

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Appeal from Spartanburg County
J. Derham Cole, Circuit Court Judge

RECEIVED

JAN 14 2015

S.C. Supreme Court

EUGENE RHINEHART,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2014-001698

APPENDIX

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Appellate Defender

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

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ALAN WILSON
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ATTORNEYS FOR RESPONDENT

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STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

COURT OF GENERAL SESSIONS

STATE OF SOUTH CAROLINA,
PLAINTIFF,
VS.
EUGENE RHINEHART,
DEFENDANT.

TRANSCRIPT
OF
RECORD
2011-GS-42-2027

October 9th, 2012
Spartanburg, South Carolina

B E F O R E :

THE HONORABLE R. FERRELL COTHRAN, JR., Judge.

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

AMY GOULDING
ASSISTANT SOLICITOR
Attorney for the State

JAMES CHEEK
ASSISTANT PUBLIC DEFENDER
Attorney for the Defendant

PAMELA E. GREEN
Circuit Court Reporter
Seventh Judicial Circuit

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I N D E X

(There were no exhibits marked during this hearing.)

1 PROCEEDINGS

2

3

4 SOLICITOR GOULDING: Your Honor, Eugene Rhinehart is
5 before you on true billed Indictment 2011-GS-42-2027. He's
6 been charged with CSC with a minor second degree. It's my
7 understanding he's pleading to the same under Alford with a
8 cap of ten years is the recommendation with his attorney,
9 James Cheek.

10 (WHEREUPON, the defendant was placed under oath at this
11 time.)

12 THE COURT: Is anything being dropped?

13 SOLICITOR GOULDING: No, Your Honor. There's nothing
14 being dropped. It's simply a---

15 THE COURT: I don't think I can take this plea under
16 Alford then unless one -- something's got to be dropped or
17 it's got to be negotiated.

18 Y'all disagree with that?

19 MR. CHEEK: Well, they were offering a cap, Your Honor,
20 which is why he wanted to take advantage of the offer of the
21 cap.

22 THE COURT: I understand. But I -- it's a
23 recommendation. I don't have to follow it. It's got to
24 be -- he's got to -- it's not an issue of going to trial.
25 It's got to be given -- if you want to try to take it under
Alford is listen, I'm not admitting my guilt, but they

1 offered me too good of a deal and I want you to take it.
2 well, it's not a deal if he's, if he's looking at the whole
3 ball of wax.

4 Now, if it's negotiated, I think it qualifies for an
5 Alford plea. If not, unless something's been dropped, I
6 don't think it qualifies.

7 SOLICITOR GOULDING: May we approach, Your Honor?

8 (WHEREUPON, a bench conference was held at this time.)

9 THE COURT: Okay. Mr. Rhinehart, do you want to plead
10 guilty?

11 DEFENDANT: Yes, sir.

12 THE COURT: Under North Carolina versus Alford?

13 DEFENDANT: Yes, sir.

14 THE COURT: You had enough time to talk to your lawyer
15 about this decision?

16 DEFENDANT: Yes, sir.

17 THE COURT: Are you satisfied with his representation?

18 DEFENDANT: Yes, sir.

19 THE COURT: Outside of the negotiations that your
20 lawyer has stated and entered into, has anybody promised you
21 anything or threatened you in any way to get you to plead
22 guilty?

23 DEFENDANT: No, sir.

24 THE COURT: You understand this carries up to 20 years
25 in jail, but you negotiated a cap with the State that I

1 can't give you over ten, and after I hear the facts, if I,
2 if I can't follow those negotiations, I'll allow you to
3 withdraw your plea.

4 Do you understand that?

5 DEFENDANT: Yes, sir.

6 THE COURT: You understand this is also a most serious
7 offense and a violent offense?

8 DEFENDANT: Yes, sir.

9 THE COURT: And that if you get caught for another most
10 series offense, then you'll be looking at life without the
11 possibility of parole.

12 You understand that?

13 DEFENDANT: Yes, sir.

14 THE COURT: And they also require you to register as a
15 sex offender.

16 You understand that?

17 DEFENDANT: Yes, sir.

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

20 DEFENDANT: No, sir.

21 THE COURT: Do you have any mental diseases that would
22 keep you from understanding what you're doing?

23 DEFENDANT: No, sir.

24 THE COURT: By pleading you're giving up your right to
25 remain silent.

1 You understand that?

2 DEFENDANT: Yes, sir.

3 THE COURT: You're also giving up your right to a jury
4 trial, but you're giving up some of the other stuff. The
5 state would have to prove you guilty of these charges beyond
6 a reasonable doubt to all 12 jurors. You'd be able to sit
7 in the courtroom and confront the witnesses that would
8 testify against you in that trial.

9 Your lawyer could cross-examine the state's witnesses.
10 He could subpoena witnesses to testify in your behalf. You
11 could put up any defenses that you may have to this crime.
12 If you plead guilty you're giving all of that up.

13 DEFENDANT: Yes, sir.

14 THE COURT: And you're giving up any appeals that could
15 come out of that trial by pleading guilty.

16 Do you understand that?

17 DEFENDANT: Yes, sir.

18 THE COURT: Now, if you want to appeal this guilty plea
19 and sentence today, you or your lawyer must file with the
20 Clerk's Office within ten days or you give up all that.

21 You understand that?

22 DEFENDANT: Yes, sir.

23 THE COURT: The solicitor's gonna tell me about the
24 facts.

25 SOLICITOR GOULDING: Thank you, Your Honor.

1 The events in this case occurred here in Spartanburg
 2 County near Spartanburg Regional Hospital at the defendant's
 3 residence between December of 2008 and April of 2010. At
 4 that time, the victim, the defendant's daughter, ^{Minor} ,
 5 was 11 to 12 years old.

6 The victim discussed several events with me that
 7 occurred with the defendant. The sexual events began with
 8 him rubbing between her legs, putting his tongue on her
 9 stomach and chest, and also putting his mouth on her mouth.
 10 Events escalated to the defendant putting his tongue on her
 11 lower private parts as she calls it, and also having
 12 intercourse with the victim.

13 In a meeting with me ^{Minor} discussed several of these
 14 incidents, and she also told me how she pretended to be
 15 asleep during some of these events, and that's what we would
 16 present at trial, Your Honor.

17 The defendant has been in jail 617 days following his
 18 February of 2011 arrest.

19 THE COURT: Are those facts correct?

20 DEFENDANT: Yes, sir.

21 THE COURT: By your pleading guilty under North
 22 Carolina versus Alford, you understand that if this case
 23 went to trial that's what they would present against you?

24 DEFENDANT: Yes, sir.

25 THE COURT: Do you want me to accept the plea?

1 DEFENDANT: Yes, sir.

2 THE COURT: I find there's a factual basis for your
3 plea, your plea has been freely and voluntarily entered
4 into, that you've had advice of competent counsel with whom
5 you tell me you're satisfied, and I'll accept your plea.

6 Yes, sir.

7 MR. CHEEK: Your Honor, Mr. Rhinehart is currently
8 being held on a federal probation violation. He got a
9 significant amount of time to serve in the Federal Bureau of
10 Prisons.

11 Your Honor, he raised 12 children in this community,
12 his own children. Of that number, seven were female. He
13 has five female grandchildren. He is 52 years old, Your
14 Honor. He's never had any allegation like this before
15 involving his daughters, granddaughters, nieces, neighbor's
16 children, anything like this.

17 He's made his mind up that he is not gonna go to trial
18 on this. He's not gonna put this child through a trial.
19 That's his decision, Your Honor. He and I have discussed
20 all avenues of defenses he could offer, and he feels rather
21 confident that he'd have some fighting chance, but rather
22 than go to trial he's offering a plea under Alford admitting
23 that there is a possibility that he could be found guilty at
24 trial, and particularly if he does not contest anything at
25 trial and try to drag his relative through a lengthy trial,

1 Your Honor.

2 We just ask the Court for mercy here. He has decided
3 just to move forward with this, Your Honor. He understands
4 he'll be on the sexual offender registration. We're asking
5 the Court to take into consideration he understands that
6 penalty, how it's gonna impact him, and that requirement on
7 his registration as well as his restrictions once he returns
8 to the community from the Department, the Bureau of Prisons,
9 Your Honor. He's got some time to serve there.

