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S.C. Supreme Court

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Richland County

James R. Barber, III, Circuit Court Judge

JAYMES M. WOOD,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2013-002543

APPENDIX

SUSAN B. HACKETT
Appellate Defender

South Carolina Commission on Indigent
Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

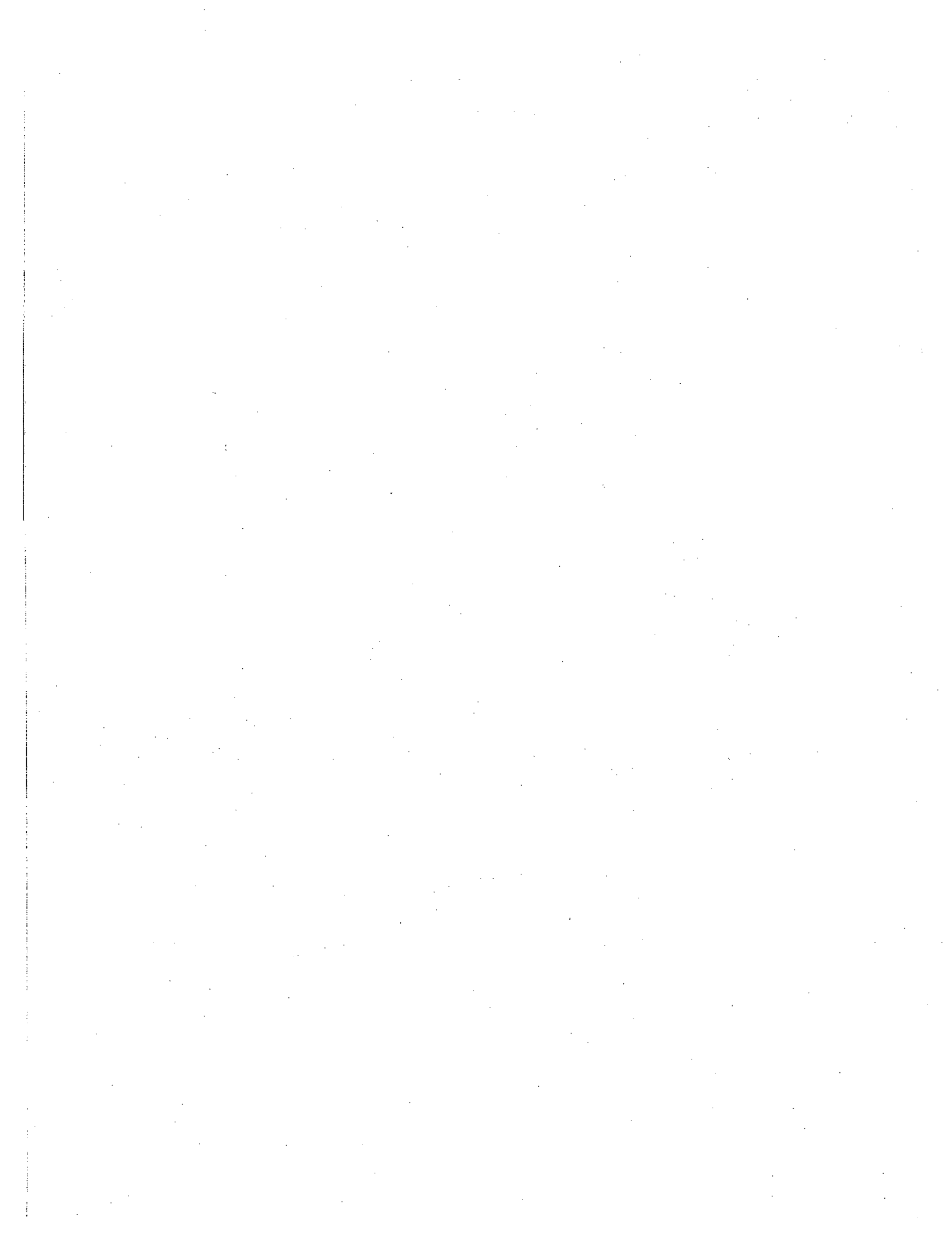
ATTORNEY FOR PETITIONER

ALAN WILSON
Attorney General

MEGAN HARRIGAN
Assistant Attorney General

P. O. Box 11549
Columbia, SC 29211

ATTORNEYS FOR RESPONDENT



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STATE OF SOUTH CAROLINA)	IN THE COURT OF GENERAL SESSIONS
)	FIFTH JUDICIAL CIRCUIT
COUNTY OF RICHLAND)	2007-GS-40-7907

THE STATE OF SOUTH CAROLINA,)
)
) PLAINTIFF,)
)
) VS.)
)
 JAYMES WOODS,)
)
) DEFENDANT.)

TRANSCRIPT OF RECORD

DECEMBER 9, 2008
COLUMBIA, SOUTH CAROLINA

B E F O R E:

THE HONORABLE KENNETH G. GOODE, JUDGE

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

MARGARET FENT, ESQUIRE, ASSISTANT SOLICITOR
ATTORNEY FOR THE STATE

LUKE A. SHEALEY, ESQUIRE
ATTORNEY FOR THE DEFENDANT

ELIZABETH B. HARRIS, CVR
CIRCUIT COURT REPORTER

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NO EXHIBITS INTRODUCED.

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J. WOODS - EXAMINATION BY THE COURT

3

1 (PRIOR TO THE GUILTY PLEA, DEFENDANT IS DULY SWORN.)

2 THE COURT: Yes, ma'am.

3 MS. FENT: Standing before you, Your Honor, is the
4 defendant, Jaymes Woods, and he's represented by Luke
5 Shealey of the public defender's office. Defendant is
6 pleading guilty to criminal sexual contact with a minor in
7 the second degree.

8 THE COURT: Any plea negotiations?

9 MS. FENT: No, Your Honor.

10 EXAMINATION BY THE COURT:

11 Q. You're Jaymes Woods?

12 A. Yes, sir.

13 Q. Mr. Wood [sic], you're charged, as indicated by the
14 solicitor, your indictment 07-907 states in pertinent part
15 that you did in Richland County on or about August 4th of
16 '07 willfully, unlawfully, and feloniously engage in a
17 sexual battery against Minor [REDACTED] who was at least
18 fourteen years of age but less than sixteen: to wit, that
19 you did have oral sex. The defendant and the victim did
20 perform oral sex, and the defendant, being older than the
21 victim, he was in a position of familial, custodial, or
22 official authority to coerce said victim. And for this, I
23 could sentence you up to twenty years. Do you understand
24 the charge and the possible punishment?

25 A. Yes, sir.

J. WOODS - EXAMINATION BY THE COURT

4

1 Q. Understanding the charge and the possible punishment,
2 how do you plead, guilty or not guilty?

3 A. Guilty, sir.

4 Q. Do you understand that when you plead guilty, you
5 waive and give up your constitutional right to remain
6 silent, have a jury trial, and confront the witnesses
7 against you?

8 A. Yes, sir.

9 Q. Has anyone promised you anything or threatened you in
10 any manner in order to induce you to plead guilty?

11 A. No, sir.

12 Q. Have you been fully satisfied with the manner in which
13 your attorney has advised and represented you?

14 A. Yes, sir...

15 Q. Has he done everything in your behalf that you feel
16 that he could have or should have done?

17 A. Yes, sir.

18 Q. Are you entering this plea of your own free will and
19 accord?

20 A. Yes, sir.

21 Q. Thank you.

22 THE COURT: Madame Solicitor, I'll be happy to hear a
23 factual basis.

24 MS. FENT: Thank you, Your Honor. This occurred back
25 in August, on August 4th of 2007 at [REDACTED] at an

1 apartment complex in Richland County. The defendant at the
2 time was nineteen years of age. The victim was fourteen
3 years of age, and the victim was with some friends and she
4 went over to that apartment complex where some of her
5 friends lived.

6 It was while she was there at that apartment that the
7 defendant approached the victim and whispered to her: For
8 right now, you're going to be eighteen. They proceeded
9 together. The victim got up, went into another room of the
10 apartment. The defendant followed her. At that time, then
11 the fourteen year old and the defendant began to be
12 intimate, and the victim performed oral sex on the
13 defendant. At which point he said: I know you're fourteen,
14 but I like your age.

15 It was later learned that another girl at that
16 apartment had taken photos with her cell phone of the
17 sexual act, and those photos were later sent out to other
18 individuals of the victim and the defendant engaged in
19 that.

20 There are other individuals, aside from his own
21 admission, that she was fourteen years of age. There are
22 other witnesses that would attest that the defendant was
23 aware of exactly how old she was at the time. The
24 defendant also gave a written statement admitting to
25 receiving oral sex, receiving oral sex from the victim.

1 That's the extent of the facts, Your Honor. At the
2 appropriate time, I have his record, and the victim's mom
3 would like to address the court.

4 THE COURT: Okay. Just one moment, please, ma'am.

5 Mr. Woods, you heard the solicitor state the facts
6 that led to your arrest and indictment. Do you agree that
7 the facts stated by the solicitor are material --
8 materially accurate and correct?

9 DEFENDANT: Yes, sir.

10 THE COURT: All right, I find there is a substantial
11 factual basis for the plea. I find the defendant's
12 decision to plead guilty freely, voluntarily, knowingly,
13 and intelligently made, and he's had the advice and counsel
14 of very competent attorney. Plea of guilty is accepted.

15 Be happy to hear from his mom and his criminal
16 history.

17 MS. FENT: The victim's mom is standing up here.

18 MS. SCARBOROUGH: Good afternoon, Your Honor. My name
19 is Jennifer Tatum Scarborough; I am the victim's mother.

20 The defendant has known my family for many years. Has
21 known my daughter, the victim, since she was ten. He
22 started, he started trying to contact her the very week
23 that he was released from incarceration. I told him and
24 his friends specifically on the telephone not to contact my
25 daughter. That she had just within a week or within a

1 month had turned fourteen. He continued contact -- trying
2 to contact her.

3 I stopped the defendant in the neighborhood and spoke
4 with him person to person and explained to him my daughter
5 had just turned fourteen. And that if he laid a hand on
6 her, Richland County would be dealing with him. He agreed.
7 He was very polite at the time, called me ma'am. Acted
8 like he respected me.

9 The way -- the day of the incident, he called her
10 older sister and said how old is [minor]. Her older sister
11 said she's only fourteen. Stay away from her. And at that
12 time he stated it doesn't matter anyway.

13 My daughter, my older daughter called me. I
14 immediately called [minor], went and picked her up. I did
15 not know she was at that residence. She was supposed to
16 have been at the grandfather's home of the friend that she
17 was with. When I picked her up, I said Jaymes is looking
18 for you and brought her home. I was unaware of any
19 incident at that time.

20 The way I became aware of it, Your Honor, was the text
21 picture which was sent out to God only knows how many
22 people. Now when I'm at the high school, when I'm in my
23 neighborhood which my family has lived in for forty years,
24 I don't know who has seen this picture.

25 And it haunts my daughter as well as myself and my

1 daughter who saw the picture. It has caused us all great
2 trauma. My daughter **minor** has just finished counseling.
3 At one point, she was seeing two counselors a week.

4 THE COURT: How old is she now, please, ma'am?

5 MS. SCARBOROUGH: She is now fifteen and a half. She
6 turned fifteen in June. She was on Prozac, which we
7 removed her from during -- when she finished counseling but
8 was then placed on anti-anxiety medication.

9 This will affect her her whole life. This will affect
10 any relationship she plans to have in her future because
11 not only -- he wasn't a stranger who violated her, Your
12 Honor. He was what we thought was a family acquaintance, a
13 family friend. He went to school with her older sister, so
14 she was violated twice. One, because it was a violation
15 and two, because it was someone that she knew and at some
16 point trusted as a family friend.

17 And again, we don't know how many people this was
18 texted out to. And this will haunt her and torment her for
19 a very long time. And I just ask the court since this is
20 not his first offense -- he did have a sexual encounter
21 with a thirteen-year-old girl who happened to be a friend
22 of my daughter's, so I knew of his history. That's why my
23 daughter was not allowed to be anywhere near him. And knew
24 his intention, but he targeted my daughter, and that's what
25 he did. He targeted my daughter. And I ask that the court

1 gives him the max, the maximum allowed because if he's let
2 out, he will do it again by his own admission.

3 THE COURT: Thank you, ma'am.

4 Is there anyone else that would like to speak?

5 MS. FENT: Yes, sir. With regard to his prior record,
6 he was previously charged with the same offense, a CSC with
7 a minor in the second degree. In 2004, he was allowed to
8 plead to a reduced charge of assault and battery of a high
9 and aggravated nature. He was placed on probation. While
10 he was on probation for that ABHAN, he was charged with
11 burglary in the first degree. In 2006, he was allowed to
12 plead to a reduced charge of burglary in the second degree,
13 where he again was placed on probation. And it was while
14 he was on probation for that burglary in the second degree
15 that he then picked up this offense.

16 And it is because of the fact that this is the second
17 time he has committed a criminal sexual conduct with a
18 minor in the second degree and his inability to comply with
19 probation. Simplest is, you know, not to commit any more
20 offenses, but then to go out and commit another offense
21 against a minor. We are asking for a jail sentence of at
22 least ten years.

23 THE COURT: Thank you, ma'am.

24 Be happy to hear from you.

25 MR. SHEALEY: Thank you, Your Honor. May it please

1 the court? Mr. Woods, as the state did mention, he was
2 nineteen at the time of this incident. The victim was
3 fourteen. He's now twenty. Your Honor, from what I've
4 gleaned from this discovery, it's a situation that, you
5 know, had ages been different, isn't something that would
6 be too uncommon.

7 You got unsupervised, unsupervised high schoolers
8 basically hanging out after school. As the discovery
9 mentions, they were at a house, mutual friend. Mr. Woods
10 was there, and then the victim and one of her friends came
11 to this house, to all accounts, to hang out with their
12 mutual friends. And the victim, based on discovery and
13 testimony, had some type of romantic crush on Mr. Woods.

14 Your Honor, at that point, based on all the testimony,
15 he knew. He admits here freely. He knew that she was
16 fourteen, and that's, that's not an age where this type of
17 activity can happen whatsoever. I don't -- I want to say
18 that outright. That, you know, we're not trying to
19 diminish that aspect. That absolutely makes what happened
20 illegal in our state.

21 But what happened there, I want to just state for the
22 record there was absolutely nothing forcible. There was no
23 coercion. From all accounts from the four or five
24 witnesses that were there and gave, and gave statements
25 that she was interested in him. He, you know, misguidedly

1 in an act of poor judgment reciprocated. There was
2 kissing, and then later she did perform this oral sex act
3 on Mr. Woods, and that was the extent of it.

4 I would like to make clear for the record in terms of
5 this, this cell phone picture that is being talked about,
6 this was not something that my client anticipated. It was
7 something that was taken apparently. I've never seen it.
8 I never heard of it in discovery, but it was something that
9 was taken apparently while this act was going on. Well, he
10 had no part in any of this dissemination, if there was any
11 or whatever happened with the cell phone picture, and he
12 feels bad about that, Your Honor.

13 But it was, it was something that happens every day,
14 but when you're fourteen and not of age, you get in trouble
15 for it, and Mr. Woods knows that. I do want to say that
16 there was absolutely no coercion or anything like that.

17 I do have -- and as to Mr. Woods, he has -- he knows
18 this will put him on the Sex Offender Registry. That's
19 going to haunt him the rest of his life. He has been
20 attending sex offender classes while incarcerated. He's
21 been incarcerated sixteen months. He's also tried to
22 better himself.. He got his GED.

23 And I have a very strong contingent of his friends and
24 his family here, and I know a couple or three of them would
25 address the court briefly if you will allow it, Your Honor.

1 And those would be his pastor, his father, and a very close,
2 family friend, Your Honor.

3 THE COURT: Be happy to hear from them.

4 MR. RAILEY: Judge, I've been -- I was his pastor for
5 about ten years when his family was a part of our
6 congregation. I've been in ministry thirty-two years
7 full-time. I was a youth pastor for a good portion of that
8 time, and so I have been involved in counseling youth a
9 good portion of my ministry.

