

VOLUME TWO OF TWO

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Lexington County

William P. Keesley, Circuit Court Judge

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S.C. Supreme Court

SCOTT PARKER,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2014-001320

APPENDIX

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1 Moorehead v. State, it's a matter of speculation.

2 Furthermore, counsel exhibited and testified to
3 his valid trial strategy in not wanting those
4 records in. He didn't believe -- he believed the
5 detriment far outweighed the benefit of mentioning
6 it when the calls went back and forth. That's all
7 we know. There's been nothing else introduced
8 before Your Honor today.

9 Regarding Heather Smith, so often, Your Honor,
10 in these cases, we have a forensic interviewer
11 testifying to credibility directly. Douglas, James,
12 Krimit {phonetic} all go along those lines.
13 However, under Weaverling v. State, our court has
14 determined and has not said otherwise that it is
15 relevant for an expert to testify in delayed
16 disclosure, the generic phenomena of it,
17 particularly when the defendant's case through
18 cross-examination opens up that as a potential
19 strategy, why it takes so long to disclose incidents
20 of prior abuse. Right now Weaverling is good law.
21 And if it is in question, there's been no testimony
22 or no argument presented that at the time of this
23 trial, it would not have factored in, therefore
24 Clairvoyance v. State {phonetic}.

25 Regarding the Solicitor's comments, to shed a

1 little more light on the single bed, it was an
2 inference from the facts presented, probably not the
3 best way to say that. It wasn't a golden rule
4 violation, wasn't not exceptionally prejudicial as
5 to violate his due process rights. Testimony was
6 presented from the custodian of records, a manager
7 of the Masters Inn Hotel, that Mr. Parker would book
8 a single bed to share with both of these victims on
9 numerous occasions. It's just a natural inference
10 from the facts.

11 Calling him a child molester, he was on trial
12 for CSC with a minor. The State certainly is
13 entitled to present its theory of the facts. I
14 don't believe that is a due process violation. If
15 it is in error, it's a harmless error. It's
16 untactful, but it does not rise to the level to
17 deprive him of his right to a fair trial.

18 Mr. -- I believe on the rest of the
19 allegations, just generically speaking, Mr. Locklair
20 testified that he made the most of the time he had.
21 He was fully prepared. He had no reason to get the
22 DJJ actions. And a lot of his representation in
23 this matter was predicated upon Mr. Parker's
24 involvement. He knew all of these people. He could
25 have done significantly more to bring things to his

1 attention, and the most telling is the Denno
2 statement that comes in at trial where he tells
3 police this woman will help clear it up, still don't
4 even know this person's last name, doesn't -- don't
5 know who it is. Based on the cards he was dealt,
6 trial counsel clearly demonstrated effective
7 assistance of counsel in this case.

8 **MS. GOOD:** Just quickly in response, I just
9 want to hit on the Weaverling case, Your Honor.
10 Expert testimony is allowed and relevant. Our
11 objection to that would be that Weaverling does not
12 apply here because she actually did testify that she
13 didn't believe it to be a false allegation which
14 goes to the truth of what the victim -- of trying to
15 bolster his credibility and try to say that he was
16 telling the truth, Your Honor.

17 **THE COURT:** You're focusing on that one
18 statement in redirect?

19 **MS. GOOD:** Yes, sir.

20 **THE COURT:** Okay. Go ahead.

21 **MR. WHITMIRE:** Your Honor, we're talking about
22 page 344 lines 9 through 14 through a leading
23 question. The Solicitor never says, these two
24 victims. It's not a direct, this person's credible,
25 this person's not credible. Trial counsel hammered

1 her during cross-examination on the fact that she
2 had never actually met with them. She didn't have a
3 chance to evaluate them. And he also, through
4 cross-examination of the testimony, that showed
5 children who have a history of recantation are more
6 susceptible to making false allegations. Evidence
7 in the record.

8 Also elicited testimony from her that children
9 who are in trouble and have a motive to deflect will
10 disclose. The victim, ^{MINOR 2}, who made the initial
11 disclosure was in trouble. The record reflects
12 that. It's pretty neutral testimony for the main
13 part. It never crosses the line where we get into
14 the entire Kromah line of cases.

15 And if it is -- Your Honor, and if it is an
16 inference on credibility of the victims, even
17 impliedly, it's harmless error.

18 **THE COURT:** Thank you very much. I'll notify
19 of you of a decision in writing.

20 **MS. GOOD:** Thank you, Your Honor.

21 **MR. WHITMIRE:** Thank you, Your Honor.

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END OF PROCEEDINGS

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C E R T I F I C A T E

STATE OF SOUTH CAROLINA

COUNTY OF LEXINGTON

I, the undersigned, Stacy L. Sheppard, Circuit Court Reporter for the Eleventh Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete transcript of record of all the proceedings had and the evidence introduced in the hearing of the captioned cause, relative to appeal in the Circuit Court for Lexington County, South Carolina, on the 14th of April, 2014.

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

September 22, 2014

s/Stacy L. Sheppard

Stacy L. Sheppard, RPR
Circuit Court Reporter

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ORIGINAL

STATE OF SOUTH CAROLINA)
)
 COUNTY OF LEXINGTON)
)
 Scott D. Parker,)
 S.C.D.C. No. 197951,)
)
 Applicant,)
)
 v.)
)
 State of South Carolina,)
)
 Respondent.)

IN THE COURT OF COMMON PLEAS
 ELEVENTH JUDICIAL CIRCUIT
 2013
 C.A. No. ~~2012~~-CP-32-0099

RECEIVED

JUN 18 2014

S.C. Supreme Court

ORDER OF DISMISSAL

BETH A. CARRIGG
 CLERK OF COURT
 LEXINGTON, SC

2014 JUN -3 P 12:20

FILED

This matter comes before the Court pursuant to an application for post-conviction relief (PCR) filed January 8, 2013. Respondent made its Return. An evidentiary hearing into the matter was convened on April 14, 2014 at the Lexington County Courthouse. Applicant was present and was represented by Anna R. Good, Esq. Respondent was represented by Assistant Attorney General Walt Whitmire.

WPC
#1

PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Clerk of Court for Lexington County. Applicant was indicted at the April 2009 term of the Court of General Sessions for Lexington County for criminal sexual conduct with a minor at least 14 years of age but less than 16 (2009-GS-32-00822) and four counts of criminal sexual conduct with a minor 11 to 14 years of age (2009-GS-32-00849, -00850, -00851, and -00852). John Wesley Locklair III, Esq., represented Applicant. On October 7, 2010, a jury found Applicant guilty. The Honorable R. Knox McMahon sentenced Applicant to twenty (20) years imprisonment for charges 2009-GS-32-00822, -00849, -00850, and -00851.