10 THE COURT: And how much time does he have to serve
11 there?

12 SOLICITOR GOULDING: Your Honor, he's facing 51 to 63
13 months on a Federal revocation on supervised release.

14 THE COURT: Okay. One thing I didn't explain to you,
15 Mr. Rhinehart, this is a no parolable offense.

16 You understand that?

17 DEFENDANT: Yes, sir.

18 THE COURT: All right. Sentence of the Court is you'll
19 be committed to the State Department of Corrections for a
20 term of eight years. I'm giving you credit for the 617
21 days.

22 Good luck to you.

23 MR. CHEEK: Thank you, Your Honor.

24 SOLICITOR GOULDING: Thank you, Your Honor.

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* * *END OF REQUESTED TRANSCRIPT OF RECORD* * *

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C E R T I F I C A T E

I, Pamela E. Green, Official Court Reporter for the Seventh Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of General Sessions for Spartanburg County, South Carolina, on the 9th day of October, 2012.

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

January 28th, 2013

Pamela E. Green

PAMELA E. GREEN, Court Reporter

75W

FORM 5

STATE OF SOUTH CAROLINA)

IN THE COURT OF COMMON PLEAS

COUNTY OF)

Eugene Rhinchoact # 198205)
Full name and prison number (if any) of Applicant.)

2012-CP-42-5340

v.)

APPLICATION FOR

State of South Carolina)

POST-CONVICTION RELIEF

INSTRUCTIONS - READ CAREFULLY

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

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

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

1. Place of detention Spartanburg County Jail
2. Name and location of Court which imposed sentence Spartanburg County Court
3. Name(s) of co-defendant(s) (if any) NONE
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) M-124854
 - (b) _____
 - (c) _____
5. The date upon which sentence was imposed and the terms of the sentence:
 - (a) SEPT 8th 2012
 - (b) 8 YEARS

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- (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?
N/A
- 8. If you answered "yes" to (7), list:
 - (a) the name of each Court to which you appealed:
 - i. NONE
 - ii. _____
 - iii. _____
 - (b) the result in each such Court to which you appealed:
 - i. N/A
 - ii. _____
 - iii. _____
 - (c) the date of each such result:
 - i. N/A
 - ii. _____
 - iii. _____
 - (d) if known, citations of any written opinion or orders entered pursuant to such results:
 - i. N/A
 - ii. _____
 - iii. _____
- 9. If you answered "no" to (7), state your reasons for not so appealing:
 - (a) BECAUSE I THOUGHT THAT MY CHARGE WAS DROPPED TO A NON-VIOLENT ONE AND I WOULD RECEIVE LESSER TIME
 - (b) _____
 - (c) _____
- 10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully: CAUSE I WAS TOLD ONE THING AND LEAD TO BELIEVED THAT I WAS PLEADING TO A LESSER CHARGE AND THAT I THOUGHT THAT IT WAS A DEAL TO NO MORE THAN 3 YEARS NON-VIOLENT. AND ALSO I TOLD MY PUBLIC DEFENDER MR JAMES CHEE THAT I WOULD PLEA TO A LESSER CHARGE OTHER THAN C.I.S.C. AND THATS THE REASON I THOUGHT THAT I WAS OBLIGED TO.

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 I.P. [unclear]

Revised 3/2003

14

- (a) I was misled by lawyer I thought that by me pleading I
- (b) was pleading to a none violent charge and lesser time
- (c) and that a deal was made. I was told

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

- (a) did not under stand my charge And thought I was pleading
- (b) to a none violent And was not At All going to plea to
- (c) a violent charge was not explain to by lawyer or my sentence length or what charge I was pleading to misled counsellors.

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

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

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

(a) the specific nature thereof:

- i. NO
- ii. _____
- iii. _____
- iv. _____

(b) the name and location of the Court in which each was filed:

- i. N/A
- ii. _____
- iii. _____
- iv. _____

(c) the disposition thereof:

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

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iv. _____

(d) the date of each such disposition:

i. N/A

ii. _____

iii. _____

iv. _____

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

i. N/A

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?

NONE

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

(a) which grounds have been presented:

i. N/A

ii. _____

iii. _____

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

i. N/A

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) BECAUSE I DIDN'T KNOW HOW TO GO ABOUT IT

(b) _____

(c) _____

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

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

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. Mr JAMES CHEEKS
- ii. Mr Matthew Shealy
- iii. _____

(b) the proceedings at which each such attorney represented you:

- i. _____ plea hearing sentence in Spartanburg County Court House.
- ii. _____
- iii. _____

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

TIME OF SENTENCE. Reduce lower from 8 years. none violent or LESS ETC.

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

NO

2012 DEC 31 AM 9:38
 40

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.

Eugene Rhin & *Eugene Rhin*

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

Virginia Robinson (L.S.)
Notary Public

My Commission Expires: May 20, 2021

2012 DEC 31 AM 9:38

18

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.

Eugene Rhinehart Eugene Rhinehart Applicant

SWORN or affirmed to and subscribed before me this 17 day of Dec, 2012.

Virginia Robinson Notary Public

My Commission Expires: May 20, 2021

2012 DEC 31 AM 9:38

on ground (10) the reason I fill that I Am being held unlawfully I was At the County Jail for Almost 2 Years And only talk with my public Defender one time doing my whole time frame there in the Jail ALSO I NEVER UNDERSTOOD WHA MY CHARGE WAS OR HOW TO GO ABOUT GETTING IT OFF ME AL I WRITTEN TO MY PUBLIC DEFENDER OFFICE NUMBER OF TIME ASKING IF HE OR SOMEONE COULD COME OVER TO THE JAIL AND TALK WITH ME ABOUT HOW TO GO ABOUT MY CASE WHICH NO ONE EVER RESPONDED TO MY LETTER OR WHEN I PUT IN MY REQUEST FORMS. ALSO I WAS TOLD ONE THING AND THAT I WOULD BE PLEAING OUT TO A LESSER CHARGE AND I RECEIVED MORE OF MY SENTENCE I WAS TOLD THAT IT WOULD BE A BESSER CHARGE CAUSE THAT WA THE ONLY REASON I PLEAD ALSO I NEVER HAD A CHANCE TO TALK TO THE PUBLIC DEFENDER THAT WAS GIVEN TO ME I SEEM HIM AND TALK TO HIM FOR ONLY 10 MIN OUT OF TWO TIME AND HE DID NOT CONTACT ME BACK ABOUT MY CASE I WAS THERE FOR 20 1/2 MONTHS TRYING TO GET HIM ON SOMEONE TO EXPLAIN TO ME ABOUT MY CASE AND I WOULD LIKE TO ASK TO BE GIVEN A CHANCE TO PROVE MY SENTENCE SHOULD BE REDUCE BASE ON MISGUIDED BY COUNSELOR AND MISREPRESENTED BY LAWYER PUBLIC DEFENC I ALSO WOULD LIKE TO PUT IN FOR SOME KIND OF RELIEF ON MY CHARGE OF C.S.C. 2ND CAUSE I ONLY PLEAD BECAUSE MY PUBLIC DEFENDER HAD ME TO BELIVE THAT I WOULD ONLY BE DOING 5 YEARS WITH JAIL TIME TOWARD MY SENTENCE THATS THE ONLY REASON I PLEA CAUSE I HAD ALREADY BEEN IN FOR 20 1/2 MONTHS AND HE TOLD ME THAT I ONLY WOULD HAVE A YEAR LEFT TO DO IF I DID PLEA QUIETLY MISREPRESENTED

AM

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
)	SEVENTH JUDICIAL CIRCUIT
COUNTY OF SPARTANBURG)	
)	
Eugene Rhinehart, #198225,)	2012-CP-42-5340
)	
Applicant,)	
)	
v.)	RETURN
)	
State of South Carolina,)	
)	
Respondent.)	

Respondent, making its Return to the application for post-conviction relief (PCR) filed December 31, 2012, would respectfully show this Court:

I.

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Spartanburg County Clerk of Court. He was indicted at the March 2011 term of the Spartanburg County Grand Jury for criminal sexual conduct with a minor 2nd degree (2011-GS-42-2027). James Cheek, Esquire, represented Applicant. On October 9, 2011, Applicant pled guilty pursuant to NC v. Alford. Following a recommendation by the Honorable R. Ferrell Cothran sentenced Applicant to a sentence of eight years. The Applicant did not appeal his conviction and sentence.

