant, revealed his hesitancy to represent Applicant. Once Applicant was present in the courtroom Mr. Fowler continued to present his argument and his own desire to be excused from representing Applicant. Applicant

agreed to relieve Mr. Fowler from representation and proceed *pro se*. Applicant had not requested Mr. Fowler to be excused from representing him until after Mr. Fowler expressed his argument and his own desire to be excused from representing Applicant.

3. The Respondent, the State of South Carolina, erred in a date on the Order and this needs corrected. In the last line of page two, which continues to page three of the Order, the State represented a date of Judge Culbertson's signature as July 2, 2018. This is an error. The correct date for Judge Culbertson's signature is June 26, 2018, which is the actual date of the referenced hearing and the date shown with Judge Culbertson's signature on the correlating documents filed. This date is critical as this date is part and parcel of the evidence for ineffective assistance of counsel which Applicant revealed in his PCR application along with facts, evidence, exhibits, and testimony presented by the Applicant in the March 19, 2025 PCR hearing.
4. The Order does not fully address each claim in Applicant's PCR with full findings of fact and conclusions of law as mandated by South Carolina Courts in PCR cases. Each claim is to be reviewed and answered with findings of fact and conclusions of law which reflect the facts, exhibits, and evidence from Applicant's PCR application as well as the testimony of facts, evidence, exhibits, and circumstances presented by the Applicant in the March 19, 2025 PCR hearing. The claims in the Applicant's PCR application which are to be addressed are as follows:
 - Claim 10(A) with 11(A): to be answered with full findings of fact and conclusions of law considering all facts, evidence, exhibits, and Applicant's testimony.
 - Claim 10(B) with 11(B): to be answered with full findings of fact and conclusions of law considering all facts, evidence, exhibits, and Applicant's testimony.
 - Claim 10(C) with 11(C): to be answered with full findings of fact and conclusions of law considering all facts, evidence, exhibits, and Applicant's testimony.
 - Claim 10(D) with 11(D): to be answered with full findings of fact and conclusions of law considering all facts, evidence, exhibits, and Applicant's testimony.
 - Claim 10(E) with 11(E): to be answered with full findings of fact and conclusions of law considering all facts, evidence, exhibits, and Applicant's testimony.
 - Claim 10(F) with 11(F): to be answered with full findings of fact and conclusions of law considering all facts, evidence, exhibits, and Applicant's testimony.

- Claim 10(G) with 11(G): to be answered with full findings of fact and conclusions of law considering all facts, evidence, exhibits, and Applicant's testimony.
- Claim 10(H) with 11(H): to be answered with full findings of fact and conclusions of law considering all facts, evidence, exhibits, and Applicant's testimony.
- Claim 10(I) with 11(I): to be answered with full findings of fact and conclusions of law considering all facts, evidence, exhibits, and Applicant's testimony.
- Claim 10(J) with 11(J): to be answered with full findings of fact and conclusions of law considering all facts, evidence, exhibits, and Applicant's testimony.
- Claim 10(K) with 11(K): to be answered with full findings of fact and conclusions of law considering all facts, evidence, exhibits, and Applicant's testimony.
- Claim 10(L) with 11(L): to be answered with full findings of fact and conclusions of law considering all facts, evidence, exhibits, and Applicant's testimony.
- Claim 10(M) with 11(M): to be answered with full findings of fact and conclusions of law considering all facts, evidence, exhibits, and Applicant's testimony.
- Claim 10(N) with 11(N): to be answered with full findings of fact and conclusions of law considering all facts, evidence, exhibits, and Applicant's testimony.
- Claim 10(O) with 11(O): to be answered with full findings of fact and conclusions of law considering all facts, evidence, exhibits, and Applicant's testimony.
- Claim 10(P) with 11(P): to be answered with full findings of fact and conclusions of law considering all facts, evidence, exhibits, and Applicant's testimony.

For all the above reasons and including testimony in Court, proofs from Applicant's PCR application, evidence, exhibits, and the transcript of the March 19, 2025 PCR hearing, I find Applicant's testimony has been determined to be reliable and credible. I also find Applicant has proven his argument of ineffective assistance of counsel credibly by means of Applicant's PCR application, evidence, exhibits, and testimony given in the March 19, 2025 PCR hearing. I find Applicant's PCR application to be timely, acceptable and credible. For these reasons I find it necessary to vacate Applicant's sentence per his requested relief which is pursuant to §17-27-45(c) and he be immediately released from the custody of the South Carolina Department of Corrections.

IT IS THEREFORE ORDERED:

1. That the Order be revised according to all findings of fact and conclusions of law in consideration of the Applicant's statements above; and
2. That the application for Post-Conviction Relief shall be approved to reflect these additional findings in accordance with my decision; and
3. The Applicant shall be immediately released from the custody of the South Carolina Department of Corrections.

AND IT IS SO ORDERED this _____ day of _____, 2025.

