

August 14, 2014

DANIEL E. SHEAROUSE

CLERK OF COURT

P.O. BOX 11330

COLUMBIA, S.C. 29211

RECEIVED

SEP 02 2014

S.C. SUPREME COURT

Re: Wilfredo Salas v. State

Appellate Case No. 2014-000240

Dear Mr. Shearouse:

Please find enclosed a Pro Se response to the petition for Writ of Certiorari accompanied with a copy of proof of service. Also please send to me a filed copy of the Pro Se response.

Respectfully submitted,

Wilfredo Salas

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Certiorari to Greenville County
Edward W. Miller, Circuit Court Judge

WILFREDO SALAS PETITIONER,
V.
STATE OF SOUTH CAROLINA, RESPONDENT

APPELLATE CASE NO. 2014-00240

PRO SE RESPONSE TO THE PETITION

WILFREDO SALAS # 347611

Pro se Petitioner

Kershaw C.I.

4848 Goldmine Hwy

Kershaw, S.C. 29067

ISSUES PRESENTED

Did plea counsel fail to file motion for discovery?

Did plea counsel mislead applicant about the conditions of the plea?

Whether plea counsel was ineffective in giving incorrect sentencing advice?

Did plea counsel fail to object to the reduction of plea?

Was Petitioner prejudiced because PCR Judge did not entertain the matter of plea counsel's perjured testimony?

Did Circuit Court judge inform Petitioner of the maximum and minimum sentence?

Was Petitioner denied a preliminary hearing?

Did plea counsel fail to investigate discrepancies in Petitioner's case?

Did plea counsel fail to object to recommendation of sentence?

Did plea counsel fail to object to victim's impact statement?

ARGUMENT

Plea Counsel failed to file motion for discovery.

In post-conviction, a petitioner may be granted relief based on ineffective assistance of counsel if he shows: (1) that trial counsel failed to render reasonably effective assistance under prevailing professional norms, and (2) that he was prejudiced by counsel's ineffective performance. Strickland v. Washington, 466 U.S. 668, 104 S. Ct. 2052 (1984); Stalk v. State, 383 S.C. 559, 681 S.E. 2d 592 (2009).

During the evidentiary hearing Petitioner's plea counsel testified that he filed discovery motions after he was retained. Petitioner now hereby asserts that this issue portrays a matter of perjury. This assertion stems from the fact that Petitioner has two letters from the Greenville County Clerk of Court, Mr. Paul B. Wickensimer of which pertains to NEWLY DISCOVERED EVIDENCE dated April 25, 2012 and April 29, 2014. In the first letter Mr. Wickensimer informs Petitioner that "As of today's date, no Motion for Discovery was filed with the Clerk of Court's Office." In the second letter Mr. Wickensimer informs Petitioner that "Discovery material was not filed with the Clerk of Court."

(See exhibits A and B).

Rule 26(g)(1) of South Carolina Rules of Civil Procedure specifically requires original discovery request to be filed with the clerk of Court when they are to be used at a hearing or trial. In retrospect of Petitioner's guilty plea, the Circuit Court was prohibited from utilizing statements and reports against Petitioner in determining to accept his guilty plea. Ordinarily, matters in this case should have been delivered to clerk of Court in order to have been filed and made part of the record in plea hearing. Therefore, the Circuit Court has committed an abuse of discretion by accepting petitioner's guilty plea. Also, the Court's acceptance of a guilty plea is to be supported by a factual basis. In Petitioner's case, the supposed factual basis were from reports that were not even filed with the Clerk's office. This matter indicates that the Circuit Court lacked subject-matter jurisdiction to accept Petitioner's guilty plea because the factual basis in relations with the reports and statements that the state used against Petitioner were not filed with the Clerk's office. Therefore, the reports and statements were not legalized documents.

This matter shows that Petitioner's plea was not entered knowingly and intelligently because no evidence, records, statements or reports were presented and filed with the Clerk's office before Petitioner pleaded guilty. This is where Petitioner's plea counsel failed to render reasonably effective assistance under prevailing professional norms and Petitioner was also prejudiced by counsel's ineffective performance.

Plea counsel misled applicant about the conditions of the plea.

Counsel failed to object and disclose the issue of that the Circuit Court lacked subject-matter jurisdiction to accept Petitioner's guilty plea to the offense of lewd act (16-15-0140) because lewd act is not a lesser-included offense of criminal sexual conduct in the 1st., and because no true-billed indictment charging Petitioner with Criminal sexual conduct was filed with the Clerk's office or quashed. The Petitioner's counsel also failed to advise petitioner that he was entitled to instruction on lesser included offense of Criminal sexual conduct 1st.

The Circuit Court erred in not dismissing the

Charge of Criminal Sexual Conduct 1st., before accepting the plea of lewd act.

The Circuit Court does not have subject-matter jurisdiction to convict a defendant of an offense unless there is an indictment which sufficiently states the offense, the defendant waives presentment, or the offense is a lesser-included offense of the crime charged in the indictment. State v. Parker (S.C. 2002) 351 S.C. 567, 571 S.E. 2d 288; Hooks v. State (S.C. 2003) 353 S.C. 48, 577 S.E. 2d 211.

In Petitioner's case, the charge of lewd act is not a lesser-included offense of first degree Criminal Sexual Conduct and no indictment charging Petitioner with lewd act was ever prepared; therefore, no valid waiver of presentment of charge to grand jury could occur, which was prerequisite to valid guilty plea.

It appears the waiver of presentment may not have been executed in strict conformity with S.C. Code Ann. §§ 17-23-120 - 150 (1985). This section which implements the General Assembly's authority to provide for waiver of presentment of indictment under Article I § 77, requires the

accused to execute a written waiver of presentment of indictment before the clerk of court of the County having jurisdiction of such case. S.C. Code Ann §§ 17-23-120 and 130 (1985). An issue of due process violation has occurred due to fraud. According to Petitioner's sentence sheet, his initials seems to have been forged where it is indicated that "Defendant waives presentment to grand jury." (see exhibits C and D). This should pose a question within the court's mind of why wasn't Petitioner's initials on the sentence sheet before the Circuit Court judge gave the written instructions to Petitioner. There is no indication within the guilty plea transcript where the Circuit Court judge has instructed Petitioner to initial the sentence sheet, so how did Petitioner's initials appear on the sentence sheet?

Petitioner's plea counsel failed to render reasonably effective assistance under prevailing professional norms by not objecting to this miscarriage of justice and disclosing this issue to the court before allowing Petitioner to plea guilty. The right to waive presentment is a personal right of the accused. The fact that Petitioner's written waiver

was not executed before the Clerk of Court may have affected Petitioner's decision to waive the right to have the indictment presented to the grand jury. Had Petitioner known about this matter before hand, the outcome may have been different.

Code of Law of S.C. Ann §17-23-120 to 140 (1985)

requires that a criminal defendant must sign a waiver of indictment before pleading guilty to an indictment which has not been presented to the grand jury. Through an administrative error, Petitioner never signed the waiver. It is noted that during the guilty plea hearing Petitioner orally agreed to waive his right to a jury trial but the oral waiver of presentment was not sufficient to bestow subject matter jurisdiction on the trial court in the absence of an indictment; a written waiver was required. Odom v. State (S.C. 2002) 350 S.C. 300, 566 S.E. 2d 528. Criminal Law Key 99.

By their plain language, §§ 17-23-130 and -140 makes a written waiver of presentment of indictments not Presented to a grand jury

mandatory before the trial judge can accept the plea. Therefore, plea counsel's acts are within error for failing to effectively assist petitioner with properly executing the waiver so that it would not render the plea invalid. Petitioner's guilty plea should be vacated.

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury. United States Constitution, Amendment V.

Plea counsel was ineffective in giving incorrect sentencing advice.

Petitioner testified at PCR hearing that plea counsel advised him that if he pled guilty, Petitioner possibly would be deported and the state would dismiss his criminal charge against him. Plea counsel also testified he did advise Petitioner that pleading guilty to the charge of lewd act would expose him to potentially being deported.

Plea counsel committed the act of coercing Petitioner to plea guilty by violating S.C. Code Ann. §16-9-10(A)(2); its unlawful for a person to give

false, misleading information. Plea Counsel also violated Rule 8.4.(b), Titled, Misconduct of the Appellate Court Rules - S.C. State Rules of Court Procedure.

Plea counsel failed to ensure that the proceedings served the function of adjudicating guilt or innocence, while protecting the rights of Petitioner. When a defendant pleads guilty upon the misadvice of his lawyer, the defendant is denied effective assistance of Counsel. State v. Hazel 271 S.E. 2d. 602; Vickery v. State 186 S.E. 2d. 827 (1972) concerns the basics of entering a guilty plea knowingly and voluntarily upon the advice of competent counsel. Turner v. State, 517 S.E. 2d 442 (S.C. 1999); Alexander v. State, 402 S.E. 2d 484 (S.C. 1991); Ray v. State, 401 S.E. 2d 151 (S.C. 1991); Hinson v. State, 377 S.E. 2d 338 (S.C. 1989); Jackson v. State, 535 S.E. 2d 926 (S.C. 2000); Jivers v. State, 406 S.E. 2d 154 (S.C. 1991). Petitioner would not have pled guilty had he known that the State wasn't going to dismiss the charge against him. (see PCR Transcript, page 35, line 17-21).

Plea counsel also failed to object to the reduction of plea.

During Petitioner's guilty plea hearing, the Solicitor indicated that Petitioner's charge of criminal sexual conduct 1st would be reduced by pleading to lewd act. (See plea hearing transcript, page 12, lines 5-8).