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 CLERK OF COURT
 SPARTANBURG COUNTY
 2014 MAR -4 PM 1:21
 HOSE BLACKLEY

Attached herewith and incorporated herein are the records of the Spartanburg County Clerk of Court regarding the subject conviction, the Applicant's records from the South Carolina Department of Corrections, and the guilty plea transcript. The Respondent reserves the right to amend this Return upon receipt of any relevant materials.



II.

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

1. Ineffective assistance of counsel, in that;
 - a. Applicant was misled by Counsel to believe he was pleading to a lesser charge and would receive no more than three years non-violent.

III.

In a post-conviction relief action, the Applicant bears the burden of proving the allegations in their application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the application alleges ineffective assistance of counsel 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, (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, 466 U.S. 668. The Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

The reviewing court applies a two-pronged test in evaluating allegations of ineffective assistance of plea counsel. First, the Applicant must prove that counsel's performance was deficient. Under this prong, the court measures an attorney's performance 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. 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 the record does not conclusively refute. Accordingly, 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).

IV.

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

V.

WHEREFORE, having made its Return, the State requests that an evidentiary hearing be held.

Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

KAREN C. RATIGAN
Senior Assistant Deputy Attorney General

SUZANNE H. WHITE
Assistant Deputy Attorney General

By: ALP. M. B.
ATTORNEYS FOR RESPONDENT

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

Feb 28, 2014.

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2014 MAR -4 PM 1:21
M. HOPE BLACKEY

1 STATE OF SOUTH CAROLINA)
2 COUNTY OF SPARTANBURG) IN THE COURT OF COMMON PLEAS

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4 Eugene Rhinehart,)
5 Applicant,) TRANSCRIPT OF RECORD
6 -vs-) 2012-CP-42-5340
7 The State.) April 11, 2014
Spartanburg, South Carolina

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11 B E F O R E :

12 HONORABLE J. DERHAM COLE, JUDGE

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

16 CHRISTOPHER D. BROUGH, ESQUIRE
17 Attorney for the Applicant

18 SUZANNE H. WHITE, ESQUIRE
19 Attorney for the State

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Linda D. Moffitt
Circuit Court Reporter

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22	No exhibits entered into evidence.	
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1 MS. WHITE: We're here before you on Eugene Rhinehart
2 vs. the State. It's case No. 2012-CP-42-5340. Mr.
3 Rhinehart is represented today by Mr. Chris Brough.

4 He was indicted in March of 2011 on C.S.C. with a
5 minor second degree. He ultimately pled pursuant to Alford
6 on October 9th of 2012 with a cap, a recommendation of a
7 cap, of ten years. He received a sentence of eight years.

8 He's filed this application alleging ineffective
9 assistance of counsel and that he was misled by counsel to
10 believe he was pleading to a lesser charge and received no
11 more than three years nonviolent. And I believe I'll turn
12 it over to Mr. Brough because they may have an amendment to
13 make as well.

14 MR. BROUGH: Thank you, Your Honor. May it please the
15 Court.

16 Your Honor, Mr. Rhinehart would also move to amend his
17 application to include an allegation of after-discovered
18 evidence in that the victim in the case, a ^{Minor}
19 [REDACTED], subsequent to Mr. Rhinehart being sentenced
20 disclosed to a Corrie Walker that the allegations were
21 actually not true.

22 So we would move to amend based on the
23 after-discovered evidence and leave it as the ineffective
24 assistance of counsel and also as to a general involuntary
25 guilty plea based upon the ineffective assistance of

Eugene Rhinehart
Direct examination by Mr. Brough

1 counsel.

2 MS. WHITE: And, Your Honor, the state has no
3 objection to that amendment because we have been discussing
4 that and feel like we're ready to proceed.

5 THE COURT: All right. It's amended.

6 Mr. Brough.

7 MR. BROUGH: Thank you, Your Honor. The applicant
8 calls Eugene Rhinehart to the stand please.

9 EUGENE RHINEHART, having been
10 first duly sworn, testified as follows:

11 DIRECT EXAMINATION BY MR. BROUGH

12 Q Mr. Rhinehart, if you could, please, you're here today
13 because you filed an application for post conviction relief.
14 You've alleged that your trial counsel was ineffective in
15 representing you, is that correct?

16 A Yes, sir.

17 Q Okay. And who was your trial counsel, sir?

18 A Mr. James Cheeks.

19 Q Okay. Now, you pled under North Carolina vs. Alford on
20 this case, is that correct?

21 A Yes, sir.

22 Q Okay. And could you tell me and the Court if you
23 would, sir, what you -- why you pled to this offense while
24 still maintaining your innocence under North Carolina vs.
25 Alford?

Eugene Rhinehart
Direct examination by Mr. Brough

1 A Okay. I was -- been sitting in jail for two years,
2 also almost two years, for one year, 617 days. That's how
3 long I been sitting in jail.

4 And the reason I pleaded guilty was because, you know,
5 I was sitting there for so long. Nobody never come to see
6 me, you know. And Mr. Matthew Shealy was my attorney, but
7 he never did come to see me at all.

8 And then, you know, Mr. Cheeks came over, you know,
9 and everything. And I spoke with Mr. Cheeks, you know, and
10 I told Mr. Cheeks that I been sitting in there for almost
11 two years, you know, trying to get, you know, trying to get
12 out.

13 I also spoke to my federal lawyer. And my federal
14 lawyer told me, period, say, you know, hey, I been -- he
15 been trying to get in touch with Mr. Matthew Shealy. He
16 say he can't get him, you know. And I ain't never got the
17 paperwork on that where he's saying that he couldn't never
18 get nobody to come over there and talk to me.

19 So he said, well, if I knew -- he said I try to do
20 something. And I tried to get him to work with me, you
21 know.

22 Q Let me back up a little bit if I can.

23 Okay. So Mr. Shealy was supposed to be representing
24 you.

25 A Yes. That's supposed to have been my attorney.

Eugene Rhinehart
Direct examination by Mr. Brough

1 Q Okay. But ultimately ended up speaking with Mr. Cheek.

2 A Yes. I ended up speaking with Mr. Cheeks.

3 Q Okay. Now, you mentioned something -- well, before I
4 ask you that, did you have a bond in this case?

5 A Yes.

6 Q Okay.

7 A \$3,000.

8 Q Okay. That's what you would have had to come up with
9 to get out.

10 A Yes.

11 Q Okay. Now, but you ended up staying in there for 617
12 days.

13 A Yes.

14 Q Now, you mentioned something about a federal lawyer.

15 A Yes.

16 Q Tell me why you had a federal lawyer.

17 A Because I was on federal parole for when I was younger.
18 I was charged with organized crime, selling drugs. That's
19 why I was on parole with the federal.

20 Q So as a result of being on parole when you got arrested
21 for this, did anything happen to you on that?

22 A Yes. They -- they violated me.

23 Q Okay.

24 A And they said the reason they violated me because I got
25 arrested, you know, and they have to violate you. They set

Eugene Rhinehart
Direct examination by Mr. Brough

1 my bond at a million dollars.

2 Q Okay. And did they put a federal detainer on you?

3 A Yes, they put a federal hold on me.

4 Q Okay. So, in other words, even if you made your bond
5 in state court you weren't getting out.

6 A I wasn't going nowhere. Yeah. I still couldn't get
7 out.

8 Q Right. Because you would have been transferred to
9 federal custody.

10 A Yeah, would have been in federal custody. I still had
11 the hold.

12 Q Okay. Now, what is your relationship with the victim
13 in this case?

14 A She was -- I was told by her mother that she's supposed
15 to be my daughter.

16 Q Okay.

17 A You know, and I assumed that she was my child.

18 Q Okay. And at the time of the allegations when they're
19 saying in the indictment, had you had any contact with her?

20 A Could you repeat the question?

21 Q At the timeframe in which you were indicted for,
22 meaning the timeframe that the allegations were alleged to
23 have taken place --

24 A Oh, no. I ain't did it. I ain't had contact with her.

25 Q Okay. And that -- that was between December 3rd of

Eugene Rhinehart
Direct examination by Mr. Brough

1 2008 and April the 21st of 2010.