10 As the attorney said, this is something that is
11 unfortunate, something that was not use of good wisdom, was
12 poor misjudgment on his part. Jim grew up with one of my
13 sons and was in and out of our home on a regular basis, as
14 well as the congregation at the church. And fortunately,
15 young people -- I know you see every day people who are
16 affected by either parenting was tough love that was
17 displayed, or parenting that was unconditional love that
18 was never really the mix of the two where there was tough
19 love and there was also consequences when their actions
20 took place:

21 And I'm here basically to represent a group of people
22 who -- families who are willing to and agree to on a
23 continuing basis be a friend to Jimmy. Be counseling him,
24 and to see Jim walk through the process of not only
25 counseling from both a psychological standpoint but a

1 spiritual standpoint, and see him walk out and remain in
2 society as a positive member of society. So, that's our
3 position, and that's why I'm here as his pastor: to
4 represent him in that regard.

5 COURT REPORTER: Excuse me, Judge, could I have his
6 name, please?

7 THE COURT: I'm sorry?

8 COURT REPORTER: I need his name, please.

9 THE COURT: Thank you. If I could have ---

10 MR. RAILEY: Greg Railey.

11 THE COURT: --- your name, reverend? Your name?

12 MR. RAILEY: Greg Railey, R-a-i-l-e-y.

13 MR. WOODS: Your Honor, I'm Mike Woods, Jaymes's
14 father. I just concur with Pastor Greg on everything he
15 said. Jim was, he was raised in a good home. He just made
16 some bad, bad judgment errors here. We'd just ask that the
17 court be lenient on this sentence. Thank you, Judge.

18 THE COURT: Thank you, Mr. Woods.

19 MR. MOSELEY: Your Honor, I'm Jim Moseley. I'm in the
20 same church. I know the -- I know his father, Mike, and
21 his step mom, pastor very well. I know Jimmy very well. I
22 know Jimmy's very good hearted. I know prior to
23 incarceration, he was working on a building crew building
24 homes and everything. And since he's been incarcerated,
25 he's gotten his GED. He's finished, I believe, a plumbing

1 and carpentry course, I believe.

2 And he is -- we just want to see him back and back in
3 society. He's such a good-hearted kid. He, he's still
4 young. Things happen. We've all done dumb things, but I
5 just think he's just a wonderful kid. If I could do
6 anything for him when he's out -- give him money, help him
7 get cars -- anything I can do for him, I stand willing to
8 do that. All of us feel that way. We think a lot of him.
9 We just thank the court for hearing our comments. Thank
10 you.

11 MR. SHEALEY: And he's got other family here who won't
12 address the court, but just, Your Honor, just to, just to
13 sum this up.

14 THE COURT: Well, let me -- the last gentleman, I
15 don't want to embarrass you, and that's not my purpose or
16 cause. Do you have a female child? Yes, sir.

17 MR. MOSELEY: Yes, sir. I do have a daughter twenty
18 years old, same as Jimmy.

19 THE COURT: And you feel comfortable with them
20 together?

21 MR. MOSELEY: I'm a hundred percent confident in
22 Jimmy's morals; sir.

23 THE COURT: Sir?

24 MR. MOSELEY: I'm a hundred percent confident in
25 Jimmy's morals. He's a good kid. I've had no problem with

1 my daughter being alone ---

2 THE COURT: And it hadn't been a problem with them
3 being alone together for extended periods?

4 MR. MOSELEY: Yes, sir. I'd be, I'd be, I'd be
5 comfortable with that.

6 THE COURT: Thank you.

7 MR. SHEALEY: Just, Your Honor, what I'd want to ask
8 for in terms of a sentence, I know the solicitor has spoken
9 her piece and asked for ten years based on his record and
10 what the facts are before you. I would just ask
11 considering the fact that there's -- considering that
12 there's nothing violent here, coercive. It's just simply
13 that she was too young, and he made an error in judgment.

14 I would ask that you consider a short, active sentence
15 in the range of three years, Your Honor. He will be on the
16 Sex Offender Registry and Community Supervision once -- if
17 he gets out, Your Honor. So, I'd just ask you to consider
18 that. And he's got a good family that loves him and has a
19 massive support network for him.

20 PROBATION AGENT: Your Honor, may I approach?

21 THE COURT: Yes, sir.

22 PROBATION AGENT: I apologize. I was not aware of
23 this plea going today, but he is currently on probation,
24 and we also wanted to take care of his pending charges
25 along with his probation rev if it was okay with you, Your

1 Honor.

2 MR. SHEALEY: Your Honor, that's not correct. He's on
3 a YOA sentence. He was revoked and did his ten months at
4 Turbeville based on this allegation. He was not entitled
5 to a lawyer. That was done in-house, so this plea -- you
6 know, I don't handle the Youthful Offender stuff, and he's
7 already been revoked based on this allegation. So, as far
8 as I know, he doesn't have any new pending charges or
9 warrants. That's what's going on.

10 PROBATION AGENT: Your Honor, well, the -- that is
11 correct that if he had a YOA sentence, that would have been
12 handled in-house. However, the probation for the burglary,
13 his agent basically submitted all of -- submitted his
14 paperwork to address any violations along with this plea
15 today, Your Honor, so that everything could be handled at
16 once.

17 MR. SHEALEY: And like I said, Your Honor, there
18 aren't any violations. He wasn't on probation. His
19 probation was converted to an active YOA sentence. He was
20 on YOA parole and has been revoked.

21 PROBATION AGENT: Your Honor, though this plea might
22 not necessarily constitute a violation if this occurred
23 before he was on probation, it doesn't mean that he doesn't
24 have any probation violations that occurred while he was on
25 probation. And so, therefore, we would like to address

1 those violations, Your Honor.

2 MR. SHEALEY: And I don't have a report and have no
3 knowledge of this, so, you know, that ain't good enough. I
4 would have to disagree with the agent here.

5 THE COURT: I'll make this simple. I'll terminate his
6 probation on the current charges. All due respect, he said
7 it wasn't a violent situation. You know, I consider it
8 just absolutely one of the most violent situations. I have
9 a twenty-six year-old daughter who was violated at Girl
10 Scout camp when she was eight. She hasn't recovered from
11 that yet.

12 MR. SHEALEY: Yes, sir.

13 THE COURT: So, it's violent in my eyes, and
14 unfortunately for Mr. Woods, it's my eyes that count today
15 in a way that exceeds some type physical injury.

16 SENTENCE OF THE COURT:

17 THE COURT: You're young. You already have amassed a
18 substantial history of violence toward others. Sentence of
19 the court -- as I said, we've terminated the probation, and
20 any monetary sums are converted to civil judgement. And
21 sentence is fifteen years.

22 MR. SHEALEY: Thank you, Your Honor.

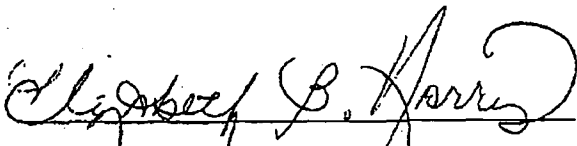
23 MS. FENT: Thank you, Your Honor.

24 --- END OF TRANSCRIPT OF RECORD ---

CERTIFICATE

I, THE UNDERSIGNED ELIZABETH B. HARRIS, CERTIFIED
VERBATIM OFFICIAL COURT REPORTER FOR THE FIFTH
JUDICIAL CIRCUIT OF THE STATE OF SOUTH CAROLINA, DO
HEREBY CERTIFY THAT THE FOREGOING IS A TRUE, ACCURATE
AND COMPLETE TRANSCRIPT OF RECORD OF ALL THE
PROCEEDINGS HAD AND EVIDENCE INTRODUCED IN THE HEARING
OF THE CAPTIONED CAUSE, RELATIVE TO APPEAL, IN THE
CIRCUIT COURT FOR RICHLAND COUNTY, SOUTH CAROLINA, ON
THE 9TH DAY OF DECEMBER, 2008.

I DO FURTHER CERTIFY THAT I AM NEITHER OF KIN,
COUNSEL, NOR INTEREST IN ANY PARTY HERETO.


ELIZABETH B. HARRIS, CVR

COLUMBIA, SOUTH CAROLINA

SEPTEMBER 27TH, 2009

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

The State of South Carolina,)

Jaymes Michael Wood,)
Defendant.)

COURT OF GENERAL SESSIONS
FIFTH JUDICIAL CIRCUIT
Warrant Number: I936670

NOTICE OF MOTION AND MOTION
TO RECONSIDER SENTENCE

C.C.C. & G.S.

2008 DEC 12 AM 9:45

FILED

TO: Assistant Solicitor Anna Good
Cc: Kenneth G. Goode, Circuit Court Judge
Elizabeth Levy, First Assistant Solicitor

WILL YOU PLEASE TAKE NOTICE that on December 15, 2008, or as soon thereafter as
Counsel may be heard, the Defendant will move, through his attorney Luke Shealey,
before the Court for reconsideration of the sentence imposed by the Honorable Judge
Kenneth G. Goode, on December 9, 2008.

Respectfully submitted


Luke Shealey
Attorney for Defendant

The 11th day of December, 2008

STATE OF SOUTH CAROLINA)
) GENERAL SESSIONS

County of Richland) NO

STATE OF SOUTH CAROLINA,

vs.

TRANSCRIPT OF RECORD

JAYMES WOOD,

DEFENDANT,

December 9, 2009
Columbia, South Carolina

BEFORE:

THE HONORABLE ALISON RENEE LEE, JUDGE.

APPEARANCES:

ANNA GOOD, ASSISTANT SOLICITOR
Attorney for the State

LUKE SHEALEY, ASSISTANT PUBLIC DEFENDER
Attorney for the Defendant

KAREN TRACY
Official Court Reporter

C O N T E N T S

INDEX OF EXHIBITS:

(There were no exhibits introduced.)

INDEX OF WITNESSES:

(There were no witnesses called.)

1 THE COURT: Yes, sir, Mr. Shealey. Is this your
2 motion?

3 MR. SHEALEY: Yes, sir, Your Honor.

4 THE COURT: Yes, sir.

5 MR. SHEALEY: Thank you, Your Honor. May it please
6 the Court.

7 This is a motion to reconsider. Just for a little
8 procedural background, it was heard by Judge Goode in
9 December of last year.

10 I filed a motion to reconsider. I've been waiting to
11 get it heard. At first I thought it had to be heard by
12 Judge Childs. She said no; it was scheduled before you.

13 Your Honor, what's going on in this case is he
14 received a 15-year sentence on criminal sexual conduct
15 second degree.

16 Your Honor, at this time that case was heard, and I
17 believe Assistant Solicitor Fent was filling in for
18 Ms. Good, but the facts of that case were essentially,
19 according to the defense, that Mr. Wood was a friend,
20 acquaintance of the victim.

21 It was a 14-year-old young woman, and they were all
22 hanging out essentially unsupervised with multiple friends
23 after school.

24 It was a mutual crush, if you will, that led to him
25 having oral sex performed on him by the -- by the young

1 woman.

2 Obviously, this is -- him being 19 at the time, her
3 being 14, that's illegal in our state, Your Honor.

4 Mr. Wood came before the Court in front of Judge
5 Goode admitting guilt to that, Your Honor. What I brought
6 up at the time is that there was absolutely no incidence
7 of coercion, no violence, no force.

8 By all witness accounts, this was just kids after
9 school like many are, but it's a crime because of the
10 difference in the age when they're unsupervised.

11 Your Honor, at the time -- one thing I think I'd like
12 to add to the Court, and partly why I'm here, is at that
13 time, it was the day before Judge Goode had heard the case
14 of Felicia Smith, which he was -- involving Kendra Smith,
15 who was assaulted by a day care worker and had bleeding on
16 the brain, and she received a probationary sentence.

17 The reason I bring that up, and I think it's
18 important today, is that Judge Goode was roundly attacked
19 by the media, criticized. There's multiple newspapers
20 accounts of this throughout even this year, so much to the
21 effect that Kendra's family comes to court.

22 They have sponsored Kendra's Law to impose stiffer
23 penalties for this type of offense, and in that crush of
24 media attention, I pled Mr. Wood, the very next case, the
25 very next day, with the very same solicitor.

1 Your Honor, at that time, you know, the pressure of
2 this caused Judge Goode to be questioned by lawmakers, to
3 question his re-election, and ultimately, in my opinion, I
4 think he retired due to this media crush.

5 Your Honor, I think at the time of the plea, and I do
6 have a transcript if you'd like me to pass it up. Your
7 Honor, the State asks after their recitation of the facts
8 for a sentence of ten years.

9 Your Honor, I asked for a sentence of three years
10 considering the facts that I didn't feel were violent or
11 coercive but were illegal due to a difference in age.

12 At that time, Judge Goode told me that he had a
13 daughter who was violated, and that was a horrible case to
14 him regardless of the facts.

15 At that time, I think I should have tried to
16 withdraw, but I didn't. Be that as it may, we went
17 forward, and he sentenced James Wood to 15 years -- I
18 mean, 15 years, five years even higher than what the State
19 asked for at that time.

20 Your Honor, he was a young man at that time who had
21 an A.B. H.A.N. on his record and a burglary second on his
22 record.

23 I think given these specific facts, not being
24 coercive, unsupervised children after school doing what
25 many do but can be illegal if you're 16, Your Honor, I

1 think that it didn't deserve a 15-year sentence.

2 I hate that it came to this. I think that Judge
3 Goode is human just like everybody else. He's not
4 impervious to the pressures of the outside world.

5 Unfortunately, that case the day before had massive
6 media attention, and it ultimately led to his retirement.
7 I was just unlucky enough, and Mr. Wood was unlucky enough
8 to be the next case called the following day.

9 I don't think he deserves 15 years. I would ask you
10 to consider something less, even if it's what the State
11 originally asked for, which is 10 years.

12 If I may pass up the transcript, Your Honor. I've
13 got a copy for Ms. Good.

14 Your Honor, he's got his whole family here, Mike
15 Wood, his father, friends of the family, his mother, other
16 friends of the family.

17 And at the appropriate time, I think Mr. Wood and
18 Mr. Mosley would like to speak about they -- about what
19 James means to them, but I would just ask that you simply
20 consider something less than 15.

21 I think it's a case of serious media pressure, a
22 pressure cooker that Mr. Woods walked right into the next
23 day. I ask that you allow them to speak at the
24 appropriate time.

25 THE COURT: And I'll come back to them in just had

1 moment.

2 Ms. Good?

3 MS. GOOD: Thank you, Your Honor. The State paints a
4 very different picture of the facts of this case, Your
5 Honor.

6 To start off with, I'd like to give you a little --
7 the facts of the case that were presented that day.
8 Basically, the victim was friends with the defendant.
9 They were at this apartment. He was 19. She was 14 years
10 old, Your Honor.

11 The A.B. H.A.N. that was on his record that
12 Mr. Shealey indicated is actually -- the original charge
13 was C.S.C. with a minor second with a different victim,
14 Your Honor.

15 He was allowed to plead down to the A.B. H.A.N.
16 While on probation for that, he was charged with burglary
17 first degree where he was allowed to plead down to
18 burglary second degree, and he received probation. It was
19 while on probation for those two charges he committed
20 offense.

21 At the time, Your Honor, the defendant approached the
22 victim and whispered to her, "For right now, you are going
23 to be 18." He was very aware of her age.

24 As they proceeded together into the laundry room
25 where they began to have oral sex, he looked at the victim

1 and said, "You're 14, I know, but I like your age."

2 It's our position, Your Honor, that was more of an
3 intent what he was trying to do. It wasn't the fact they
4 were just friends. It's that he does like the younger
5 girls, Your Honor, along with the fact he does have a
6 prior arrest on his record and conviction for the A.B.
7 H.A.N.

8 In addition, Your Honor, as for the stuff about Judge
9 Goode, it's our position that these facts warranted the
10 15-year sentence.

11 If you look on page nine of the transcript, we did
12 not ask for ten years. We asked for a sentence of at
13 least ten years, Your Honor.

14 So it's our position that the 15 years is a very
15 appropriate sentence considering the facts of this case.
16 Talisha Smith has nothing to do with the facts of this
17 case.

18 At the time on December 9th that these facts were
19 presented, there is nothing new that has been added here
20 today that Mr. Shealey did not know that day, so we would
21 ask that you deny the motion.

22 The victim's mother, Jennifer Tatum, is here, Your
23 Honor. At the appropriate time, she would also like to
24 address the Court, and she was here that day and addressed
25 the Court, Your Honor.

1 MR. SHEALEY: Your Honor, may I respond briefly?

2 THE COURT: I'll -- I'll give you a chance to respond
3 in just a moment. I'll hear from the victim's mother, and
4 I'll hear from you, and I'll hear from the defense. That
5 would be easier.