Dale E. Van Slambrook
Presiding Judge
Fifteenth Judicial Circuit

_____, South Carolina

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF HORRY) FOR THE FIFTEENTH JUDICIAL COURT
))
Michael J. Walton #376160,) CASE NO. 2023-CP-26-00337
Applicant))
v.) CERTIFICATE OF SERVICE BY MAIL
))
State of South Carolina,)
Respondent)
_____)

1. I am the Applicant in the above-captioned matter.
2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.
3. I have this day served a copy of the (59(e)) MOTION TO ALTER OR AMEND JUDGMENT in the above-captioned matter on the following persons by depositing same in the United States mail, postage prepaid:
 - Ryan T. Kowalski
Assistant Attorney General
Post Office Box 11549
Columbia, SC 29211
 - Renee N. Elvis
Horry County Clerk of Court
P.O. Box 677
Conway, SC 29528-0677
 - Honorable Dale E. Slambrook
300 California Avenue
Moncks Corner, SC 29461

SI *[Signature]* 5/14/2025
Michael John Walton
SCDC#376160 Q1A-109
Perry Correctional Institution
430 Oaklawn Road
Pelzer, SC 29669

STATE OF SOUTH CAROLINA
COUNTY OF HORRY

Michael J. Walton # 376160,

Applicant,

v.

State of South Carolina,

Respondent.

) IN THE COURT OF COMMON PLEAS
) FIFTEENTH JUDICIAL CIRCUIT
)

) CASE NO. 2023-CP-26-00337
)

) RETURN TO MOTION TO ALTER OR
) AMEND JUDGEMENT, SCRCF 59(e)
)

FILED
HORRY COUNTY
2025 JUN -9 PM 1:29
RENEE N. ELVIS
CLERK OF COURT
HORRY COUNTY, SC

Respondent, by and through undersigned counsel, making Return to Applicant's Motion to Reconsider¹, would respectfully show unto this Court:

The matter is before the Court by way of a post-conviction relief (PCR) action filed January 19, 2023. An evidentiary hearing was held on March 19, 2025, at the Horry County Courthouse. Applicant was present at this hearing and voluntarily chose to proceed *pro se*. Applicant testified on his own behalf. Also testifying was Applicant's plea attorney, Ralph J. Wilson, Sr. After both parties rested their respective cases and the matter was concluded, this Court took the matter under advisement.

By order filed April 28, 2025, this Court denied the PCR application. Applicant has now filed a Motion to Alter or Amend Judgement, SCRCF 59(e). Applicant argues the following.

1. This Court erred in granting Respondent's motion for summary dismissal based on the statute of limitations.
2. This Court erred in reflecting Applicant's PCR attorney's motion to be relieved.
3. Respondent erred in depicting the date that Judge Culbertson issued orders to amend the sentencing sheet and indictments.
4. The signed Order of Dismissal does not adequately address all of Applicant's claims.

Respondent submits Applicant's Motion should be denied for the following reasons:

¹ This Motion was filed on May 22, 2025. Respondent received the Motion on May 23, 2025.

1. This Court correctly granted Respondent's motion for summary dismissal based on the statute of limitations. Applicant asserts that he discovered alleged issues with his indictments, which he claims are newly discovered evidence, in early 2022 and filed his PCR application within a year of this discovery. As an initial matter, Applicant's allegations are not newly discovered evidence because indictments are not evidence, they are notice documents. *McCoy v. State*, 401 S.C. 363, 371, 737 S.E.2d 623, 627 (2013) (Newly discovered evidence is evidence that is material to the accused's guilt or innocence and concerns the substance of the State's case or the accused defense); *See State v. Gentry*, 363 S.C. 93, 102, 610 S.E.2d 494, 500 (2005) ("An indictment is a notice document"). Additionally, Applicant pled guilty, which waived his right to challenge his indictments, and Plea Counsel testified at the evidentiary hearing that he informed Applicant of this.

Applicant's alleged issues with his indictments could have been discovered by the exercise of reasonable diligence at the time of Applicant's indictment, or the 2018 hearing amending his indictments. Furthermore, Applicant has failed to file his PCR application within one year of the date he could have discovered the alleged issues. The Uniform Post-Conviction Procedure Act (the Act) states a person may institute a PCR action if "there exists evidence or material facts, not previously presented and heard, that requires vacation of the conviction or sentence in the interest of justice." S.C. Code Ann. § 17-27-20(A)(4). "If the applicant contends there is evidence of a material fact not previously presented, the PCR application must be filed within one year after the date of actual discovery of the facts by the applicant or *after the date when the facts could have been ascertained by the exercise of reasonable diligence.*" S.C. Code Ann. § 17-27-45(C) (emphasis added).