According to a letter dated October 6, 2010 of which the acting solicitor forwarded to Petitioner's plea counsel states that "the State will reduce the following charge of Criminal Sexual Conduct minor 1st degree to Lewd Act on a Minor." (See exhibit - E). Also, during Petitioner's Post Conviction Relief hearing, the presiding judge refers to Petitioner by saying "he got the reduction in the charge." (See PCR hearing transcript, page 65, line 4).

According to Webster's dictionary, reduce means to decrease; lessen in degree. Reduction means the state of being reduced. Petitioner's plea counsel failed to inform Petitioner that his guilty plea would be due to a reduction and not a dismissal of his original charge. Within the Post Conviction Relief Order of Dismissal, it is acknowledged that Petitioner stated that "he believed the State would dismiss

the case when he pled guilty." (See underlined portion of Order of Dismissal, page 3). This issue indicates that it is evident that Petitioner pled guilty upon the misadvice of his plea counsel and denied effective assistance of counsel.

The Circuit Court does not have subject-matter jurisdiction to convict a defendant of an offense unless the offense is a lesser included offense of the crime charged in the indictment. State v. Guthrie (S.C. App. 2002) 352 S.C. 103, 572 S.E. 2d 309. Criminal Law Key 99. Petitioner's guilty plea of lewd act is not a lesser included offense of Criminal Sexual Conduct with minor 1st degree; therefore, the "reduction" in Petitioner's charge of Criminal Sexual Conduct with minor 1st degree is null and a invalid plea. Plea counsel should have objected.

Petitioner was prejudiced because PCR Judge did not entertain the matter of plea counsel's perjured testimony.

Petitioner's plea counsel testified during Petitioner's PCR hearing that Petitioner came to his

office and viewed a video of victim's statements when Petitioner was not incarcerated in jail. This date is supposedly on July 26, 2011. Petitioner testified that he was apprehended and placed in custody of the Greenville Detention Center on June 27, 2011. In fact, during the PCR hearing, Petitioner submitted a booking sheet that was marked as Exhibit No. 1 for identification and admitted into evidence. This booking sheet shows that Petitioner was in fact in custody of the Greenville County Detention Center on June 27, 2011 for a federal charge. No bond was set by the presiding judge of which only indicates that Petitioner was in fact in custody from June 27, 2011 to August 8, 2011. It is indicated that the Court acknowledged that it was "clearly" impossible for Petitioner to have come to plea counsel's office to view the videotape because Petitioner was in custody of the Greenville County Detention Center from June 27, 2011 to August 8, 2011. (See PCR Transcript, Pages 63, lines 20-24 and 65, lines 5-7).

This issue clearly shows a prejudicial nature against Petitioner due to the Circuit Court's failure to render a conclusive decision with the deficient manner of plea counsel's act of perjury.

(11)

Circuit Court Judge is in error for not informing Petitioner of the mandatory minimum and maximum sentence for the charge.

During the PCR hearing Petitioner testified that during his guilty plea hearing there was no advisement of the mandatory minimum and maximum sentence for the charge of lewd act. (See PCR transcript of record, pages 53, lines 17-25 and page 54, lines 1-4).

Upon reviewing the guilty plea hearing transcript, there is no actual showing where the Court advised Petitioner of the mandatory minimum and maximum sentence. In fact the record is clearly deficient of this advisement.

Rule 11(c)(1) of the Federal Rules of Criminal Procedure establishes guidelines to ensure that a guilty plea is made knowingly and voluntarily. Pursuant to Rule 11, the judge must address the defendant in open court before accepting a guilty plea. Rule 11 also requires the judge to ensure that the defendant understands the mandatory minimum and maximum sentence for the charge.

U.S. v. Goins, S.F. 3d 400, 403-05 (4th Cir. 1995)

(12)

Court's failure to advise defendant of mandatory minimum sentence constituted reversible error.

Pittman v. State, 524 S.E. 2d 623 (S.C. 1999);

C. J. S. Criminal Law § 404 (1989), "Prior to accepting a plea of guilty the Court is required to advise accused of the range of punishment attached to the offense charged such as...

the minimum and maximum sentence." Also see State v. Hazel, 271 S.E. 2d 602 (1980).

Therefore, the Petitioner's guilty Plea is not equally voluntary and knowing because it has been obtained in violation of due process and is therefore void. Moreover, because a guilty plea is an admission of all the elements of a formal criminal charge, it cannot be truly voluntary unless the defendant possesses an understanding of the law in relation to the facts. Based on these issues and facts of law, the Circuit Court lacked subject matter jurisdiction to accept Petitioner's guilty plea.

The Circuit Court lacked subject-matter jurisdiction to accept Petitioner's guilty plea

because petitioner was denied a preliminary hearing.

Petitioner hereby submits evidence of which are letters from his former PCR Counsel. These letters are dated March 7, 2013 and shows that there wasn't a preliminary hearing within Petitioner's case. (See Exhibits - F and G).

When a person charged with a crime who is entitled to a preliminary hearing on such charges appears in person or by counsel in a hearing to set bond, he shall be notified by magistrate orally and in writing of his right to such preliminary hearing.

After reviewing Petitioner's Application for Appearance Bond, and Brady material, there is no evidence of a notice of Petitioner's right to a preliminary hearing in writing.

The Supreme Court held that jurisdictional language of Statute providing that any magistrate who issues a warrant charging a crime beyond his jurisdiction shall grant and hold a preliminary hearing, that is, that "when such hearing has been demanded the case shall not be transmitted to the Court of general sessions or submitted to

the grand jury until the preliminary hearing shall have been had," is unconstitutional and therefore, although receipt of notice of right to preliminary hearing in manner prescribed by second statute is condition precedent to court of general sessions obtaining jurisdiction over the matter under first statute, so that notice is required of right to preliminary hearing before it can be knowingly waived.

Petitioner's plea counsel failed to ensure that the proceedings complied with the statutory requirements for the request as scheduled prior to advising Petitioner to plea guilty.

Failure to conduct a properly demanded preliminary hearing deprives a court of general sessions of Jurisdiction. Code 1976, § 22-5-320; State v. Porcher, 273 S.C. 507, 257 S.E. 2d 505 (1979).

No waiver of presentment was accomplished in accord with statute in Petitioner's case. Although, generally, purpose of a preliminary hearing is to apprise defendant of nature of State's evidence, its purpose is more specifically to establish that probable cause exists to

continue criminal process. Code 1962, § 43-232.

Plea counsel failed to inform the Court that it lacked subject-matter to hear Petitioner's guilty plea because Petitioner was brought before a magistrate for a bond hearing but was not given notice of his right to a preliminary hearing that shows whether sufficient evidence existed to warrant the Petitioner's detention and trial.

(See Rule 2 (A)(B) of South Carolina Rules of Criminal Procedure).

Plea counsel failed to investigate discrepancies of which concerns the date of offense in Petitioner's criminal case.

Plea counsel failed to investigate the matter of discrepancies within Petitioner's arrest warrant and indictment. According to the investigating officer, Lorraine Henderson of Greenville County Sheriff's Office, who being duly sworn on April 27, 2010 deposes and says that Petitioner violated the criminal laws of the State of South Carolina on or about June 1, 2009 by committing the act of criminal sexual conduct in the 1st. degree but according to this same

warrant, Officer Lorraine Henderson also states that the victim in this case stated that Petitioner committed this offense between the dates of July 20, 2009 and March 9, 2010. This issue presents a major discrepancy due to the fact that the officer has claimed that Petitioner committed a crime before the alleged victim's recollection of the offense.

Petitioner's plea counsel failed to inform the Circuit Court that it lacked subject matter jurisdiction to accept Petitioner's guilty plea because the warrant was insufficient in law and fatally defective in form, in that the facts set forth are sworn to the best of affiant's knowledge. The affidavit supporting affiant's statement could not have provided a substantial basis for finding probable cause to bound over to general sessions because Affiant's facts does not coincide with victim's statement.

The state must demonstrate a good-faith attempt to comply with statute relating to issuance, execution and return of search warrants for arrest. The Circuit Court lacked knowledge of the facts grounded in untrustworthy

information and insufficient in themselves to warrant a belief by a unprudent person that an offense has been committed on a specific date. Furthermore, according to Petitioner's indictment for lewd act states that Petitioner committed the offense between July 2, 2009 and March 19, 2010. These are clearly four (4) different dates that Petitioner comitted the offense.

Petitioner is prejudiced in his attack upon the arrest warrant and indictment due to failure of affiant's sworn statement upon affirmation that clearly did not support probable cause to be bounded over... Affiant's testimony as evidence stemming from the accusation of Petitioner's arrest is not admissible.

Plea Counsel rendered ineffective assistance of Counsel by failing to inform the Court that the warrant is illegal where information on which the warrant was founded was not given upon oath and that the Court lacked subject matter jurisdiction to accept Petitioner's plea on grounds that the indictment is insufficient as to the variance of the date of offense.

Every indictment shall be deemed and judged sufficient and good in law which in addition to

allegations as to "time" and place, as required by law. (See Criminal Laws, Rules and Regulations from the South Carolina Code of Laws, Chapter 19, §17-19-20).

Plea Counsel failed to object to State's recommendation of a specific sentence.

During the PCR hearing, Petitioner testified that Solicitor made a recommendation for the maximum sentence during the plea hearing. An issue of due process violation has occurred due to fraud. According to Petitioner's sentence sheet, it is indicated that Petitioner's plea was "without negotiations or recommendation," but according to the guilty plea hearing transcript it is clearly shown that the Assistant Solicitor recommends that the Court impose the maximum of fifteen (15) years. (See transcript of guilty plea Page 12). Also, Petitioner hereby submits a letter of proposal from the acting Solicitor that was forwarded to Petitioner's plea counsel, dated October 6, 2010. This letter indicates that the State would make no recommendations due to reduction in charge. (See exhibit-E).