6 MS. GOOD: Thank you, Your Honor. Jennifer Tatum.

7 THE COURT: Yes, ma'am.

8 VICTIM'S MOTHER: Yes. Thank you for hearing me.

9 Mr. Woods did know my daughter, and he knew her older
10 sisters, so he was very -- he went to school with her
11 older sisters. He was very aware of her age.

12 He targeted my daughter. The very weekend -- the
13 previous victim is another young lady in the neighborhood,
14 was a friend of my daughter's. So we knew that he had
15 already offended.

16 I knew that he was locked up. I didn't know for
17 what. The very weekend that he got out of jail is when he
18 started calling my daughter.

19 My daughter, fortunately, was out of state for two
20 weeks. During that two weeks, there were numerous phone
21 calls to my house, to my older daughter's cell phone
22 asking for **minor**. He had friends calling. They were
23 all told not to contact my daughter; that she had just
24 turned 14.

25 I personally saw Mr. Woods in my neighborhood. I

1 stopped my car as he was walking. I called him over to my
2 car. He approached me very politely by name, as he knew
3 me, and I told him explicitly, "My daughter is only 14.
4 Stay away from her."

5 On the very day of the incident, he called my older
6 daughter and asked how old my youngest daughter was. She
7 said, "She has just turned 14. Stay away from her."

8 He said, "It doesn't matter anyway."

9 She called me. I immediately called minor. I went
10 to pick her up from a friend's house. I did not know he
11 was there. I didn't know when he picked her up that he
12 was there.

13 During the -- during the actions, cell phone pictures
14 were taken. They were texted out to God knows how many
15 people, which is how I found out, by another friend of my
16 older daughter's. She was shown the picture.

17 I was shown the picture of my daughter engaged in
18 this. It was not consensual. She did not have a mutual
19 crush. He targeted my daughter.

20 She was out of state for two weeks, and he still got
21 ahold of her. When she came home, she was in therapy.
22 She just finished therapy right as she turned 16, which is
23 this year.

24 She is still on stress medication, as well as I am
25 and her older sisters. We don't know how many people in

1 the neighborhood saw this picture as it was texted out to
2 whoever was on the phone list of the young lady who took
3 the picture.

4 She was not prosecuted because she -- we could not
5 prove that she sent the picture, although she admitted to
6 taking those.

7 This was not just a bunch of teenagers getting
8 together and them sneaking off to a room. She was, you
9 know, targeted.

10 I asked the judge that day for a sentence greater
11 than ten years, because he targeted young ladies. In his
12 own adjudication that day, he stated that 14 is his
13 preferred age.

14 My daughter will have to deal with this the rest of
15 her life. It took over a year for her to allow her own
16 father to hug her. The mere touch of her brother on the
17 arm or -- or just any simple gesture would make her freeze
18 up and begin to shake.

19 I don't feel that Judge Gold's -- or Goode's
20 personal, you know, description -- I don't feel that had
21 any bearing at all on his -- on his verdict. I believe
22 that 15 years given is very deserved, because the day he
23 gets out, there will be another 14 or 15 year old out
24 there that he goes for.

25 Thank you.

1 THE COURT: Thank you. And your name is
2 Ms. Scarborough, Jennifer?

3 VICTIM'S MOTHER: I'm Jennifer Tatum-Scarborough.

4 THE COURT: Jennifer Tatum-Scarborough. Thank you.

5 MS. GOOD: That's all from the State, Your Honor.

6 THE COURT: Thank you.

7 Okay. Mr. Shealey?

8 MR. SHEALEY: Just briefly, Your Honor.

9 I understand and appreciate how difficult the
10 situation is for the victim's families and things like
11 that. This is why this was never going to be a trial,
12 Your Honor.

13 The age, the discrepancy in age, is what makes this
14 illegal, 14 and 19, and he confessed to that. We never
15 presented any type of case that he didn't know her age.
16 He admitted that.

17 He confessed his sins in court in front of Judge
18 Goode. This was never a case that he did not know her
19 age.

20 The reason why I brought up the scenario where they
21 were unsupervised after school doing what high school kids
22 do is because it was not a situation of perversion or
23 coercion or violence.

24 He came to the house where she was. There were many
25 teenagers there. This picture that's being referenced, I

1 don't think, is material to the case. Another teenager
2 took a picture of that. It had nothing to do with him.
3 He didn't instruct that. This is what teenagers goofing
4 off unsupervised after school will do.

5 Your Honor, he never tried to deny that this was
6 wrong or this was criminal. He came and pled guilty, and
7 based on his record, for whatever reason the prior record
8 was introduced, A.B. H.A.N., burglary.

9 We asked for a sentence of three years that day. The
10 State asked for at least ten, and both families spoke,
11 Your Honor.

12 I don't think that we live in a vacuum,
13 unfortunately. I think that as hard as we might try, the
14 media pressure did play a hand in this case, Your Honor.
15 That is why I respectfully would ask for some lesser
16 sentence, and I think his family would like to address the
17 Court at the appropriate time.

18 THE COURT: And I'll hear from them at this time.

19 If you will come forward to the microphone and state
20 your name, please.

21 Is there a microphone over there?

22 MR. SHEALEY: There used to be. There used to be one
23 over there.

24 THE COURT: That's okay.

25 MR. SHEALEY: Just speak loud enough so that the

1 judge can hear you.

2 THE COURT: If you'll just stop. Tell me your name,
3 please.

4 THE FATHER: Your Honor, my name is Mike Wood.

5 THE COURT: Yes, sir.

6 THE FATHER: Yes. I'm James's father. I just wanted
7 to, first of all, say I regret this happened with that
8 young lady.

9 I regret that the Court has to go through this, but
10 James, first of all, is a good boy. He just did a -- made
11 a terrible mistake. He was raised in a good family.

12 He knows the difference between right and wrong. He
13 just made an error in judgment. He's got the support of
14 family and friends here.

15 He is a good person to be released at the earliest
16 possible time with the court. I've talked to James in
17 detail. I've seen him mature over the past couple of
18 years.

19 He indicated to me that he -- he regrets this
20 happened. He wants to serve his time and get out and be a
21 productive citizen here in the State of South Carolina,
22 Your Honor. Thank you.

23 THE COURT: Yes, sir. Your name, please?

24 BYSTANDER: My name is James Mosley. My association
25 with James is from church activities. We've been along

1 with the Wood's family, my family, for a number of years.

2 I've known James from the time he was very little. I
3 know he's a good person. While he's been incarcerated, he
4 has finished his G.E.D. He's finished plumbing and
5 carpentry courses, I believe. I believe that's correct.

6 And we're trying to get -- he's an -- we're able to
7 help him. We desire to help him. My pastor would have
8 been here today. Unfortunately, he was tied up in
9 something and could not be here.

10 We know him very well. He's been on church outings
11 with other kids and my daughter.

12 Judge Goode asked me last time would I be concerned
13 if he was with my daughter. No. I have no concern at
14 all. He loves kids.

15 He's -- if he's out we're going to try to get him a
16 job, get him transportation, do everything we can to get
17 him back into society.

18 I mean, he was 19. I mean, I did some goofy things
19 when I was 19. I won't own up to any of them, but anyway,
20 that's just a transition period in life.

21 He's a good person. I've enjoyed knowing him. I've
22 written to him. I've talked with him on the phone. I'm
23 giving him time. I think he simply has learned his
24 lesson, and I think a lot of it is I just want to see the
25 best for him.

1 Thank you.

2 THE COURT: Thank you.

3 Anything further?

4 MR. SHEALEY: No. No, Your Honor.

5 THE COURT: What I'd like to do is to have the
6 opportunity to read the transcript that you have provided
7 to me.

8 I will come back to this particular matter, but
9 I've -- I've heard everyone, and I'll keep that in mind in
10 reference to what's been stated. I'd like to read the
11 transcript. So I'll -- I'll make a ruling on it later
12 this morning.

13 MS. GOOD: Thank you, Your Honor.

14 MR. SHEALEY: Thank you.

15 (There was a recess in this matter, and the following
16 was placed on the record later in the day.)

17 THE COURT: I had the opportunity to review the
18 transcript from indictment number 2007-GS-40-7907. This
19 was the transcript from the plea that was taken on
20 December 9th, 2008 before Judge Goode in which Margaret
21 Fent appeared on behalf of the State, and Luke Shealey
22 appeared on behalf of Mr. Woods. Mr. Woods was present in
23 the court and pled guilty to criminal sexual conduct with
24 a minor, second degree.

25 The -- the factual basis for the plea was as stated

1 in the Court here earlier today, and at that time the
2 victim's mother spoke, basically saying the same
3 information that she said today.

4 The defendant's father, as well as the pastor, who
5 was unable to appear today, I did read that. That was
6 Reverend Railey, R-A-I-L-E-Y, and also Mr. Mosley, you
7 also appeared today, as well.

8 I also read that there was -- at that time, his prior
9 record was also presented to the court, which was the same
10 as what was presented today.

11 I think there was a probation issue, which ultimately
12 was not heard, as Judge Goode terminated probation
13 imposing the sentence. So whatever issue about probation
14 seemed to be taken care of in that matter.

15 At that time, the State requested at least ten years.
16 The defense reiterated, as today, three years. I also
17 note, which was -- which has not been discussed here, was
18 that as a result of the conviction, that Mr. Wood would be
19 required to register on the sex offender registry.

20 I also note for the record that this is considered to
21 be a violent offense. It's also considered to be a most
22 serious offense which constitutes a strike. It is one
23 that also is a no-parole offense and is also considered a
24 sexually violent offense under the Sexually Violent
25 Predator Act.

1 At that time of the sentencing, Judge Goode made
2 comments relating to the fact that he considered the
3 offense to be violent, and that although the defense's
4 position was that it was simply -- it was consensual, but
5 simply, the difference in the ages, which required under
6 the law that the charge be brought. He did not view it
7 that way, and that's not the way it's been presented
8 either by the State or by the victim's family.

9 He also made a comment in relation to the
10 long-standing impact that it could have on a victim and
11 did, in fact, mention his daughter.

12 The arguments that were made before the Court at that
13 time also discussed the criminal history, the fact the
14 A.B. H.A.N. charge was also a criminal sexual conduct
15 charge that had been reduced, and that the burglary first
16 had been reduced to a burglary second. I've basically
17 heard the same testimony here today.

18 It is within the Court's discretion to sentence up to
19 20 years on that particular charge. The same information
20 today about the victim being targeted; that he was, of
21 course, aware of her age; that he had engaged in similar
22 conduct in the past; that based upon all that information,
23 I don't -- I don't -- I understand the defense's position
24 is that the timing of that particular plea and sentence
25 coincided with a -- a very high profile case that was in

1 the media that involved Judge Goode, and that -- that
2 perhaps he was perhaps suffering -- perhaps considering
3 the factors that had been discussed in the newspaper and
4 the -- the extreme displeasure that the victim's family in
5 that previous case had with respect to the sentence, and
6 that therefore, perhaps he was a little more harsh in
7 sentencing in this particular case.

8 But in my review of the record given the charges and
9 the past criminal history, I don't think that this -- this
10 plea was outside -- was influenced by any outside
11 information or would be inappropriate.

12 While different judges may sentence differently,
13 under the circumstances, I don't see that there's a basis
14 to change the sentence that was imposed in that particular
15 case; that it was reasonable under the circumstances, and
16 it comported with the requirements of the law. And that
17 there is no evidence that there were any undue or
18 inappropriate factors considered by the Court in making a
19 decision to impose a sentence in this particular case.

20 So for that reason, I would deny the request to
21 reconsider the sentence. I think it was appropriate under
22 the circumstances and comported with the law.

23 While it may seem unduly harsh under the
24 circumstances, I think based upon the criminal history,
25 the seriousness of the charges placed on the record, that

1 it is -- it is within the range that would be set. It
2 would be appropriate under the circumstances. So
3 respectfully, I will deny your request.

4 MR. SHEALEY: Thank you, Your Honor.

5 MS. GOOD: Thank you, Your Honor.

6 VICTIM'S MOTHER: Thank you, Your Honor.

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8 (Whereupon, the proceedings were concluded.)

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STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Richland County

Kenneth G. Goode, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

JAYMES MICHAEL WOOD,

APPELLANT

FINAL BRIEF OF APPELLANT

LANELLE CANTEY DURANT
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S. C. 29211-1589
(803) 734-1343

ATTORNEY FOR APPELLANT.

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STATEMENT OF ISSUES ON APPEAL

Whether the plea judge erred by not recusing himself from the case where appellant was pleading guilty to CSC with a minor and the plea judge stated just prior to sentencing that his own daughter had been assaulted when she was eight years old.

STATEMENT OF THE CASE

On January 16, 2008, the Richland County Grand Jury indicted Jaymes Michael Wood on the charge of criminal sexual conduct with a minor second degree. On December 8, 2008, Wood appeared before the Honorable Kenneth G. Goode and entered a guilty plea to criminal sexual conduct with a minor second degree. Judge Goode terminated the current probation and sentenced Wood to fifteen years in prison. Wood's attorney filed a motion to reconsider the sentence on December 12, 2008.

On December 9, 2009, Wood appeared before the Honorable Alison Renee Lee for a hearing on his motion to reconsider the sentence. Judge Lee denied Wood's motion to reconsider the sentence and retained the original sentence of fifteen years. Wood's attorney filed a notice of appeal. This appeal follows.

ARGUMENT

The plea judge erred by not recusing himself from the case where appellant was pleading guilty to CSC with a minor and the plea judge stated just prior to sentencing that his own daughter had been assaulted when she was eight years old.

Nineteen year old Jaymes Wood had been friends with the fourteen year old victim and her family since she was about ten years old. R. 6, ll. 4 – 25; R. 5, ll. 1 – 5. On the day of this incident, the girl was supposed to be at the home of the grandfather of one of her friends. However, she and her friends went to an apartment where other friends lived. Wood was there. R. 4, ll. 22 – 25; R. 5, ll. 1 – 9; R. 7, ll. 3 – 19.

Wood allegedly approached the girl and told her she was going to be eighteen for that moment. The girl and Wood started becoming physically intimate. Finally, the girl performed oral sex on Wood who told her he knew she was fourteen. R. 5, ll. 6 – 14.

The girl later learned that another girl at the apartment took photos of the victim performing oral sex on Wood and had circulated the photo to other people. Wood denied any involvement with the photos. R. 5, ll. 15 – 25; R. 11, ll. 4 – 12.

Judge Goode, just prior to sentencing, stated to the parties:

All due respect, he said it wasn't a violent situation. You know, I consider it just absolutely one of the most violent situations. I have a twenty-six year old daughter who was violated at Girl Scout camp when she was eight. She hasn't recovered from that yet.

R. 17, ll. 5 – 24.

The judge then sentenced him to fifteen years. R. 17, ll. 17 – 24.

On December 9, 2009, Wood and his attorney appeared before the Honorable Alison Renee Lee for a hearing on the motion for reconsideration of the sentence filed by Wood's

attorney on December 12, 2008. Defense counsel argued that Judge Goode had said that his daughter was violated at a young age, and Judge Goode thought this was a “horrible” case. Counsel said he should have tried to withdraw the plea at that time but he did not. R. 24, ll. 1 – 22.

Counsel also argued that Wood’s case was the first case to be heard by Judge Goode on the day after the highly publicized case of the day care worker who assaulted a child who suffered brain damage. Counsel said Judge Goode was attacked by the media as a result of the probationary sentence he gave to the day care worker. Counsel believed that this event led to Judge Goode’s retirement from the bench. R. 23, ll. 1 – 25; R. 24, ll. 1 – 25.

Counsel argued that Judge Goode was human, and vulnerable to the pressures of the outside world. Counsel believed that Judge Goode allowed the media pressure to affect the sentence he gave Wood. R. 25, ll. 1 – 25.

Judge Lee took a break from the bench and read the transcript from the guilty plea on December 9, 2008. She ruled from the bench that there was no evidence that there were any undue or inappropriate factors considered by the court in imposing the sentence in Wood’s case. She denied the motion to reconsider the sentence from Judge Goode. R. 35, ll. 17 – 25; R. 36, ll. 1 – 25; R. 37, ll. 1 – 25; R. 38, ll. 1 – 25; R. 39, ll. 1 – 3.