Applicant testified at the PCR hearing that he had no documentation to substantiate his claims about the timeliness of his discovery and testified that this Court would “have to take [his] word for it.” Additionally, Plea Counsel testified that he told Applicant about the issues with his indictment. After hearing Applicant’s testimony at the evidentiary hearing in full, this Court granted Respondent’s motion to dismiss. In granting Respondent’s motion to dismiss, this Court impliedly did not find Applicant’s testimony to be credible. *Gross v. State*, 425 S.C. 101, 107, 820 S.E.2d 373, 376 (2018) (“The PCR court’s evaluation of witness credibility is to be afforded great deference” (citing *Simuel v. State*, 390 S.C. 267, 270, 701 S.E.2d 738, 739 (2010))).

2. The Order of Dismissal correctly reflects what occurred at the outset of the evidentiary hearing. Applicant moved to have his appointed PCR attorney relieved at the outset of the hearing. The Court asked Applicant multiple times if he wanted to relieve his attorney, and Applicant indicated on the record that he did.

3. The Order of Dismissal correctly reflects the date of the issuance of Judge Culbertson’s Order, July 2, 2018, which was the date of filing.

4. Applicant contends that claims 10 (A-P) and 11 (A-P) were not fully addressed. The Order of Dismissal sufficiently addresses all of Applicant’s PCR allegations. According to the filed Form 4 Order and the Order of Dismissal, all of Applicant’s allegations were dismissed as untimely except for the allegation that Counsel failed to file a direct appeal. The dismissal of those allegations and the findings regarding the allegation that Counsel failed to file a direct appeal are detailed in the Order of Dismissal.

[Conclusion and Signature on Following Page]

CONCLUSION

For all of the reasons stated above, this Court should deny Applicant's Motion to Amend or Alter the Judgement.

Respectfully submitted,

ALAN WILSON
Attorney General

DONALD J. ZELENKA
Deputy Attorney General

D. RUSSELL BARLOW, II
Senior Assistant Deputy Attorney General

RYAN T. KOWALSKI
Assistant Attorney General

By: 

ATTORNEYS FOR RESPONDENT
Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211

June 6, 2025

STATE OF SOUTH CAROLINA
COUNTY OF HORRY

MICHAEL J. WALTON, #376160

Applicant,

v.

STATE OF SOUTH CAROLINA

Respondent.

IN THE COURT OF COMMON PLEAS
FOR THE FIFTEENTH JUDICIAL CIRCUIT

CASE NO. 2023-CP-26-00337

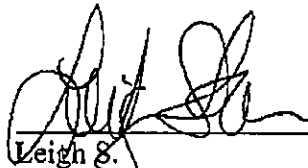
CERTIFICATE OF SERVICE BY MAIL

FILED
HORRY COUNTY
JUN - 9 P 1:29
GENE N. ELVIS
CLERK OF COURT
HORRY COUNTY, SC

1. I am an employee of the Respondent in the above-captioned action.
2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.
3. I have this day served a copy of the Return to Motion to Alter or Amend Judgement, SCRCP 59(e) in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

Michael J. Walton, # 376160
Q1A-0109-B
Perry Correctional Institution
430 Oaklawn Road
Pelzer, SC 29669

DATED this 6th day of June, 2025.



Leigh S.
Legal Assistant for Respondent

STATE OF SOUTH CAROLINA	) IN THE COURT OF COMMON PLEAS
COUNTY OF HORRY	) FOR THE FIFTEENTH JUDICIAL COURT
	)
Michael J. Walton #376160,	) CASE NO. 2023-CP-26-00337
Applicant	)
v.	) MOTION TO DENY AND DISMISS
	) RESPONDENT'S RETURN
State of South Carolina,	)
Respondent	)
_____	)

FILED
HORRY COUNTY
JUN 23 P 3:26
RENEE H. ELVIS
CLERK OF COURT
HORRY COUNTY, SC

In reply to Respondent's Return in the above captioned case, which was received by Applicant on June 10, 2025, Applicant moves this Court to deny and dismiss Respondent's "RETURN TO MOTION TO ALTER OR AMEND JUDGMENT, SCRCP 59(e)" for the following reason(s):

1. Respondent admits by evidence of an e-mail colloquy between Respondent and Judge Dale E. Van Slambrook that Respondent received the clocked copy of Applicant's 59(e) Motion on May 23, 2025. Respondent's Return was dated June 6, 2025, which is 14 days from receipt of clocked copy of Applicant's 59(e) Motion and falls outside the statutory ten (10) day limit for a Response.
2. In the aforementioned e-mail colloquy, Respondent was advised by Judge Dale E. Van Slambrook to return his brief within the ten (10) day statutory limit. Respondent's time to file his Return began tolling on May 23, 2025 which is the date he admits to receiving the clocked copy of Applicant's 59(e) motion.
3. Respondent failed to apply to the Court for an extension to filing his Return.

Therefore, for the above reasons, Applicant moves this Court to deny and dismiss Respondent's "RETURN TO MOTION TO ALTER OR AMEND JUDGMENT, SCRCP 59(e)" as filed untimely and outside the statutorily required limit.