This issue requires that Petitioner be granted the opportunity to withdraw his plea of
(19)

guilty. Federal Rules of Criminal procedure Rule 11, 18th U.S.C.A.). Prosecutors who promise not to recommend a sentence may not recommend a specific sentence in court. Santobello V. New York, 404 U.S. 257, 262, 92 S. Ct. 495, 499, 30 L. Ed. 2d 427. 433. (1971). Petitioner's case should be remanded and allow plea to be withdrawn or be resentenced because prosecutor did not uphold the promise of not to recommend a sentence. Plea Counsel was ineffective for not objecting to this miscarriage of justice.

Plea Counsel failed to object to the victim's impact statement.

There was a victim's impact statement that was presented to the judge during Petitioner's guilty plea hearing. During Petitioner's PCR hearing plea counsel agreed by testifying that the State should have given the victim's impact statement prior to the guilty plea sentencing hearing. Plea counsel also agreed by testifying that the proper recourse would have been to state an objection on the record as to a violation of Rule 5 disclosure. (See PCR transcript page's 30, line 18-23)

Rule 5. Disclosure in Criminal Cases

(c) Continuing Duty to Disclose: If prior to or during trial, a party discovers additional evidence or material previously requested or ordered, which is subject to discovery or inspection under this rule, he shall promptly notify the other party or his attorney or the court of the existence of the additional evidence or material.

South Carolina Criminal Law Manual §16-3-1550

(F) "Within a reasonable period of time before sentencing, the prosecuting agency must make available to the defense any written impact statement and the court must allow the defense an opportunity to respond to the statement."

The Circuit Court is in error for failing to prohibit the State from introducing evidence that wasn't admissible at trial and plea counsel is ineffective for failing to object to this mentioned Rule 5 disclosure violation.

CONCLUSION

Based on the above mentioned issues and

(21)

facts of law, Petitioner has shown that he received ineffective assistance of counsel and that he was prejudiced by plea counsel's ineffective performance. Therefore, Petitioner hereby moves this Court to vacate, set aside, or grant him a new trial.

Respectfully submitted,
Wilfredo Salas,
Petitioner

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to Greenville County
Edward W. Miller, Circuit Court Judge

WILFREDO SALAS

PETITIONER

v.

STATE OF SOUTH CAROLINA, RESPONDENT

APPELLATE CASE NO. 2014-00240

CERTIFICATE OF SERVICE

I certify that a true copy of the Pro Se Response to the Johnson petition for writ of certiorari has been served on Karen Ratigan, Esquire, at Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, S.C. 29201; and Daniel E. Shearouse, Clerk of Court, at Post Office Box 11330, Columbia, South Carolina 29211, this 14 day of August, 2014.

Wilfredo Salas

Pro se Petitioner

SWORN TO BEFORE ME

Wilfredo Salas

this 14 day of August 2014.

Catherine A. Chaves

My Commission Expires December 22, 2018



**Greenville
County**

**Office of the Clerk of Court
Greenville, South Carolina**

**Paul B. Wickensimer
Clerk of Court**

Circuit Court Division
Greenville County Courthouse
305 East North Street
Greenville, South Carolina 29601
(864) 467-8551 FAX (864) 467-8540

(Exhibit - A)

April 25, 2012

Wilfredo Salas #347611

P.B.8

4848 Goldmine Hwy
Kershaw, SC 29067

Re: Copy Request - I479542, 2011-GS-23-6255A

Dear Mr. Salas:

Thank you for returning your completed information sheet. As of today's date, no Motion for Discovery was filed with the Clerk of Court's Office for either of the above referenced cases.

Sincerely,
Paul B. Wickensimer
Clerk of Court



Office of the Clerk of Court
Greenville, South Carolina
Paul B. Wickensimer
Clerk of Court

Circuit Court Division
Greenville County Courthouse
305 East North Street
Greenville, South Carolina 29601
(864) 467-8551 FAX (864) 467-8540

(EXHIBIT - B)

April 29, 2014

Wilfredo Salas #347611
Kershaw C.I.
4848 Goldmine Hwy
Kershaw, SC 29067

Re: 2010-GS-23-7222

Dear Mr. Salas:

We are in receipt of your letter postmarked 4/15/2014. Enclosed please find the copies you requested with the following exceptions:

- Discovery Material. Discovery Material (evidence) is not routinely filed with the Clerk of Court unless it is admitted as trial exhibits. Discovery material was not filed with the Clerk of Court for the above referenced case.

Sincerely,
Clerk of Court

(Exhibit-C)

STATE OF SOUTH CAROLINA

COUNTY OF Greenville VS. Wilfredo Salas

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: A/W#: DIRECT PRESENTMENT Date of Offense: 6/1/2009 S.C. Code §: CDR Code #:

KA: Race: HISPANIC Sex: M Age: 31 DOB: 12-08-1979 SS#: 567-34-2151 Address: 209 Ymca St City, State, Zip: Greenville, SC 29611-3751 DL#: 011396017 SID#:

SENTENCE SHEET

*CDL Yes No CMV Yes No Hazmat Yes No In disposition of the said indictment comes now the Defendant who was TO: Lewd Act on a Minor

CONVICTED OF or PLEADS

in violation of § 16-15-140 of the S.C. Code of Laws, bearing CDR Code # 2468 NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC) §17-25-45 w/minor 1st or Lewd Act

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

ATTEST: Hodge, Kris B. SC Bar# 8245 Defendant W. Wilfredo Salas Attorney for Defendant SC Bar# 65351

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

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

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

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

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered PTUP days/hours Public Service Employment

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

Table with 3 columns: Description, Amount, Total. Rows include assessments, surcharges, and fees.

Other: Appointed PD or appointed other counsel, § 47.12 requires \$500 be paid to Clerk during probation.

Clerk of Court/ Deputy Clerk Court Reporter:

Presiding Judge Judge Code: Sentence Date:

(Exhibit - D)

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Greenville
STATE VS. Wilfredo Salas
AKA:
Race: HISPANIC Sex: M Age: 31
DOB: 12-08-1979 SS#: 567-34-2151
Address: 209 Ymca St
City, State, Zip: Greenville, SC 29611-3751
DL#: 011396017 SID#:

INDICTMENT/CASE#: 2011-GS-23-6256A
A/W#: DIRECT PRESENTMENT
Date of Offense: 6/1/2009
S.C. Code §:
CDR Code #: 2468

SENTENCE SHEET

CONVICTED OF or (PLEADS)
[X] PLEADS

in violation of § 16-15-140 of the S.C. Code of Laws, bearing CDR Code # 2468
[X] NON-VIOLENT [] VIOLENT [] SERIOUS [] MOST SERIOUS
Mandatory GPS(CSC) [X] w/minor 1st or Lewd Act [] §17-25-45

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

ATTEST: Hodge, Kris B. 825 SC Bar# Defendant
W. Wilfredo Salas Attorney for Defendant
BSSB1 SC Bar#

WHEREFORE, the Defendant is committed to the State Department of Corrections, [] County Detention Center,
for 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 the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.

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

SPECIAL CONDITIONS:

[] RESTITUTION: [] Deferred [] Def. Waives Hearing [] Ordered FTUF
Total: \$ plus 20% fee: \$
Payment Terms:
[] Set by SCDPPPS
days/hours Public Service Employment

Recipient:

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

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:
No contact between defendant w/ victims or victims family
Do contact w/ victim's family by or of family
[] Appointed PD or appointee other counsel
§ 47.12 requires \$500 be paid to clerk during probation.

Clerk of Court/ Deputy Clerk Paul B. Wickman
Court Reporter: T. Johnson
SCCA/217 (03/2011)

Presiding Judge JHU
Judge Code: 2162
Sentence Date: 8-8-11

1 A. It was.

2 Q. Okay. When did your client decide to go ahead and waive
3 presentment and plead, would it have been that day or prior to
4 that day?

5 A. When I conveyed to him the offer, this offer that they
6 were going to tr -- they were potentially going to let him
7 plead down to a lewd act, I think he started thinking about it
8 at that point.

9 Q. So when did he make the final decision, would it have
10 been that day?

11 A. I don't know when he made the final decision, I just
12 know, I just know that at some point during that day he
13 entered a plea before Judge Verdin.

14 Q. Did you explain to him what it would mean to waive
15 presentment to the charge?

16 A. Yes.

17 Q. Okay. I believe it's on the record but in light of
18 recent case law let me just verify for sure, did you advise
19 him that pleading guilty to this would expose him to
20 potentially being deported?

21 A. Yes.

22 Q. Okay.

23 A. He already, I think he already had an I.C.E. hold on him
24 and he had a federal, uh, federal charge as well for, uh,
25 unlawfully using a Social Security card.

STATE OF SOUTH CAROLINA) COURT OF GENERAL SESSIONS
)
COUNTY OF GREENVILLE) Case No(s) : 2011GS2306255A
)
State of South Carolina,)
)
Plaintiff,)
)
-VS-) TRANSCRIPT OF RECORD
)
Wilfredo Salas,)
)
Defendant.)

August 08, 2011
Greenville, South Carolina

B E F O R E:

HONORABLE LETITIA H. VERDIN, Judge.

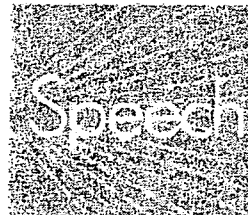
A P P E A R A N C E S:

KRIS HODGE, Esquire
Assistant Solicitor

SCOTT ROBINSON, Esquire
Attorney for the Defendant

Teresa B. Johnson
Certified Verbatim Reporter
P.O. Box 2812
Greenville, S.C. 29602

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produced via



CAT 7

I N D E X

DIRECT CROSS REDIRECT RECROSS

Guilty Plea	4		
Sentencing of the Court	18		
Certificate of Reporter	21		

P R O C E E D I N G S

(WHEREUPON, the proceedings begin on the 8th day of August, 2011 at approximately 11:50 a.m.)