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
)	
COUNTY OF LEXINGTON)	ELEVENTH JUDICIAL CIRCUIT
)	2013
Scott D. Parker,)	C.A. No. 2012-CP-32-0099
S.C.D.C. No. 197951,)	
)	
Applicant,)	
)	
v.)	ORDER OF DISMISSAL
)	
State of South Carolina,)	
)	
Respondent.)	

BEITH A. CARPISG
CLERK OF COURT
LEXINGTON, SC

2014 JUN -3 P.12:20

FILED

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WAL
#1

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Those charges are to be served concurrently. Applicant was sentenced to twenty (20) years imprisonment for -00852. That charge is to be served consecutively.

A notice of appeal was filed on Applicant's behalf and was perfected by Appellate Defender Dayne C. Phillips of the Office of Appellate Defense. The South Carolina Court of Appeals affirmed Applicant's conviction and sentence in an unpublished opinion. (Op. No. 12-UP-592, filed on October 12, 2012). The Remittitur soon followed.

At the PCR hearing, Applicant alleged that he is being held in custody unlawfully for the following reasons:

1. Ineffective Assistance of Counsel:
 - a. failure to investigate and prepare Applicant's case for trial;
 - b. failure to adequately cross-examine State witnesses;
 - c. failure to adequately advise Applicant on his right to testify;
 - d. failure to object to State witness Heather Smith's qualifications and testimony;
 - e. failure to object to comments made by the solicitor during the State's closing argument;
 - f. failure to object to the trial judge's jury instruction on reasonable doubt.

WPC
#2

FILED
 2014 JUN -3 P 12:20
 BETH A. CARRIGG
 CLERK OF COURT
 LEXINGTON, SC

SUMMARY OF TESTIMONY AT THE PCR HEARING

Applicant testified that Eleventh Circuit Public Defender Rob Madsen was his original attorney. He stated that counsel was substituted on his case four months prior to trial based upon Mr. Madsen's conflict of interest. Applicant stated he met with counsel on two occasions prior to trial. He stated the first meeting lasted less than thirty minutes. At the second meeting, they reviewed the State's evidence. He alleged that counsel failed to adequately investigate and prepare his case for trial. He stated that he wanted counsel to investigate phone records that allegedly showed that the victims continued to call him after his arrest. He further stated that the

victims had called him thirty to forty times a day during the applicable timeframe. He recalled that he specifically requested that counsel review this matter. He stated that he did not disclose to counsel the identity of the unnamed woman that he told police would exculpate him. Upon Respondent's cross-examination questioning, he was unable to state the identity or location of this unknown woman. He only stated that her name was Lisa. Her testimony was not proffered.

Applicant alleged that counsel failed to subpoena victim ^{MINOR 2's} Department of Social Services records in a timely fashion. He claims that these records were necessary for impeachment purposes. Yet, he acknowledged that he did not disclose particular known information on victim ^{MINOR 2's} records at the Department of Juvenile Justice records that may have necessitated further investigation. He stated that he had known the victims from birth, and he attended school with the mothers of the victims.

WPK
#3

Applicant alleged that counsel was ineffective for failing to properly cross-examine the victims and their mothers. He stated that he cared for and treated the victims as if they were his children because they were raised in broken homes. He stated that ^{MINOR 2's} mother fabricated the events that led to his arrest and conviction because he quit providing her financial support. He further stated that counsel should have cross-examined the victims regarding an alleged history of immoral conduct exhibited by their mothers. Counsel additionally alleged counsel was ineffective for failing to impeach State witnesses with their prior convictions.

Applicant alleged counsel failed to properly advise him on his right to testify prior to trial. He stated that he made the decision not to testify because counsel advised him that the solicitor would cross-examine him on his prior lewd act conviction. He stated that he received improper advice and supported his claim by citing the trial judge's ruling that limited any

specific mention of lewd act. He noted that he was afraid that the jury would learn about his prior lewd act conviction.

Applicant alleged counsel failed to object to State witness Heath Smith's alleged improper testimony. He stated that Smith's testimony improperly bolstered the credibility of the victims. In addition, Applicant also alleged counsel was ineffective for failing to consult an independent expert on the matter in rebuttal.

Applicant alleged counsel failed to object to prejudicial comments made by the solicitor during the State's closing argument. He referenced the solicitor's comment to the jury that "twenty-five feet sits a predator," and the comment that a "room would always be available for the Applicant at the Masters Inn." He explained that he rented the motel room for reasons related to his employment, and that the reference in this fashion to the location of the alleged events was unduly prejudicial and improper.

WSP
#4

Counsel testified to his course of conduct during the representation. He noted his prior experience in the representation of criminal defendants that includes taking nearly twenty cases to trial. He testified to the circumstances that led to his involvement on Applicant's case. Attorney Madsen approached him and requested counsel's substitution once the conflict of interest was discovered. He discussed the status of the case on numerous occasions with Attorney Madsen. Discovery materials along with Attorney Madsen's personal notations regarding the matter were provided to counsel. He stated that Attorney Madsen utilized a private investigator (P.I.) on Applicant's case. He noted that the P.I. previously was his employee. He remarked upon the quality of the P.I.'s work and noted that the P.I. had spoken with several relevant witnesses. Counsel provided a brief synopsis of the State's evidence and theory of the case. He formulated a defense theory of the case that centered upon inconsistent accounts from

the victims. He briefly met with Applicant prior to trial and noted that he was not a practically helpful client. Counsel opined that Applicant remained in a state of denial throughout the representation. He discussed the charges and State's evidence with Applicant. He noted that he only spent a handful of hours discussing the case with Applicant. He noted his general policy is not to be "hand holder" when the consultations yield little benefit to a client's case.