2 A Yes.

3 Q So you hadn't seen her at all.

4 A No. I hadn't seen her since the allegation was made.

5 Q Okay. Well, not since the allegations were made but
6 during the timeframe where you're alleged to have done this
7 had you been --

8 A Oh, no. I hadn't seen her.

9 Q And why hadn't you seen her at that point?

10 A Because I -- I had been working, and plus I had took
11 sick.

12 Q Okay. Now, you pled ultimately to this offense though,
13 correct?

14 A Yes.

15 Q Okay. I'm going to show you this, which is in the
16 court's record. Is that a copy of your sentencing sheet?

17 A Yes, I think so, yes.

18 Q Okay. Now, what you've told us here today, you would
19 agree with me that a 3-year nonviolent sentence is not
20 what's on this sheet.

21 A True.

22 Q Okay. Where -- where did you get that figure from?

23 A Well, Mr. Cheeks talked to me first time over there at
24 the county jail on a Sunday. And I spoke with him, you
25 know, about that. And he said he was going to go and speak

Eugene Rhinehart
Direct examination by Mr. Brough

1 with the prosecutor and see about getting me the three years
2 suspended to a year of probation, you know.

3 And I told him, I said, and I wanted to just plead and
4 get this over with and get out of jail, just like that.

5 And he said he'd get back with me and let me know.

6 So that's, you know, how I took it, as just that right
7 there, and because I been telling him I would not plead --
8 and I told my first lawyer -- to a volun -- to no charges.
9 And I been telling him that because I'm not guilty.

10 Q And were you aware the charge put you on the sex
11 offender registry?

12 A Excuse me?

13 Q Were you aware the charge would require you to register
14 as a sex offender?

15 A No, I was not aware of that either.

16 Q Had you known the consequences of what you were
17 actually facing would you have entered this plea?

18 A No, I would never pleaded.

19 Q And as you sit here today do you still claim that you
20 did, in fact, not do this?

21 A Yes.

22 Q And that but for the assurances of your trial counsel
23 you would have gone to trial.

24 A Sure. I would have went to trial.

25 Q Okay. Is there anything else that you feel I have not

Eugene Rhinehart
Cross-examination by Ms. White

1 covered in your application, sir?

2 A No. This is everything.

3 Q Okay. Please answer any of Ms. White's questions.

4 A Sure.

5 MS. WHITE: Thank you.

6 CROSS-EXAMINATION

7 BY MS. WHITE

8 Q Mr. Rhinehart, do you recall the day of your guilty
9 plea on October 9th of 2012?

10 A Yes, I do.

11 Q And do you recall the solicitor reading out at the very
12 beginning her understanding that you were pleading to C.S.C.
13 with a minor second degree with a cap of ten years as the
14 recommendation?

15 A Yes, I remember her saying that. But I also remember
16 the judge saying that I could -- they could receive -- set
17 the -- the cap and it'd be a der -- derogation [sic] for a
18 delegation [sic] deal, a plea, that he could accept the cap
19 for ten years, you know, ten years, because she had
20 over-10-year plea at first.

21 Q Okay. I'm not sure I was following you on that.

22 Are you saying that the judge said because you had
23 negotiated with the -- with the state for a cap of ten he
24 could not go over that?

25 A I mean, I -- I didn't know what he said, could he go

Eugene Rhinehart
Cross-examination by Ms. White

1 over it or under it. You know, I didn't know which one he
2 was saying. I just know he said that they had to make --
3 come to some kind of conclusion about, you know,
4 nirigration [sic] -- neogration [sic] of not guilty.

5 Q Okay. Do you recall after y'all discussed whether or
6 not this was a negotiated plea and that you were pleading
7 Alford the judge said that he -- you understood that this
8 carried up to 20 years? But because they negotiated a cap
9 of ten if he says if he decides he can't follow those
10 negotiations he would allow you to withdraw your plea.

11 A No. I was not aware of no 20 years, period. I always
12 thought it was the ten years that I was pleading to.

13 Q But you were there at the day. So do you recall the
14 judge telling you that?

15 A I recall him talking about ten years about the plea. I
16 recall him talking about, you know, whether you promise
17 anything about the plea. I recall that.

18 MS. WHITE: Your Honor, may I approach?

19 Q I'm going to show you something in your transcript.
20 And if you'll just read along with me, this is the State vs.
21 Eugene Rhinehart.

22 A Uh-huh.

23 Q And it's October 9th of 2012 before Judge Cothran. And
24 the Court says, "You understand that this carries up to 20
25 years in jail. But you negotiated a cap with the state that

Eugene Rhinehart
Cross-examination by Ms. White

1 I can't give you over ten. And after I hear the facts if I
2 can't follow those negotiations I'll allow you to withdraw
3 your plea. Do you understand that?"

4 And you said, "Yes, sir."

5 A Yeah. I might have said, yes, sir, during the time,
6 but I didn't remember no 20 years.

7 Q Okay. You also were asked if you understood that this
8 was a most serious and violent offense right after that.
9 And you said, "Yes, sir."

10 A Yes. I said yes. I think I said, "Yes, sir."

11 Q Okay. They said -- the judge also told you that they
12 also require you to register as a sex offender. "Do you
13 understand that?"

14 And you said, "Yes, sir."

15 A I could have said, "Yes, sir", but I -- I wasn't even
16 aware, I wasn't even really sure, because I really couldn't
17 hear them. You know, my mind was just focused at that
18 moment on something else. But I could have said yes. I
19 think I said yes.

20 Q You were answering his questions though appropriately.
21 So you heard what he was asking, right?

22 A To some of it, I did. And I said yes to it.

23 Q Okay. So your testimony that you were not aware that
24 this was a violent offense or that you would be on the sex
25 offender registry is not accurate because you were informed

Eugene Rhinehart
Cross-examination by Ms. White

1 of that at your plea, were you not?

2 A I wasn't -- I wasn't informed -- I wasn't informed of
3 that by Mr. Cheeks. That's -- that's who was my attorney at
4 the time.

5 Q But the judge -- the judge informed you at the plea, is
6 that right?

7 A When -- yeah. He informed me about the register as sex
8 offender, and I said yes. That's at the end after I'd
9 already pleaded.

10 Q And he also had told you if he couldn't follow the
11 negotiations he would allow you to withdraw the plea.

12 A I don't remember that part. That part I don't remember
13 hearing.

14 Q But I just read that with you.

15 A You read it, yes.

16 Q It's in the transcript.

17 A You read it, but I don't remember. Like I said, I
18 don't remember him saying it. I didn't hear it.

19 Q Okay. All right. And your pleading guilty, you
20 actually pled pursuant to Alford where, although you weren't
21 admitting guilt, you were saying you understood that the
22 facts as the state would present them, you could most likely
23 be found guilty. Do you recall that?

24 A Yes. I think I remember that.

25 Q Okay. And the reason you pled guilty was because you

Eugene Rhinehart
Cross-examination by Ms. White

1 had an option of getting less than ten years, where if you
2 went to trial you faced up to 20, is that not correct?

3 A Probably at the timeframe, like I told you, I was not
4 never told nothing about no 20 years until after, yeah, at
5 the time I made my plea, because I kept saying all way from
6 day one that I refused to plea to a -- to a violent offense.
7 I refused to plea, period, because I sat in jail for two
8 years and wasn't going to take a plea.

9 He never -- my federal officers in the federal
10 corrections probation office -- their lawyer -- they told
11 me why would you plead guilty if you're not guilty. So I
12 signed up for two years. I'm not pleading.

13 Q So you swore to tell the truth to the Court that day,
14 didn't you?

15 A Sure.

16 Q So when you told the judge that you understood that you
17 could get up to 20, you were negotiated for a 10-year cap,
18 that this was a serious, most serious, and a violent
19 offense, and you were on the sex offender registry, you said
20 you understood that. So was that not the truth?

21 A I -- I understood what he was saying that -- that this
22 is, you know, about the resident thing at the end, like I
23 told you.

24 The only reason I pleaded was because I been sitting
25 in jail for two years, and, you know, I was sick. I got

Eugene Rhinehart
Redirect examination by Mr. Brough

1 congestive heart failure, and I was having all kind of
2 medical issues like I'm having now. That's the only reason
3 I pleaded guilty. I been setting there so long.