A judge should disqualify himself in a proceeding in which his impartiality might reasonably be questioned, including instances where he has a personal bias or prejudice against a party. Mortgage Electronic Systems, Inc., v. White, 384 S.C. 606, 682 S.E.2d 498 (Ct. App. 2009). It is not sufficient for a party seeking disqualification of a judge to simply allege bias; rather, the party must show some evidence of bias or prejudice. Id.

Wood was prejudiced by Judge Goode's bias as the State had recommended at least ten years, and defense counsel asked for three years. R. 24, ll. 5 - 11.

CONCLUSION

Based on the above, the conviction sentence should be vacated and the case remanded for a new sentencing hearing.

Respectfully submitted,



LaNelle Cantey DuRant
Appellate Defender

ATTORNEY FOR APPELLANT.

This 7th day of February, 2011.

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Richland County

Kenneth G. Goode, Circuit Court Judge

THE STATE,

RESPONDENT,

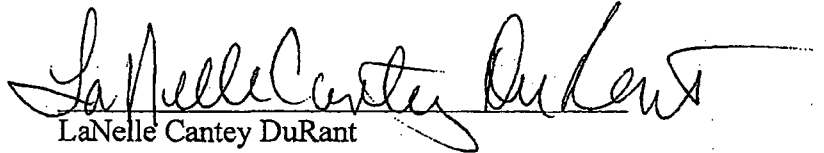
V.

JAYMES MICHAEL WOOD,

APPELLANT

CERTIFICATE OF SERVICE

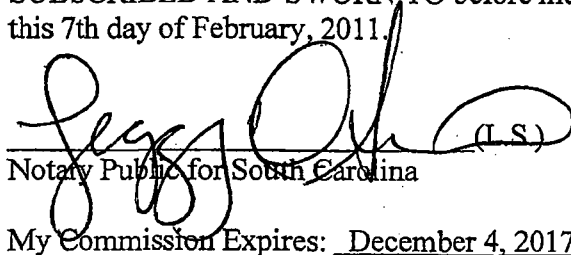
The undersigned attorney hereby certifies that a true copy of the Final Brief of Appellant in the above referenced case has been served upon Salley W. Elliott, Esquire, at Rembert Dennis Building, Room 519, 1000 Assembly Street, Columbia, SC 29201, this 7th day of February, 2011.



LaNelle Cantey DuRant
Appellate Defender

ATTORNEY FOR APPELLANT.

SUBSCRIBED AND SWORN TO before me
this 7th day of February, 2011.


(L.S.)
Notary Public for South Carolina

My Commission Expires: December 4, 2017.

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Richland County
Hon. Kenneth G. Goode, Plea Circuit Court Judge
Hon. Alison R. Lee, Motion Circuit Court Judge

The State,

Respondent,

v.

Jaymes Michael Wood,

Appellant.

FINAL BRIEF OF RESPONDENT

ALAN WILSON
Attorney General

JOHN W. MCINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
Assistant Deputy Attorney General

WILLIAM M. BLITCH, JR.
Assistant Attorney General

Post Office Box 11549
Columbia, SC 29211
(803) 734-3727

W. BARNEY GIESE
Solicitor, Fifth Judicial Circuit

Post Office Box 192
Columbia, South Carolina 29202
803-748-4785

ATTORNEYS FOR RESPONDENT

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STATEMENT OF ISSUES ON APPEAL

The plea judge did not err in refusing to recuse himself from this case, the sentence imposed was appropriate, and the motions judge properly denied Appellant's motion for reconsideration of his sentence.

STATEMENT OF THE CASE

In January 2008, the Richland County Grand Jury indicted Appellant on the charge of criminal sexual conduct with a minor, second degree. He pled guilty as charged on December 9, 2008 before the Honorable Kenneth G. Goode. Judge Goode terminated his probation and sentenced Appellant to fifteen years in prison.

Appellant filed a motion to reconsider sentence, which was heard by the Honorable Alison R. Lee on December 9, 2009. Judge Lee denied the motion and this appeal follows.

STATEMENT OF FACTS

Within days of being released from incarceration on other charges, Appellant, age 19 at the time, called the looking for the victim, age 14 at the time. He was told to stay away from her because she was only 14. Appellant even talked to the victim's mother who told him to stay away and if he laid a hand on her he would be dealing with law enforcement. Finally, the day before the incident, Appellant called the victim's older sister looking for the victim. She reminded him the victim is only 14 and he needed to stay away. Appellant told the victim's sister: "it doesn't matter anyway." (Plea T.6-7; R.6-7).

In August 2007, the victim and Appellant were at an apartment complex where friends of the victim lived. While there, Appellant approached the victim and told her: "For right now, you're going to be eighteen." (Plea T.5; R.5). The victim went to another room of the apartment and Appellant followed. The two became intimate and the victim performed oral sex on Appellant. Appellant told her: "I know you're fourteen, but I like your age." (Plea T.5; R.5).

At the plea hearing, Appellant admitted the facts as presented including the fact he knew the victim was 14 at the time of the incident. (Plea T. 6; R.6). During sentencing, the State presented Appellant's prior record. Appellant was previously charged with criminal sexual conduct with a minor in the second degree and was allowed to plead to assault and battery of a high and aggravated nature. While on probation for the ABHAN charge, he was charged with burglary in the first degree. He was allowed to plead to burglary in the second degree. It was while on probation for the burglary charge that Appellant committed the

criminal sexual conduct with the victim. (Plea T.9; R.9). The State sought at least ten years incarceration.

Appellant's counsel argued these were unsupervised high school kids "basically hanging out after school." (Plea T.10; R.10). He argued what happened was not uncommon and was "absolutely nothing forcible." (Plea T. 10; R.10). Appellant's counsel stated: "there's nothing violent here, coercive. It's just simply that she was too young, and he made an error in judgment." (Plea T.15; R.15). Appellant's counsel asked the court to consider a short sentence in the range of three years.

Judge Goode sentence him stating: "All due respect, he said it wasn't a violent situation. You know, I consider it just absolutely one of the most violent situations. I have a twenty-six year-old daughter who was violated at Girl Scout Camp when she was eight. She hasn't recovered from that yet." (Plea T.17; R.17). The court continued that he believed it was violent in a way that exceeds physical injury. Judge Goode concluded: "You already have amassed a substantial history of violence towards others. . . . And the sentence is fifteen years." (Plea T.17; R.17).

Several days later Appellant's counsel filed a motion to reconsider the sentence. The motion was heard before the Honorable Alison R. Lee one year after the plea. Appellant's counsel maintained because of media attention paid to the sentence Judge Goode imposed in a case that occurred the day before Appellant's plea, Judge Goode punished Appellant and imposed to harsh of a sentence. (Motion T.4-6; R.23-25). The State asserted the facts of the case, especially Appellant's prior record and the fact he sought out the victim whom he knew was only fourteen.

Judge Lee listened to several witnesses, including the mother of the victim and Appellant's father. She considered the argument of counsel and read the transcript of the guilty plea. (Motion T.16-17; R.35-36). Judge Lee considered the comments Judge Goode made about his daughter and considered the possible impact of the high profile case which occurred the day before the plea. (Motion T.18-19; R.37-38). Based on her review of the record and given Appellant's prior charges, Judge Lee did not believe the plea was influenced by any outside information or was inappropriate. She found no basis to change the sentence and specifically found "it was reasonable under the circumstances, and it comported with the requirements of the law. And that there is no evidence that there were any undue or inappropriate factors considered by the Court in making a decision to impose a sentence in this particular case." (Motion T.19; R.38). Judge Lee denied the motion to reconsider sentence.

ARGUMENT

- I. **The plea judge did not err in refusing to recuse himself from this case, the sentence imposed was appropriate, and the motions judge properly denied Appellant's motion for reconsideration of his sentence.**

Appellant contends Judge Goode erred by failing to recuse himself because his impartiality may be questioned due to his daughter being a victim of a similar crime and the media pressure from a high profile case that was heard the day before Appellant's plea. He also seems to argue the sentence was the result of either Judge Goode's bias or the media pressure. To the extent Appellant argues Judge Goode should have recused himself, the issue is not preserved for review on appeal and without merit. Finally, Appellant's sentence was appropriate and the trial court correctly denied Appellant's motion to reconsider his sentence.

Recusal

First, the issue of whether Judge Goode should have recused himself is not preserved for review on appeal. The issue was never raised during the plea, or at the hearing on the motion to reconsider Appellant's sentence. A party may not argue one ground at trial and another ground on appeal. State v. Haselden, 353 S.C. 190, 196, 577 S.E.2d 445, 448 (2003). Additionally, Appellant should have raised the issue immediately after Judge Goode made the comment about his daughter being a victim if he believed that fact caused a question in Judge Goode's impartiality. He did not contemporaneously raise the issue so it is not preserved. See State v. Johnson, 363 S.C. 53, 58, 609 S.E.2d 520, 523 (2005).

On the merits, the issue also fails. "A judge must exercise sound judicial discretion in determining whether his impartiality might reasonably be questioned." State v. Cheatham, 349 S.C. 101, 111, 561 S.E.2d 618, 624 (Ct. App. 2002). "Absent evidence of judicial prejudice, a judge's failure to disqualify himself will not be reversed on appeal." Id. "A motion to recuse may not be predicated on the judge's rulings in the case before him or on rulings in a related case, nor on his demonstrated tendency to rule in any particular manner, or on a particular judicial leaning or attitude derived from his experience on the bench." Mallett v. Mallett, 323 S.C. 141, 146-147, 473 S.E.2d 804, 808 (Ct. App. 1996) (emphasis added) (citing, *inter alia*, United States v. Grinnell Corp., 384 U.S. 563, 86 S.Ct. 1698, 16 L.Ed.2d 778 (1966); Berger v. United States, 255 U.S. 22, 31, 41 S.Ct. 230, 232, 65 L.Ed. 481 (1921)).

Appellant has not demonstrated how he was prejudiced by Judge Goode's comments. He referenced his daughter's trauma experienced as a victim of a sexual assault to demonstrate the fact a sexual assault on a child is always traumatic and violent even if it is not violent in a physical sense. This commentary was in direct response to Appellant's counsel's claim the victim and Appellant were just acting like normal high school kids and there was nothing coercive or violent about Appellant's behavior. It is clear from the record Appellant's sentence was based on his significant prior record, which included a prior sex crime against a minor as well as a burglary charge, and the facts and circumstances of this case, which included Appellant seeking out a girl he knew to be fourteen in order to have a sexual relationship.

Further, the prior day's trial and the subsequent publicity did not require Judge Goode to recuse himself. There is no evidence appearing in the record Judge Goode was biased against Appellant due to any media exposure from the prior case. As found by Judge Lee in reviewing the motion to reconsider: "there is no evidence that there were any undue or inappropriate factors considered by the Court in making a decision to impose a sentence in this particular case." Judge Goode had no reason to recuse himself from consideration of this case.

Reconsideration of Sentence

First, any issue regarding the denial of Appellant's motion to reconsider his sentence appears to be abandoned on appeal. Appellant's Statement of Issues on Appeal does not address the motion to reconsider the sentence, it only reflects argument regarding the recusal of Judge Goode. "Ordinarily, no point will be considered which is not set forth in the statement of the issues on appeal." Rule 208(b)(1)(B), SCACR.

Moreover, to the extent any argument regarding the motion to reconsider Appellant's sentence may be gleaned from the brief, the brief makes no reference to any supporting authority. See State v. Howard, 384 S.C. 212, 217, 682 S.E.2d 42, 45 (Ct. App. 2009) ("An issue is deemed abandoned and will not be considered on appeal if the argument is raised in a brief but not supported by authority."). The only authority raised is a single case citation regarding the recusal of a judge. Accordingly, this issue should be deemed abandoned.

To the extent the issue could be considered raised in Appellant's brief, the motion to reconsider sentence was properly denied. This Court will not disturb a sentence, provided it is within the limits permitted by law, unless the trial judge sentenced the defendant as a

result of partiality, prejudice, oppression, or corrupt motive. See State v. Benning, 338 S.C. 59, 64, 524 S.E.2d 852, 856 (Ct. App. 1999) (citing State v. Goodall, 221 S.C. 175, 69 S.E.2d 915 (1952)). Appellant pled guilty to criminal sexual conduct with a minor in the second degree which carries a sentence range of up to twenty years in prison. See S.C. Code Ann. § 16-3-655(C)(3) (Supp. 2007).

There is no evidence in this record indicating the sentence Appellant received was inappropriate or was the result of partiality, prejudice, oppression or corrupt motive. Appellant does not and cannot demonstrate how the prior day's trial influenced Judge Goode's decision regarding Appellant's sentence. At no time in the record did Judge Goode indicate he was going to make an example of Appellant or sentence him harshly for any reason other than his prior convictions and the facts of this case.

Appellant's record and the facts and circumstances of this case amply support the imposition of the sentence Appellant received. Appellant previously pled guilty to ABHAN which was a reduced charge from criminal sexual conduct with a minor in the second degree for sexual acts with another minor female. (PleaT.8-9; R.8-9). While on probation from that charge, he pled guilty to burglary second degree, which was dropped from burglary in the first degree. It was while on probation from this conviction Appellant sought out and sexually assaulted the minor victim in this case.

Judge Goode explained that Appellant already had "amassed a substantial history of violence toward others." (PleaT.17; R.17). In considering the motion for reconsideration of Appellant's sentence, Judge Lee properly concluded "[the sentence] was reasonable under the circumstances, and it comported with the requirements of the law. And that there is no

evidence that there were any undue or inappropriate factors considered by the Court in making a decision to impose a sentence in this particular case.” (MotionT.19; R.38). Appellant’s prior convictions as well as his inability to abide by the laws of South Carolina even while on probation from a prior conviction overwhelmingly support the sentence Appellant received.

CONCLUSION

For all of the foregoing reasons, it is respectfully submitted that the judgment and conviction of the lower court be affirmed.

Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
Assistant Deputy Attorney General

WILLIAM M. BLITCH, JR.
Assistant Attorney General

W. BARNEY GIESE
Solicitor, Fifth Judicial Circuit

Post Office Box 192
Columbia, South Carolina 29202
803-748-4785

BY: 
William M. Blitch, Jr.

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

ATTORNEYS FOR RESPONDENT

January 20, 2011.

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal From Richland County
 Hon. Kenneth G. Goode, Plea Circuit Court Judge
 Hon. Alison R. Lee, Motion Circuit Court Judge

The State,

Respondent,

v.

Jaymes Michael Wood,

Appellant.

CERTIFICATE OF COUNSEL

The undersigned certifies that this Final Brief of Respondent complies with Rule 211(b), SCACR, and the August 13, 2007, order from the South Carolina Supreme Court entitled "Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings."

ALAN WILSON
 Attorney General

JOHN W. McINTOSH
 Chief Deputy Attorney General

SALLEY W. ELLIOTT
 Assistant Deputy Attorney General

WILLIAM M. BLITCH, JR.
 Assistant Attorney General

W. BARNEY GIESE
 Solicitor, Fifth Judicial Circuit

Post Office Box 192
 Columbia, South Carolina 29202
 803-748-4785

By: 
 WILLIAM M. BLITCH, JR.

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

ATTORNEYS FOR RESPONDENT

January 20, 2011

THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.

**THE STATE OF SOUTH CAROLINA
In The Court of Appeals**

The State, Respondent,

v.

Jaymes Michael Wood, Appellant.

Appeal from Richland County
Kenneth G. Goode, Circuit Court Judge

Unpublished Opinion No. 2012-UP-129
Heard February 14, 2012 – Filed February 29, 2012

AFFIRMED

Appellate Defender LaNelle Cantey
DuRant, of Columbia, for Appellant.

Attorney General Alan Wilson, Chief
Deputy Attorney General John
McIntosh, Assistant Deputy Attorney
General Salley W. Elliott, and
Assistant Attorney General William
Blicht, all of Columbia; and Solicitor
Warren B. Giese, of Columbia, for
Respondent.