THE CLERK: Your Honor, this is case 2011-GS-23-6255, the State versus Wilfredo Salas who is indicted for Lewd Act upon a Child. He's pleading to the same. Your Honor, this is a direct presentment.

Please raise your right hand.

(WHEREUPON, the defendant is first duly sworn.)

THE COURT: Mr. Salas, you are here today to plead to Lewd Act on a Minor. Is that correct?

MR. SALAS: Yes.

THE COURT: Have you discussed this charge with your lawyer?

MR. SALAS: Yes.

THE COURT: Are you happy with what your lawyer's done for you?

MR. SALAS: Yes.

THE COURT: Are you under the influence of drugs or alcohol here today?

MR. SALAS: Uh, no.

THE COURT: How old are you?

MR. SALAS: 32.

THE COURT: How far did you go in school?

1 **MR. SALAS:** Uh, ninth grade.

2 **THE COURT:** And you seem to be understanding
3 my questions just fine. Is English a second
4 language for you?

5 **MR. SALAS:** Uh, yes.

6 **THE COURT:** You seem like you're
7 understanding my questions well. But if at any
8 point you do not understand what I say to you, if
9 you will, stop me and let me know.

10 **MR. SALAS:** Oh, okay.

11 **THE COURT:** Has anyone forced you to plead
12 guilty to this charge?

13 **MR. SALAS:** Uh, no.

14 **THE COURT:** Anyone promised you anything to
15 get you to plead guilty to this charge?

16 **MR. SALAS:** Uh, no.

17 **THE COURT:** You have any complaint to make
18 against your lawyer, law enforcement or the
19 Solicitor's office whatsoever?

20 **MR. SALAS:** Uh, no.

21 **THE COURT:** When you plead guilty to a
22 charge, you give up your right to a jury trial on
23 that charge. You understand that?

24 **MR. SALAS:** Yes.

25 **THE COURT:** At that trial, your attorney

1 could call witnesses for you and cross-examine
2 witnesses against you. When you plea guilty, you
3 give up that right. You understand that as well?

4 **MR. SALAS:** Uh, yes.

5 **THE COURT:** Uh, furthermore, you give up
6 your right to remain silent about this charge. Do
7 you understand that?

8 **MR. SALAS:** Yes.

9 **THE COURT:** And, uh, this charge has not
10 been before the Greenville County Grand Jury. You
11 have a right to have the charge go before the
12 Greenville County Grand Jury. You want to give up
13 that right and go forward and plea guilty today?

14 **MR. SALAS:** Uh, yes.

15 **THE COURT:** All right. Yes, ma'am.

16 **MRS. HODGE:** As Your Honor knows, this was
17 set for trial this morning. I will read to you
18 what the State intended to introduce during trial.
19 Between June 2009 and March of 2010, the victim in
20 this case, Ms. Daisy Gonzales, who was four years
21 old and five years old at the time, disclosed to
22 her grandmother, who is a Maria Martinez, and to
23 her mother, a Victoria Salas, that this defendant
24 had been sexually abusing her at the home that they
25 lived in at 209 (inaudible) Street in Greenville

1 County. The defendant is the child's stepfather,
2 married to Victoria Salas. They had two smaller
3 younger children together.

4 The victim had told her grandmother, Maria,
5 back in June or July of 2010 that the defendant had
6 been rubbing on her chest, kissing her neck, biting
7 her ears. The child disclosed this at the
8 grandmother's house and was asking to please not to
9 have to go back to the home where the defendant was
10 doing these things to her. The grandmother than
11 told the child's mother, Victoria, about it. The
12 mother did not believe the child. She stated to
13 the grandmother that the child was lying and did
14 nothing about these disclosures.

15 In October and in November, somewhere in
16 between that time frame of 2009, so just about
17 three months later, the child again disclosed to
18 the grandmother that the defendant was touching her
19 in places he was not supposed to, referring to her
20 vaginal and anal area and continued to plead with
21 the grandmother to not make her go back into the
22 home where the defendant was doing these things to
23 her. Again, the grandmother told the child's
24 mother. The grandmother confronted the defendant
25 about it. At that time, he denied anything. The

1 mother again stated that the child was not telling
2 the truth, that the child was lying and she did not
3 protect the child.

4 During this time frame, the mother and the
5 defendant had the child sleeping in the same bed
6 with them. The mother was working evenings. The
7 defendant worked as well but he would come home
8 before the mother would come home. The child would
9 be in his care or the care of some of his
10 relatives.

11 Finally, in mid-March of 2010, now we're nine
12 months after the child initially disclosed, she
13 again told the grandmother for the third and,
14 thankfully, final time. The grandmother went to
15 school to pick her up at school one day, which was
16 not the norm at this time. The child got in the
17 car with hysterics saying, "Please don't make me go
18 back", "I don't want to go back". And the
19 grandmother started questioning her asking what was
20 going on. The child described that the defendant
21 was hurting her in the vaginal and anal area.

22 At this point, the grandmother tells the
23 mother and the mother appears to possibly believe
24 and said she was going to take the child to a
25 pediatrician. Law enforcement wasn't called. DSS

1 wasn't called by the mother.

2 On March 17th of 2010, the day after the child
3 disclosed to the grandmother. They took the child
4 to Dr. Nithya at North Hills Medical. The child
5 disclosed to the doctor that the defendant was
6 sexually abusing her and stated he was touching
7 her, pointing to her vaginal area. The child
8 complained of having pain or urinating. She was
9 diagnosed with vaginitis at this time. Dr. Nithya,
10 who would be here to testify explained there were
11 many causes for this in young children, but for
12 someone her age, it is consistent with the
13 allegations that someone had been rubbing or
14 touching her vaginal area in a sexually abusive
15 manner.

16 The doctor is the reason we are here today.
17 Doctors are mandated to report. So she reported to
18 DSS because the defendant was still in the home
19 with the child. DSS reported to law enforcement.
20 DSS then went to the home later that day. The
21 defendant was to move out immediately and have no
22 contact while the investigation proceeded.

23 At that point, the child was told to live with
24 the mother, Victoria, even though she had not fully
25 protected. Subsequently, two months later, DSS

1 petitioned Family Court for a non-emergency
2 removal. The mother was allowing the child to be
3 around the defendant, the defendant's family and
4 there were discussions to get the child to recant.
5 So the child was then placed with her grandmother,
6 Mrs. Maria and Mr. Reyes Martinez and is still with
7 them today.

8 Investigator Henderson was assigned this case.
9 She interviewed the child. Investigator Henderson
10 was able to gather that the defendant did touch the
11 vaginal area of Daisy with his fingers, putting his
12 fingers inside of her. She stated it happened at
13 night while her mom was at work and in her mom's
14 bed in her mom's bedroom. After, uh, she was
15 picked up from the relative's home, she stated it
16 happened a lot.

17 She was referred to the Julie Valentine Center
18 and a forensic was conducted. Again, she
19 consistently disclosed that he touched her vaginal
20 area and she named it the place she go to the
21 bathroom. He digitally penetrated the area
22 vaginally and rectally. She stated it happened a
23 lot of times. He hurt her and it was while her mom
24 was at work. He'd turn out the lights. She would
25 be in her mom's room in her bed. She also stated

1 the defendant made her touch his penis.

2 Your Honor, the State -- the charge is
3 Criminal Sexual Conduct in the first degree.
4 However, the State is allowing the defendant to
5 plead-to Lewd Act to a Minor for one reason and one
6 reason only. That is to save the child from having
7 to testify or any further trauma. As you well
8 know, the retelling of sexual abuse makes children
9 relive the abuse and can be very harmful and
10 traumatic. The child is in the courthouse. If we
11 are required to go to trial, we could. But of
12 course, she is not in the courtroom. You may
13 recall, we had a prior hearing regarding the child
14 being present with the defendant during the
15 testimony and her therapist detailed her fear of
16 the defendant, her emotional issues about the abuse
17 itself, but also the emotional damage that the
18 mother not believing and supporting the child has
19 done.

20 Sadly, her mother still is not supportive.
21 Her mother has been helping the defense prepare its
22 case. She's provided statements to defense counsel
23 about not believing the child and blaming her own
24 mother for these allegations, which is ironic
25 because she has moved in with her mother, utilizing

1 her mother's resources, yet, she's turning against
2 her mother here today.

3 I say all of this, Your Honor, for this main
4 reason. (The State is asking you to impose the
5 maximum penalty in this case, the 15 years.) He's
6 clearly gotten a great plea offer. By reducing the
7 exposure, CSC 1st is 25 years to life. The most he
8 can get here is 15. (We'd ask that you impose that.)

9 Because the mother has been nonprotective, if the
10 defendant serves his time, when he gets out,
11 there's a high likelihood he'll be back in that
12 home. (I would ask that Your Honor give the maximum
13 time)) to allow Daisy to grow up, to be able to
14 protect herself. It's clear that her mother's not
15 going to do the protecting.

16 The defendant does have a federal charge
17 currently for unlawfully using a Social Security
18 card. Those are federal allegations at this time.
19 I feel certain they are going to deport him. But
20 (I'd ask that you impose the maximum sentence) and
21 then let him deal with those issues after that.
22 Hopefully, Daisy will be old enough to take care of
23 herself on the completion of any sentence.