Counsel recalled the failed plea negotiations and noted it was evident the State was preparing for trial when he learned the victims were not going to waiver about testifying against Applicant. As a result, counsel stated he formulated a defense theory of the case that centered upon attacking the credibility of the victims. He noted he utilized a multifaceted plan of attack in this matter. He desired to focus on inconsistencies in the accounts of offenses from each victim. He further honed in on facts that showed victim ^{MINOR 2} had made previous false accusations of child abuse. He also elicited testimony from victim Scottie to support the defense theory that his disclosure was suggestive. He rejected the efficacy of cross-examining the victims on the alleged moral failings of their mothers. He opined this line of questioning would have placed him in an untactful position in the eyes of the jury. He stated that that both victims came across as credible during their testimony. He also rejected the efficacy of cross-examining the victims on their alleged unsolicited phone calls to Applicant after allegations of child molestation surfaced. He believes that this line of questioning would have been more harmful to Applicant's case than helpful. He elaborated that Applicant was the adult in the situation. Therefore, he was concerned that eliciting testimony regarding the phone calls would have provided further evidence of Applicant's morally questionable relationship with the adolescent victims. He rejected the benefit of cross-examining the victims on their prior sexual knowledge at the time of the disclosures. He noted it was objectively unreasonable to assert the two victims in this case did

not have prior sexual knowledge aside from any alleged abuse by the Applicant. He determined that it would not be beneficial to attempt this line of inquiry.

Counsel stated that he preserved Applicant's appellate rights regarding the manner in which discovery was disclosed by the solicitor. He stated he had no indication of the existence of relevant D.J.J. materials in this case until the solicitor happened upon them. He stated there was no reasonable basis here to necessitate an independent investigation from the defense team.

In retrospect, counsel was uncertain that State witness Smith's testimony warranted an objection. He stated that Smith did provide beneficial testimony that showed that prior recantations from a child heightened the possibility of a false disclosure. Furthermore, he stated that he felt that her effectiveness was reduced by eliciting testimony that she had never met with either victim. Counsel could not recall a basis to object to her expert qualifications.

*WSP
#6*
Counsel stated that he advised Applicant on the potential benefits and detriments of testifying at trial. He noted that Applicant never expressed a desire to testify. He noted that Applicant appeared reticent and expressed trepidation at the possibility of testifying. Counsel opined that there was a strong likelihood Applicant would have inadvertently opened the door to the lewd act conviction had he testified. Regardless, counsel asserted that Applicant never changed his posture on the matter throughout the representation.

In retrospect, counsel waived on whether he should have objected to comments made by the solicitor during the State's closing argument. He noted the commonplace practice of the prosecutors to use strong verbiage in a closing argument. He stated that is his policy to refrain from objecting during a solicitor's closing argument unless it was absolutely necessary. Yet, he did state that the solicitor comments at issue would have merited an objection. Counsel opined that the comments probably constituted harmless error.

APPLICABLE LAW

In a post-conviction relief action, the Applicant bears the burden of proving the allegations in his 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, 104 S.Ct. 2052, 2064, (1984); Butler, 286 S.C. at 441, 334 S.E.2d at 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. at 668, 104 S.Ct. at 2064. The Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

WPC #7

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, *supra*. Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has reviewed the testimony presented at the evidentiary hearing, observed the witnesses presented at the hearing, passed upon their credibility, and weighed the testimony

accordingly. Further, this Court reviewed the Clerk of Court records regarding the subject convictions, the application for post-conviction relief, the transcripts and documents from the prior proceedings, and legal arguments of counsel. Pursuant to S.C. Code Ann. §17-27-80 (2003), this Court makes the following findings of fact based upon all of the probative evidence presented.

As a matter of general impression, this Court does not find Applicant be a credible witness. His claims relate to a variety of perceived errors and omissions on the part of trial counsel.

A.

Applicant has failed to meet his burden to prove counsel was ineffective for failing to investigate Applicant's case. "[C]riminal defense attorneys have a duty to undertake a reasonable investigation, which at a minimum includes interviewing potential witnesses and making an independent investigation of the facts and circumstances of the case." Edwards v. State, 392 S.C. 449, 456, 710 S.E.2d 60, 64 (2011). This Court finds counsel's testimony here credible. This Court finds Applicant has failed to produce the purported phone records that he alleged counsel was ineffective for failing to investigate. See Glover v. State, 318 S.C. 496, 458 S.E.2d 538 (1995) (applicant's allegations, alone, will not support a finding of prejudice when applicant claims counsel was ineffective for failing to investigate witnesses; instead, applicant must show the results of an investigation would have resulted in a different outcome at trial). Therefore, the allegation is denied and dismissed.

Applicant failed to prove counsel was ineffective for not inquiring into victim^{MINOR 2's} collateral D.J.J. investigations. Applicant was best situated to inform counsel of the prospect of beneficial impeachment materials on the victims, their mothers, and other State witnesses based

on his longstanding relationships with the State's key witnesses. He has failed to show the presence of any evidence that would have reasonably necessitated counsel or the P.I. to look into the matter prior to trial. See U.S. v. Pellerito, 878 F.2d 1535, 1543 (1st Cir. 1989) ("If counsel was ineffective in any sense, it was only because the client rendered him so, first by keeping Noriega in the dark, and then, by refusing to heed his advice. That is not the sort of 'ineffectiveness' for which relief can be granted."). This Court notes our courts have never extended a duty of clairvoyance to criminal defense attorneys. Thornes v. State, 310 S.C. 306, 309-10, 426 S.E.2d 764, 765 (1993) ("This Court has never required an attorney to anticipate or discover changes in the law, or facts which did not exist, at the time of the trial."). Therefore, this allegation is denied and dismissed.

WPK
#9

Applicant has failed to meet his burden to prove counsel was ineffective for failing to undergo sufficient preparation prior to trial. "The brevity of time spent in consultation with a defendant alone is not indicative of inadequate trial preparation." Smith v. State, 404 S.C. 493, 500, 745 S.E.2d 378, 382 (Ct. App. 2012). Counsel has presented no credible evidence in support of this allegation. See Skeen v. State, 325 S.C. 210, 214-15, 481 S.E.2d 129, 132 (1997) (finding applicant was not entitled to post-conviction relief where there was no evidence presented at the PCR hearing to show how additional preparation would have had any possible effect on the result of the trial). Therefore, this allegation is readily denied and dismissed.

B.

This Court finds counsel provided convincing reasons for not expanding his cross-examinations of the victims on the matters referenced by Applicant. A valid trial strategy cannot support the basis of a finding of ineffective assistance of counsel. Caprood v. State, 338 S.C. 103, 110, 525 S.E.2d 514, 517 (2000). "The Supreme Court has specified, furthermore, that such

an individual 'must convince the court' that such a decision 'would have been rational under the circumstances.' Padilla v. Kentucky, 559 U.S. ----, ----, 130 S.Ct. 1473, 1485, (2010). The challenger's subjective preferences, therefore, are not dispositive; what matters is whether proceeding to trial would have been objectively reasonable in light of all of the facts." United States v. Fugit, 703 F.3d 248, 260 (4th Cir. 2012). "For judges to second-guess reasonable professional judgments and impose on ... counsel a duty to raise every 'colorable' claim suggested by a client would disserve the very goal of vigorous and effective advocacy...." Jones v. Barnes, 463 U.S. 745, 103 S.Ct. 3308 (1983).