(signature on the following page)

AND IT IS SO ORDERED this _____ day of _____, 2025.

Dale E. Van Slambrook
Presiding Judge
Fifteenth Judicial Circuit

_____, South Carolina

FILED
Horry County
2025 JUN 23 P 3:26
RENEE M. ELVIS
CLERK OF COURT
Horry County, SC

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF HORRY) FOR THE FIFTEENTH JUDICIAL COURT
))
Michael J. Walton #376160,) CASE NO. 2023-CP-26-00337
Applicant))
v.) CERTIFICATE OF SERVICE BY MAIL
))
State of South Carolina,)
Respondent)
_____)

1. I am the Applicant in the above-captioned matter.
2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.
3. I have this day served a copy of the **MOTION TO DENY AND DISMISS RESPONDENT'S RETURN** in the above-captioned matter on the following persons by depositing same in the United States mail, postage prepaid:

- Ryan T. Kowalski
Assistant Attorney General
Post Office Box 11549
Columbia, SC 29211
- Renee N. Elvis
Horry County Clerk of Court
P.O. Box 677
Conway, SC 29528-0677
- Honorable Dale E. Van Slambrook
300 California Avenue
Moncks Corner, SC 29461

FILED
HORRY COUNTY
2025 JUN 23 P 3:26
RENEE N. ELVIS
CLERK OF COURT
HORRY COUNTY, SC

Michael John Walton 6/18/25
Michael John Walton
SCDC#376160 Q1A-109
Perry Correctional Institution
430 Oaklawn Road
Pelzer, SC 29669

STATE OF SOUTH CAROLINA **FILED**) IN THE COURT OF COMMON PLEAS
COUNTY OF HORRY **HORRY COUNTY**)
MICHAEL J. WALTON, **2025 JUN 13 P 3:38**) Case No.: 2023-CP-26-00337
RENEE H. ELVIN)
CLERK OF COURT)
HORRY COUNTY)
v.) **ORDER DENYING APPLICANT'S**
) **MOTION TO ALTER OR AMEND**
) **JUDGMENT, SCRCP 59(e)**
STATE OF SOUTH CAROLINA,)
Respondent.)

This matter is before the Court upon Michael J. Walton's (hereinafter "Applicant") Motion to Alter or Amend Judgment, filed April 28, 2025, pursuant to Rule 59(e), SCRCP. The State of South Carolina (hereinafter "the State"), submitted a response to Applicant's Motion on June 6, 2025. For the reasons stated in greater detail below, Applicant's Motion to Alter or Amend Judgment is respectfully *denied*. The Court issues this Order on the memoranda and filings in this matter without the necessity of a hearing.

PROCEDURAL HISTORY

Applicant filed a post-conviction relief (PCR) action on January 19, 2023. An evidentiary hearing was held on March 19, 2025, at the Horry County Courthouse. Applicant was present at this hearing and voluntarily chose to proceed *pro se*. Applicant testified on his own behalf. Also testifying was Applicant's plea attorney, Ralph J. Wilson, Sr. After both parties rested their respective cases and the matter was concluded, this Court took the matter under advisement.

By Order filed April 28, 2025, this Court denied the PCR application. Applicant has now filed a Motion to Alter or Amend Judgment, pursuant to Rule 59(e), SCRCP. Applicant argues:

- (1) This Court erred in granting Respondent's motion for summary dismissal based on the statute of limitations.

- (2) This Court erred in granting the motion to be relieved as attorney filed by Applicant's PCR attorney.
- (3) Respondent erred in depicting the date that Judge Culbertson issued orders to amend the sentencing sheet and indictments
- (4) The signed Order of Dismissal does not adequately address all of Applicant's claims.

STANDARD OF REVIEW

"The purpose of Rule 59(e), SCRCP, to alter or amend the judgment is to request the trial judge to reconsider the matters properly encompassed in a decision on the merits." *Arnold v. State*, 309 S.C. 157, 172, 420 S.E.2d 834, 842 (1992). "A party may wish to file such motion when she believes the court has misunderstood, failed to fully consider, or perhaps failed to rule on an argument or issue, and the party wishes for the court to reconsider or rule on it. A party *must* file such a motion when an issue or argument has been raised but not ruled on, in order to preserve it for appellate review." *Elam v. South Carolina Dept. of Transp.*, 361 S.C. 9, 24, 602 S.E.2d 772, 780 (2004) (emphasis in original). "A party cannot use a motion to reconsider to present an issue he could have raised prior to judgment but did not." *Anderson Memorial Hosp., Inc., v. Hugen*, 313 S.C. 389, 434 S.E.2d 268 (1993); *See also Arnold*, 309 S.C. at 172-173, 420 S.E.2d at 842.

DISCUSSION

After consideration of the record, as well as the various interests balanced by the Court at the time of the ruling, Applicant's Motion to Alter or Amend Judgment is heard and is respectfully *denied*.