24 Additionally, Your Honor, we would ask there
25 be no contact between the defendant or the

1 defendant's family. I know that there are only so
2 many things that you can do. But these
3 grandparents and this child have been placed in a
4 very precarious position. They all live in Greer.
5 They have had -- all family members have been very
6 involved in this case, if you will. They would ask
7 that they not be harassed, have no contact from any
8 family members, friends, anyone on the defendant's
9 side. Maybe just a verbal warning for anyone in
10 the courtroom about that might be helpful as well.
11 But they are fearful of some sort of retaliation.
12 Of course, we ask that there be no contact with the
13 victims directly or indirectly by the defendant.

14 **MR. ROBINSON:** We have no issue with that,
15 Your Honor.

16 **MRS. HODGE:** Finally, Your Honor, because
17 Ms. Daisy Gonzales is not here in the courtroom,
18 there is a judge's letter that is an age-
19 appropriate type letter. I would pass that up for
20 Your Honor's consideration.

21 **MR. ROBINSON:** I haven't seen it. (Pause.)
22 I don't see the purpose of this, Your Honor.

23 **MRS. HODGE:** She's the victim and she can't
24 be here to tell her victim's impact statement. So
25 that's the purpose.

1 **THE COURT:** (Reviewing.)

2 All right. Mr. Robinson, you've gone over
3 with your client that this is mandatory Sex
4 Offender Registry?

5 **MR. ROBINSON:** I have, Your Honor. I have.

6 **THE COURT:** Mr. Salas, how do you plead to
7 this charge?

8 **MR. SALAS:** Guilty.

9 **THE COURT:** All right. Does he have any
10 criminal record?

11 **MRS. HODGE:** Your Honor, the only thing he
12 has is a 2005 Failure to Appear, but nothing in
13 General Sessions.

14 **THE COURT:** Anything from the victims?

15 **MRS. HODGE:** Your Honor, the grandmother's
16 here, but she did not wish to address the Court.

17 **THE COURT:** Yes, sir.

18 **MR. ROBINSON:** Thank you, Your Honor. Your
19 Honor, I've had the pleasure of representing him.
20 He has a tremendous amount of support in this case.
21 We've taken -- we had Dr. Price in Greenville.
22 Actually obtained him to speak at the^{*} last hearing
23 we had. He's here as well in support of Will.

24 Your Honor, I have with me today Will's wife
25 standing in court as well. His father and mother

1 are both here. Uh, they've not stopped one time
2 believing Will. Will has two children of his own.
3 Two little boys. The little boys have a great
4 relationship with their dad. Your Honor, also in
5 the courtroom are a lot of his pastors and
6 ministers that have come all the way here to
7 support Will. They believe in Will in this case.

8 I may ask in a few moments for a couple of
9 them -- please stand up and show -- I want to show
10 if you are in support of Will. You see, Your
11 Honor, there's a large number of people in support
12 of Will. Your Honor, uh, I'm going to have them
13 speak in just a second.

14 I do want to -- just in response to Mrs.
15 Hodge's, uh, presentation in this case. I've
16 looked at the doctor's reports and so forth. There
17 is no evidence of digital penetration, penal
18 penetration, evidence of any of that. Your Honor,
19 uh, Will's great with his kids, his two little
20 boys. The family can testify to that. He actually
21 has one of his niece's, I believe, here. She's 17
22 now. 17 or 18 now. She's not afraid of Will. If
23 I could have a couple of people.

24 **THE COURT:** Yes.

25 **MR. ROBINSON:** Identify yourself.

1 **UNIDENTIFIED SPEAKER:** This is my brother.
2 I love him. He's like a second father to me. He's
3 taken care of us when we were young. He dropped
4 out of school just to take care of us. He's a
5 wonderful father.. I can't say the least. I admire
6 him for the person that he is. I can't say the
7 least. I love him. We miss him. My nephews miss
8 him. They're not scared of him at all. They ask
9 when he's going to come home. One actually goes to
10 see him in jail. He's like, I want to see him,
11 when is he coming home.

12 **MR. ROBINSON:** Your Honor, his dad is here.
13 He has an interpreter, his daughter Grace.
14 Identify yourself.

15 **UNIDENTIFIED SPEAKER:** (inaudible).

16 **THE COURT:** Ma'am, I need to stop you right
17 there. I want my Court Reporter to be able to see
18 you and to hear you real clearly. I know you're
19 going to need to turn to him. Will you turn --
20 when you speak English, will you turn back to us?

21 **UNIDENTIFIED SPEAKER:** Sure, Your Honor.

22 **THE COURT:** I appreciate that. Thank you.

23 **UNIDENTIFIED SPEAKER:** Will has been in
24 church ever since he was young. He's always been
25 in God's way. All the people there here today can

1 tell you. We're not bad people. They are people
2 that have known us for years. We missed Wilfredo a
3 lot. He is the one that sings in church. We trust
4 God. That's all we can say. Thank you, sir.

5 **UNIDENTIFIED SPEAKER:** (Inaudible.)

6 **MR. ROBINSON:** I'm going to need you to step
7 up there closer to the bar.

8 **UNIDENTIFIED SPEAKER:** I'm 17 years old.
9 Will, we used to live with him when I was five. I
10 mean, like, he never done nothing to me. He never
11 touch me or nothing. I have, like, told the
12 sisters. They never complained about nothing about
13 him. I know if you get touch, you will remember
14 that. It's not like you will forget. He never
15 touched me or he never touched my sisters. So I
16 believe in him. That's all I got to say.

17 **THE COURT:** Thank you, ma'am. For being
18 here.

19 **MR. ROBINSON:** Your Honor, I have Dr. Price
20 here if the Court wanted to ask him any questions.

21 **THE COURT:** If there's something that he'd
22 like to add. Thank you, sir, for being here.

23 **MR. ROBINSON:** Your Honor, as Mrs. Hodge
24 referenced, Will is going to be deported more than
25 likely. We'd ask the Court for the minimum

1 sentence in this case or a suspended sentence or
2 something. But he's going to go back to Mexico
3 anyway. He's a welder by trade. As he told you,
4 he's 30 ---

5 **MR. SALAS:** 32.

6 **MR. ROBINSON:** --- 32. And he'd ask the
7 Court, Your Honor, for the minimum sentence or a
8 small sentence in this case. We haven't gone
9 through the whole process of a trial of putting
10 everyone up on the witness stand and so forth.
11 We'd ask the Court for a small sentence, Your
12 Honor. He's not getting out of jail anyway, Your
13 Honor. Thank you.

14 **THE COURT:** Uh, well, I'll accept the plea
15 as being freely and voluntarily made with the
16 advice of extremely competent counsel with whom he
17 says he's satisfied. The plea has a substantial
18 factual basis. Do you want your client to say
19 anything?

20 **MR. ROBINSON:** He does not wish to address
21 the Court, Your Honor. And thank you for
22 listening.

23 **THE COURT:** Well, I'll start by saying this
24 to the families involved. I'm going to order that
25 there be no contact between the families. No

1 harassment whatsoever. Whatever anyone's opinion
2 of what happened is, the simple fact of the matter
3 is Mr. Salas is here today and he's pled guilty to
4 the charge. This matter is now closed. In other
5 words, any contact that you have with the victim's
6 family, uh, would only serve to make things worse
7 on everybody. I'm going to order you to have no
8 contact.

9 Second, I appreciate your words on behalf of
10 Mr. Salas. It's clear that he has a lot of family
11 support and he's very lucky in that regard. I
12 appreciate you being here on his behalf. I think
13 we all understand he's pled guilty to a very
14 serious charge and he has to be punished for that.

15 To the grandmother of the victim in this case,
16 I want to say thank you and thank you for being
17 there for your granddaughter. I know you've never
18 done anything but been there for her. But thank
19 you for being there for her.

20 This is -- and I will say, your attorney has
21 worked you out a good deal pleading to Lewd Act.
22 That is certainly a break in a number of ways. You
23 can thank your attorney for that that he did do
24 that. However, when I look at the facts of this
25 case, it is a very egregious case. My sentence is

1 going to be 15 years. I wish you the best of luck.

2 **MR. ROBINSON:** Thank you, Your Honor.

3 **MRS. HODGE:** Thank you, Your Honor.