4 Q And instead of the possible 20 years you ended up
5 receiving the -- excuse me -- receiving a sentence of eight
6 years, is that right?

7 A Yes, ma'am.

8 Q Okay. Thank you.

9 MS. WHITE: That's all I have at this time, Your
10 Honor.

11 MR. BROUGH: Just briefly on redirect, Your Honor.

12 REDIRECT EXAMINATION

13 BY MR. BROUGH

14 Q Mr. Rhinehart, on your plea do you remember the
15 solicitor talking about what you were facing on your federal
16 revocation, on supervised release, being 51 to 63 months?

17 A Uh-huh.

18 Q Okay. And my understanding that you were under the
19 impression from Mr. Cheek that you were going to get a
20 3-year sentence?

21 A Yes.

22 Q Okay. And so was it your belief that that was
23 essentially no additional time than what you were facing --

24 A That was my --

25 Q -- on your federal revocation?

Minor

Direct examination by Mr. Brough

1 A That was my belief.

2 Q Okay. And when you answered the question about based
3 on the evidence the state would present that you would most
4 probably be found guilty, and you said yes --

5 A Yeah.

6 Q Had -- had you become aware of a -- an instance where
7 the victim in the case may have recanted or taken back her
8 allegations to Corrie Walker?

9 A No. I was not aware of it at first.

10 Q Okay. In light of the fact if I were to take that back
11 as being true, do you think that the state would be able to
12 prove your guilt beyond a reasonable doubt if, in fact, she
13 had recanted?

14 A No.

15 Q Okay. Thank you, sir.

16 THE COURT: Step down.

17 MR. BROUGH: The applicant calls ^{Minor} to
18 the stand, please.

19 ^{Minor}, having been
20 first duly sworn, testified as follows:

21 DIRECT EXAMINATION BY MR. BROUGH

22 Q Ms. ^{Minor}, do you know Eugene Rhinehart?

23 A Yes, sir.

24 Q Okay. And how do you know him?

25 A He's supposed to be my father.

Minor

Direct examination by Mr. Brough

1 Q And would it be an accurate statement to assume that at
2 some point you had spoken with officers and other folks from
3 the Children's Advocacy Center about allegations that he had
4 been inappropriate with you?

5 A Yes, sir.

6 Q Okay. And were you aware that Mr. Rhinehart was
7 sentenced based on those allegations?

8 A Can you repeat that?

9 Q Were you aware he was sentenced to a prison term in
10 relation to those allegations?

11 A Yes, sir.

12 Q Okay. After he was sentenced to prison time did you
13 have a conversation with a Corrie walker?

14 A Yes, sir.

15 Q And who is Corrie?

16 A He's supposed to be my brother.

17 Q So someone you had known for some time.

18 A Yes, sir.

19 Q And did you have a regular relationship with him? I
20 mean, in other words, did you know him pretty well?

21 A Yes, sir.

22 Q Okay. So would you consider him to be a
23 friend-of-the-family member?

24 A Yes, sir.

25 Q Okay. In that conversation did Corrie ask you if --

Minor

Cross-examination by Ms. White

1 what had happened between you and Eugene and whether or not
2 the allegations were true?

3 A Yes, sir. I -- I told him that it never happened.

4 Q Do you recall when that was?

5 A I was 11.

6 MR. BROUGH: No further questions for this witness.

7 CROSS-EXAMINATION

8 BY MS. WHITE

9 Q Minor , do you recall how you felt at the time of the
10 conversation that you had with Corrie?

11 A Yes, ma'am.

12 Q And how did you feel at that time when you were talking
13 with him about this?

14 A I felt like -- I felt like -- I felt like I didn't -- I
15 felt like I -- like I didn't want to tell nobody because I
16 was threatened.

17 Q Okay. So you felt threatened at the time.

18 A Yes, ma'am.

19 Q And were you scared?

20 A Yes, ma'am, I was scared.

21 Q Okay. And when you told him that it did not happen,
22 was that the truth?

23 A It -- it wasn't the truth. I -- I said that because I
24 was afraid.

25 Q Okay. Thank you.

Minor

Redirect examination by Mr. Brough

1 MS. WHITE: That's all I have, Your Honor.

2 MR. BROUGH: Just briefly, Your Honor.

3 REDIRECT EXAMINATION

4 BY MR. BROUGH

5 Q Now, were you ever explicitly threatened?

6 A It was like, yes, like if I told somebody that he would
7 kill my family.

8 Q That's what Corrie said to you.

9 A No, no, not Corrie.

10 Q Okay. I'm asking you about Corrie.

11 A Oh, okay.

12 Q Okay. Did Corrie ever explicitly threaten you?

13 A No, he never threatened me.

14 Q Okay. But you just said that you were threatened on a
15 conversation with Corrie. Was Corrie the person who
16 threatened you?

17 A No, sir.

18 Q He wasn't. Okay. So when you -- when you told Corrie
19 this was not a conversation which Corrie threatened you at
20 all, was it?

21 A No, no, sir.

22 Q Okay. Y'all were just talking.

23 A We were just talking.

24 Q Okay. And he asked you what happened.

25 A And he asked me what happened, and I told him nothing

Minor

Recross-examination by Ms. White

1 happened.

2 Q Thank you.

3 MR. BROUGH: No further questions.

4 MS. WHITE: Just one brief followup.

5 RE-CROSS-EXAMINATION

6 BY MS. WHITE

7 Q Ms. ^{Minor}, I know we're trying to clarify. You
8 said that you told Corrie that nothing happened because you
9 felt scared and threatened in general by other people. Was
10 that what --

11 A Yes, ma'am.

12 Q Okay. So you didn't want to tell Corrie because you
13 didn't want to get involved and didn't want to have to say
14 it to somebody else?

15 A Yes, ma'am.

16 Q Okay. Thank you.

17 MS. WHITE: That's all I have, Your Honor.

18 THE COURT: Okay. You can step down.

19 MR. BROUGH: Your Honor, we'd excuse this witness from
20 our subpoena at this time.

21 THE COURT: Okay.

22 MS. WHITE: No objection, Your Honor.

23 (Whereupon, the witness was excused.)

24 MR. BROUGH: We would call Corrie Walker to the stand.

25

Corrie walker
Direct examination by Mr. Brough

1 CORRIE WALKER, having been
2 first duly sworn, testified as follows:

3 DIRECT EXAMINATION BY MR. BROUGH

4 Q Mr. Walker, do you know Eugene Rhinehart?

5 A Yes, sir.

6 Q And how do you know him?

7 A That's my father.

8 Q Okay. And do you know ^{Minor} ?

9 A Yes, sir.

10 Q And how do you know her?

11 A Allegations of a sister.

12 Q Did y'all believe you were brother and sister?

13 A Yes.

14 Q Now, you've heard -- you were in the courtroom when
15 Ms. ^{Minor} testified.

16 A Talking about just awhile ago?

17 Q Yes.

18 A Yes, sir.

19 Q Okay. And do you recall having that conversation with
20 her?

21 A Yes, sir.

22 Q Okay. At any point in time in that conversation did
23 you threaten her, try to intimidate her?

24 A No, sir.

25 Q Tell me what happened in that conversation if you

Corrie walker
Cross-examination by Ms. White

1 would, sir.

2 A well, after all of the allegations and stuff went down,
3 you know, that was my sister, as I was told, that was my
4 father. And I reached out to her just to see what was going
5 on. And, you know, I talked to her as a brother and just
6 asked her what was going on. And that's when I was told
7 nothing happened. That was just like a brother-and-sister
8 conversation of what was going on.

9 Q Thank you, sir. Please answer any of Ms. White's
10 questions.

11 CROSS-EXAMINATION

12 BY MS. WHITE

13 Q Mr. walker, how -- do you recall when you talked with
14 Ms. Minor ?

15 A You know, I don't know exactly the date, but, you know,
16 after everything had went down, and, you know, after my
17 father had, you know, basically went down for the
18 allegations, because they picked him up from my house, so,
19 you know, this was after everything had went down.