Counsel provided sound reasoning for not questioning the victims on the alleged immoral conduct of their mothers. See Huggler v. State, 360 S.C. 627, 635, 602 S.E.2d 753, 757 (2004) ("Moreover, given that this was a sexual abuse case involving children, it may have been prudent for counsel to limit cross-examination to the issues he thought were most important.") This allegation is denied and dismissed.

WPK
#10

Counsel provided sound reasoning for not utilizing the Applicant's phone records in his cross-examination of the victims. This Court finds counsel's testimony here credible. There has been no showing that pursuing the phone records further would have been likely to change the result of these cases, and the court accepts as reasonable the attorney's determination that any such effort could reinforce Applicant's alleged inappropriate relationship with the victims. See Stokes v. State, 308 S.C. 546, 548, 419 S.E.2d 778, 779 (1992) (finding counsel's decision to not call witnesses reasonable where their testimony would have been of no value to the case and they made inconsistent statements in the past). This Court finds counsel provided sound reasoning on his decision not to question the victims on the prior sexual knowledge at the time of disclosures. The benefits of this line of questioning were merely speculative and uncertain. Similarly, the

allegation that counsel failed to adequately impeach State witnesses with their prior convictions is entirely unsubstantiated and speculative. Therefore, these allegations are denied and dismissed.

Counsel exhibited exemplary performance in his cross-examination of the victims and their mothers on motive. "It should go without saying that the absence of evidence cannot overcome the 'strong presumption that counsel's conduct [fell] within the wide range of reasonable professional assistance.'" Burt v. Titlow, --- U.S. ---, 134 S. Ct. 10, 16, 187 L. Ed. 2d 348 (2013). Counsel elicited testimony that showed victim^{MINOR 21}'s mother had a personal distaste for Applicant. He elicited testimony that established Applicant's decision to no longer provide the victims gifts as a motive for fabrication among other things. Applicant has failed to present credible evidence to show that counsel's performance here was lacking. This Court finds that any additional questioning on motive would have been cumulative and probably diminish Applicant's case. See Edwards, 392 S.C. at 459, 710 S.E.2d at 66 ("The case before us today is not one where the proffered evidence would have exonerated Petitioner had it been presented. Instead, Marshall's testimony simply would have been cumulative to evidence already introduced through other witnesses."). Therefore, this allegation is denied and dismissed.

C.

Applicant has failed to meet his burden to prove counsel was ineffective for failing to properly advise him on his right to testify. "Failure to inform a client of his Fifth Amendment rights and the consequences of exercise and waiver of those rights falls below an objective standard of reasonable representation." Brown v. State, 340 S.C. 590, 595, 533 S.E.2d 308, 310 (2000). "The decision to testify or not is a perilous one. If a defendant does not testify, he foregoes the opportunity to tell the jury his version of events. On the other hand, if a defendant chooses to testify, he subjects himself to cross-examination, including possible impeachment

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with prior convictions.” Id., at 594, 533 S.E.2d at 310. This Court finds counsel’s testimony substantially more credible than Applicant’s testimony on the matter. Applicant has failed to overcome counsel’s credible testimony that Applicant never desired to testify. In addition, the trial judge addressed the matter with Applicant in a thorough colloquy. See Id., at 595, 533 S.E.2d at 310 (“An on-the-record waiver of a constitutional or statutory right is but one method of determining whether the defendant knowingly and intelligently waived that right.”). The record shows Applicant was provided sufficient time to alter his decision post-colloquy and made the decision not to testify. Regardless, Applicant has offer evidence in this PCR case that is sufficient to meet Strickland’s prejudice prong. See Id., at 596, 533 S.E.2d at 311. Therefore, the allegation is denied and dismissed.

D.

WPK
#12
Applicant has failed to meet his burden to prove counsel was ineffective for failing to object to State's witness Heather Smith’s qualification as an expert in the field of child sexual abuse. This Court finds that relevant law at the time of trial supported the trial judge’s qualification of the witness. See State v. Schumpert, 312 S.C. 502, 505, 435 S.E.2d 859, 861 (1993). Therefore, this allegation is denied and dismissed.

Applicant failed to prove counsel was ineffective for failing to object to Smith’s testimony that allegedly bolstered the credibility of the victims. (Trial Tr. p.344). This Court finds Counsel provided sound reasoning for not objecting here. Counsel noted that her testimony was in part helpful for the defense. Victim^{MINOR2} had previously recanted his false allegations of child abuse against his mother. See Rhodes v. State, 349 S.C. 25, 561 S.E.2d 606 (2002) (finding that trial counsel articulated an objectively reasonable strategy for his failure to object and was not ineffective). Regardless, Applicant failed to prove the testimony at issue constituted improper

bolstering. This Court finds Applicant failed to prove the alleged error here constituted prejudice in light of his convincing evidence of guilt. See State v. Kromah, 401 S.C. 340, 361–62, 737 S.E.2d 490, 501 (2013) (subjecting the erroneous qualification of a forensic interviewer to a harmless error analysis). Therefore, this allegation is denied and dismissed.

E.

Applicant failed to meet his burden to prove counsel was ineffective for failing to object to comments made by the solicitor during the State's closing argument. A solicitor's closing argument must be carefully tailored so as not to appeal to the personal biases of the jury. State v. Copeland, 321 S.C. 318, 324, 468 S.E.2d 620, 624 (1996). The State's closing arguments must be confined to evidence in the record and the reasonable inferences that may be drawn from the evidence. Id. "A solicitor has a right to state his version of the testimony and to comment on the weight to be given such testimony." Randall v. State, 356 S.C. 639, 642, 591 S.E.2d 608, 610 (2004). The proper inquiry is not whether the Solicitor's remark was undesirable or condemnable, but whether the comment "so infected the trial with unfairness as to make the resulting conviction a denial of due process." Darden v. Wainwright, 477 U.S. 168, 181, 106 S.Ct. 2464, 91 L.Ed.2d 144 (1986).

Even if the court were to find that solicitor reference to Applicant as a predator was objectionable, there is no showing that the comment rendered the trial unfair. In the context of the offense for which he was charged and convicted, and the evidence before the jury, the Applicant has failed to prove that the failure to object to this comment likely changed the outcome of the trial. (Trial Tr. p.360). See State v. Lee, 269 S.C. 421, 237 S.E.2d 768 (1977) ("[S]tatement that defendant was a "menace to society" could not be considered prejudicial since that concept forms the very basis for crimes involving moral turpitude."). The law does not

require counsel to raise every available non-frivolous defense. Jones v. Barnes, 463 U.S. 745, 751, 103 S.Ct. 3308, 77 L.Ed.2d 987 (1983). Therefore, this allegation is denied and dismissed.