First, this Court correctly granted Respondent's motion for summary dismissal based on the statute of limitations. Applicant asserts that he discovered alleged issues with his indictments, which he claims are newly discovered evidence, in early 2022 and filed his PCR application

within a year of this discovery. Applicant's allegations are not newly discovered evidence because indictments are notice documents not evidence. *McCoy v. State*, 401 S.C. 363, 371, 737 S.E.2d 623, 627 (2013); *See State v. Gentry*, 363 S.C. 92, 102, 610 S.E.2d 494, 500 (2005). Likewise, Applicant pled guilty, which waived his right to challenge his indictments, and plea counsel testified at the evidentiary hearing that Applicant was informed of the waiver of this right. Any issues with the indictments could also have been discovered by the exercise of reasonable diligence at the time of Applicant's indictment, or the 2018 hearing amending his indictments. Applicant failed to file his PCR application within one year of the date he could have discovered the alleged issues.

Applicant testified at the PCR hearing that he had no documentation to substantiate his claims about the timeliness of his discovery and testified that this Court would "have to take [his] word for it." Additionally, plea counsel testified that he told Applicant about the issues with his indictment. In granting Respondent's motion to dismiss, this Court did not find Applicant's testimony credible.

Second, the Order of Dismissal correctly reflects what occurred at the evidentiary hearing. Applicant moved to have his appointed PCR attorney relieved at the outset of the hearing. Applicant indicated on the record that he wanted to relieve his attorney.

Third, the Order of Dismissal correctly reflects the date of the issuance of Judge Culbertson's Order, July 2, 2018, which was the date of filing.

Lastly, the Order of Dismissal sufficiently addresses all of Applicant's PCR allegations. According to the filed Form 4 Order and the Order of Dismissal, all of Applicant's allegations were dismissed as untimely except for the allegation that Counsel failed to file a direct appeal. Upon hearing testimony on that issue, the Court did not find the Applicant's testimony credible

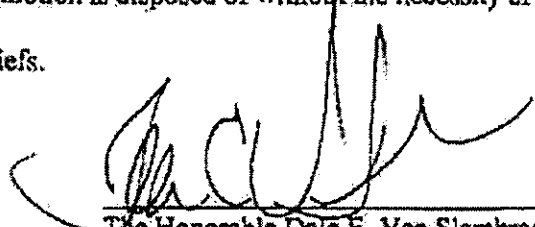
regarding his plea counsel advising that such an appeal would be "ridiculous." The dismissal of the other allegations as well as the findings regarding the allegation that counsel failed to file a direct appeal are detailed in the Order of Dismissal.

In consideration of the above, Applicant's Motion to Alter or Amend Judgment pursuant to Rule 59(e) is respectfully *denied*.

CONCLUSION

As stated in greater detail above, Applicant's Motion to Alter or Amend Judgment, filed April 28, 2025, is respectfully *denied*. This motion is disposed of without the necessity of a hearing and is decided on the record and briefs.

AND IT IS SO ORDERED!


The Honorable Dale E. Van Slambrook

June 11 2025
Moncks Corner, South Carolina

WITNESSES

Brian Scales Horry County Police Department

Ashley Tolda

ARREST WARRANT NUMBER

2017GS2602831

CDR: 0397 16-03-0655(C)

DOA: 12/15/2016

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date:

Rick Carroll
JUN 22 2017

VERDICT

Foreperson of Petit Jury

Date:

234

DOCKET NO. 2017-GS-26-02831

The State of South Carolina

County of Horry

C. Leigh Andrew

17H00100

COURT OF GENERAL SESSIONS

JUNE, 2017 TERM

THE STATE

vs.

Michael John Walton
W/ M

Conway, SC 29526

DOB: [REDACTED]

SSN: [REDACTED]

ATTORNEY: Ralph J. Wilson, Sr.

Indictment for

CRIMINAL SEXUAL CONDUCT WITH A

MINOR

SECOND DEGREE

Jimmy A. Richardson, II, Solicitor

ORIGINAL

**FILED
HORRY COUNTY**

2017 JUN 23 PM 3:15

RENEE N. ELVIS
CLERK OF COURT
HORRY COUNTY, SC

DATE RECEIVED FROM
GRAND JURY

NP
5-1-18

STATE OF SOUTH CAROLINA)
)
 COUNTY OF HORRY)

INDICTMENT

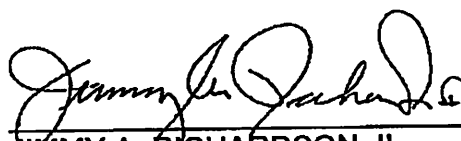
At a Court of General Sessions, convened on June 22, 2017, the Grand Jurors of Horry County present upon their oath:

CRIMINAL SEXUAL CONDUCT WITH A MINOR
SECOND DEGREE

CDR: 0397 16-03-0655(3)

That Michael John Walton did in Horry County, State of South Carolina, on or about January 20, 2016, willfully and unlawfully commit the crime of Criminal Sexual Conduct with a Minor in the Second Degree by engaging in sexual battery with a minor who was at least fourteen (14) years of age but who was less than sixteen (16) years of age, to wit: Minor Victim whose date of birth is [REDACTED], and the Defendant was in a position of familial, custodial, or official authority to coerce the victim to submit or was older than the victim, in violation of Section 16-3-655(C) [formerly Section 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.