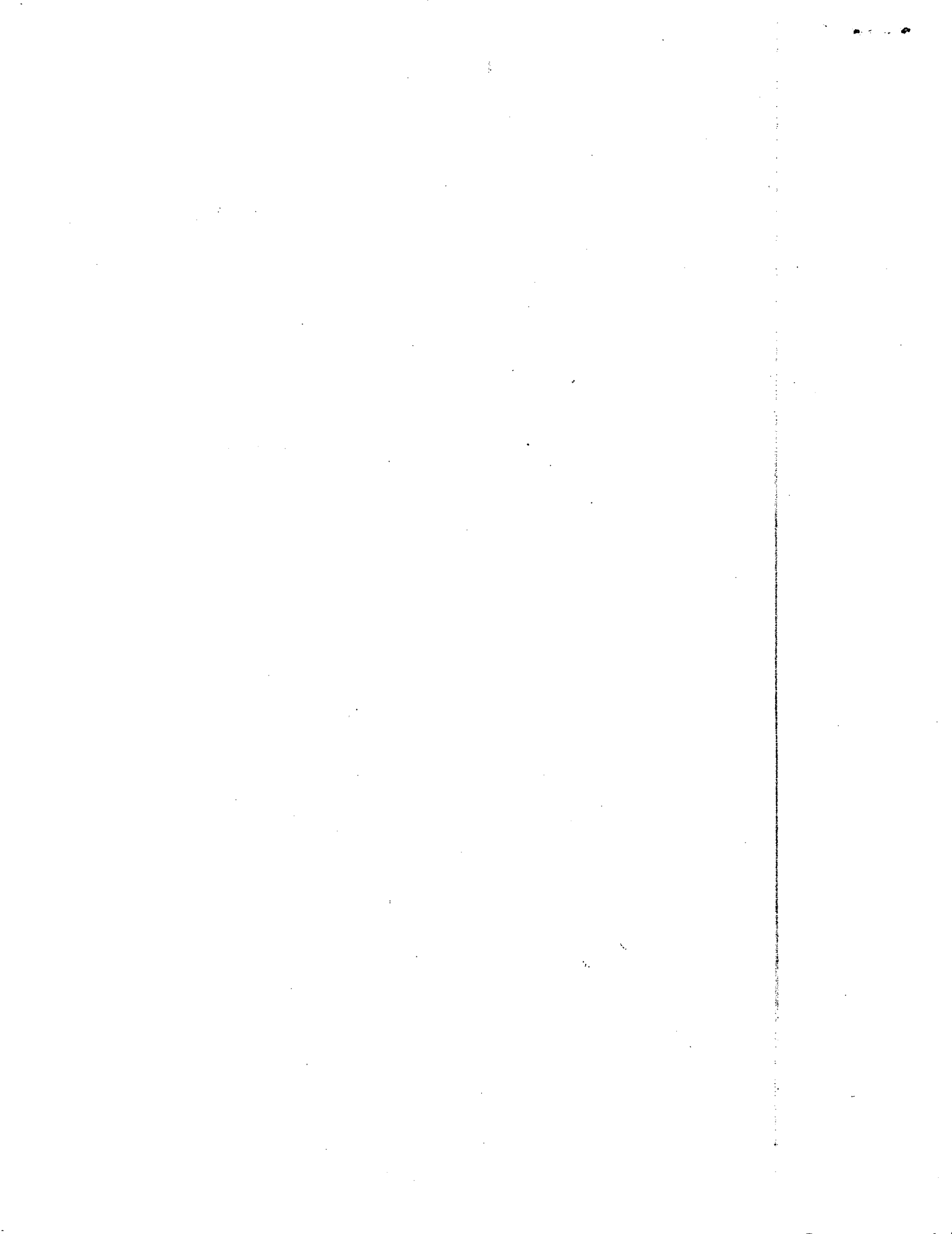
4 **(WHEREUPON,** the proceedings conclude at
5 approximately 12:11 p.m.)

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9



(EXHIBIT-E)

State of South Carolina
Solicitor, Thirteenth Judicial Circuit

OCT 13 2010

Telephone: 864-467-8647
Telefax: 864-467-8610



Greenville County Courthouse
305 E. North Street, Suite 325
Greenville, SC 29601-2185

Solicitor
Robert M. Ariail

10/6/2010

SCOTT ROBINSON
POST OFFICE BOX 10042 FS
GREENVILLE, SC 29603

RE: Plea Offer for State v. Wilfredo Salas

Dear Scott Robinson:

I am willing to make the following proposal to your above-referenced client in order to dispose of these charges by way of a guilty plea:

The State will reduce the following:

<i>Warrant Number:</i>	<i>Charge:</i>
1479542	Criminal sexual conduct with minor - victim under 11 yrs of age - First degree

Plead to Charge:
to Lewd Act on a Minor

The State will make the following sentence recommendations/negotiation:

None due to reduction in charge

Please contact me as soon as possible with your client's response as plea negotiations must be concluded and the guilty plea entered before 2/23/2011 or this and any other offers are automatically withdrawn. If your client does not plead guilty by this date, the case(s) will be placed on the trial calendar for disposition without further negotiation.

Yours very truly,



Kris Hodge
Assistant Solicitor

P.C.R. - Hearing

MOTIONS AND MATTERS

1 rights, uh, and I I agree with the State that there's been no
2 prejudice here. I mean, he he dodged a a serious, uh, to to
3 you not -- he "dodged a bullet" to use a a little phrase, uh,
4 when he got the reduction in the charge and so I'm I'm not
5 gonna grant his application but I am really concerned about
6 testimony from an officer of the Court that clearly couldn't
7 have happened, so in any event I deny it, ask you to prepare
8 an order.

9 MS. RATIGAN: Thank Your Honor.

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STATE OF SOUTH CAROLINA)
)
 COUNTY OF GREENVILLE)
)
 Wilfredo Salas,)
 S.C.D.C. No. 347611,)
)
 Applicant,)
)
 v.)
)
 State of South Carolina,)
)
 Respondent.)

IN THE COURT OF COMMON PLEAS
 C.A. No. 2012-CP-23-3341

ORDER OF DISMISSAL

FILED-CLERK OF COURT
 GREENVILLE CO. S.C.
 PAUL B. WICKENSIMMER
 2014 JUN 8 PM 4 20

This matter comes before the Court by way of an application for post-conviction relief (PCR) filed May 17, 2012. The Respondent made its return on August 31, 2012. An evidentiary hearing into the matter was convened on October 23, 2013 at the Greenville County Courthouse. The Applicant was present at the hearing and represented by John G. Reckenbeil, Esquire. Karen C. Ratigan, Esquire of the South Carolina Office of the Attorney General represented the Respondent.

The Applicant testified on his own behalf at the PCR hearing. Also testifying were Victoria Salas and the Applicant's plea counsel, Scott D. Robinson, Esquire. The Court had before it the transcript of the guilty plea hearing, the Greenville County Clerk of Court records, the Applicant's South Carolina Department of Corrections records, the PCR application, the return, and Applicant's Exhibit 1.

PROCEDURAL HISTORY

The Applicant is confined in the South Carolina Department of Corrections pursuant to orders of commitment from the Greenville County Clerk of Court. The Applicant waived presentment to the Greenville County Grand Jury for the charge of lewd act on a minor (2011-

1


GS-23-6255A). Scott D. Robinson, Esquire represented the Applicant.

On August 8, 2011, the Applicant pled guilty. The Honorable Letitia H. Verdin sentenced the Applicant to fifteen years imprisonment. The Applicant did not appeal.

ALLEGATIONS

In his application, the Applicant alleges he is being held in custody unlawfully for the following reasons:

1. Ineffective assistance of counsel:
 - a. Failure to obtain discovery.
 - b. “[M]islead applicant about the conditions of the plea.”
 - c. “[F]ailed to investigate the discrepancies and evidence of which concerns these allegations in this case.”
 - d. “[F]ailed to investigate discrepancies of which concerns the date of offense in this case.”
2. Involuntary guilty plea.

At the PCR hearing, the Applicant’s attorney stated they were proceeding solely upon issues of ineffective assistance of counsel, lack of subject matter jurisdiction, and after-discovered evidence.

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 and arguments presented at the PCR hearing. This Court has further had the opportunity to observe each witness who testified at the hearing, and to closely pass upon their credibility. This Court has weighed the testimony accordingly.

Set forth below are the relevant findings of fact and conclusions of law as required by S.C. Code Ann. § 17-27-80 (2003).

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).

For an applicant to be granted PCR as a result of ineffective assistance of counsel, he must show both: (1) that his counsel failed to render reasonably effective assistance under prevailing professional norms, and (2) that he was prejudiced by his counsel’s ineffective performance. See Strickland v. Washington, 466 U.S. 668, 104 S. Ct. 2052 (1984); Porter v. State, 368 S.C. 378, 383, 629 S.E.2d 353, 356 (2006). When there has been a guilty plea, the applicant must prove that counsel’s representation was below the standard of reasonableness and that, but for counsel’s unprofessional errors, there is a reasonable probability that he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 58-59, 106 S. Ct. 366, 370 (1985); Roscoe v. State, 345 S.C. 16, 20, 546 S.E.2d 417, 419 (2001).

The Applicant stated he met with plea counsel three times while he was in jail and never reviewed any of the evidence (including the victim’s videotaped interview) in his case. The Applicant stated he told plea counsel he was innocent and counsel said he had to plead guilty. The Applicant stated he believed the State would dismiss the case when he pled guilty. The Applicant stated plea counsel said he would be deported and not serve any time. The Applicant stated plea counsel should have filed a motion to quash the indictment. The Applicant stated plea counsel should have objected to the victim impact statement being introduced at the plea hearing. The Applicant stated plea counsel should have objected when the State asked for the maximum sentence because there was no recommendation in this case. The Applicant admitted he told the plea judge that he was satisfied with plea counsel’s performance, but said that – after he has reviewed his case – he has decided he is unsatisfied. The Applicant also admitted that he did not dispute the State’s version of the facts at the plea hearing, but said it was because he

believed he was being deported.

Plea counsel testified he filed discovery motions after he was retained. Plea counsel testified he reviewed the discovery materials with the Applicant and the Applicant said he was innocent. Plea counsel testified they reviewed the sentence ranges for both first-degree criminal sexual conduct with a minor and lewd act upon a child. Plea counsel testified he and the Applicant watched the videotape of the victim's forensic interview while he was out on bond. Plea counsel testified the Applicant also had a pending federal charge and a potential ICE hold and that he knew there was a possibility he would be deported. Plea counsel testified he received the victim's impact statement the day of the plea hearing and that the Applicant and plea judge looked at it. Plea counsel testified he did not object to the statement because he did not see the purpose of it and did not believe the State did anything inappropriate.

The Applicant told the plea judge he wanted to plead guilty and did not dispute the State's factual recitation. (Plea transcript, p.14). The Applicant also told the plea judge that he understood the trial rights he was waiving in pleading guilty, was satisfied with counsel, and had not been coerced in any way. (Plea transcript, pp.4-6).