Applicant failed to prove counsel was ineffective for failing to object to the solicitor's comment that "the Masters Inn will always have a room available with a single bed." (Trial Tr. p.360). This Court finds the comment did not constitute a 'Golden Rule violation.' See State v. Reese, 370 S.C. 31, 38, 633 S.E.2d 898, 901 (2006). "A Golden Rule argument asking the jurors to place themselves in the victim's shoes tends to completely destroy all sense of impartiality of the jurors, and its effect is to arouse passion and prejudice.") There is no proof that this argument falls within a prohibited effort to have the jurors put themselves in the victim's place.

This Court also finds that the comment at issue was not sufficiently prejudicial to warrant reversal. The comment constituted an inference on the evidence presented that supported the State's theory of the case. See Smith v. State, 375 S.C. 507, 654 S.E.2d 523 (2007) (concluding any impropriety in the solicitor's closing argument was not sufficient to grant defendant post-conviction relief where solicitor's improper use of the pronoun "I" was limited, did not recur throughout his argument, there was overwhelming evidence of the defendant's guilt, and the trial judge instructed the jury not to consider counsel's statements as evidence). Again, in the context of the offense for which he was charged and convicted, and the evidence before the jury, the Applicant has failed to prove that the failure to object to this comment likely changed the outcome of the trial. Therefore these allegations are denied and dismissed.

F.

Applicant's allegation that counsel was ineffective for failing to object to the trial judge's allegedly erroneous and prejudicial jury instruction on reasonable doubt is without merit. [Where trial judge gave erroneous instruction on critical issue of intent, PCR applicant was prejudiced by

counsel's failure to object. Pauling v. State, 350 S.C. 278, 285, 565 S.E.2d 769, 772 (2002).] This Court finds any objection to the trial judge's instruction on reasonable doubt would have been ill-founded. State v. Darby, 324 S.C. 114, 115, 477 S.E.2d 710 (1996) ("At trial, the trial judge defined reasonable doubt as "the kind of doubt that would cause a reasonable person to hesitate to act." This charge was approved by this Court in State v. Manning, 305 S.C. 413, 409 S.E.2d 372 (1991)."). Therefore this allegation is denied and dismissed.

G.

Except as discussed above, this Court finds that the Applicant affirmatively abandons the remaining allegations set forth in his application at the hearing. A waiver is a voluntary and intentional abandonment or relinquishment of a known right. Janasik v. Fairway Oaks Villas Horizontal Property Regime, 307 S.C. 339, 415 S.E.2d 384 (1992). A waiver may be express or implied. "An implied waiver results from acts and conduct of the party against whom the doctrine is invoked from which an intentional relinquishment of a right is reasonably inferable." Lyles v. BMI, Inc., 292 S.C. 153, 158-59, 355 S.E.2d 282 (Ct. App. 1987). The Applicant's failure to address these issues at the hearing indicates a voluntary and intentional relinquishment of his right to do so. Therefore, any and all remaining allegations are denied and 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 for post-conviction relief. Therefore, this application for post-conviction relief must be denied and dismissed with prejudice.

This Court notes that Applicant must file and serve a notice of intent to appeal within thirty (30) days from receipt of this Order to secure the appropriate appellate review. See Rule


203, SCACR. Rule 71.1(g), SCRCP; Bray v. State, 336 S.C. 137, 620 S.E.2d 743 (2005), for the obligation of Applicant's counsel to file and serve notice of appeal. The Applicant's attention is also directed to South Carolina Appellate Court Rule 243 for appropriate procedures after notice has been timely filed.

IT IS THEREFORE ORDERED

1. That the Application for Post-Conviction Relief must be denied and dismissed with prejudice; and
2. Applicant must be remanded to the custody of Respondent

AND IT IS SO ORDERED this 30th day of May, 2014.

#16


 WILLIAM P. KEESLEY
 Presiding Judge
 Eleventh Judicial Circuit

Edgefield _____, South Carolina

FILED
 2014 JUN -3 P 12:20
 BETH A. CARRIGG
 CLERK OF COURT
 LEXINGTON, SC

DOCKET NO. 2009GS3200822

The State of South Carolina
County of Lexington

COURT OF GENERAL SESSIONS

OCTOBER TERM 2010

THE STATE
vs.

Scott Douglas Parker

CDR #: 0397

Indictment for

Criminal Sexual Conduct With a Minor
At least 14 years of age but less than 16

§ 16-03-0655(B)(2)

DONALD V. MYERS, SOLICITOR

WITNESSES

Lexington County Sheriffs Department

Charles Lint

Law Enforcement Case #: 09002639

DSG

ARREST WARRANT NUMBER

J848080

ACTION OF GRAND JURY

DM Hew
Foreperson of Grand Jury
Date: 10/4/10

VERDICT

Guilty

Don V. Myers
Foreperson of Petit Jury
Date: 10/07/10

STATE OF SOUTH CAROLINA)
)
 COUNTY OF LEXINGTON)
)

INDICTMENT FOR
 Criminal Sexual Conduct With a Minor
 At least 14 years of age but less than 16

§ 16-03-0655(B)(2)

At a Court of General Sessions, convened on April 2009, the Grand Jurors of Lexington County present upon their oath:

That Scott Douglas Parker did in Lexington County, South Carolina between July 2006 and July, 2008 commit a sexual battery upon a minor, Gerald Scott Finley, who was at least fourteen (14) years of age but who was less than sixteen (16) years of age, to wit: the defendant performed oral sex upon the victim, to wit: such act occurring at [REDACTED] in the Cayce area and the Defendant was older than the victim or was in position of familial, custodial, or official authority to coerce the victim to submit; in violation of Section 16-3-655(B)(2), S.C. Code of Laws, (1976, as amended).