PER CURIAM: In this criminal action, Jaymes Michael Wood contends the plea judge erred in not recusing himself from the case when Wood was pleading guilty to criminal sexual conduct (CSC) with a minor, and the plea judge stated prior to sentencing that his own daughter had been assaulted when she was eight years old. We affirm pursuant to Rule 220(b)(1), SCACR, and the following authorities:

As to whether the plea judge erred in not recusing himself from Wood's plea, we find Wood did not properly preserve this issue. See Wilder Corp. v. Wilke, 330 S.C. 71, 76, 497 S.E.2d 731, 733 (1998) ("It is axiomatic that an issue cannot be raised for the first time on appeal, but must have been raised to and ruled upon by the trial judge to be preserved for appellate review."); Parker v. Shecut, 340 S.C. 460, 496-97, 531 S.E.2d 546, 566 (Ct. App. 2000) (holding a party that fails to move for recusal does not preserve the issue for appellate review), rev'd on other grounds, 349 S.C. 226, 562 S.E.2d 620 (2002); Dixon v. Dixon, 362 S.C. 388, 399, 608 S.E.2d 849, 854 (2005) (holding that an issue first raised in a post-trial motion is not preserved for appellate review).

AFFIRMED.

WILLIAMS, THOMAS, and LOCKEMY, JJ., concur.

J Mike
69

FORM 5

2012 CP 400 7145

STATE OF SOUTH CAROLINA)
)
COUNTY OF Richland)
)
James M. Woods # 315669)
Full name and prison number (if any) of Applicant.)
)
v.)
)
State of South Carolina)

IN THE COURT OF COMMON PLEAS

APPLICATION FOR
POST-CONVICTION RELIEF

INSTRUCTIONS - READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legally 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 reference 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 fees and costs of the proceedings. When the application is completed the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention Lee C. I., Bishopville, S.C. 29010
2. Name and location of Court which imposed sentence Richland County, C.S.
3. Name(s) of co-defendant(s) (if any) _____
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 2007-05-40-7907 / 15 YEARS / CSCM
 - (b) _____
 - (c) _____
5. The date upon which sentence was imposed and the terms of the sentence:
 - (a) DECEMBER 9th 2008 / 15 YEARS VIOLENT
 - (b) _____

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JEANETTE M. HARRIS
C.C.P. CLERK
RICHLAND COUNTY
FILED

(c) _____

6. Check whether a finding of guilty was made:

(a) after a plea of guilty _____

(b) after a plea of not guilty _____

(c) after a plea of nolo contendere _____

7. Did you appeal from the judgment of conviction or the imposition of sentence?

YES

8. If you answered "yes" to (7), list:

(a) the name of each Court to which you appealed:

i. S.C. STATE COURT OF APPEALS

ii. _____

iii. _____

(b) the result in each such Court to which you appealed:

i. DENIED

ii. _____

iii. _____

(c) the date of each such result:

i. March 5, 2012

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) _____

(b) _____

(c) _____

10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

Attachment "A"

Allegation "A": Violation of 4th, 6th and 14th
U.S. Amendment Rights Collectively.

Plea Judge so erred in accepting Defendant's competence level, the proceedings border on extrinsic fraud, in that it prevented the Defendant his due process rights to be heard.

Hilton Head Center of South Carolina Inc. v. Public Service Comm'n, 294 S.C. 9, 11, 362 S.E. 2d 176, 177 (1987) and Rogers v. State, (S.C. 1973) 261 S.C. 288, 199 S.E. 2d 761.

Plea court conclusions of law must be legally correct, reflecting a correct (and faithful) application of applicable legal principles to all facts found. State of North Carolina v. Marcus Lamont Carmon, 576 S.E. 2d 730 (2003).

Plea court has a sworn duty to uphold the integrity of the court, and the Plea Judge and all the court's officers were all well aware of the "fact" Defendant barely had a High School education, much less any legally acceptable levels of competent knowledge of legal procedure, so therefore the Defendant was not legally and constitutionally competent to make any decisions the court was collectively coercing the Defendant into making.

Attachment "B"

Allegation "B": Violation of 6th and 14th

U.S. Amendment Rights Collectively.

Plea Counsel for the Defendant was so incompetently "ineffective" he himself stipulates this fact on the legal record, and again Plea Judge refuses to halt this grave miscarriage of justice being done to the Defendant.

In references to an alleged video of the alleged crime, and being used to prejudice the Defendant as well as to enhance the seriousness of the offense, Defense Attorney states that he "hasn't seen no video, but if the State says it exists, then I'm comfortable with it."

Defendants in U.S. courts, both Federal and State, are constitutionally entitled not just legal counsel, but effective legal counsel. Gideon v. Wainwright, 372 U.S. at 335.

Failing to provide "effective" and sufficient levels of legal advice denies the Defendant "complete" access to the appellate process. Odom v. State, 523 S.E. 2d 753 (1999) and Austin v. State, 305 S.C. 453, 409 S.E. 2d 395 (1991).

Attachment "C"

Allegation "C": Violation of 14th
U.S. Amendment Right.

Defendant was again denied truthful and constitutionally guaranteed levels of legal due process when Plea Judge posited on the legal record that he personally holds "the only opinion that matters" as regards the Defendant when Plea Judge spoke at length about the sexual abuse of his own daughter, even violating his own daughter's constitutional rights to privacy in an effort to prejudice the Defendant in the minds of the people, and not once does Defense Counsel move to halt this injustice being done to his client.

Therefore, for the above three (3) allegations (A, B & C), this Applicant, James Michael Woods, # 315669, should have his conviction and sentence vacated, with Applicant immediately thereafter remanded back to Richland County, South Carolina, for re-trial.

Respectfully Submitted,
This 15th day of October, 2012.

S/ James Woods
315669

PAGE 2 (C)

- (a) Violation of 4th, 6th, 14th U.S. Amendment Rights Collectively
- (b) Violation of 6th, 14th U.S. Amendment Rights Collectively
- (c) Violation of 14th U.S. Amendment Right

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

- (a) SEE ATTACHMENT "A" (PAGE 2 A)
- (b) SEE ATTACHMENT "B" (PAGE 2 B)
- (c) SEE ATTACHMENT "C" (PAGE 2 C)

12. Prior to this application have you filed with respect to this conviction:

- (a) any petition in a State Court under South Carolina Law? YES
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? NO
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? NO
- (d) any other petitions, motions or applications in this or any other Court? NO

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

- (a) the specific nature thereof:
 - i. MOTION FOR RECONSIDERATION
 - ii. _____
 - iii. _____
 - iv. _____
- (b) the name and location of the Court in which each was filed:
 - i. RICHLAND COUNTY GENERAL SESSIONS
 - ii. _____
 - iii. _____
 - iv. _____
- (c) the disposition thereof:
 - i. DENIED
 - ii. _____
 - iii. _____

- iv. _____
- (d) the date of each such disposition:
 - i. DECEMBER 9th, 2009
 - ii. _____
 - iii. _____
 - iv. _____

- (e) if known, citations of any written opinions or orders entered pursuant to each such disposition:
 - i. _____
 - ii. _____
 - iii. _____
 - iv. _____

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

No.

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

- (a) which grounds have been presented:
 - i. _____
 - ii. _____
 - iii. _____
- (b) the proceedings in which each ground was raised:
 - i. _____
 - ii. _____
 - iii. _____

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

- (a) WASNT FAMILIAR WITH PROCEDURE.
- (b) _____
- (c) _____

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

- (a) your arraignment and plea? YES
- (b) your trial, if any? _____
- (c) your sentencing? YES
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? YES
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? YES

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. LUKE SHEALEY, ASSISTANT PUBLIC DEFENDER
 - ii. S.C. COMMISSION ON INDIGENT DEFENSE
 - iii. _____
- (b) the proceedings at which each such attorney represented you:
 - i. PLEA AND SENTENCING
 - ii. APPEAL
 - iii. _____

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

SENTENCE VACATED AND REMANDED FOR NEW TRIAL.

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

No.

STATE OF SOUTH CAROLINA)
)
County of)

VERIFICATION

I, , 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.

X *[Signature]*

SWORN to and subscribed before me this 17
day of Oct, 2012.

[Signature] (L.S.)
Notary Public

My Commission Expires: 11-4-2015

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

I, _____, 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.

X *[Signature]*
Applicant

SWORN or affirmed to and subscribed before me this

17 day of Oct, 2012.

[Signature]
Notary Public

My Commission Expires: 11-4-2015

2012 OCT 22 PM 3:38
JEANETTE W. MCBRIDE
C.C.P. & G.S.
FILED
RICHLAND COUNTY

Mrs. Teranette W. McBride
 Richland County Clerk Of Court
 P.O. Box 2766
 Columbia, S.C.
 29202-2766

October 15th 2012

Dear Mrs. McBride,

I am writing to ask if you will please file the enclosed Application for Post Conviction Relief, and will you please return to me a clocked/stamped copy of same in the enclosed self-addressed stamped envelope?

Thank you, Mrs. McBride, and

Respectfully,
 S/ Jaymes Woods
 # 315669

Mr. Jaymes M. Woods # 315669
 Lee C. I., Dist. No. # 2143
 990 Wisacky Hwy.
 Bishopville, S.C.
 29010

Mrs. McBride,

Also I was informed that my County & Turberville time served was deducted from my probation I was supposed to do when I got off of my ABHAW probation. Why did they do that when my special conditions on my "Burglary" probation was "probation terminates upon receipt of GED". I got my GED while incarcerated in Turberville on my YOA sentence during 2006-2007. Therefore my probation should have been terminated & the County and YOA time should have been deducted from my current sentence. Can you please check into that and let me know something please? Thank you in advance.

Jayman
#315669

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

IN THE COURT OF COMMON PLEAS)
FOR THE FIFTH JUDICIAL CIRCUIT)

WOOD Jaymes M. # 00315669,)
A/K/A James Wood, James)
Woods, Jaymes Wood)

2012CP4007145

Applicant,)

v.)

RETURN

State of South Carolina,)

Respondent.)

RICHLAND COUNTY
FILED
2012 DEC -6 AM 11:54
JEANNETTE W. MCBRIDE
C.C.P. & G.S.

The Respondent, making its Return to the application for post-conviction relief (PCR) filed October 22, 2012, would respectfully show this Court:¹

I.

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Richland County Clerk of Court. The Applicant was indicted at the January 2008 term of the Richland Grand Jury for Criminal Sexual Conduct with a Minor – 2nd Degree (2007-GS-40-7907).² He was represented by Luke Shealey, Esquire, , on the charge(s). On December 9, 2008, Applicant appeared before the Honorable Kenneth Goode where he pled guilty as indicted without recommendation or negotiations from the state and was sentenced to fifteen (15) years imprisonment.

¹ <http://www4.rcgov.us/publicindex/PICaseDetails.aspx?County=40&Casenum=2012CP4007145&CourtType=G&CaseType=Civil&CourtAgency=40002>

² <https://sword.doc.state.sc.us/scdc-public/inmateDetails.do?id=+00315669>

Direct Appeal

The Applicant did not appeal his conviction and/or sentence .

The application for post conviction relief (PCR) was filed October 22, 2012.

II.

Attached herewith and incorporated herein are the records of the Richland County Clerk of Court regarding the subject conviction(s), the Applicant's records from the South Carolina Department of Corrections, and the trial transcript, and the Applicant's applicable direct appeal files.³ The Respondent reserves the right to amend this Return upon receipt of any relevant materials or submit an amended Return to reflect any amended allegations and/or to provide a more detailed procedural history.

III.

In his application for post-conviction relief, Applicant alleges he is being held in custody unlawfully based on the following:

*Allegation "A": Violation of 4th, 6th and 14th
U.S. Amendment Rights Collectively.*

PIER JUDGE SO ERRED IN ACCEPTING DEFENDANT'S COMPETENCE LEVEL, THE PROCEEDINGS BORDER ON EXTRINSIC FRAUD, IN THAT IT PREVENTED THE DEFENDANT HIS DUE PROCESS RIGHTS TO BE HEARD.

³ The Respondent will utilize the Record on Appeal if the direct appeal was an Anders appeal.

Hilton Head Center of South Carolina Inc. v. Public Service Comm'n, 294 S.C. 9, 11, 362 S.E.2d 176, 177 (1987) and Rogers v. State, (S.C. 1973) 261 S.C. 288, 199 S.E.2d 761.

Plea court conclusions of law must be legally correct, reflecting a correct (and factual) application of applicable legal principles to all facts found. State of North Carolina v. Marcus Lambert Carmon, 576 S.E.2d 730 (2003).

Plea court has a sworn duty to uphold the integrity of the court, and the Plea Judge and all the court's officers were all well aware of the "fact" Defendant barely had a high school education, much less any legally acceptable levels of competent knowledge of legal procedure, so therefore the Defendant was not legally and constitutionally competent to make any decisions the court was collectively coercing the Defendant into making.

Allegation "B": Violation of 6th and 14th
U.S. Amendment Rights Collectively.

Plea Counsel for the Defendant was so incompetently "ineffective" he himself stipulates this fact on the legal record, and again Plea Judge refuses to halt this grave miscarriage of justice being done to the Defendant.

In references to an alleged video of the alleged crime, and being used to prejudice the Defendant as well as to enhance the seriousness of the offense, Defense Attorney states that he "hasn't seen no video, but if the State says it exists, then I'm comfortable with it."

Defendants in U.S. courts, both Federal and State, are constitutionally entitled not just legal counsel, but effective legal counsel. Gideon v. Wainwright, 372 U.S. at 335.

Failing to provide "effective" and sufficient levels of legal advice denies the defendant "complete" access to the appellate process. Idem v. State, 523 S.E. 2d 753 (1999) and Austin v. State, 305 S.C. 453, 409 S.E. 2d 395 (1991).

Allegation "C": Violation of 14th
U.S. Amendment Right.

Defendant was again denied truthful and constitutionally guaranteed levels of legal due process when Plea Judge posited on the legal record that he personally holds "the only opinion that matters" as regards the Defendant when Plea Judge spoke at length about the sexual abuse of his own daughter, even violating his own daughter's constitutional rights to privacy in an effort to prejudice the Defendant in the minds of the people, and not once does Defense counsel move to halt this injustice being done to his client.

IV.

For the purposes of this Return, the Respondent interprets each of the Applicant's allegations to be claims that he received ineffective assistance of counsel. The Respondent contends that the Applicant's trial counsel rendered adequate assistance and provided representation within the range of competence

required by attorneys in criminal cases. See Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985).

In a post-conviction relief proceeding, the Applicant bears the burden of proving the allegations in their application. Id. Where ineffective assistance of counsel is alleged as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 2064, 80 L.Ed.2d 674, 692 (1984); Butler, 334 S.E.2d 813.

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Strickland, 80 L.Ed.2d 674. The Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

A two-pronged test is used in evaluating allegations of ineffective assistance of counsel. First, the Applicant must prove that counsel's performance was deficient. Under this prong, attorney performance is measured by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625, citing Strickland. Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for

counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. A reasonable probability is a probability sufficient to undermine confidence in the outcome of the trial. Johnson v. State, 325 S.C. 182, 480 S.E.2d 733 (1997). Even with respect to guilty plea counsel, the applicant must show that there is a reasonable probability that, but for counsel's alleged errors, he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52 (1985)

The Respondent submits that the Applicant cannot satisfy either requirement of the Strickland test. However, the allegation of ineffective assistance of counsel probably raises questions of fact that cannot be conclusively refuted by the record. **The Respondent requests an evidentiary hearing to fully resolve this issue.** See Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

V.

Each and every allegation contained within the application not hereinbefore either expressly admitted, qualified or explained is hereby denied. The Respondent therefore requests that this Court convene an evidentiary hearing solely on the issue of ineffective assistance of counsel. As to all other allegations, the Respondent moves for summary dismissal pursuant to S.C. Code Ann. § 17-27-70 on the basis that there is no genuine issue of material fact which would necessitate an evidentiary hearing and that those allegations should be dismissed as a matter of law.

VI.

WHEREFORE, having made its Return, the State requests that an evidentiary hearing be held. The Respondent will coordinate with the Applicant's attorney who is, according to the Respondent's file, Paul B Rogers, Esquire regarding when the hearing should be set.⁴

Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
Senior Assistant Deputy Attorney
General

ROBERT D. CORNEY
Assistant Attorney General

By: 
ATTORNEYS FOR RESPONDENT

Office of the Attorney General
P.O. Box 11549
Columbia, SC 29211
Telephone: (803) 734-3737
rcorney@scag.gov

November 30, 2012

⁴ The current PCR Roster for the 5th Circuit is available at <http://www.scag.gov/criminal-litigation/postconvictionrelief>

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

IN THE COURT OF COMMON PLEAS
FOR THE FIFTH JUDICIAL CIRCUIT

WOOD Jaymes M -
00315669,

2012CP4007145

Applicant,

v.

CERTIFICATE OF SERVICE

State of South Carolina,

Respondent.