JIMMY A. RICHARDSON, II
 FIFTEENTH CIRCUIT SOLICITOR

WITNESSES

Brian Scales Horry County Police Department

Ashley Jolda

ARREST WARRANT NUMBER

2017GS2602832

CDR: 3661 16-03-0655(C)

DOA: 12/15/2016

ACTION OF GRAND JURY

TRUE BILL

Nick Curcio

Foreperson of Grand Jury

Date: JUN 22 2017

VERDICT

Foreperson of Petit Jury

Date:

236

DOCKET NO. 2017-GS-26-02832

The State of South Carolina

County of Horry

C. Leigh Andrew

17H00100

COURT OF GENERAL SESSIONS

JUNE, 2017 TERM

THE STATE

vs.

Michael John Walton

W/ M

Conway, SC 29526

DOB:

SSN:

ATTORNEY: Ralph J. Wilson, Sr.

Indictment for

CRIMINAL SEXUAL CONDUCT WITH A
MINOR – 3RD DEGREE

Jimmy A. Richardson, II, Solicitor

ORIGINAL

FILED
HORRY COUNTY

2017 JUN 23 PM 3:15

RENEE N. ELVIS
CLERK OF COURT
HORRY COUNTY, SC

DATE RECEIVED FROM

GRAND JURY

NP
5-1-18

STATE OF SOUTH CAROLINA)
)
COUNTY OF HORRY)

INDICTMENT

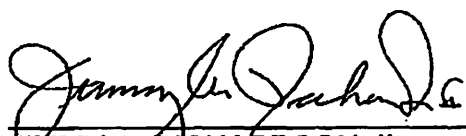
At a Court of General Sessions, convened on June 22, 2017, the Grand Jurors of Horry County present upon their oath:

CRIMINAL SEXUAL CONDUCT WITH A MINOR – 3RD DEGREE

CDR: 3661 16-03-0655(C)

That Michael John Walton being 58, did in Horry County on or about January 20, 2016, willfully and lewdly commit or attempt to commit a lewd or lascivious act upon or with the body, or its parts, of a child, less than sixteen (16) years of age, with the intent of arousing, appealing to, or gratifying the lust or passions or sexual desires of said defendant or of the victim, in violation of Section 16-03-0655(C), S. S. 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.



JIMMY A. RICHARDSON, II
FIFTEENTH CIRCUIT SOLICITOR

WITNESSES

Brian Scales Horry County Police Department

Ashley Jolda

The State of South Carolina

County of Horry

C. Leigh Andrew

17H00100

COURT OF GENERAL SESSIONS

JUNE, 2017 TERM

ARREST WARRANT NUMBER

2016A2610701334

CDR: 0397 16-03-0655(C)

DOA: 12/15/2016

ACTION OF GRAND JURY

TRUE BILL

Michael Carroll
Foreperson of Grand Jury

Date: JUN 22 2017

VERDICT

Foreperson of Petit Jury

Date:

238

Michael John Walton

W/ M

Conway, SC 29526

DOB:

SSN:

ATTORNEY: Ralph J. Wilson, Sr.

Indictment for

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

Jimmy A. Richardson, II, Solicitor

ORIGINAL

**FILED
HORRY COUNTY**

JUN 23 PM 3:15

**CLARENCE H. ELVIS
CLERK OF COURT
HORRY COUNTY, SC**

DATE RECEIVED FROM

GRAND JURY

STATE OF SOUTH CAROLINA)
)
 COUNTY OF HORRY)

INDICTMENT

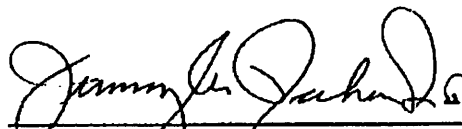
At a Court of General Sessions, convened on June 22, 2017, the Grand Jurors of Horry County present upon their oath:

CRIMINAL SEXUAL CONDUCT WITH A MINOR
SECOND DEGREE

CDR: 0397 16-03-0655(3)

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



JIMMY A. RICHARDSON, II
 FIFTEENTH CIRCUIT SOLICITOR

STATE OF SOUTH CAROLINA)
)
 COUNTY OF HORRY)

INDICTMENT

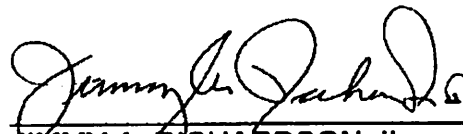
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Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