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


 DEPUTY SOLICITOR

STATE OF SOUTH CAROLINA)
COUNTY OF Lexington)
STATE)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2009GS3200822

VS.)
Scott Douglas Parker)

AW#: J848080
Date of Offense: 7/1/2006
S.C. Code §: 16-03-0655(b)(1)
CDR Code #: 0396

AKA: _____)
Race: _____ Sex: M Age: 40)
DOB: _____ SS#: _____)
Address: _____)
City, State, Zip: _____)
DL# _____ SID# _____)

SENTENCE SHEET

CDL Yes No CMV Yes No Hazmat Yes No

CONVICTED OF or PLEADS

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

TO: Sex / Criminal sexual conduct with minor - victim 11 to 14 yrs of age inclusive - Second deg.
In violation of § 16-03-0655(b)(1) of the S.C. Code of Laws, bearing CDR Code # 0396

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

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

ATTEST: David S. York - 11650
Solidator SC Bar # _____ Defendant Attorney for Defendant SC Bar# _____

WHEREFORE, the Defendant is committed to the State Department of Corrections County Detention Center,
for a determinate term of 2.0 days/months/years or under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and or payment
of \$ _____; plus costs and assessments as applicable; the balance is suspended with probation for
months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are
incorporated by reference.

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

Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-66 (Criminal
Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:
 RESTITUTION: Deferred Def. Waives Hearing Ordered PTUP _____

Total: \$ _____ plus 20% fee: \$ _____ days/hours Public Service Employment

Payment Terms: _____
 Set by SCDPPPS _____

Recipient:	_____	
*Fine:		\$ _____
\$14-1-206 (Assessments 107.5%)		\$ _____
\$14-1-211 (A)(1)(Conv. Surcharge)	\$100	\$ <u>100.00</u>
\$14-1-211 (A)(2)(DUI Surcharge)	\$100	\$ _____
\$56-5-2885 (DUI Assessment)	\$12.	\$ _____
\$56-1-288 (DUI Breath Test)	\$25	\$ _____
Proviso 47.9 (Public Def/Prob)	\$500	\$ _____
\$14-1-212 (Law Enforce. Funding)	\$25	\$ <u>25.00</u>
\$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	\$ <u>5.00</u>
\$44-53-450(C) (Conditional Discharge)	\$350	\$ _____
3% to County (if paid in installments)		\$ _____
TOTAL		\$ <u>130.00</u>

Clerk of Court/Deputy Clerk: Bill Curry
Court Reporter: Peatrossi
SCCAZ17 (08/2010)

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: See attached Registry
See above Counselor
 Conditional Discharge, §44-53-450(C) requires
\$350 be paid to the Clerk prior to case disposition
 Appointed PD or appointed other counsel,
\$47.12 requires \$500 be paid to Clerk
during probation.
Presiding Judge: Pink
Judge Code: 2145
Sentence Date: 7 Oct 10

*No contact with victim or
any members of victim's family*

DOCKET NO. 2009GS3200849

The State of South Carolina
County of Lexington

COURT OF GENERAL SESSIONS
OCTOBER TERM 2010

THE STATE
vs.

Scott Douglas Parker

CDR #: 0396

Indictment for

Criminal Sexual conduct With a Minor
atleast 14 years of age but less than 16

§ 16-03-0655(B)(2)

DONALD V. MYERS, SOLICITOR

WITNESSES

Lexington County Sheriffs Department

Charles Lint

Law Enforcement Case #: 09002639

DSG

ARREST WARRANT NUMBER

J848064

ACTION OF GRAND JURY

THE GRAND JURY

Jim Phew

Foreperson of Grand Jury

Date: 10/14/10

VERDICT

Guilty

Rene Salltor

Foreperson of Petit Jury

Date: 10/07/10

STATE OF SOUTH CAROLINA)
)
COUNTY OF LEXINGTON)
)

INDICTMENT FOR
Criminal Sexual conduct With a Minor at least 14
years of age but less than 16

§ 16-03-0655(B)(2)

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


DEPUTY SOLICITOR

STATE OF SOUTH CAROLINA)
COUNTY OF Lexington)
STATE)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2009GS3200849

vs.)
Scott Douglas Parker)

AW#: J848064

AKA:)
Race: Sex: M Age: 40)

Date of Offense: 7/20/2006

DOB: SS#:)

S.C. Code §: 16-03-0655(b)(1)

Address:)

CDR Code #: 0396

City, State, Zip:)

SENTENCE SHEET

DL# SID#)

*CDL Yes No CMV Yes No Hazmat Yes No

In disposition of the said indictment comes now the Defendant who was CONVICTED OF or PLEADS:

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

In violation of § 16-03-0655(b)(1) of the S.C. Code of Laws, bearing CDR Code # 0396

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

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

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

ATTEST:

Daniel S. York - 11650
Solicitor SC Bar #

Defendant

Attorney for Defendant

SC Bar #

WHEREFORE, the Defendant is committed to the State Department of Corrections County Detention Center,
for a determinate term of 20 days/months/years or under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and or payment
of \$ _____; plus costs and assessments as applicable; the balance is suspended with probation for _____
months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are
incorporated by reference.

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

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 _____

Total: \$ _____ plus 20% fee: \$ _____ days/hours Public Service Employment

Payment Terms: _____

Set by SCDPPPS _____

Recipient: _____

*Fine:		\$	_____
§14-1-208 (Assessments 107.5%)		\$	_____
§14-1-211 (A)(1)(Conv. Surcharge)	\$100	\$	<u>100</u>
§14-1-211 (A)(2)(DUI Surcharge)	\$100	\$	_____
§56-6-2985 (DUI Assessment)	\$12	\$	_____
§56-1-286 (DUI Breath Test)	\$25	\$	_____
Proviso 47:9 (Public Def/Prob)	\$500	\$	_____
§14-1-212 (Law Enforce. Funding)	\$25	\$	<u>25</u>
§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	\$	<u>5</u>
§44-53-450(C) (Conditional Discharge)	\$350	\$	_____
3% to County (if paid in installments)		\$	_____
TOTAL		\$	<u>130</u>

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: Sex Offender Registry

Sex Abuse Counseling

no contact with victim

Conditional Discharge, §44-53-450(C) requires

\$350 be paid to the Clerk prior to case disposition

Appointed PD or appointed other counsel;

\$47.12 requires \$600 be paid to Clerk

during probation.

Presiding Judge [Signature]

Judge Code: 2145

Sentence Date 7 Oct 10

Clerk of Court/Deputy Clerk [Signature]

Court Reporter: [Signature]

SCCA217 (08/2010)

DOCKET NO. 2009GS3200850

The State of South Carolina

County of Lexington

COURT OF GENERAL SESSIONS

OCTOBER TERM 2010

THE STATE
vs.