20 Q So this was after he had pled guilty and been
21 sentenced?

22 A No. This was basically after the charge was brought
23 on.

24 Q Okay. So this was sometime most likely in maybe 2011
25 or so when it first came out?

Corrie walker
Cross-examination by Ms. White

1 A When it first happened.

2 Q Okay. And we're in 2014 now. How old are you now?

3 A I'm 21.

4 Q Okay. And how old were you then when you had that
5 conversation with ^{Minor} ? Estimate for me.

6 A I mean, I'm trying. Okay. My son was born in 2010.

7 Q Seventeen or 18 maybe?

8 A Yeah, 17 or 18.

9 Q Okay. And do you know how old Ms. ^{Minor} is now?

10 A I was told 16.

11 Q Okay. And so she would have been about 12 or 13 when
12 you talked?

13 A Okay. Yes.

14 Q Is that right?

15 A Yes.

16 Q Okay. And were you aware that she may have been scared
17 at the time about talking about this?

18 A No. I didn't understand the scared part, because, like
19 I told you, we had a relationship. So, you know, she had
20 nothing to be scared of me about.

21 Q Right. But were you aware that she had been scared to
22 tell other people initially?

23 A No, I wasn't aware.

24 Q Okay. Thank you.

25 MS. WHITE: That's all I have, Your Honor.

Corrie walker
Cross-examination by Ms. white

1 MR. BROUGH: No further questions of this witness.

2 THE COURT: Step down.

3 MR. BROUGH: That would be the applicant's showing,
4 Judge.

5 MS. WHITE: Your Honor, I do have one brief question.
6 I'm sorry. Can I recall him for a moment?

7 THE COURT: Mr. walker, come back around.

8 BY MS. WHITE

9 Q I'm sorry, Mr. walker.

10 You said this conversation happened around before the
11 plea of 2011. So did you tell anybody about it at that
12 time? Did you tell your father?

13 A No. This conversation was between me and her and no
14 one else.

15 Q So you didn't tell anybody before your father pled
16 guilty to this charge.

17 A No. I don't recall talking to nobody but ^{Minor} .

18 Q Okay. And you didn't think that this might be helpful
19 to your father in regards to these allegations?

20 A No, because all I was really trying to do was find out
21 what's going on, because, like I said, this was my father
22 and this was my so-called sister. I was just trying to get
23 to the bottom of it myself, so.

24 Q Okay. So the first time you really told anybody about
25 that was this week?

Corrie Walker
Redirect examination by Mr. Brough

1 A Yes.

2 Q Okay. Thank you.

3 MS. WHITE: That's all I have, Your Honor.

4 REDIRECT EXAMINATION

5 BY MR. BROUGH

6 Q Briefly. Mr. Walker, you said you hadn't talked to
7 anyone else about this conversation prior to this week,
8 correct?

9 A Right.

10 Q Okay. Do you have any knowledge as to whether ^{Minor}
11 had any conversations with anyone other than you about this
12 prior to this week?

13 A Now, that I don't have no knowledge of.

14 Q Did you ever speak with Mr. Cheek prior to this plea?

15 A No, sir.

16 Q Okay. Did you ever let Mr. Rhinehart know about this
17 conversation prior to now?

18 A No, sir.

19 Q Okay. All right. Thank you, sir.

20 THE COURT: Step down.

21 MS. WHITE: That's all, Your Honor.

22 MR. BROUGH: That would be our showing, Judge.

23 MS. WHITE: Your Honor, the state would briefly call
24 Mr. James Cheek to the stand.

25

James Cheek
Direct examination by Ms. White

1 JAMES CHEEK, having been first
2 duly sworn, testified as follows:

3 DIRECT EXAMINATION BY MS. WHITE

4 Q Thank you, Mr. Cheek.

5 Do you recall representing Mr. Rhinehart at his plea in
6 2012?

7 A I do.

8 Q And do you recall the facts surrounding the situation?

9 A I do.

10 Q Do you recall -- did you ever guarantee him that he
11 would receive a sentence of three years nonviolent if he
12 pled to this charge?

13 A I not only did not guarantee him that. We never had a
14 discussion on that.

15 Q In your discussion with him were you able to talk with
16 him about the range and the fact that this was a potential
17 20 years?

18 A I did. And I talked with him about the potential
19 sentence on the original charge up to 20 years. I discussed
20 with him what negotiations meant. I asked him if he would
21 be inclined to entertain negotiations. He said he would.

22 I then communicated with the solicitor's office in an
23 attempt to try to work out a negotiated sentence. They
24 came back with the negotiated cap of ten years.

25 Q And at the time had you also shared with him anything

James Cheek
Direct examination by Ms. White

1 about whether or not this was going to be guaranteed to run
2 concurrent with his federal probation or parole revocation?

3 A I did not guarantee him that. I thought most probably
4 it would.

5 We had had a discussion as to what that would mean as
6 far as where he would actually serve his sentencing. I
7 told him by experience that he would -- if he got that
8 sentence of up to ten years he may wind up doing it all in
9 the state as opposed to federal custody. But that was a
10 concern he would need to make while he would be doing the
11 time.

12 He was very concerned about where he would be doing
13 the time. He would have preferred the bureau of prisons.
14 He thought that had more benefits for him and that'd be a
15 better place to serve his time.

16 But I told him I could not guarantee him that, that I
17 felt most probably he'd be serving his time in the State
18 Department of Corrections.

19 Q And at the time of this plea -- you were there when the
20 Court explained to him the fact that this was a most serious
21 and violent and he would also be on the sex offender
22 registry?

23 A I was there during that conversation. And I was not
24 surprised at Mr. Rhinehart's responses that he understood
25 because he and I had had several conversations prior to that

James Cheek
Direct examination by Ms. White

1 including the day of the plea. And he indicated he
2 understood what all of that meant.

3 Q So he never expressed to you anything during that plea
4 of a question that he had never heard of that before.

5 A No. Mr. Rhinehart was well aware of all of that even
6 prior to our having a conversation with him, because he had
7 had his discovery, and he knew what was going on with the
8 case. And he knew the sentencing ranges and what the
9 consequences would be for entering a plea.

10 He was concerned at first about having entered a plea
11 to something that would require sex offender registration.
12 It's my recollection we have even brought him to the
13 courthouse once before prior to this with the possibility
14 of entering a plea but he declined at that time. He was
15 concerned with entertaining more negotiations and plea
16 bargaining. We did that, and we ultimately wound up with
17 the negotiated sentence of a cap of ten years. But he
18 understood clearly that it would require sex offender
19 registration.

20 Q Okay. And at the time did you feel that he was
21 pleading freely and voluntarily based on all the information
22 you had shared and what he was aware of the state had?

23 A Yes. That was my surmise of the situation, he
24 completely understood and that he did not feel forced,
25 threatened or coerced into doing this as reflected by his

James Cheek
Cross-examination by Mr. Brough

1 own comments on the record to the judge at the time of the
2 entering of the plea.

3 Q Thank you, Mr. Cheek. That's all I have, Your Honor.

4 CROSS-EXAMINATION

5 BY MR. BROUGH

6 Q Mr. Cheek, you said you had some conversations with
7 Mr. Rhinehart and he was concerned about where he would
8 potentially be doing his time, is that correct?

9 A Yes.

10 Q Okay. Do you recall Assistant Solicitor Goulding
11 talking about the range that he was looking at on his
12 federal revocation being somewhere between 51 and 63 months
13 at the time of the plea?

14 A I recall that. I think I was reminded of that during
15 the -- during the review of the transcript in this case.

16 Q And I believe Mr. Rhinehart indicated that he did have
17 a bond on this case, is that correct?

18 A On this case? I thought he testified he had a bond on
19 the federal.

20 Q I think he -- my recollection is he had bond on both
21 cases.

22 A Well, I don't know. He's here. I mean, I know that
23 the record will speak for itself. I stand on that.

24 Q Well, let me ask you this. Are you aware that in terms
25 of federal court that they generally will not give you

James Cheek
Cross-examination by Mr. Brough

1 credit for time you do in a state facility?

2 A Now, my understanding is if you're sentenced on your
3 federal and your time starts running at that point in time,
4 and you come back into state custody, then that time
5 continues running, although you may receive a sentence in
6 the state that exceeds that time so that that time will
7 expire prior to you finishing your state sentence. And
8 that's my understanding.

9 But, at any rate, I always advise clients I cannot
10 guarantee them, as I did in this case Mr. Rhinehart. I
11 could not guarantee where he would spend his time. But
12 that's not really a consideration of mine, where they spend
13 their time, as long as they understand they've to serve
14 that, their sentence.