RICHLAND COUNTY
FILED
2012 DEC -6 AM 11:55
JEANNETTE W. MCBRIDE
C.C.P. & G.S.

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 a letter in the above-captioned matter on the following person(s) by routing the same to the United States mail, postage prepaid:

Paul B Rogers, Post Office Box 5825 , Columbia, SC 29250

DATED November 30, 2012.



Jean R. Indriago
Legal Assistant

I N D E X

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	No exhibits introduced.	

1 THE COURT: All right, Ms. Williams, are you ready to
2 proceed?

3 MS. WILLIAMS: Your Honor, the state is ready to
4 proceed. This is Mr. Jaymes Woods. December 9th of 2008
5 is when he entered his guilty plea. A year later there was
6 a motion regarding that guilty plea in 2009 before Judge
7 Lee.

8 THE COURT: I'm sorry. Would you start over again? I
9 got distracted.

10 MS. WILLIAMS: That's okay, Your Honor. Mr. Woods
11 entered a guilty plea December 9th of 2008 in front of
12 Judge Goode, and approximately a year later there was a
13 motion asking for a reconsideration of sentence. That was
14 heard before Judge Lee on December 9th of 2009. Judge Lee
15 ultimately denied that motion.

16 He was represented by Luke Shealey in these matters.
17 He was convicted of CSC with a minor second degree,
18 receiving a sentence of fifteen years.

19 THE COURT: All right, Mr. Rogers.

20 MR. ROGERS: Thank you, Your Honor. I'd like to just
21 mention a few things that we think are critical to review
22 at this point.

23 THE COURT: Let me -- before we get started, let me
24 ask you a couple of questions.

25 MR. ROGERS: Sure.

1 THE COURT: Now, my understanding, you have had some
2 difficulty in being able to see your client because of some
3 situations at the correctional facility that he's housed
4 at?

5 MR. ROGERS: Yes, Your Honor.

6 THE COURT: And you had indicated earlier that he
7 might not be in a position to go forward today because
8 you've not been able to see him prior to this hearing for a
9 couple of weeks?

10 MR. ROGERS: Yes, sir.

11 THE COURT: I did suggest that maybe you could talk to
12 him prior to the hearing and have a chance to do so, and
13 then make a decision as to whether you think you're
14 prepared to go forward. Have you had that opportunity?

15 MR. ROGERS: Yes, we have, Your Honor.

16 THE COURT: And you believe you're in a position to go
17 forward?

18 MR. ROGERS: Yes, we do, Your Honor.

19 THE COURT: All right, Mr. Woods, you've had a chance
20 to talk to Mr. Rogers today?

21 APPLICANT: Yes, sir.

22 THE COURT: Let me get you to stand if you would,
23 please. About your application?

24 APPLICANT: Yes, sir.

25 THE COURT: Have you been over what you needed to tell

1 him here today? Is that correct?

2 APPLICANT: Yes, sir.

3 THE COURT: You think you're in a position to go
4 forward?

5 APPLICANT: Yes, sir.

6 THE COURT: All right. You don't need any additional
7 time at this point in time. Is that correct?

8 APPLICANT: No, sir.

9 THE COURT: All right. Excuse me. I'm sorry, Mr.
10 Rogers.

11 MR. ROGERS: No, no. No problem, Your Honor. Again,
12 I appreciate the time you allowed us to, to confer this
13 morning.

14 We had submitted a memoranda a week or two back, and
15 also we -- the main issues we would like to bring to the
16 court's attention are his ---

17 THE COURT: You can be seated if you'd like.

18 MR. ROGERS: Mr. Woods asserts in his application,
19 which is certainly supported in our memorandum on his
20 argument, that he did not receive effective assistance of
21 counsel in the circumstance in this case, also was denied
22 due process.

23 Let me give you a little additional background that I
24 think is supported by the, the record of the plea
25 proceeding itself on the sentencing, and also the motion

1 for reconsideration, which I believe has been presented to
2 you, and we would certainly ask that be included in the
3 record in this matter.

4 THE COURT: All right.

5 MR. ROGERS: But the day before Mr. Woods's plea
6 proceeded before Judge Goode was a case in which Judge
7 Goode was involved where you, you may recall. It was the
8 Kendra Smith [sic] case, and there was significant media
9 attention to that case where he was pretty strongly
10 criticized. We had Luke Shealey, who was representing Mr.
11 Woods, who I don't believe was fully aware of that
12 situation. But it also came up and appears in the record,
13 Judge Goode referenced a situation, personal situation
14 involving his daughter where she had -- I think he said she
15 had been violated at a Girl Scout outing at eight. She was
16 now twenty-six, and I want to ask Mr. Shealey how that may
17 have affected the case.

18 But we submit and we believe that, based on my
19 discussions with the claimant and Mr. Shealey, that he
20 should have moved to withdraw once the, the fact came out
21 that Judge Goode's daughter had been involved in that very,
22 very tragic situation. He did not. He stated in the
23 motion for reconsideration that he should have. We believe
24 that ---

25 THE COURT: Who should have withdrawn?

1 MR. ROGERS: Withdrawn the plea, withdrawn his plea.

2 THE COURT: Oh.

3 MR. ROGERS: Or alternatively made a motion that Judge
4 Goode recuse himself because of the personal circumstances
5 involving his daughter and also publicity from the case of
6 the preceding day. We also would submit that in light of
7 the motion ---

8 THE COURT: What is y'all's position? That the plea
9 was a valid plea, but the sentence is in excess of what it
10 normally would be because of Judge Goode's ---

11 MR. ROGERS: Yes, sir. We, we do believe -- the, the
12 evidence came out that -- Judge Goode mentioned a reference
13 to his daughter being involved in a very violent situation,
14 which we don't believe was analogous to the applicant's
15 situation, and it was immediately after that that he gave a
16 sentence of fifteen years where Mr. Shealey had recommended
17 three years. The solicitor's office had asked for a
18 minimum of ten years, and he had a sentence of fifteen
19 years.

20 THE COURT: All right.

21 MR. ROGERS: But I think the evidence will show, and
22 I've spoken with, with Mr. Shealey. He's going to testify
23 that ---

24 THE COURT: What was the potential penalty?

25 MR. ROGERS: I believe twenty years.

1 THE COURT: Twenty years.

2 MR. ROGERS: Twenty years, I believe, is the max, Your
3 Honor.

4 THE COURT: All right.

5 MR. ROGERS: That's our position on ineffective
6 assistance of counsel and denial of due process, and would
7 ask that we ---

8 THE COURT: And, of course, this was raised in the
9 motion for reconsideration?

10 MR. ROGERS: Yes, it was.

11 THE COURT: And Judge Lee did not buy that argument.
12 Was that raised in an appeal?

13 MS. WILLIAMS: Your Honor, there was an appeal in this
14 case, and I apologize. The state's return is incorrect,
15 but you do have the records from the appeal in your packet.

16 The issue was raised about whether Judge Goode should
17 have recused himself when he said that his daughter
18 suffered a sexual assault. That was found not to be
19 preserved for appeal in this case.

20 THE COURT: All right. All right, if you would.

21 MR. ROGERS: We call Mr. Woods.

22 THE COURT: All right.

23 JAYMES WOODS, BEING DULY SWORN,

24 TESTIFIES AS FOLLOWS:

25 WITNESS: Jaymes Woods.

J. WOODS - DIRECT EXAMINATION BY MR. ROGERS

9

1 DIRECT EXAMINATION BY MR. ROGERS:

2 Q. Mr. Woods, you are currently at the Kershaw
3 Correctional facility?

4 A. Yes, sir.

5 Q. How long have you been at that facility?

6 A. Since March 4th of this year.

7 Q. And where were you incarcerated prior to that?

8 A. Lee County.

9 Q. You've been continuously incarcerated for how long for
10 the charge of criminal sexual conduct with a minor second
11 degree?

12 A. Probably a little over six years. I originally got
13 arrested in 2007.

14 Q. And after you were charged for that offense, you were
15 assigned Mr. Shealey to represent you?

16 A. Yes, sir.

17 Q. If you would, tell, tell the judge how the case moved
18 forward. You eventually pled guilty, but take us from the
19 point when you met with Mr. Shealey until that plea was
20 made.

21 A. Originally we -- there was never really any talk going
22 to trial at the time because I was not -- I wasn't in
23 denial of the fact that the situation happened, and I was
24 willing to admit it. So, we were looking for a plea
25 bargain in which I would get a better -- the, the most

1 decent deal that I, that I could manage to get.

2 Q. And what, what exactly took place in the discussions
3 before your decision to proceed with the plea?

4 A. I was, I was informed that, that, that they didn't
5 want to -- the solicitors didn't want to work any kind of
6 deals. All they wanted, they just wanted a open plea, and
7 we went forward with that because of, of Judge Goode's
8 history, and that he was known to be a more lenient judge,
9 and I felt like I would be able to get a better deal in
10 front of him.

11 Q. So, the recommendation was made that you would give a
12 plea before Judge Goode?

13 A. Yes, sir.

14 Q. And that was in December of 2008?

15 A. Yes, sir.

16 Q. All right, and that was the recommendation of your
17 attorney, Mr. Shealey?

18 A. Yes, sir.

19 Q. Did you understand the procedures as that process went
20 forward?

21 A. When I got in the courtroom, the judge was, he was, he
22 was clear with his questions as far as if I was entering
23 the plea willingly, if I wasn't coerced and all that. He
24 was, he was pretty clear about that. I understood that.

25 Q. Did, did Mr. Shealey ever mention any, any recent

J. WOODS - DIRECT EXAMINATION BY MR. ROGERS

11

1 incidents involving Judge Goode as far publicity he may
2 have received for a lenient sentence?

3 A. No, sir. I found out about that after I was
4 sentenced.

5 Q. What, what would have been your discussion with him if
6 you had been made aware of the fact that he received
7 adverse press coverage for a lenient sentence?

8 A. I, I would have requested to be seen a later date
9 when there wasn't so much publicity going on, or been in
10 front of a different judge if possible.

11 Q. Were you ever aware of any issue involving Judge
12 Goode's daughter being involved in an incident as a, as a
13 young, young girl?

14 A. No, sir, not until he said it.

15 Q. And that was -- he made a statement about that at your
16 plea proceeding?

17 A. Yes, sir.

18 Q. And that's part of the record. He basically said that
19 he thought that was of a very violent situation. I think
20 he made it analogous to your situation.

21 A. Yes, sir.

22 Q. Was there ever any discussion during that plea
23 proceeding about options going forward such as withdrawing
24 your plea?

25 A. No, sir.

1 Q. About a motion for the judge to recuse himself from
2 the case?

3 A. No, sir.

4 Q. In light of what came to light?

5 A. No, sir.

6 Q. Any discussion about any other procedures?

7 A. No, sir.

8 Q. And, of course, Mr. Shealey also represented you in
9 the motion for reconsideration?

10 A. Yes, sir.

11 Q. And some of this came out again in that proceeding as
12 well?

13 A. Yes, sir.

14 Q. All right. If you had been aware of either of those
15 circumstances, the unfavorable press situation Judge Goode
16 had received or the fact that his daughter had been
17 involved in that situation, prior to agreeing to plead
18 guilty based on the recommendation of your lawyer, would
19 you have acted differently?

20 A. Yes, sir. I would have not -- I would not have gone
21 forward with the plea if I would have known about any of
22 those situations.

23 Q. Of course we've discussed prior to today -- I was able
24 to meet with you one time a couple of months ago, and we
25 discussed at that time your case in general and the issues

J. WOODS - CROSS-EXAMINATION BY MS. WILLIAMS

13

1 that we think we should raise. I told you I was providing
2 a memorandum to the court, and we met again today. Are
3 there any other issues that you would like to bring up?

4 A. No, sir.

5 MR. ROGERS: Thank you, Mr. Woods.

6 THE COURT: Ms. Williams.

7 CROSS-EXAMINATION BY MS. WILLIAMS:

8 Q. Mr. Woods, you have a significant prior record. Would
9 that be fair to say? You had a ---

10 A. Slightly.

11 Q. --- a prior offense involving a sexual ---

12 A. It was, it was ---

13 Q. --- element?

14 A. Allowed to -- pled down, yes.

15 Q. And today you're here just -- are you asking this
16 judge to give you a trial, or do you just want a lesser
17 sentence than what you've got?

18 A. I'm requesting for the sentence to be vacated where I
19 can go back for a new trial.

20 Q. So, you want to go to trial? You don't want to plead?

21 A. I would. I mean, I would.

22 MS. WILLIAMS: Okay. Thanks.

23 THE COURT: All right. Anything further?

24 MR. ROGERS: Nothing, nothing further. Thank you.

25 THE COURT: You may step down.

1 (THE WITNESS EXITS THE STAND.)

2 MR. ROGERS: We call Mr. Shealey, Your Honor.

3 THE COURT: All right.

4 LUKE A. SHEALEY, BEING DULY SWORN,

5 TESTIFIES AS FOLLOWS:

6 THE COURT: Tell us your full name, please.

7 WITNESS: Luke Adcock Shealey.

8 DIRECT EXAMINATION BY MR. ROGERS:

9 Q. Mr. Shealey, you are a lawyer practicing here in
10 Columbia?

11 A. Yes, sir.

12 Q. You are in private practice currently?

13 A. Yes, sir.

14 Q. And you previously, I believe, were with the public
15 defender's office?

16 A. That's correct.

17 Q. And you know Mr. Woods?

18 A. I do.

19 Q. Tell me how you know him.

20 A. I was appointed to his case probably in 2007.

21 Q. And what were the charges against him?

22 A. He was charged with criminal sexual conduct in the
23 second degree with a minor.

24 Q. Tell us how that case progressed.

25 A. Well, essentially once I began representing him, we

L. SHEALEY - DIRECT EXAMINATION BY MR. ROGERS

15

1 discussed the case, discussed the evidence. There was an
2 allegation that he had received oral sex from a fourteen
3 year old when he was nineteen. This was someone that he
4 was alleged to have known. It was a family friend type
5 scenario, and he did have a prior incident where he
6 received a YOA sentence, an assault and battery of a high
7 and aggravated nature or something similar. There was no
8 allegation in either of these of anything physically
9 violent like physically putting your hands on someone,
10 hurting someone, forcing them to do a sex act, but it was
11 the underage allegation.

12 So, due to his past, and also I think he got burglary
13 second degree conviction since the initial one. So, given
14 his age and that record, we, we initially asked for some
15 type of plea offer.

16 Like he told you on the witness stand, he wasn't
17 really interested in a trial at that point. Didn't deny
18 the event. I think in a statement said that he thought he
19 -- she was of age, but there were other witnesses in the
20 case, three or four, that would say that he did know her
21 age, and that was something he didn't really at that point
22 want to go to trial on.

23 But given his past record and this case, we sought out
24 a plea offer. Originally were extended one with a
25 different solicitor, Ms. Alice Potter, for two years and

1 two years' probation. However, she was, I believe,
2 terminated from the solicitor's office. It was given to
3 Margaret Fent, and she basically said that you had to have
4 a straight-up plea as charged, and we decided to do that as
5 opposed to risking trial.

6 Q. Is that called a non negotiation situation where they
7 basically tell you we're not willing to negotiate to
8 recommend a plea, the solicitor?

9 A. Yes, sir.

10 Q. Okay, and I believe in the proceeding before Judge
11 Goode, you made the same arguments that you raised today
12 about the fact that in Mr. Woods's situation, there was no
13 violence or coercion. And at what point in the proceeding
14 did he raise the issue involving his daughter?

15 A. Well, I believe the solicitor had gone through her --
16 the facts of the case as she saw them. The plea colloquy
17 had been done about Mr. Woods understanding his rights as
18 to the plea, and it was mostly during, I think, my
19 mitigation. We had already heard from Mr. Woods's family.
20 They were very supportive; we had three or four family
21 members, including church pastors and people to show
22 support. And I think even Judge Goode had engaged in some
23 type of conversation with one of the family members about
24 whether he would trust Jaymes with his daughter, and the
25 family member did say that he would, and I think Judge

1 Goode said really.

2 And then as I asked for what I asked for, which was
3 three years which I thought was fair under the
4 circumstances, and again reiterating that I didn't think it
5 was physically violent. We do see a lot of things where
6 there are -- there is violence in sexual crimes. Real
7 physical violence, not just that someone isn't legally
8 being able to give consent. So, I'd wanted to distinguish
9 that because I thought it would be helpful for the
10 sentence.