 JIMMY A. RICHARDSON, II
 FIFTEENTH CIRCUIT SOLICITOR

WITNESSES

Brian Scales Horry County Police Department

Ashley Tolda

ARREST WARRANT NUMBER

2017GS2602831

CDR: 0397 16-03-0655(C)

DOA: 12/15/2016

ACTION OF GRAND JURY

TRUE BILL

Rick Carroll
Foreperson of Grand Jury
Date:

JUN 22 2017

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2017-GS-26-02831

The State of South Carolina

County of Horry

C. Leigh Andrew

17H00100

COURT OF GENERAL SESSIONS

JUNE, 2017 TERM

THE STATE

vs.

Michael John Walton
W/ M

Conway, SC 29526

DOB: [REDACTED]

SSN: [REDACTED]

ATTORNEY: Ralph J. Wilson, Sr.

Indictment for

CRIMINAL SEXUAL CONDUCT WITH A

MINOR

SECOND DEGREE

Jimmy A. Richardson, II, Solicitor

 ORIGINAL

FILED
HORRY COUNTY

2017 JUN 23 PM 3:15

RENEE M. ELVIS
CLERK OF COURT
HORRY COUNTY, SC

DATE RECEIVED FROM
GRAND JURY

NP
5-1-18

STATE OF SOUTH CAROLINA)

COUNTY OF HORRY)

INDICTMENT

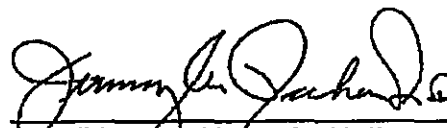
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Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



JIMMY A. RICHARDSON, II
FIFTEENTH CIRCUIT SOLICITOR

WITNESSES

Brian Scales Horry County Police Department

Ashley Jolda

ARREST WARRANT NUMBER

2017GS2602832

CDR: 3661 16-03-0655(C)

DOA: 12/15/2016

ACTION OF GRAND JURY

TRUE BILL

Rich Carroll

Foreperson of Grand Jury

Date: JUN 22 2017

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2017-GS-26-02832

The State of South Carolina

County of Horry

C. Leigh Andrew

17H00100

COURT OF GENERAL SESSIONS

JUNE, 2017 TERM

THE STATE

vs.

Michael John Walton

W/ M

Conway, SC 29526

DOB: [REDACTED]

SSN: [REDACTED]

ATTORNEY: Ralph J. Wilson, Sr.

Indictment for

CRIMINAL SEXUAL CONDUCT WITH A
MINOR - 3RD DEGREE

Jimmy A. Richardson, II, Solicitor

ORIGINAL

FILED
HORRY COUNTY

2017 JUN 23 PM 3:15

RENEE N. ELVIS
CLERK OF COURT
HORRY COUNTY, SC

DATE RECEIVED FROM

GRAND JURY

NP
6-1-18

STATE OF SOUTH CAROLINA)
)
COUNTY OF HORRY)

INDICTMENT

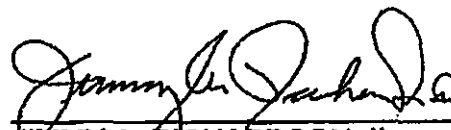
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CDR: 3661 16-03-0655(C)

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



JIMMY A. RICHARDSON, II
FIFTEENTH CIRCUIT SOLICITOR

WITNESSES

Brian Scales Horry County Police Department

Ashley Jolda

DOCKET NO. 2017-GS-26- 02833

The State of South Carolina

County of Horry

C. Leigh Andrew

17H00100

COURT OF GENERAL SESSIONS

JUNE, 2017 TERM

ARREST WARRANT NUMBER

2016A2610701334

CDR: 0397 16-03-0655(C)

DOA: 12/15/2016

ACTION OF GRAND JURY

TRUE BILL

Rich Carroll
Foreperson of Grand Jury

Date:

JUN 22 2017

VERDICT

Foreperson of Petit Jury

Date:

Michael John Walton

W/ M

Conway, SC 29526

DOB: [REDACTED]

SSN: [REDACTED]

ATTORNEY: Ralph J. Wilson, Sr.