Scott Douglas Parker

CDR #: 0396

Indictment for

Criminal Sexual Conduct With a Minor
11 to 14 years of age

§ 16-03-0655(B)(1)

DONALD V. MYERS, SOLICITOR

WITNESSES

Lexington County Sheriffs Department

Charles Lint

Law Enforcement Case #: 09002639

DSG

ARREST WARRANT NUMBER

J848066

ACTION OF GRAND JURY

TRIAL COURT

DM Hewitt
Foreperson of Grand Jury

Date: 10/4/10

VERDICT

Guilty

Ben Salton
Foreperson of Petit Jury

Date: 10/07/10

STATE OF SOUTH CAROLINA)
)
 COUNTY OF LEXINGTON)
)

INDICTMENT FOR
 Criminal Sexual Conduct With a Minor
 11 to 14 years of age

§ 16-03-0655(B)(1)

At a Court of General Sessions, convened on April 2009, the Grand Jurors of Lexington County present upon their oath:

That **Scott Douglas Parker** did in Lexington County, South Carolina between July, 2006 and July, 2008, commit a sexual battery upon a minor, Bobby James Murphy, who was fourteen (14) years of age or less but who was at least eleven (11) years of age, to wit: defendant performed oral sex upon the victim; to wit: such act occurring at the [REDACTED] in the Cayce area, in violation of Section 16-3-655(B)(1), S.C. Code of Laws, 1976, as amended.

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


 DEPUTY SOLICITOR

STATE OF SOUTH CAROLINA)
 COUNTY OF Lexington)
 STATE)
 VS.)
Scott Douglas Parker)
 AKA:)
 Race: Sex: M Age: 40)
 DOB: SS#:)
 Address:)
 City, State, Zip:)
 DL# SID#)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2009GS3200850
 A/W#: J848066
 Date of Offense: 7/20/2008
 S.C. Code §: 16-03-0655(b)(1)
 CDR Code #: 0396

SENTENCE SHEET

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

TO: Sex / Criminal sexual conduct with minor - victim 11 to 14 yrs of age inclusive - Second deg.
 In violation of § 16-03-0655(b)(1) of the S.C. Code of Laws, bearing CDR Code # 0396

NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS §17-25-45
 (CSC w/mhr 1st or Lawd Act)
 The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury. (def.'s initials)
 The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST:

David S. York 11650 SC Bar # Defendant Attorney for Defendant SC Bar #

WHEREFORE, the Defendant is committed to the State Department of Corrections County Detention Center,
 for a determinate term of 20 days/months/years or under the Youthful Offender Act not to exceed _____ years
 and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and or payment
 of \$ _____; plus costs and assessments as applicable; the balance is suspended with probation for _____
 months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are
 incorporated by reference.

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

Pursuant to 18 U.S.C. Section 922, It is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-55 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered PTUP _____

Total: \$ _____ plus 20% fee: \$ _____ days/hours Public Service Employment

Payment Terms: _____
 Set by SCOPPPS _____

Recipient		
*Fine:	\$	
\$14-1-206 (Assessments 107.5%)	\$	
\$14-1-211 (A)(1)(Conv. Surcharge)	\$100	\$ 100.00
\$14-1-211 (A)(2)(DUI Surcharge)	\$100	\$
\$58-5-2995 (DUI Assessment)	\$12	\$
\$58-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
\$14-1-212 (Law Enforce. Funding)	\$25	\$ 25.00
\$14-1-213 (Drug Court Surcharge)	\$150	\$
\$50-21-114 (BUI Breath Test Fee)	\$50	\$
\$58-5-2942(u) (Vehicle Assessment)	\$40/ea	\$
Proviso 80.5 (SCCJA Surcharge)	\$5	\$ 5.00
\$44-53-450(C) (Conditional Discharge)	\$350	\$
3% to County (if paid in installments)	\$	\$
TOTAL	\$	\$ 750.00

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: See attached Registry
34 Annual Treatment
 Conditional Discharge, §44-53-450(C) requires
 \$350 be paid to the Clerk prior to case disposition
 Appointed PD or appointed other counsel,
 \$47.12 requires \$500 be paid to Clerk
 during probation.

Clerk of Court/Deputy Clerk Lith Carrigan
 Court Reporter: C. Patterson
 SCCA217 (08/2010)

Presiding Judge [Signature]
 Judge Code: 2145
 Sentence Date 7 Oct 10

*No contact with victim or any
 member of victim's family*

DOCKET NO. 2009GS3200851

The State of South Carolina
County of Lexington

COURT OF GENERAL SESSIONS

October TERM 2010

THE STATE
vs.

Scott Douglas Parker

CDR #: 0396

Indictment for

Criminal Sexual conduct With a Minor
11 to 14 years of age

§ 16-03-0655(B)(1)

DONALD V. MYERS, SOLICITOR

WITNESSES

Lexington County Sheriffs Department

Charles Lint

Law Enforcement Case #: 09002639

DSG

ARREST WARRANT NUMBER

J848079

ACTION OF GRAND JURY

TRIPLE DATE

Jim Heard

Foreperson of Grand Jury

Date: 10/24/10

VERDICT

Guilty

Rene' Salter

Foreperson of Petit Jury

Date: 10/07/10

STATE OF SOUTH CAROLINA)
)
 COUNTY OF LEXINGTON)
)

INDICTMENT FOR
 Criminal Sexual conduct With a Minor
 11 to 14 years of age

§ 16-03-0655(B)(1)

At a Court of General Sessions, convened on April 2009, the Grand Jurors of Lexington County present upon their oath:

That **Scott Douglas Parker** did in Lexington County, South Carolina between July, 2006 and July, 2008, commit a sexual battery upon a minor, Bobby James Murphy, who was fourteen (14) years of age or less but who was at least eleven (11) years of age, to wit: defendant performed oral sex upon the victim; to wit: such act occurring on [REDACTED] in the Gaston area, in violation of Section 16-3-655(B)(1), S.C. Code of Laws, 1976, as amended.