15 Q Okay. But if he was concerned about where he would
16 spend his time, did you advise him initially to make bond on
17 the state case, go through with the federal revocation and
18 then bring him back for the state-court plea?

19 A Beg your pardon?

20 Q In other words, if he was concerned where he might do
21 his time did you advise him it might be in his best interest
22 to make bond on the state case so that he would then be
23 moved to federal custody and then once in federal custody
24 deal with that and then come back and deal with the state
25 charge? That way he would be in the bureau of prisons.

James Cheek
Cross-examination by Mr. Brough

1 A well, I would have admit to you that I did not have a
2 conversation with his federal attorney.

3 Q Okay.

4 A And that was something I referred to him, having a
5 conversation with his federal attorney about.. But based on
6 what Mr. Rhinehart told me he had talked with his federal
7 attorney, and that at that point he didn't see that he had
8 any violations that if they would undertake they were
9 waiting for him to take care of this charge.

10 And Mr. Rhinehart had indicated to me that he didn't
11 consider it enough time in order to move forward with this
12 federal situation. He needed to go ahead and resolve the
13 state.

14 Now, if that was incorrect, I apologize for relying
15 upon the representation Mr. Rhinehart made to me. But I
16 was trying to take care in a way in which he suggested he
17 wanted it done. And that's what I did.

18 Q Let me ask you this. You were present in the courtroom
19 during the testimony of the victim or alleged victim in this
20 case, ^{Minor} , as well as Corrie Walker, correct?

21 A Yes, sir, I was present.

22 Q Okay. would it be fair to say that their testimony
23 that they had not -- you had no knowledge of that
24 conversation taking place was, in fact, true? In other
25 words, that no one had told you that that conversation had

James Cheek
Cross-examination by Mr. Brough

1 taken place. In other words, Mr. Walker didn't speak to you
2 prior to the plea, nor did Ms. ^{Minor} and indicate
3 that --

4 A I have no recollection of that.

5 Q Okay. Had you had that knowledge that there had been a
6 conversation where she indicated the allegations weren't
7 that, not true --

8 A I would have referred the information to Mr. Matthew
9 Shealy who would have been the trial attorney in that case.

10 Q Okay.

11 A And Mr. Shealy I'm certain would have interviewed and
12 sent our investigator out to interview that young lady.

13 As part of that conversation I'm confident that
14 Mr. Shealy would have come back and told Mr. Rhinehart
15 after interviewing Ms. ^{Minor} that he had the same -- he
16 or our investigator had the same interpretation of that.

17 And the setting in which it was revealed, that he
18 would have come back and cautioned Mr. Rhinehart about
19 going to trial, because quite often young victims of the
20 age of Ms. ^{Minor} do respond in such a manner when it
21 comes to talking with someone else about this, a family
22 member, and particularly a male family member upon whom she
23 took some confidence and with whom she thought she had a
24 relationship, that usually happens that they do recant in
25 part or in whole when that kind of pressure is put upon

James Cheek
Cross-examination by Mr. Brough

1 them to feel that they're not only going to lose their
2 father, as somebody has said, but also the love and support
3 of their brother in a situation like this.

4 I'm sure Mr. -- Mr. Shealy would have had such a
5 conversation with Mr. Rhinehart and cautioned him that at
6 trial the Children's Advocacy Center responds.

7 This would have played heavily in this case, and
8 that's why I had talked to Mr. -- Mr. Rhinehart even about
9 that knowledge, that that child testifying at trial, he
10 might want to enter a plea under Alford. That's why we
11 moved forward under Alford as opposed to admitting guilt in
12 this case.

13 Q Okay. So even had you known that you would advised him
14 to plea, if you had known that the victim had recanted to
15 someone you would not have advised --

16 A If I had known that that child I saw on this stand
17 today responded in such a way as she did today I would have
18 advised Mr. Rhinehart that the tapes from the Children's
19 Advocacy Center would have been most probably put into trial
20 because of the fact and the circumstances under which the
21 recantation took place.

22 MR. BROUGH: I have no further questions.

23 MS. WHITE: The state has nothing further, Your Honor.

24 THE COURT: You may step down.

25 MS. WHITE: The state has no further witnesses, Your

1 Honor.

2 THE COURT: I'll review the record and issue an order.

3 END OF REQUESTED TRANSCRIPT OF RECORD

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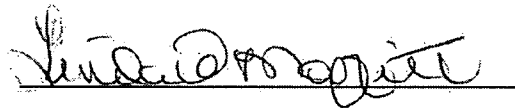
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CERTIFICATE

I, the undersigned Linda D. Moffitt, Official Court Reporter for the Seventh 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 trial of the captioned cause, relative to appeal, in the Common Pleas Court for Spartanburg County, South Carolina, on the 11th day of April 2014.

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

October 6, 2014



Linda D. Moffitt
Circuit Court Reporter

STATE OF SOUTH CAROLINA)
)
 COUNTY OF SPARTANBURG)
)
 Eugene Rhinehart, #198225,)
)
 Applicant,)
)
 v.)
)
 State of South Carolina,)
)
 Respondent.)

IN THE COURT OF COMMON PLEAS
 SEVENTH JUDICIAL CIRCUIT

2012-CP-42-5340

ORDER OF DISMISSAL

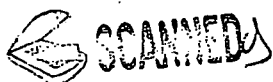
This matter comes before the Court by way of an Application for Post-Conviction Relief filed December 13, 2012. The Respondent made its Return on or about February 28, 2014. An evidentiary hearing into the matter was convened on April 11, 2014, at the Spartanburg County Courthouse. The Applicant was present at the hearing and was represented by Christopher Brough, Esquire. Suzanne H. White, Esquire, of the South Carolina Attorney General's Office represented the Respondent.

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 CHRISTOPHER BROUGH

At the hearing, the Applicant testified on his own behalf. Cory Walker, Applicant's son, testified on Applicant's behalf. The victim in this matter, Minor , also testified. James A. Cheek, Esquire, testified on behalf of the State. This Court also had before it a copy of the records of the Spartanburg County Clerk of Court regarding the subject convictions, Applicant's records from the South Carolina Department of Corrections, the Return, and the plea transcript.

PROCEDURAL HISTORY

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Spartanburg County Clerk of Court. He was indicted at the March 2011 term of the Spartanburg County Grand Jury for criminal sexual conduct with a



minor – 2nd degree (2011-GS-42-2027). James A. Cheek, Esquire, represented Applicant. On October 9, 2012, Applicant pled guilty pursuant to NC v. Alford. Following a recommendation by the State, the Honorable R. Ferrell Cothran sentenced Applicant to a sentence of eight years. The Applicant did not appeal his conviction and sentence.

ALLEGATIONS

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

1. Ineffective assistance of counsel, in that;
 - a. Applicant was misled by Counsel to believe he was pleading to a lesser charge and would receive no more than three years non-violent.

The Applicant orally amended the application at the hearing, with no objection from the Respondent, to include an allegation of newly discovered evidence based upon Applicant's recent discovery of an alleged statement by the victim to the Applicant's son, which Applicant believed to be exculpatory.

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

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evidence.” Frasier v. State, 351 S.C. 385, 389, 570 S.E.2d 172, 174 (2002) (citing Rule 71.1e, SCRCPP). 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 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. 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).

The Applicant testified that Matthew Shealy was his original appointed attorney, but Applicant never met with Mr. Shealy. However, Applicant testified that he met with and was represented at the plea by Counsel. Applicant testified that he remained in jail for almost two years before his plea because although his bond on this charge was minimal, because he violated

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his federal parole, his bond for the violation was \$1 million. Applicant testified that he has been told by the victim's mother that the victim is Applicant's daughter. Applicant testified that during the time the alleged abuse occurred, Applicant had not seen the victim at all.

Applicant alleged that Counsel guaranteed him that he would receive no more than three years on a non-violent sentence if he agreed to plead guilty. Applicant testified that he was never aware that he faced a potential sentence of twenty years. Applicant also testified that he was unaware that the charge required sex offender registry. Applicant acknowledged that he may have told the plea judge that he understood the charge was a most serious, violent and required sex offender registry, but Applicant testified that he did not really know what was going on at the time of the plea.