11 And that was when Judge Goode informed me that his --
12 he thought it was one of the most violent things in the
13 world. And that his daughter was molested or, quote
14 unquote, violated at a Girl Scout camp as a younger,
15 younger woman, young gentleman, and now at twenty-six she
16 still hasn't recovered from it.

17 That was the first I had ever heard of that; I don't
18 think anybody had ever heard of that. I don't know. He
19 was always historically, like Mr. Woods said, seen as a
20 lenient plea judge. He was particularly somewhat a fair
21 sentencer on these types of cases, which is why I took Mr.
22 Woods in front of him.

23 Q. You were not aware of the situation involving his
24 daughter before that statement was made by him at his plea
25 proceeding?

1 A. No, sir.

2 Q. How about the case that he involved -- he'd been
3 involved apparently several days before this proceeding?
4 Had you been advised, or did you have any understanding of
5 adverse publicity regarding the judge in light of that case
6 where the sentence was apparently lenient in the minds of
7 many?

8 A. I did not; I was not aware. I think I should have
9 been. That was a very high-profile case. Talisha Smith
10 was the defendant. Kendra Gaddy was the victim, and it was
11 -- Ms. Smith was a daycare employee who was charged with
12 child abuse with great bodily harm. I think she slapped
13 and shook Kendra until she had hemorrhaging on the brain,
14 and pled at the end of the day prior. Judge Goode,
15 although the family and the solicitor were asking for
16 significant time, gave her probation, and it was...

17 I did not receive the *State* paper that day. I didn't,
18 you know, hear about it so much, but I was the very first
19 plea with Mr. Woods the next day, but it was all over the
20 press. It was all over the courthouse. Somehow I was
21 oblivious to this, which I think as a defense lawyer, when
22 you select a time to plead your client, sometimes -- you
23 know, had, had -- if I could do it over again, I would not
24 have pled him at all in front of any judge that day with
25 the intense media scrutiny on this courthouse.

L. SHEALEY - DIRECT EXAMINATION BY MR. ROGERS

19

1 And I particularly would not have taken him in front
2 of Judge Goode, knowing that he was receiving such intense
3 scrutiny, backlash, criticism on that. So, I certainly
4 wouldn't have done that, which I did, and I think that was
5 the next plea he ever did, and I think it was the last plea
6 he ever did after that, and then he resigned.

7 Q. Did you consider at the plea proceeding a motion to
8 withdraw Mr. Woods's plea?

9 A. During the plea when he mentioned -- like I said, I
10 was unaware about the full media case earlier. But when he
11 did mention that with his daughter, I think in my head I
12 thought I should probably ask for this, but I just didn't.
13 Maybe I was too inexperienced, but it was shocking to me.
14 It wasn't how Judge Goode usually acted, and I'd been
15 before him numerous times. But when he did say that, I
16 should have, in my opinion, I should have done it. I think
17 he would have had better chance on appeal. I think it
18 would have been the right thing to do.

19 And I could tell Mr. Woods, he trusted me, I think.
20 But I think he was worried at that part. So, if I had to
21 do it over again, I would have asked him let me please
22 withdraw the plea, and if he didn't want to do that, then I
23 would ask him to please recuse himself.

24 Q. Okay, and again another option would have been to make
25 a motion for him to recuse himself?

1 A. Yes, sir. That's something I don't do a whole lot
2 with judges, and I think most judges can be fair and
3 impartial. But when they do say something like that that's
4 so personal to them, and he called it the most violent
5 thing that he could think of regarding his daughter, the
6 family member, in a case so factually analogous to this,
7 then I think that would have been the appropriate thing to
8 do. Whether he ended up recusing himself or not, I think I
9 should have asked for it. And I think that was my job as
10 his lawyer, and I didn't.

11 Q. And another option could have been -- certainly
12 possibly would -- possibility that the judge recuse himself
13 without a motion from you?

14 A. Certainly a judge can do that if he thinks it's
15 necessary. I don't see it a whole lot, but it's certainly
16 a possibility.

17 Q. And I just want to read briefly from the transcript of
18 motion reconsider. You said at that time, the time of the
19 plea proceeding:

20 I think I should have tried to withdraw, but I
21 didn't. Be that as it may, we went forward and
22 he was sentenced. He sentenced Jaymes Woods to
23 fifteen years. I mean, fifteen years, five years
24 even higher than what the state asked for at the
25 time.

L. SHEALEY - DIRECT EXAMINATION BY MR. ROGERS

21

1 THE COURT: I thought you said the state's request was
2 ten years minimum.

3 MR. ROGERS: It was. It was. He says five years,
4 five years more than ten years. Their minimum request,
5 state's minimum request.

6 BY MR. ROGERS:

7 Q. And you had suggested three years?

8 A. Yes, sir.

9 Q. Mr. Shealey, if you had made a motion to withdraw and
10 were successful, or a motion to recuse, do you think the
11 result in, in Mr. Woods's case would have been different?

12 A. I do. I think had I not -- had I originally not taken
13 him in front of Judge Goode that day, given the particular
14 media public scrutiny he was under, had I actually held off
15 pleading him, had I -- I think had I pled him in front of
16 another judge, even Judge Goode on a different day had he
17 continued to be -- to not resign, I think it would have
18 been a different result.

19 I think judges do sometimes give higher sentences than
20 the solicitor asks. I think it's somewhat less common, but
21 I think that judges are human and that that particular case
22 that day had so much scrutiny and media attention. It even
23 sparked Kendra's Law which came out about child abuse and
24 mandatory minimum sentences. I think just human nature of
25 it, I think Judge Goode, maybe whether he knew it or not,

1 was making a point that he does give harsh sentences, you
2 know. So, I think that that was almost a backlash
3 reaction.

4 I think almost in front of any other judge, I think
5 even though he did have a prior history, I think he would
6 not have gotten fifteen. He may not have gotten what I had
7 asked for, but I think he would have gotten significantly
8 less is my opinion.

9 Q. As far as preserving any errors for appeal, was any of
10 that done at the plea proceeding or motion for
11 reconsideration?

12 A. Just like the assistant attorney general said, because
13 I did not ask to withdraw the plea or ask for Judge Goode
14 to recuse himself, those issues were not preserved. So, he
15 had no hope on appeal.

16 Q. Would you consider your representation, in light of
17 all these other circumstances, deficient in Mr. Woods's
18 situation?

19 A. I think it was, it was fine up until the point that I
20 took him in front of Judge Goode that day and then did not
21 ask for Judge Goode to withdraw or recuse. At that point
22 it's ineffective, now that I can think about it.

23 Q. And if, if effective representation had been provided,
24 do you think there would have been a different result in
25 this case?

1 A. Yes, sir.

2 MR. ROGERS: Thank you.

3 CROSS-EXAMINATION BY MS. WILLIAMS:

4 Q. Mr. Shealey, tell me your thoughts about taking this
5 to trial.

6 A. Well, we did -- we decided not to go to trial because
7 of the other witnesses in the case that would have said
8 that Jaymes probably knew that she was not sixteen, not
9 eighteen, and that we probably would have lost. So, we
10 never really thought about taking it to trial.

11 Q. There was also a photograph of this act. Is that
12 correct?

13 A. That was claimed, although we never received it in
14 discovery.

15 Q. Okay.

16 A. You know, he never denied the act itself. So, it
17 didn't really play into the factor of the -- of that.

18 Q. And there were multiple people who were going to say
19 they told him on various occasions how old she was,
20 correct?

21 A. Right.

22 Q. So, you didn't really think trial was going to be a
23 good option for him?

24 A. No.

25 Q. Okay, and your decision about Judge Goode was made on

1 all your facts that you knew at the time?

2 A. Right. It was made -- my decision to plead before
3 Judge Goode was made on our -- the history, his
4 historically being perceived as a good judge who I'd had
5 plenty of good pleas before. But had I known, like I told
6 Mr. Rogers, had I know about what had happened the day
7 before, I wouldn't have pled him.

8 Q. And much of the media firestorm that occurred after
9 this was actually in the days following, not so much
10 immediately. Is that correct? Would that be correct?

11 A. If I recall, there was -- it was in the papers the day
12 I pled him, and then it continued to be in the papers as
13 that case asked for a motion to reconsider, and then as
14 senators called for him not to be reelected, and then he
15 eventually resigned. So, there were many, many articles
16 about it, but I think it was in the paper.

17 Q. But her mother did not actually begin until much, much
18 after this, a day or two after the plea. Was -- do you --
19 you don't ---

20 A. I couldn't tell you.

21 Q. If you haven't read, that's fair. This comment was
22 made after Judge Goode had already accepted Mr. Woods's
23 plea. Is that correct?

24 A. Right.

25 Q. So, he had no right to withdraw his plea at that

L. SHEALEY - REDIRECT EXAMINATION BY MR. ROGERS

25

1 point?

2 A. I could certainly ask for it. I don't think Judge
3 Goode -- I think it would have been the judge's call, his
4 discretion whether he would let me withdraw at that point,
5 but he didn't have to.

6 MS. WILLIAMS: That's all the questions I have.

7 MR. ROGERS: I was just going to very briefly, Your
8 Honor.

9 REDIRECT EXAMINATION BY MR ROGERS:

10 Q. If you had asked to allow Mr. Woods to withdraw the
11 plea or had asked him to recuse himself, there would have
12 been a record establishing all those issues?

13 A. Yes, sir.

14 Q. Mr. Woods had nothing to do with that photograph. Is
15 that, is that accurate?

16 A. Correct. From what I remember, another friend of
17 actually the victim's -- like it was four or five young men
18 and women all in their teenage years at the house owned by
19 one of the victim's friends. They were all hanging out
20 unsupervised after school. And even in the light most
21 favorable to the state, basically the sex, the oral sex was
22 going on.

23 He didn't have anything to do with the photo. It was
24 actually one of her friends who snuck into the kitchen and
25 snapped a picture of it. They didn't know about it, but it

1 was made known to the mother, who of course was mortified,
2 but it was -- I think Ms. Fent had it, but it was never
3 shared with me. I didn't push the issue because we weren't
4 going to go to trial at that point.

5 MR. ROGERS: Thank you, Mr. Shealey.

6 EXAMINATION BY THE COURT:

7 Q. Mr. Shealey, do you know whether Judge Goode knew
8 about any press coverage at the time you did this plea?

9 A. I, I think the rumor, if you want me to speak to the
10 rumor.

11 Q. Do you know?

12 A. He didn't tell me anything about press coverage, no,
13 sir.

14 Q. You didn't know?

15 A. I did not know about it.

16 Q. And he's not ---

17 A. Although I think I had a duty to know about it.

18 Q. He's not from Richland County?

19 A. No, sir.

20 THE COURT: All right, you may step down.

21 WITNESS: Thanks.

22 (THE WITNESS EXITS THE STAND.)

23 MR. ROGERS: Nothing further, Your Honor.

24 THE COURT: All right, anything from the state?

25 MS. WILLIAMS: Nothing further, Your Honor. I do have

1 a couple of cases that speak to the point.

2 THE COURT: All right. Well, if you have something
3 you want to give me.

4 MS. WILLIAMS: Yes, Your Honor. There's, there's a
5 merits argument that the state presents in its brief on
6 appeal. I assert that argument again. There's also a case
7 called *State vs. Harvey Walker*, a very old case. It does
8 caution against using motions to withdraw based on surprise
9 about the severity of the sentence that is received.

10 And while I think that the basis argued today is that
11 there was some kind of bias that, had this sentence not
12 been so severe, there would have been no motion to
13 withdraw, and I think that's really the reason that they
14 want to withdraw.

15 MR. ROGERS: Your Honor, just briefly, it's our
16 position that the motion should have been made immediatly
17 after the comments about Judge Goode's daughter by Judge
18 Goode which were prior to the sentence being given.

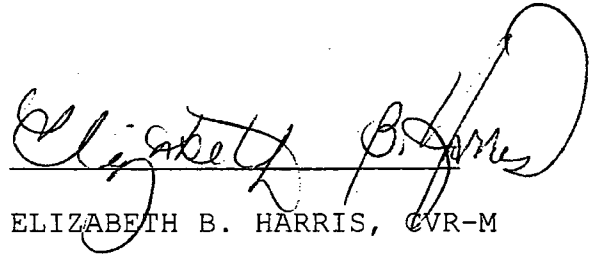
19 THE COURT: Okay. Thank y'all.

20 --- END OF TRANSCRIPT OF RECORD ---

CERTIFICATE

I, THE UNDERSIGNED ELIZABETH B. HARRIS, CERTIFIED
VERBATIM OFFICIAL COURT REPORTER FOR THE FIFTH
JUDICIAL CIRCUIT OF THE STATE OF SOUTH CAROLINA, DO
HEREBY CERTIFY THAT THE FOREGOING IS A TRUE, ACCURATE
AND COMPLETE TRANSCRIPT OF RECORD OF ALL THE
PROCEEDINGS HAD AND EVIDENCE INTRODUCED IN THE HEARING
OF THE CAPTIONED CAUSE, RELATIVE TO APPEAL, IN THE
CIRCUIT COURT FOR RICHLAND COUNTY, SOUTH CAROLINA, ON
THE 1ST DAY OF OCTOBER, 2013.

I DO FURTHER CERTIFY THAT I AM NEITHER OF KIN,
COUNSEL, NOR INTEREST IN ANY PARTY HERETO.



ELIZABETH B. HARRIS, CVR-M

COLUMBIA, SOUTH CAROLINA

MARCH 24TH, 2014

STATE OF SOUTH CAROLINA)
)
 COUNTY OF RICHLAND)
)
 Jaymes M. Woods, #315669,)
)
 Applicant,)
)
 v.)
)
 State of South Carolina,)
)
 Respondent.)

IN THE COURT OF COMMON PLEAS
 2012-CP-40-7145

ORDER OF DISMISSAL

RICHLAND COUNTY
 FILED
 2013 NOV -5 PM 2:10
 JEANETTE V. ALDRIDGE
 C.C.P. & G.S.

This matter comes before the Court by way of an Application for Post-Conviction Relief filed October 22, 2012. An evidentiary hearing was convened on October 1, 2013, at the Richland County Courthouse.¹ The Applicant was present at the hearing and was represented by Paul B. Rodgers, Esquire. The Respondent was represented by Mary S. Williams of the South Carolina Attorney General's Office.

At the hearing, the Applicant testified on his own behalf. Also testifying was Luke Shealey, Esquire ("Counsel"). This Court had before it the records of the Richland County Clerk of Court, the guilty plea transcript, the appellate records, and the Applicant's records from the South Carolina Department of Corrections.

PROCEDURAL HISTORY

The records before this Court indicate that The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Richland County Clerk

¹ Applicant, through counsel, had requested a continuance because counsel had been unable to meet with him due to lock downs and other issues at the correctional facility. This court permitted counsel to meet with Applicant while other hearings that day proceeded. Applicant's case was called last after conferring with counsel. Upon this court's inquiry Applicant was ready to proceed with his case and did not need additional time to prepare with his attorney. As per

COARDED

of Court. The Applicant was indicted for Criminal Sexual Conduct (“CSC”) with a Minor – 2nd Degree (2007-GS-40-7907). Luke Shealey, Esquire, represented him. On December 9, 2008, the Applicant pled guilty before the Honorable Kenneth G. Goode. Applicant was sentenced to fifteen (15) years imprisonment. Applicant moved for a reconsideration of sentence, and the matter was heard by the Honorable Allison Renee Lee on December 9, 2009. Judge Lee denied Applicant’s request to reconsider his sentence.

A notice of appeal was filed and an appeal perfected. On appeal, Woods argued that Judge Goode should have recused himself following disclosure that his own daughter had been the victim of a sexual assault. The Court of Appeals affirmed the conviction, finding the issue not preserved for review. State v. Wood, Op. No. 2012-UP-129 (S.C. Ct. App. filed February 29, 2012). The Remittitur was sent on March 16, 2012.