This Court finds the Applicant failed to meet his burden of proving plea counsel did not properly prepare the case. This Court finds the Applicant and plea counsel had meetings about the case while the Applicant was in jail. This Court finds the Applicant told plea counsel he was innocent of the charges. This Court finds the Applicant clearly changed his mind and decided to plead guilty because the plea transcript in this case is evidence that the Applicant entered a free and voluntary guilty plea. There is no credible evidence to support the Applicant's contention that plea counsel told him he would merely be deported if he pled guilty. The Applicant was, in fact, advised of the potential sentence he could receive – the Applicant testified plea counsel

informed him that he faced a sentence of 0-15 years.

This Court finds the Applicant failed to meet his burden of proving plea counsel should have moved to quash the indictment. The Applicant has failed to articulate a valid basis upon which plea counsel could have made such a motion.

This Court finds the Applicant failed to meet his burden of proving plea counsel should have objected at the plea hearing to both the victim impact statement and the State's request for the maximum sentence. While the victim was in the courthouse, she was not in the courtroom during the guilty plea hearing. The State passed up an "age-appropriate type letter" to the plea judge as a victim impact statement. (Plea transcript, pp.13-14). This Court finds there was no valid reason for plea counsel to have objected to the submission of this statement from the minor victim. The State also requested the plea judge levy the maximum sentence. (Plea transcript, p.12). This Court finds the Applicant has failed to articulate a valid reason for trial counsel to have objected to the State's request, as the Applicant was pleading guilty without a sentence recommendation from the State.

Accordingly, this Court finds the Applicant has failed to prove the first prong of the Strickland test – that plea counsel failed to render reasonably effective assistance under prevailing professional norms. The Applicant failed to present specific and compelling evidence that plea counsel committed either errors or omissions in his representation of the Applicant. This Court also finds the Applicant has failed to prove the second prong of Strickland – that he was prejudiced by plea counsel's performance. This Court concludes the Applicant has not met his burden of proving counsel failed to render reasonably effective assistance. See Frasier v. State, 351 S.C. at 389, 570 S.E.2d at 174.

Subject Matter Jurisdiction

Plea counsel testified the Applicant was originally charged with first-degree criminal sexual conduct with a minor but that the State eventually agreed to drop this charge if the Applicant would waive presentment (and plead guilty to) the charge of lewd act upon a child. The Applicant admitted plea counsel told him a few days before the plea hearing that the State was dropping one charge and he would plead guilty to another.

This Court finds the Applicant has failed to meet his burden of proving the plea court lacked subject matter jurisdiction. It is clear the Applicant pled guilty to lewd act upon a child as a new charge – not as a lesser-included offense of the original charge. (Plea transcript, p.11). The Applicant waived presentment of the lewd act charge to the Greenville County Grand Jury. (Plea transcript, p.6). The Applicant knew he was pleading guilty to lewd act upon a child instead of first-degree criminal sexual conduct with a minor several days before he pled guilty and the waiver of presentment and the indictment were clearly sufficient to put the Applicant on notice of the charge he was facing. See State v. Gentry, 363 S.C. 93, 102-03, 610 S.E.2d 494, 500 (2005).

After-Discovered Evidence

The Applicant's wife, Victoria Salas,¹ stated the victim was five years old at the time of the incident. Salas stated the victim made two disclosures of abuse (and that she first disclosed to the grandmother) and that she took the victim to the doctor after the second disclosure. Salas stated the Applicant never picked the victim up from school and that there were other people in the house at the time the abuse would have occurred. Salas stated she made a statement to this effect to plea counsel. Salas stated she did not believe any abuse happened and that she never

¹ This witness is also the victim's mother.

had an opportunity to speak to the victim about the abuse. Salas admitted she was assisting the defense team before the plea hearing.

The Applicant stated he did not know Salas had been helping the defense in his case. The Applicant stated he did not know until the day of the PCR hearing that Salas believed the victim was lying.

Plea counsel confirmed Salas had given a statement to him that she did not believe the victim. Plea counsel testified Salas said she believed her mother may have influenced the victim. Plea counsel also confirmed Salas had been assisting in the Applicant's defense.

This Court finds Victoria Salas's testimony does not constitute after-discovered evidence. See Hayden v. State, 278 S.C. 610, 611-12, 299 S.E.2d 854, 855 (1983). Most importantly, Salas's opinion (that the victim was lying and had been influenced by her mother) was known to the defense before the Applicant pled guilty. It is clear the parties both knew Salas was assisting the Applicant with his defense – Salas admitted this in her testimony and the assistant solicitor also pointed it out to the plea judge. (Plea transcript, p.11). As such, Salas's testimony cannot be considered to be after-discovered evidence. This Court further finds both Salas and the Applicant are not credible on this issue. Salas stated she never discussed the abuse with the victim (her five-year-old daughter) and the Applicant stated he did not know Salas was assisting in his defense. This Court finds this testimony to be patently unbelievable. See State v. Harris, 391 S.C. 539, 545, 706 S.E.2d 526, 529 (Ct. App. 2011) ("The credibility of newly-discovered evidence is for the trial court to determine.").

All Other Allegations

As to any and all allegations that were raised in the application or at the hearing in this matter and not specifically addressed in this Order, this Court finds the Applicant failed to

present any testimony, argument, or evidence at the hearing regarding such allegations. Accordingly, this Court finds the Applicant has abandoned any such allegations.

CONCLUSION

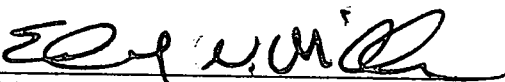
Based on all the foregoing, this Court finds and concludes the Applicant has not established any constitutional violations or deprivations before or during his guilty plea and sentencing proceedings. Counsel was not deficient in any manner and the Applicant was not prejudiced by counsel's representation. Therefore, this PCR application must be denied and dismissed with prejudice.

This Court advises the Applicant that he must file a notice of intent to appeal within thirty (30) days from the receipt of this Order if he wants to secure appropriate appellate review. His attention is also directed to Rules 203, 206, and 243 of the South Carolina Appellate Court Rules for the appropriate procedures to follow after notice of intent to appeal has been timely filed.

IT IS THEREFORE ORDERED:

1. That the application for post-conviction relief be denied and dismissed with prejudice; and
2. That the Applicant be remanded to the custody of the Respondent.

AND IT IS SO ORDERED this 7 day of January, 2014.


Edward W. Miller
Presiding Judge
Thirteenth Judicial Circuit

, South Carolina.

Greenville County Government

online

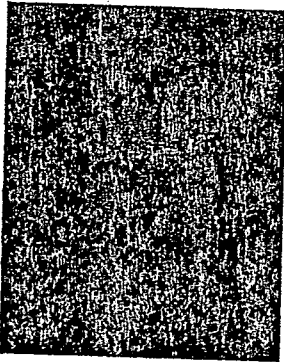
Detentio

Inmate

- Home
- Employment
- Incarcerated Inmates
- Mail
- Medical
- Money
- Mission Stmt.
- Notices
- Operations
- Org. Chart
- Psychological
- Telepho

Inmate Search: Details

Inmate Description and Location:



Name / ID Number: SALAS-HERNANDEZ, WILFREDO / 0221

Gender: MALE

Race: HISPANIC

Date of Birth: 12/08/79

Hair Color: BLACK

Eye Color: BROWN

Height: 5' 09"

Weight: 201 lb

Picture Date: 6/27/11

Housing Unit: M2 (Building Two)

Inmate Charges:

THE CHARGE IS AS FOLLOWS:

Charge 1 : PRISONER IN TRANSIT: FEDERAL Charge Date: 6/27/11 Warrant: DUSM

Arresting Agency: FEDERAL GOVERNMENT Trial Judge: FEDERAL Committing Judge: FEDERA

Sentence: 06/27/2011 - No Bond set by Judge

Applicant's
 1
 10-23-13 (W)

P.C.R-transcript

MOTIONS AND MATTERS

1 opportunity to review that videotape then we're gonna say it's
2 okay. It's a -- the relying upon *State vs. Hyman* with a
3 little bit of a stretch I think it might be analogous in this
4 matter. If if he's locked up, doesn't have the opportunity to
5 view that videotape of the the person that's really gonna be
6 the accuser 'cause if I think throughout the course of this
7 PCR we've learned that really victim never ever has been viewed
8 in coming forth and testifying and so in reliance upon *State*
9 *vs. Hyman* I think that that videotape is key, giving him the

10 opportunity to view that videotape would see his accuser, I
11 don't think he ever had that opportunity to do that. In light
12 of that I think his guilty plea then would have been
13 involuntary and then be ineffective assist of counsel
14 underneath the objective standard.

15 THE COURT: So you're saying that nobody ever viewed the
16 videotape.

17 MR. RECKENBEIL: Well saying that Mr. Robinson's
18 testimony obviously he said that he view -- viewed the
19 videotape.

20 THE COURT: Yeah, well it concerns the Court that he
21 said that your client came to his office and viewed the
22 videotape ---

23 MR. RECKENBEIL: Yes, sir.

24 THE COURT: --- when clearly that was impossible.

25 MR. RECKENBEIL: Yes, sir. Yes, sir, Your Honor, and and

P.C.R. Hearing

WILFREDO SALAS - DIRECT EXAMINATION BY MR. RECKENBEIL

1 Q. --- that you feel that, uh, Mr. Robinson should have
2 objected to that.

3 A. Objected to it's under that, uh, rules that everybodys
4 who have the chance to review, to review, uh, the paperwork
5 before going into into court which I never had a chance to
6 review and that you see in the transcript there's no record
7 where he als -- where he review it, he just went and say I
8 have not seen it and I don't know what the purpose of it and
9 he he really -- I really know why -- I really don't what the

10 letter contained.

11 Q. Alright. And the objection or the claim that you have as
12 to whether or not of no contact direct or indirect what do you
13 wanna state to the Court about that? Did that hamper the
14 investigation?