Indictment for

Criminal Sexual Conduct with a Minor. Second Degree

Jimmy A. Richardson, II, Solicitor

ORIGINAL

**FILED
HORRY COUNTY**

JUN 23 PM 3:15

**CLERK H. ELVIS
CLERK OF COURT
HORRY COUNTY, SC**

DATE RECEIVED FROM

GRAND JURY

STATE OF SOUTH CAROLINA)
)
 COUNTY OF HORRY)

INDICTMENT

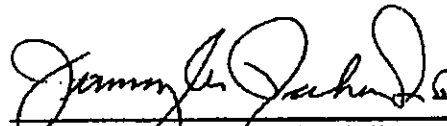
At a Court of General Sessions, convened on June 22, 2017, the Grand Jurors of Horry County present upon their oath:

CRIMINAL SEXUAL CONDUCT WITH A MINOR
SECOND DEGREE

CDR: 0397 16-03-0655(3)

That Michael John Walton did in Horry County, State of South Carolina, on or between the dates of December 1, 2014 and December 14, 2016, willfully and unlawfully commit the crime of Criminal Sexual Conduct with a Minor in the Second Degree by engaging in sexual battery with a minor who was at least fourteen (14) years of age but who was less than sixteen (16) years of age, to wit: [REDACTED] whose date of birth is [REDACTED], and the Defendant was in a position of familial, custodial, or official authority to coerce the victim to submit or was older than the victim, in violation of Section 16-3-655(C) [formerly Section 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.



JIMMY A. RICHARDSON, II
 FIFTEENTH CIRCUIT SOLICITOR

STATE OF SOUTH CAROLINA

COUNTY OF Horry
STATE VS.

Michael John Walton

AKA:

Race: WHITE Sex: M Age: 58DOB: [REDACTED]SS#: [REDACTED]Address: [REDACTED]City, State, Zip: Conway, SC 29526DL#: [REDACTED]SID#: [REDACTED]*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was
TO: Criminal Sexual Conduct w/ Minor 2nd Degree < 160-20 yrs Sex Offender Reg. 247
IN THE COURT OF GENERAL SESSIONSINDICTMENT/CASE#: 2017GS2602833A/W#: 2016A2610701334Date of Offense: 1/20/2016S.C. Code §: 16-03-0655(C)CDR Code #: 0397

SENTENCE SHEET

☐ CONVICTED OF or ☒ PLEADSin violation of § 16-03-0655(C) of the S.C. Code of Laws, bearing CDR Code # 0397☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45The 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. 20 yrsATTEST: C. Leigh 72898 Andrew, C. Leigh SC Bar# 6176 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 16 days/months/years or ☐ under the Youthful Offender Act not to exceed X years
and/or to pay a fine of \$ X; provided that upon the service of X days/months/years and/or payment
of \$ X; plus costs and assessments as applicable*; the balance is suspended with probation for Xmonths/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 16-25-20 (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)

§ 14-1-211(A)(2) (DUI Surcharge)

§ 56-5-2995 (DUI Assessment)

§ 56-1-286 (DUI Breath Test)

Proviso 61.6 (Public Def Probation)

§ 14-1-212 (Law Enforce. Funding)

§ 14-1-213 (Drug Court Surcharge)

§ 50-21-114 (BUI Breath Test Fee)

§ 56-5-2942(J) (Vehicle Assessment)

3% to County (if paid in installments)

\$

\$

\$100

\$

\$100

\$

\$12

\$

\$25

\$

\$500

\$

\$25

\$

\$150

\$

\$50

\$

\$40/ea

\$

\$3.75

TOTAL

\$128.75 + \$40.00 =

\$168.75

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (07/2016)

Renee N. Ellis

Natalee Dahl

Presiding Judge

Judge Code:

Sentence Date:

M. J. [Signature]

2148

April 26, 2018

FILED
Horry County
2018 APR 26 PM 3:04

STATE 048 SOUTH CAROLINA

COUNTY OF
STATE

Horry

VS.

Michael John Walton

AKA:

Race: WHITE Sex: M Age: 58

DOB: [REDACTED] SS#: [REDACTED]

Address: [REDACTED]

City, State, Zip: Conway, SC 29526

DL#: [REDACTED] SID#: [REDACTED]

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

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

TO: Criminal Sexual Conduct w/ Minor 2nd Degree < 16

INDICTMENT/CASE#: 2017GS2602833

A/W#: 2016A2610701334

Date of Offense: 1/20/2016

S.C. Code § : 16-03-0655(C)

CDR Code #: 0397

SENTENCE SHEET

☐ CONVICTED OF or ☒ PLEADS

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

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45The 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. 2040ATTEST: C. Leigh
Andrew, C. Leigh

72898

SC Bar#

Defendant

Attorney for Defendant

6176
SC Bar#WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of 16 days/months/years or ☐ under the Youthful Offender Act not to exceed X years
and/or to pay a fine of \$ X; provided that upon the service of X days/months/years and/or payment
of \$ X; plus costs and assessments as applicable*; the balance is suspended with probation for Xmonths/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
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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	\$100.00
§ 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)		\$3.75

TOTAL

\$128.75 + \$40.00 =

\$168.75

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (07/2016)

Renee N. Ellis

Natalie Dahl

Presiding Judge

Judge Code:

Sentence Date:

M. J. Calhoun

2148

April 26, 2018

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 \$ 25.00 beginning 8/26/2018

\$ paid to Public Defender Fund

Other:

☐ 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.FILED
Horry County
2018 APR 26 PM 4:04