In his application for post-conviction relief (PCR), Applicant alleges that he is being held in custody unlawfully for the following reasons:

1. “Violation of 4th, 6th, and 14th U.S. Amendment rights collectively.”
 - a. “Plea judge erred in accepting Defendant’s competence level ... Defendant barely had a high school education, much less any legally acceptable levels of competent knowledge of legal procedure, so therefore the Defendant was not legally and constitutionally competent to make any decisions the court was collectively coercing the Defendant into making.”
2. “Violation of 6th and 14th U.S. Amendment rights collectively.”
 - a. Counsel was ineffective where “Defense attorney states that ‘he hasn’t seen no video, but if the State says it exists, then I’m comfortable with it.’”
3. “Violation of 14th U.S. Amendment right.”
 - a. “...Plea judge posited on the legal record that he personally holds ‘the only opinion that matters’ as regards the Defendant when Plea Judge spoke at length about the sexual abuse of his own daughter, even violating his own daughter’s constitutional rights to privacy in an effort to prejudice the Defendant in the minds of the people and not once does Defense counsel

Applicant’s assertions after meeting with his attorney, this court found that Applicant and counsel had adequate time to confer and that Applicant wished to proceed.

move to halt this injustice being done to his client. ...”

An amended application was filed by PCR counsel addressing Applicant’s claims that Counsel should have moved for withdrawal of Applicant’s plea and/or recusal of the plea judge, Applicant’s lack of requisite competence, failure to negotiate a plea agreement with the State, and Counsel’s handling of a photograph discussed at plea.²

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has had the opportunity to review the record in its entirety and has heard the testimony at the post-conviction relief hearing. This Court has further had the opportunity to observe the witnesses presented at the hearing, closely pass upon their credibility and weigh their testimony accordingly. Set forth below are the relevant findings of facts and conclusions of law as required pursuant to S.C. Code Ann. §17-27-80.

Ineffective Assistance of Counsel

The Applicant alleges he received ineffective assistance of counsel. In a PCR action, “[t]he burden of proof is on the applicant to prove his allegations by a preponderance of the evidence.” Frasier v. State, 351 S.C. 385, 389, 570 S.E.2d 172, 174 (2002) (citing Rule 71.1(e), SCRPC). Where ineffective assistance of counsel is alleged as a ground for relief, the Applicant must prove that “counsel’s conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result.” Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 2064, 80 L.Ed.2d 674, 692 (1984); Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985).

The proper measure of performance is whether the attorney provided representation within

² While the application and amendment make reference to a “video,” it appears that only a photograph was discussed

the range of competence required in criminal cases. Courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Butler, Id. The Applicant must overcome this presumption to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

First, the Applicant must prove that counsel's performance was deficient. Under this prong, attorney performance is measured by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 385 S.E.2d at 625 (citing Strickland, supra). Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. "A reasonable probability is a probability sufficient to undermine confidence in the outcome of trial." Johnson v. State, 325 S.C. 182, 186, 480 S.E.2d 733, 735 (1997) (citing Strickland). With respect to guilty plea counsel, the Applicant must show that there is a reasonable probability that, but for counsel's alleged errors, he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 106 S.Ct. 366, 88 L.Ed. 2d 203 (1985).

Withdrawal of Plea

Applicant argues that Counsel erred in failing to move for withdrawal of his guilty plea. Applicant purports as basis for his withdrawal the revelation that Judge Goode's daughter had suffered a sexual assault. As prejudice, Applicant asserts that the judge's personal experience in this regard resulted in a higher sentence. When this disclosure occurred, the plea had already been accepted. Applicant therefore was not entitled to withdraw his plea as a matter of right. Thomson v.

at the guilty plea proceeding. Therefore, this court interprets Applicant's claim to be regarding the photo.

State, 355 S.C. 278, 285, 585 S.E.2d 143, 146 (2003). Furthermore, “[a]n accused is not permitted to speculate on the supposed clemency of the judge and enter a plea of guilty with the right to retract it if he finds that his expectation was not realized.” State v. Cantrell 250 S.C. 376, 380, 158 S.E.2d 189, 191-192 (1967).

This court notes the solicitor stated at the outset of the plea that there had been no plea negotiations. (Plea Tr. p. 3, lines 8-9.) Applicant was informed that he faced a sentence up to twenty (20) years. (Plea Tr. p. 3, lines 22-25.) Citing Applicant’s prior record (which included burglary and a prior sexual offense involving a thirteen-year-old) and failure to complete probationary sentences without reoffending, the solicitor asked for a sentence of “*at least ten years.*” [Emphasis supplied.] (Plea Tr. p. 9, lines 5-22.) The defense countered with mitigating circumstances and asked the court to consider a sentence “in the range of three years.” (Plea Tr. p. 15, lines 7-19.) Applicant was informed of the offense he was pleading to, advised of his rights to a jury trial, and agreed with the solicitor’s statement of facts, including a statement in which he admitted the conduct. (Plea Tr. p. 3, line 13-p. 4, line 8; p. 4, line 24 – p. 6, line 9.)

Further, Applicant gave conflicting testimony regarding his desire for a trial. Applicant initially stated that his plea was fine, but the sentence was tainted. Applicant conceded he was willing to admit what happened and wanted a plea bargain. Applicant even stated he would have simply asked to plead at a later date if he had known that Goode’s daughter had experienced sexual assault. Applicant also testified, however, that he did want a trial and not a plea.

In context of the plea, it appears that Judge Goode was making a comment that even without ostensible violence, all crimes of this nature have perpetual effects upon the victims. Moreover, the the sentence pronounced by Judge Goode was within permissible range and did not appear to be

motivated by any bias or prejudice but rather by factors including Applicant's own criminal record (including a prior sexual offense), his inability to complete probationary supervision, the facts of the case (his repeated pursuit of the child after multiple warnings not to), and even the victim's mother's plea for a substantial sentence.

It appears from the record that Applicant's desire to have Counsel withdraw his plea is a result of a sentence in excess of what he expected and not as a result of any error during the plea or any desire at the time for a trial. It has long been held that withdrawal of a plea

...should not be made use of solely because of defendant's surprise at the severity of the sentence imposed, in the absence of some showing that the plea was induced by fraud, misrepresentation, or other unfair or undue means on the part of the prosecuting attorney or the presiding judge, nor unless the defendant, upon the hearing of the motion for leave to withdraw his plea, makes a prima facie showing of some probable defense to the charges against him.

State v. Harvey, 123 S.E. 201, 202 (1924). In this case, I find no error in the plea nor sufficient evidence of prejudice on the part of Judge Goode to suggest that withdrawal of Applicant's plea would have been appropriate, and Counsel's failure to move for withdrawal of the plea based on severity of the sentence was not deficient performance. Further, Applicant has failed to set forth any evidence of prejudice in this regard.

Recusal

In the alternative, Applicant asserts that Counsel was deficient in failing to move for Judge Goode's recusal in the matter following the comment about his daughter's experience and pressure due to a case heard the prior day.

As set forth in Mallett v. Mallett, 323 S.C. 141, 146-147, 473 S.E.2d 804, 808 (Ct. App. 1996):

...the alleged bias must be personal as distinguished from judicial. Davis v. Board of Sch. Comm'rs, 517 F.2d 1044 (5th Cir.1975); Roper, 447 S.E.2d 218. Likewise, the bias must stem from extrajudicial sources and result in a decision on the merits based on considerations other than what the judge learned from his participation in the case. Id. A motion to recuse may not be predicated on the judge's rulings in the case before him or on rulings in a related case, nor on his demonstrated tendency to rule in any particular manner, or on a particular judicial leaning or attitude derived from his experience on the bench. United States v. Grinnell Corp., 384 U.S. 563, 86 S.Ct. 1698, 16 L.Ed.2d 778 (1966); Berger v. United States, 255 U.S. 22, 31, 41 S.Ct. 230, 232, 65 L.Ed. 481 (1921).

With regard to the argument that the judge should be recused due to his remark about his daughter, "the fair meaning of any remark must be interpreted in the light of the context in which it is uttered in determining whether the remarks show personal bias or prejudice on the part of the judge sufficient to require that he be disqualified." Shaw v. State, 276 S.C. 190, 193, 277 S.E.2d 140, 141 (1981). As noted above, the remark does not show personal bias or prejudice against the defendant; the remark notes the judge's reflection that even though not a crime ostensibly involving violence, the event would affect the victim.

With regard to the allegation that Counsel should have moved to have Judge Goode recused due to media scrutiny, I likewise find this assertion to be without merit. Judges, in the execution of their duties, are inherently subject to public scrutiny. To fail to move for recusal of a judge in one case due to scrutiny in a separate, unrelated case, without more, would not be outside the realm of competence.

I further decline to find prejudice in the length of Applicant's sentence. As noted above and by Judge Lee at hearing on Applicant's Motion to Reconsider (Motion Tr. p. 16, line 17 – p. 20, line 3.) Applicant's case presented several bases for the sentence imposed: seriousness of the offense,

Applicant's prior record (including a similar offense), his failure to complete probationary sentences without reoffending, the State's request for *at least* ten (10) years, and the facts of the case (including Applicant's knowledge of victim's age and warnings to stay away from her). There further appears no evidence that Judge Goode was actually aware of or influenced by any media scrutiny.

For these reasons, I find that Counsel was not deficient in failing to move for recusal of Judge Goode in this matter and find no evidence of prejudice from any alleged deficiency.

Competence

In his application and amended application, Applicant asserts that he was not competent to enter a guilty plea by virtue of his education level and lack of legal expertise. At the time of Applicant's plea, he had already had significant interaction in the legal system, having faced charges of CSC with a Minor 2nd Degree in 2004 (resulting in a plea to Assault and Battery of a High and Aggravated Nature) and Burglary 1st Degree in 2006 (resulting in a plea to Burglary 2nd Degree). The plea transcript also reflects that Applicant obtained a GED while incarcerated (Plea Tr. p. 11, line 22), and Applicant states in his application that he "barely had a high school education." Applicant made appropriate responses to all questions asked during his plea, and in this court's observation of Applicant during hearing, he was likewise appropriate and coherent. No additional evidence was presented which would cast doubt on Applicant's competence to enter his plea. Based on these facts, Applicant has failed to demonstrate that his plea was rendered involuntary due to any competence issue and has likewise failed to demonstrate any shortcoming by counsel.

Sentence Negotiation

Applicant presented no evidence regarding this allegation at hearing, but in his amended application states that there had been no efforts at negotiation of a favorable sentence

recommendation. Based on a review of the record, Applicant has failed to set forth sufficient evidence to demonstrate that Counsel's failure to secure a recommendation of a favorable sentence was deficient performance in this case.

Reference to Photo

Applicant presented no additional evidence regarding this allegation. The photograph of the act was mentioned during the plea by the victim's mother after Applicant's plea was accepted. (Plea Tr. p. 7, line 20 – p. 8, line 3; p. 8, lines 17-18.) Counsel stated that he had not seen a photograph in discovery, but it appears Counsel knew of its existence and noted that Applicant had no role in taking or disseminating the photo. (Plea Tr. p. 11, lines 4-12.) It appears that Applicant would have Counsel object to mention of the photograph. The Circuit Court may conduct broad inquiry to "assist it in determining the sentence to be imposed." Thomason v. State, 355 S.C. 278, 285, 584 S.E.2d 143, 147 (2003). It is also appropriate for victims to be heard during sentencing. Id. at 286. Therefore, I find no basis for Counsel to object. Based on the record, I find that Applicant has not carried his burden in this regard.

Other Allegations

No other allegations were raised at the PCR hearing. Therefore, any additional allegations are deemed waived because no evidence was presented.

CONCLUSION

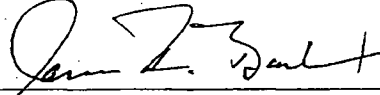
Based on all the foregoing, this Court finds and concludes that the Applicant has not established any constitutional violations or deprivations that would require this court to grant his application. Therefore, this application for post conviction relief must be denied and dismissed with prejudice.

This Court advises Applicant that he must file a notice of intent to appeal within thirty (30) days from the receipt of this Order to secure the appropriate appellate review. His attention is also directed to Rule 243, SCACR, for appropriate procedures after notice has been timely filed.

IT IS THEREFORE ORDERED:

1. That the Application for Post-Conviction Relief must be DENIED AND DISMISSED WITH PREJUDICE; and
2. The Applicant must be remanded to the custody of the Respondent.

AND IT IS SO ORDERED this 28 day of October, 2015.



JAMES R. BARBER, III
Presiding Judge
Fifth Judicial Circuit

Columbia, South Carolina.

WITNESSES

(S) INV. R. CARTER - RCSD

DOCKET NO. 2008-GS-40-07907

The State of South Carolina

County of Richland

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

Defendant

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

Defendant

Witness:

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

JANUARY TERM 2008
135

ARREST WARRANT NUMBER

I-936670

ACTION OF GRAND JURY
TRIPLE BILL

JAMYES MICHAEL WOOD

THE STATE

VS.

Foreperson of Grand Jury
Date: JAN 17 2008

VERDICT

Indictment for

CRIMINAL SEXUAL CONDUCT
WITH A MINOR 2ND

SC Code: 16-3-655(B)(2)
CDR Code:397
Class FEL/C(V)

Foreperson of Petit Jury
Date:

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

INDICTMENT

At a Court of General Sessions, convened on January 16, 2008, the Grand Jurors of Richland County present upon their oath:

CRIMINAL SEXUAL CONDUCT WITH A MINOR 2nd DEGREE

That Jamyes Michael Wood, did in Richland County on or about August 4, 2007, willfully, unlawfully and feloniously engage in a sexual battery against **Minor** **[REDACTED]** who was at least fourteen (14) years of age but less than sixteen (16) years of age, to wit: the Defendant had the victim perform oral sex on him and said defendant being older than said victim and/or he was in a position of familial, custodial, or official authority to coerce said victim to submit. All in violation of SC Code of Laws § 16-3-655.

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

Warren B. Giese
Warren B. Giese, SOLICITOR GENERAL
FOR THE STATE OF SOUTH CAROLINA
FOR THE COUNTY OF RICHLAND
C.C.C.P.&G.S.
RICHLAND COUNTY
SOUTH CAROLINA

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF RICHLAND
STATE VS.

INDICTMENT/CASE#:
2008-GS-40-7907

Jaymes Michael Wood

AW#: I-936670

KA: _____

Date of Offense: 8-4-07

Race: _____ Sex: _____ Age: _____

S.C. Code §: 16-3-655(B)(2)

DOB: _____ SS#: _____

CDR Code #: 0131917

Address: _____

City, State, Zip _____

DL# _____ SID# _____

SENTENCE SHEET

Disposition of the said indictment comes now the Defendant who was CONVICTED OF or PLEADS

to: CSC with a minor 2nd degree

in violation of §16-3-655(B)(2) of the S.C. Code of Laws, bearing CDR Code # 0131917

NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS (CSC §17-25-45
w/minor 1st or Lewd Act)

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury.
(Defendant initial)

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

WITNESS:

Anne R. Good
Solicitor

X Jaymes Wood
Defendant

W. A. Shady
Attorney for Defendant

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center,
or a determinate term of 15 days/months/years or under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment of \$ _____; plus
costs and assessments as applicable*; the balance is suspended with probation for _____ months/years and subject to South
Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by
reference.

CONCURRENT or CONSECUTIVE to sentence on: _____

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

The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

SPECIAL CONDITIONS:

RESTITUTION: Heard, Waived, Ordered

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

Payment Terms: _____

set by SCDPPPS _____

Recipient: _____

Fine:	\$
§14-1-206 (Assessments 107.5%)	\$
§14-1-211(A)(1) (Conv. Surcharge)	\$100
§14-1-211(A)(2) (DUI Surcharge)	\$100
§56-5-2995 (DUI Assessment)	\$12
§35.13 (Public Def/Prob)	\$500
§73.3, 1B TP (Law Enforce. Funding)	\$25
§33.7, 1B TP (Drug Court Surcharge)	\$100
§50-21-114(BUI Breath Test Fee)	\$50
§56-5-2942(J) (Vehicle Assessment)	\$40/ea
3% to County (if paid in installments)	\$
TOTAL	\$

- PTUP _____ days/hours Public Service Employment
- Obtain GED _____
- Attend Voc. Rehab. or Job Corp. _____
- May serve W/E beginning _____
- Substance Abuse Counseling _____
- Random Drug/Alcohol Testing _____
- Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ _____ beginning _____
- \$ _____ paid to Public Defender Fund
- Other: _____

CERTIFIED TRUE COPY

Appointed PD or appointed other counsel, §35.13, TP
Requires \$500 be paid to Clerk during probation.

Amy McCullough
Clerk of Court Deputy Clerk
Court Reporter: S. Harris

W. A. Shady
PRESIDING JUDGE
Judge Code: 0131917
Sentence Date: 12-29-08