15 A. What claim would you say it be?

16 Q. Uh, Number 6.

17 A. Number 6. Uh, it's a crime, a a crime defendant entering
18 a guilty plea must be aware of the nature concerning elements
19 of of the offense the maximum and the minimum mandatory
20 penalties, that's, uh, Pittman vs. State ---

21 Q. Okay, ---

22 A. --- which ---

23 Q. --- and you're saying that the record is deficient of
24 that?

25 A. Uh, yes.

P. C. R. Hearing

WILFREDO SALAS - DIRECT EXAMINATION BY MR. RECKENBEIL

1 Q. In other words, during your guilty plea that there was
2 no, uh, advisement of you as to what the possibility of
3 sentencing could be?

4 A. Yes.

5 Q. Okay. We've already discussed the fact of the notice of
6 alibi claim that you didn't receive, correct?

7 A. Yes.

8 Q. And you would agree with me that a lot of your, uh,
9 amendment to your PCR goes to the big discrepancies and facts

10 of ---

11 A. Discrepancies ---

12 Q. --- in the, in in the investigation?

13 A. Well not only the discrepancies of the allegations itself
14 but dates and time vary from from the very beginning 'cause
15 this that the victim keeps cha -- keep changing the story from
16 from the doctors to the, to to the, uh, police, to the
17 sheriff's department to the Cris Centers and to the forensic
18 the event -- the dates and and allegations varyin' which is
19 not consistent.

20 Q. And bear with me on this question, Wilfredo, these
21 things that you've alleged in this ---

22 A. Yes.

23 Q. --- PCR amendment are things that you've learned from the
24 discovery that I provided you after your conviction?

25 A. Yes.

John G. Reckenbeil
john@johnreckenbeillaw.com

Law Office of John G. Reckenbeil

(EXHIBIT-F)

March 7, 2013

Wilfredo Salas Hernandez, SCDC ID 00347611
P.B. 51
Kershaw Correctional Institution
4848 Gold Mine Highway
Kershaw, SC 29067

RE: State v. Wilfredo Salas

Dear Wilfredo:

I am sending you a copy showing when you gave up your right to have a billed indictment. Also, there isn't a preliminary hearing for this case.

Should you have any questions or concerns please feel free to write to our office.

Yours very truly,



John G. Reckenbeil

JGR/sm

John G. Reckenbeil
john@johnreckenbeillaw.com

Law Office of
John G. Reckenbeil
(EXHIBIT - G)

May 7, 2013

Wilfredo Salas Hernandez, SCDC ID 00347611
P.B. 51
Kershaw Correctional Institution
4848 Gold Mine Highway
Kershaw, SC 29067

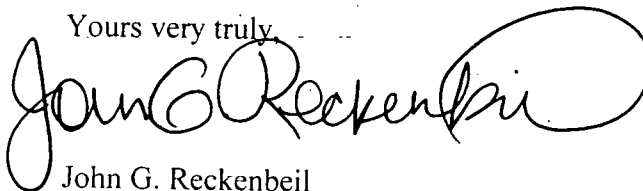
RE: State v. Wilfredo Salas

Dear Wilfredo:

I am in receipt of your letters and enclosures. As you will see from your Exhibit B that you have attached, you initialed where it says "Defendant Waives Presentment to Grand Jury" and on the plea sheet, it says "direct presentment." As I previously informed you, the Judge asked you if you waived your right to presentment to a grand jury which you responded in the affirmative during your guilty plea, but you will have a chance to testify at a hearing that you were coerced into signing the document and pleading guilty.

Again, there is no transcript to the preliminary hearing. I have further enclosed a comment to Rule 1.2 of the South Carolina Rules for Professional Conduct. I will not sign your Amended PCR or submit it to the Court. It is my duty and obligation to review documentation as well as request of submissions to be entered into the record, and it is my determination on the tactics to be used at the trial of the case. A lot of what you have requested to be submitted are factual issues that will be vetted during the hearing which will take place in the Greenville County Court of Common Pleas. It is also factually inaccurate that discovery was not presented to you prior to your offer on October 15th. There is a letter that demonstrates that you were given discovery in July of 2010.

Yours very truly



John G. Reckenbeil

JGR(kae)

Enclosure

215 Magnolia St. • PO Box 1633 • Spartanburg, SC 29304
Phone: 864-582-5472 • Fax: 864-582-7280
Legal Assistant: brittany@johnreckenbeillaw.com
Legal Assistant: kerri@johnreckenbeillaw.com

(ARREST WARRANT) 5031

1-479542

4-28-10

STATE OF SOUTH CAROLINA

Greenville

County/ Municipality of

Code X

THE STATE 10-47281

Wilfredo Salas

against

Address: 209 Ymca St

Greenville, SC 29611-

Phone: (864)444-2926 SSN: 567-34-2151

Sex: M Race: H Height: 5 5 Weight: 165

DL State: SC DL #: 011396017

DOB: 12/8/1979 Agency ORI #: SC0230000

Prosecuting Agency: Greenville County Sheriff's Office

Prosecuting Officer: Lorraine Henderson - 0166

Offense: Sex / Criminal sexual conduct with minor - victim under 11 yrs of age - First degree

Offense Code: 0385

Code/Ordinance Sec: 16-03-0655(A)(1)

This warrant is RETURNED FOR SERVICE in the

County/ Municipality of

is to be arrested and brought before me to be dealt with according to the law.

(L.S.)

Date: _____

RETURN

A copy of this arrest warrant was delivered to defendant on 4-27-10

Signature of Constable/Law Enforcement Officer

Greenville District Sessions

305 E. North Street Greenville County Courthouse Greenville, SC 29601-2120

ORIGINAL ORIGINAL

STATE OF SOUTH CAROLINA

AFFIDAVIT

ORIGINAL

I am Approved by S.C. Attorney General April 21, 2003 SCCA 518

Personally appeared before me the affiant Lorraine Henderson

being duly sworn deposes and says that defendant Wilfredo Salas

did within this county and state on or about 06/01/2009

State of South Carolina (or ordinance of Greenville) violate the criminal laws of the

in the following particulars: Sex / Criminal sexual conduct with minor - victim under 11 yrs of age - First degree

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

AFFIANT HAS A STATEMENT FROM THE VICTIM, WHO IS A 5-YEAR OLD FEMALE IMPLICATING THE DEFENDANT IN THE ABOVE SAID OFFENSE. THE VICTIM STATES DURING THE TIME FRAME OF HER BEING 5 YEARS OF AGE, (7/20/09 - 3/09/10) THE DEFENDANT DID INSERT HIS FINGER INTO HER VAGINA AND ALSO HIS PENIS ON HER VAGINA. THE VICTIM STATES THESE INCIDENTS OCCURRED A LOT OF TIMES WHILE HER MOTHER WAS AT WORK. INVESTIGATION REVEALED THESE INCIDENTS OCCURRED WITHIN THE BOUNDARIES OF GREENVILLE COUNTY. SEE CASE #10-047281.

Signature of Affiant

STATE OF SOUTH CAROLINA

Greenville

Affiant's Address: 4 Mcgee Street Greenville, SC 29601-

Affiant's Telephone: (864)467-4121

(ARREST WARRANT)

TO ANY LAW ENFORCEMENT OFFICERS OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 6/1/2009 defendant Wilfredo Salas

did violate the criminal laws of the State of South Carolina (or ordinance of Greenville) as set forth below:

DESCRIPTION OF OFFENSE: Sex / Criminal sexual conduct with minor - victim under 11 yrs of age - First degree

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable Sworn to and subscribed before me on 04/27/2010

Signature of Issuing Judge (L.S.)

Judge's Address: 4 Mcgee Street, Room 116-B Greenville, SC 29601-

Judge's Telephone: (864)467-5302

Signature of Issuing Judge

Judge's Telephone

Judge Code: 5031

Issuing Court: Magistrate

Municipal

Circuit

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

INDICTMENT FOR
LEWD ACT UPON A CHILD

At a Court of General Sessions, convened on

the Grand Jurors of Greenville

County present upon their oath:

That WILFREDO SALAS did in Greenville County, between the 2nd day of July, 2009 and the 19th day of March, 2010, willfully and lewdly commit or attempt a lewd and lascivious act upon or with the body, or its parts, of D.G., a child who was less than eleven years of age, with the intent of arousing, appealing to, or gratifying the lust, passions, or sexual desires of the defendant or such child. This is in violation of §16-15-0140 of the South Carolina Code of Laws (1976) as amended.

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


SOLICITOR

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

INDICTMENT FOR
LEWD ACT UPON A CHILD

At a Court of General Sessions, convened on

the Grand Jurors of Greenville

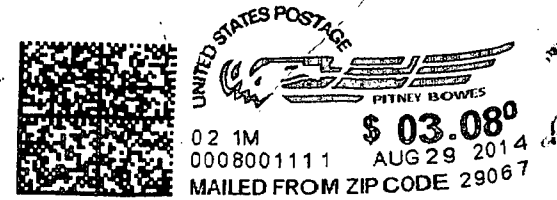
County present upon their oath:

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


SOLICITOR

Wilfredo Salas #347611
Kershaw Corr. Inst.
4848 Goldmine Hwy.
Kershaw, S.C 29067



THE DEPARTMENT OF CORRECTIONS HAS NEITHER
GENERATED NOR SUPPORTED THIS ITEM AND IS BEFORE
THE DEPARTMENT OF CORRECTIONS RESPONSIBILITY
FOR ITS CONTENTS.
KERSHAW CORRECTIONAL INSTITUTION
S.C. DEPARTMENT OF CORRECTIONS

RECEIVED
AUG 29 2014
MAILROOM

The Supreme Court of
South Carolina.
Daniel E. SHEAROUSE,
Clerk of Court.
Post office Box 11330
Columbia, S.C 29211