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


 DEPUTY SOLICITOR

STATE OF SOUTH CAROLINA)
COUNTY OF Lexington)
STATE)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2009GS3200851

VS.)
Scott Douglas Parker)

AW#: J848079

AKA:)
Race: Sex: M Age: 40)

Date of Offense: 7/1/2006

DOB: SS#:)

S.C. Code §: 16-03-0655(b)(1)

Address:)

CDR Code #: 0396

City, State, Zip:)

DL# SID#)

SENTENCE SHEET

*CDL Yes No CMV Yes No Hazmat Yes No

CONVICTED OF or PLEADS

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

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

In violation of § 16-03-0655(b)(1) of the S.C. Code of Laws, bearing CDR Code # 0396

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

(CSC w/minor 14th or Lawd Act)

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

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

ATTEST:

Sollitor SC Bar # Defendant Attorney for Defendant SC Bar #

WHEREFORE, the Defendant is committed to the State Department of Corrections County Detention Center, for a determinate term of 90 days/months/years or under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment of \$ _____; plus costs and assessments as applicable; the balance is suspended with probation for _____

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

CONCURRENT or CONSECUTIVE to sentence on: _____

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

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

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 _____

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

_____ days/hours Public Service Employment.

Payment Terms: _____

Obtain GED

Set by SCDPPPS _____

Attend Voc. Rehab. Or Job Corp. _____

Recipient: _____

May serve W/E beginning _____

*Fine: \$ _____

Substance Abuse Counseling

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

Random Drug/Alcohol Testing

§14-1-211 (A)(1)(Conv. Surcharge) \$100 \$ 100.00

Fine may be pd. in equal consecutive weekly/monthly

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

prmts. of \$ _____ Beginning _____

§56-6-2985 (DUI Assessment) \$12 \$ _____

\$ _____ Paid to Public Defender Fund.

§56-1-286 (DUI Breath Test) \$25 \$ _____

Other: *By Defendant Request*

Proviso 47.9 (Public Def/Prob) \$500 \$ _____

No contact with victim or any family

§14-1-212 (Law-Enforce. Funding) \$25 \$ 25.00

Conditional Discharge, §44-53-450(C) requires

§14-1-213 (Drug Court Surcharge) \$150 \$ _____

\$350 be paid to the Clerk prior to case disposition

§50-21-114 (BUI Breath Test Fee) \$50 \$ _____

Appointed PD or appointed other counsel,

§56-6-2942(J) (Vehicle Assessment) \$40/ea \$ _____

\$47.12 requires \$500 be paid to Clerk

Proviso 90.5 (SCCJA Surcharge) \$5 \$ 5.00

during probation.

§44-53-450(C) (Conditional Discharge) \$350 \$ _____

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

TOTAL \$ 130.00

Presiding Judge *[Signature]*

Clerk of Court/Deputy Clerk *[Signature]*

Judge Code: 2145

Court Reporter: *[Signature]*
SCCA/217 (08/2010)

Sentence Date: 7 Oct 10

DOCKET NO: 2009GS3200852

The State of South Carolina

County of Lexington

WITNESSES

Lexington County Sheriffs Department

Charles Lint

Law Enforcement Case #: 09002639

DSG

ARREST WARRANT NUMBER

J848065

COURT OF GENERAL SESSIONS

OCTOBER TERM 2010

THE STATE
vs.

Scott Douglas Parker

ACTION OF GRAND JURY

RETURN

Am Sheaw
Foreperson of Grand Jury

Date: *10/24/10*

VERDICT

Guilty

CDR #: 0396

Indictment for

Criminal Sexual Conduct With a Minor
11 to 14 years of age

§ 16-03-0655(B)(1)

DONALD V. MYERS, SOLICITOR

Don V. Salter
Foreperson of Petit Jury

Date: *10/07/10*

STATE OF SOUTH CAROLINA)
)
 COUNTY OF LEXINGTON)
)

INDICTMENT FOR
 Criminal Sexual Conduct With a Minor
 11 to 14 years of age

§ 16-03-0655(B)(1)

At a Court of General Sessions, convened on April 2009, the Grand Jurors of Lexington County present upon their oath:

That **Scott Douglas Parker** did in Lexington County, South Carolina between July, 2006 and July, 2008, commit a sexual battery upon a minor, Bobby James Murphy, who was fourteen (14) years of age or less but who was at least eleven (11) years of age, to wit: defendant performed anal sex upon the victim; to wit: such act occurring on [REDACTED] in the Gaston area, in violation of Section 16-3-655(B)(1), S.C. Code of Laws, 1976, as amended.

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


 DEPUTY SOLICITOR

STATE OF SOUTH CAROLINA)
COUNTY OF Lexington)
STATE)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2009GS3200852

VS.)
Scott Douglas Parker)
AKA:)
Race: Sex: M Age: 40)
DOB: SS#:)
Address:)
City, State, Zip:)
DL# SID#)

AW#: J848065
Date of Offense: 7/20/2008
S.C. Code #: 16-03-0655(b)(1)
CDR Code #: 0396

SENTENCE SHEET

*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 - victim 11 to 14 yrs of age inclusive - Second deg.

In violation of § 16-03-0655(b)(1) of the S.C. Code of Laws, bearing CDR Code # 0396

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

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

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

ATTEST:

David S. [Signature] 11450
Solicitor SC Bar # Defendant Attorney for Defendant SC Bar #

WHEREFORE, the Defendant is committed to the State Department of Corrections County Detention Center,
for a determinate term of 20 days/months/years or under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

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

CONCURRENT or CONSECUTIVE to sentence on: with other active sentence imposed this date

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

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

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 _____

Total: \$ _____ plus 20% fee: \$ _____ days/hours Public Service Employment

Payment Terms: _____

Obtain GED

Set by SCDPPPS: _____

Attend Voc. Rehab. Or Job Corp. _____

Recipient: _____

May serve W/E beginning _____

*Fine: \$ _____

Substance Abuse Counseling

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

Random Drug/Alcohol Testing

§14-1-211(A)(1)(Conv. Surcharge) \$100 \$ 100.00

Fine may be pd. in equal consecutive weekly/monthly

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

pts. of \$ _____ Beginning _____

§58-5-2985 (DUI Assessment) \$12 \$ _____

\$ _____ Paid to Public Defender Fund

§56-1-288 (DUI Breath Test) \$25 \$ _____

Other: Ex. Pender Registry

Proviso 47.9 (Public Def/Prob) \$500 \$ _____

By. Alcohol Treatment

§14-1-212 (Law Enforce. Funding) \$25 \$ 25.00

Conditional Discharge, §44-53-450(C) requires

§14-1-213 (Drug Court Surcharge) \$150 \$ _____

\$350 be paid to the Clerk prior to case disposition

§50-21-114 (BUI Breath Test Fee) \$60 \$ _____

Appointed PD or appointed other counsel,

§58-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____

\$47.12 requires \$500 be paid to Clerk

Proviso 90.5 (SCCJA Surcharge) \$5 \$ 5.00

during probation.

§44-53-450(C) (Conditional Discharge) \$350 \$ _____

Presiding Judge: *[Signature]*

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

Judge Code: 2145

TOTAL \$ 130.00

Sentence Date: 7 Oct 10

Clerk of Court/Deputy Clerk: *[Signature]*

Court Reporter: *[Signature]*

SCCA217 (08/2010)

No contact with victim or any member of victim's family