Counsel testified that he spoke with Applicant about the twenty year maximum sentence, as well as possible negotiations for a specific sentence. Counsel testified that he was aware of the Applicant's federal parole violation and the Applicant indicated that he was very concerned as to whether or not he would serve his time in the South Carolina Department of Corrections or the Federal Bureau of Prisons. Counsel testified that he never guaranteed the Applicant that the sentence would run concurrent with the parole violation. Counsel also testified that he discussed with the Applicant the requirement to register as a sex offender and the fact that the charge would be violent.

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This Court does not find Applicant's testimony to be credible. However, this Court finds Counsel's testimony to be credible. This Court finds that Counsel discussed the elements and nature of the charge with the Applicant, as well as potential sentences Applicant could receive. Counsel also reviewed with the Applicant the collateral consequence of sex offender registry and the effect the plea may have on Applicant's federal parole. As the record and testimony

indicates, the Applicant was allowed to plead guilty pursuant to NC v. Alford¹, to a negotiated sentence cap. The record is clear that the Applicant pled guilty freely and voluntarily with full knowledge of the consequences he faced. Applicant stated on the record that he was satisfied with Counsel's representation. This Court finds that the Applicant has failed to meet his burden of proof as to this claim. Therefore, this claim is denied and dismissed.

Newly Discovered Evidence

The Applicant also alleged that he should be granted a new trial because of newly discovered evidence. A defendant requesting a new trial based on after discovered evidence must show that the evidence:

- (1) Is such as would probably change the result if a new trial was had;
- (2) Has been discovered since the trial;
- (3) Could not by the exercise of due diligence have been discovered before the trial;
- (4) Is material to the issue of guilt or innocence; and
- (5) Is not merely cumulative or impeaching. Hayden v. State, 278 S.C. 610, 611-12, 299 S.E.2d 854, 855 (1983).

Cory Walker testified that the Applicant is his father. Walker testified that the time Minor , was possibly his sister and he believed that she was his sister. Walker testified that he reached out to Minor once the allegations came out and asked her what happened. Walker testified that Minor told him that nothing ever happened. Walker acknowledged that at the time of the conversation with Minor he was 16 years old and Minor was probably 12 or 13 years old. Walker testified that the conversation occurred before Applicant's guilty plea. Walker testified that he never told Applicant or Counsel about the conversation at the time it occurred and the first time he mentioned this conversation with Minor was the week of this scheduled PCR hearing.

Minor , the victim in this matter testified that she knew the Applicant and was aware that

¹ 400 U.S. 25 (1970).

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there was a possibility that Applicant was her father. Minor testified that when she first reported the abuse, she spoke with officers and the Children's Advocacy Center about the allegations. Minor testified that she knew Cory Walker and considered him a family member. Minor acknowledged that Cory approached her after the allegations were known and asked her if the abuse occurred and she told him it did not. However, Minor testified that because she did not want to talk with anyone about what happened, she told Cory that the abuse never occurred. At the time of the conversation with Cory, Minor testified that she was 11 years old.

Counsel testified that he would have advised the Applicant to still plead guilty to the charge, even if he had been informed of the victim's statement to Mr. Walker, based upon Counsel's investigation and review of discovery materials.

This Court finds both Mr. Walker and Minor's testimonies to be credible; however, this Court is convinced that Minor was truthful when she testified that she did not want to discuss the details of the abuse with Mr. Walker, so she instead told him the abuse had not occurred. In light of the allegations, the alleged relationships between the victim, Applicant, and Mr. Walker, and victim's age at the time of the conversation, this Court finds it more likely than not that the victim's denial was an attempt to protect herself. This Court does not find that this conversation between Minor and Mr. Walker qualifies as newly discovered evidence. This Court finds that the Applicant failed to offer any testimony or evidence to indicate that he would have proceeded to trial and failed to produce any evidence that the outcome would have been different, had he been aware of the conversation between Minor and Mr. Walker. Furthermore, this Court finds that the information was discoverable at the time of the plea based upon Mr. Walker's admission that the conversation took place prior to Applicant's guilty plea. Therefore, this Court finds that the Applicant has failed to meet his burden of proof as to this claim and it is denied and

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dismissed.

CONCLUSION

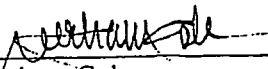
Based on all the foregoing, this Court finds and concludes that the Applicant has not established any constitutional violations or deprivations that would require this court to grant his application. Therefore, this application for post conviction relief must be denied and dismissed with prejudice.

This Court cautions Applicant that he must file and serve a notice of appeal within thirty (30) days from the receipt by counsel of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453 (1991), an Applicant has a right to an appellate counsel's assistance in seeking review of the denial of PCR. Rule 71.1(g), SCRCR, provides that if the applicant wishes to seek appellate review, PCR counsel must serve and file a Notice of Appeal on the Applicant's behalf. Your attention is directed to South Carolina Appellate Court Rule 243 for appropriate procedures appeal.

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 25 day of July, 2014.



 J. Derham Cole
 Presiding Judge

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WITNESSES

INCE MADE

2. REPORT ENDED

Spartanburg Public Safety Computer

4. ISSUED

3. CHECKED PAYMENTS

6. CHECKED SIGNATURES

7. MESSAGE AND
FINE CARD MADE

5. RPTIC VOUCHER COPY

COPIES

WARRANT NUMBER

M-124854

ACTION OF GRAND JURY

True Bill

Forperson of Grand Jury

MAR 25 2011

VERDICT

Forperson of Petit Jury
Date:

DOCKET NO.

11-GS-42-2021
The State of South Carolina

County of Spartanburg

Barry Barrette, Solicitor

COURT OF GENERAL SESSIONS

MAR 29 2011

TERM

THE STATE
vs.

Eugene Rhinehart

Indictment for
CRIMINAL SEXUAL CONDUCT
WITH A MINOR, SECOND DEGREE

SC Code: 16-3-655(a)
CDR Code: 0396
Class: FEL-C

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M. HOPE BLACKLEY

STATE OF SOUTH CAROLINA)
)
COUNTY OF SPARTANBURG)

INDICTMENT

At a Court of General Sessions, convened on MAR 23 2011 the

Grand Jurors of Spartanburg County present upon their oath;

CRIMINAL SEXUAL CONDUCT WITH A MINOR,
SECOND DEGREE

That Eugene Rhinehart did in Spartanburg County between the dates December 3, 2008, and April 21, 2010, commit the crime of Criminal Sexual Conduct with a Minor in the Second Degree that the defendant did commit a sexual battery upon the minor victim, Minor _____, who was fourteen (14) years of age or less but at least eleven (11) years of age at the time of said incident; in violation of §16-3-655(B), *THE CODE OF LAWS OF SOUTH CAROLINA, (1976)*, as amended.

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

A. Maulding
ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA

computer

IN THE COURT OF GENERAL SESSIONS

COUNTY OF SPARTANBURG
STATE VS.

Eugene Rhinehart

INDICTMENT/CASE#: 2011-GS-42-2027

A/W#: M124854

Date of Offense: 4/17/2010

S.C. Code §: 16-03-0655(B)

CDR Code #: 0396

AKA:

Race: BLACK Sex: M Age: 52

DOB: SS#: 74

SENTENCE SHEET Alford

*CDL Yes No CMV Yes No Hazmat Yes No

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

CONVICTED OF or PLEADS

TO: Sex / Criminal sexual conduct with minor, or Attempt - victim 11 to 14 yrs of age inclusive - Second deg. (0-20 yrs)

in violation of § 16-03-0655(B) of the S.C. Code of Laws, bearing CDR Code # 0396

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

The charge is: As indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury. (defendant's initials)

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

ATTEST: GOULDING, AMY SC Bar# 73923 Defendant Eugene Rhinehart Attorney for Defendant SC Bar# 1307

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center, for a determinate term of 6 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 Total: \$ plus 20% fee: \$ Payment Terms: Set by SCDPPPS

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:

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) \$23, Provision 47.9 (Public Def/Prob) \$500, § 14-1-212 (Law Enforce. Funding) \$25, § 14-1-213 (Drug Court Surcharge) \$150, § 40-21-114 (DUI Breath Test Fee) \$50, § 56-5-2942(J) (Vehicle Assessment) \$40/ea, Provision 90.5 (SCCJA Surcharge) \$5, 3% in County (if paid in installments) \$3.90, TOTAL \$133.90

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: