

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Kershaw County

L. Casey Manning, Circuit Court Judge

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APR 16 2015

S.C. Supreme Court

ISAAC FLYNN,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT,

APPELLATE CASE NO. 2014-002085

APPENDIX

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State of South Carolina.,) In the General Sessions
) Court of Camden
)
) Case No.: 2013-GS-28-00088
) 2013-GS-28-00089
) 2013-GS-28-00090
County of Kershaw.) 2013-GS-46-00091

State of South Carolina.,)
)
Plaintiff.,)
)
-vs.-) Transcript of Record
)
Isaac Claude Flynn.)
)
Defendant.)
)

February 25, 2013
Camden, South Carolina

B E F O R E:

The Honorable G. Thomas Cooper, Judge.

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I-N-D-E-X

E-X-A-M-I-N-A-T-I-O-N

WITNESS

BY:

PAGE NO.

No Witnesses were called.

-3-

I-N-D-E-X - CON'TE-X-H-I-B-I-T-S

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EVD.</u>
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No Exhibits were received into the record.

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1 (COURT IN SESSION IN THE MATTER OF STATE V. ISAAC
2 CLAUDE FLYNN MONDAY, FEBRUARY 25, 2013 AT 03:13 P.M..)

3 (BENCH CONFERENCE OFF THE RECORD.)

4 THE COURT: Ms. Miles, you ready to proceed?

5 MS. MILES: Yes, sir, Your Honor. The State calls
6 Isaac Claude Flynn.

7 (WHEREUPON: ISAAC CLAUDE
8 FLYNN, BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS
9 FOLLOWS:)

10 THE COURT: All right, Madame Attorney General.

11 MS. MILES: Yes, sir. May it please the Court, Your
12 Honor. I'm Bethany Miles with the Attorney General's
13 Office. Representing the defendant is Mr. Neil Riley.
14 Isaac Claude Flynn is charged with one count of attempted
15 dissemination of obscene material to a person under age
16 eighteen; criminal solicitation of minor; criminal sexual
17 conduct with a minor second degree and attempted criminal
18 sexual conduct with a minor second degree.

19 The defendant is here today to plead guilty to all of
20 these charges and is waiving presentment to the Grand Jury.

21 Your Honor, the State's requesting twenty years on
22 these charges in consideration of there being additional
23 charges of criminal solicitation and dissemination of
24 obscene material to the minor victim in this case the State
25 does not charge. And also because of the nature of the

1 current charges and the State's belief, as I will lay out
2 in the facts later, of Mr. Flynn's continued pattern of
3 looking to victimize young girls.

4 As far as his previous record the defendant appears to
5 have a lengthy history but it's with things, check fraud,
6 obtaining goods by false pretenses and some traffic
7 offenses. All of these seem to be in North Carolina.

8 The investigator on this case Lieutenant Steve Knafelc
9 is here today. The victim and her mother are also here and
10 they wish to address the Court at the appropriate time.

11 Mr. Flynn has consented to sign a forfeiture order for
12 the items that were seized by law enforcement as evidence
13 in this case and I'd like to hand that up for Your Honor's
14 review and signature at this time.

15 (DOCUMENTS RECEIVED UP BY THE COURT.)

16 THE COURT: All right. Anything further?

17 MS. MILES: I'm sorry, Your Honor.

18 THE COURT: Is that it?

19 MS. MILES: Yes, sir.

20 THE COURT: All right. These two criminal sexual
21 conducts are the twenty year statute?

22 MS. MILES: Yes, sir.

23 THE COURT: All right, Mr. Riley, you represent Isaac
24 Flynn?

25 MR. RILEY: I do, Your Honor.

1 THE COURT: You advised your client first off of his
2 right to have these charges presented to the Grand Jury of
3 Kershaw County?

4 MR. RILEY: Yes, Your Honor.

5 THE COURT: All right.

6 Mr. Flynn, I need to advise you on the record, sir,
7 you have a constitutional right to have these charges
8 presented to the Grand Jury of Kershaw County.

9 Do you understand that?

10 MR. FLYNN: Yes, sir.

11 THE COURT: You can waive that right and proceed here
12 today or I'll send the charge to the Grand Jury. Which do
13 you prefer?

14 MR. FLYNN: Just go ahead and do 'em today?

15 THE COURT: You want to waive your rights to Grand
16 Jury presentment?

17 MR. FLYNN: Yes, sir.

18 THE COURT: All right, you're charged in four
19 different indictments here. First is - Well let me just
20 try to put them in some order. Attempted - Attempted
21 dissemination of obscene material to a person under
22 eighteen years of age.

23 Do you understand that?

24 MR. FLYNN: Yes, sir.

25 THE COURT: That charge carries a penalty of up to ten

1 years. Do you understand that?

2 MR. FLYNN: Yes, sir.

3 THE COURT: How do you plead to that charge?

4 MR. FLYNN: Guilty.

5 THE COURT: Sir?

6 MR. FLYNN: Guilty.

7 THE COURT: All right. You're charged with criminal
8 solicitation of a minor. That charge also carries a
9 penalty of up to ten years in jail.

10 Do you understand that?

11 MR. FLYNN: Yes, sir.

12 THE COURT: How do you plead to that charge?

13 MR. FLYNN: Guilty.

14 THE COURT: You're charged with attempted criminal

15 sexual conduct with a minor in the second degree. That
16 charge carries a penalty of up to twenty years in jail.

17 Do you understand that?

18 MR. FLYNN: Yes, sir.

19 THE COURT: All right. How do you plead to that
20 charge?

21 MR. FLYNN: Guilty.

22 THE COURT: And finally, criminal sexual conduct with
23 a minor second degree, a charge that carries a penalty -
24 also carries a penalty of up to twenty years in jail.

25 Do you understand that?

1 MR. FLYNN: Yes, sir.

2 THE COURT: All right. You plead guilty to all four
3 charges?

4 MR. FLYNN: Yes, sir.

5 THE COURT: Do you understand by pleading guilty
6 you're giving up your right to remain silent?

7 MR. FLYNN: Yes, sir.

8 THE COURT: Do you understand by pleading guilty
9 you're giving up your right to a trial by a jury?

10 MR. FLYNN: Yes, sir.

11 THE COURT: If you requested or demanded a trial by a
12 jury the State would give you a trial.

13 Do you understand that?

14 MR. FLYNN: Yes, sir.

15 THE COURT: At that trial you would have the right to
16 confront and cross examine all witnesses' against you. You
17 would have the right to present any witnesses and or
18 evidence in your own defense. You would have a right to
19 testify in your own defense if you wish to do so. No one
20 could make you testify at your own trial; if you decided to
21 go to trial and not testify the judge would tell the jury
22 they could not hold your failure to testify against you.
23 In fact the jury could not even consider your failure to
24 testify in their deliberations on your guilt or innocence.
25 You would be presumed innocent throughout your trial. The

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1 State would have to prove you guilty beyond a reasonable
2 doubt to a jury of twelve people and all twelve people
3 would have to unanimously agree that you were guilty in
4 order for you to be convicted. Even if you were convicted
5 you would still have the right to appeal that conviction.

6 Do you understand your rights with regard to trial by
7 a jury?

8 MR. FLYNN: Yes, sir.

9 THE COURT: Understanding those rights, do you still
10 want to plead guilty?

11 MR. FLYNN: Yes, sir.

12 THE COURT: Has anyone promised you anything, held out
13 any hope of reward, threatened you in any manner to make
14 you plead guilty?

15 MR. FLYNN: No, sir.

16 THE COURT: Are you satisfied with the manner in which
17 your attorney's advised you and represented you in this
18 case?

19 MR. FLYNN: Yes, sir..

20 THE COURT: You and your attorney fully discussed
21 these charges against you?

22 MR. FLYNN: Yes, sir.

23 THE COURT: You satisfied with his advice?

24 MR. FLYNN: Yes, sir.

25 THE COURT: All right. You under the influence of any

1 alcoholic beverages, drugs or prescription medications at
2 this time?

3 MR. FLYNN: No, sir.

4 THE COURT: Are you aware of any mental condition that
5 would keep you from understanding what you're doing here
6 today?

7 MR. FLYNN: No, sir.

8 THE COURT: You clearly understand what you're doing
9 here today?

10 MR. FLYNN: Yes, sir.

11 THE COURT: You're pleading guilty of your own free
12 will and accord?

13 MR. FLYNN: Yes, sir.

14 THE COURT: All right, I'm gonna ask the State's

15 Attorney General if she will give me a factual basis for
16 the plea and after that I'm gonna ask you if those facts
17 are true and correct. Just listen carefully.

18 MS. MILES: May it please the court, Your Honor.

19 THE COURT: Yes, ma'am.

20 MS. MILES: Law enforcement originally became involved
21 with this case February 6, 2012, when the mother of the
22 victim C. G. reported to them that she believed a man named
23 Isaac Claude Flynn had been engaging in a sexual
24 relationship with her daughter, date of birth [REDACTED],
25 [REDACTED], who was age fifteen at the time.

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1 Mr. Flynn who is approximately thirty seven years old
2 at the time had met the victim on line through his
3 daughter's Facebook account and had befriended her there on
4 line. He talked to the victim using that persona as well
5 as another persona Tina Smith which he used to pose as an
6 underage girl. Mr. Flynn also befriended other under age
7 girls using both his own Facebook account as well as the
8 Tina Smith persona.

9 Mr. Flynn began having sexual conversations with the
10 fifteen year old girl. He sent her pictures of his penis
11 and made plans to travel from his home in North Carolina to
12 Kershaw County where the victim lives to have sex with the
13 minor child.

14 Mr. Flynn ultimately did travel to the victim's home
15 in late 2011, early 2012, and engaged in oral sex and other
16 sexual acts with fifteen year old --

17 THE COURT: Did you say the late 2012?

18 MS. MILES: It was early - Late 2011, early 2012,
19 around December, January, Your Honor.

20 They engaged in oral sex and other sexual acts with
21 the fifteen year old child. He then told her that she was
22 going to become him and his best friend's sex toy. Once
23 law enforcement became aware of these charges an under
24 cover identify was set up on Facebook of an underage girl
25 Jennifer Nixon age fourteen. The persona Jennifer Nixon

1 was friends with some of the same friends as Mr. Flynn and
2 Mr. Flynn then sent her a friend request and began chatting
3 with the underage persona on Facebook via text and over the
4 telephone.

5 Mr. Flynn then began discussing having sex with the
6 girl he believed to be fourteen and began encouraging her
7 to have sex by telling her of his relationship with the
8 fifteen year old victim in this case.

9 THE COURT: Who set up the persona?

10 MS. MILES: Lieutenant Steve Knafelc is part of the
11 internet crimes against children task force.

12 THE COURT: Okay. He's authorized to do that?

13 MS. MILES: Yes, sir, Your Honor.

14 Mr. Flynn then began discussing having sex with the
15 underage persona. He encouraged this persona by telling
16 her that he had quote done this before with a girl in Texas
17 who was around fourteen or fifteen. He made plans to bring
18 what he believed the fourteen year old girl alcoholic
19 beverages and condoms when he came to meet her to have sex.

20 On March 22nd, 2012, Mr. Flynn again traveled from his
21 home in North Carolina to Kershaw County for the purposes
22 of engaging in sex with what he believed the be the
23 fourteen year old girl. He arrived at a park which was a
24 predetermined location to meet this girl and got out of the
25 car with his pants undone at that point in time. He was

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1 subsequently arrested and marandized and did admit to
2 chatting with what he believed to be the fourteen year old
3 girl Jennifer Nixon. He also admitted to having sexual
4 conduct with a fifteen year old girl victim in this case
5 C.G and also admitted to having sex with another sixteen
6 year old girl in Maryland.

7 Statements were given to law enforcement by other
8 young girls regarding this case and Mr. Flynn told the
9 victim's step sister age twelve that he would give her a
10 hundred dollars if she would ride around on her scooter
11 topless. He told another twelve year old girl that he
12 would give her twenty dollars for taking her shirt off.

13 The victim provided additional information to law
14 enforcement regarding a cousin that she has in Maryland who
15 I believe was sixteen that Mr. Flynn also traveled to have
16 sexual intercourse with her as well as sent her images of
17 child pornography.

18 Other information involving Mr. Flynn has having
19 conversations with what's possibly another victim up in
20 Maryland, that information has been sent up to Maryland.

21 MR. RILEY: Judge, this has nothing to do with what
22 he's pleading to here today. All of these allegations that
23 she's - that she's expressing to the Court involving other
24 alleged victim's are not what we're before the court on.

25 THE COURT: I think she's addressed - I think she's

1 addressed the indicted claims. I think she has.

2 MS. MILES: And they're also involved with this victim
3 as well. These people who are addressed here are
4 specifically that he met while engaged with the victim.
5 They are relatives of her and involved in the furtherance
6 of the crime against her, Your Honor.

7 THE COURT: Just for the record and the defendant's
8 benefit, let me get you just to go through each indictment.

9 MS. MILES: Yes, sir.

10 THE COURT: And tell me what he - what the indictment
11 charges him with doing.

12 MS. MILES: Yes, sir. He attempted dissemination of
13 obscene material as from when he sent images of his penis
14 to the undercover persona who was age fourteen.

15 THE COURT: Okay.

16 MS. MILES: The attempted - the attempted criminal
17 sexual conduct with a minor second degree is from when he
18 traveled from North Carolina to Kershaw County to meet that
19 underage persona for sex. And the criminal solicitation of
20 a minor is for soliciting a fourteen year old persona on
21 line.

22 The criminal sexual conduct with a minor second degree
23 is for the victim in this case.

24 THE COURT: Okay. Now those are the four allegations?

25 MS. MILES: Yes, sir, Your Honor.

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1 THE COURT: Okay. Does that clarify it, Mr. Riley?

2 MR. RILEY: Yes, sir.

3 MS. MILES: Your Honor, the State believes that this
4 defendant has shown a continued desire to solicit underage
5 girls and sending pictures of his penis and then ultimately
6 try and or engage in having sexual contact with him.

7 THE COURT: Okay. Well let me --

8 MS. MILES: Go ahead, I's sorry.

9 THE COURT: As to the allegations and the factual
10 allegations based on these four indictments, he hadn't been
11 indicted for anything else.

12 Mr. Flynn, are those facts true and correct?

13 MR. FLYNN: Yes, sir.

14 THE COURT: All right. I find the decision of the
15 defendant, Isaac Claude Flynn, to plead guilty to be freely
16 voluntarily and intelligently made. He's had the
17 representation of a competent attorney and the person Mr.
18 Riley with whom he said he is satisfied I find a factual
19 basis for his plea and therefore I will accept his plea.

20 Mr. Riley - I'm sorry. Mr. Flynn, if you disagree
21 with the sentence I give you or the procedure we just
22 completed you have ten days from today's date within which
23 to file a Notice of Intent To Appeal.

24 All right, Ms. Miles, you may continue with the
25 presentation.

1 MS. MILES: Yes, sir, Your Honor.

2 THE COURT: And these are I guess facts that would
3 justify your recommendation.

4 MS. MILES: Yes, sir, Your Honor. And as part of the
5 investigation that led to this victim and the other
6 information involving other people ---

7 THE COURT: Okay.

8 MS. MILES: --- that Mr. Flynn was involved with.

9 THE COURT: Go ahead.

10 MS. MILES: The only other facts the State would
11 present I believe Lieutenant Steve Knafelc would like to
12 make a statement at the appropriate time and the victim and
13 her family would also like to speak. The State is just
14 requesting the twenty years. We do believe he is a danger
15 to society and has shown a continued desire --

16 THE COURT: All right. What's his prior record look
17 like?

18 MS. MILES: He has --

19 THE COURT: You alluded to it earlier.

20 MS. MILES: Yes, sir.

21 THE COURT: Specifically ---

22 MS. MILES: They're --

23 THE COURT: --- convictions.

24 MS. MILES: The North Carolina they are a little more
25 convoluted than ours but I believe it's for worthless

1 checks.

2 THE COURT: Okay.

3 MS. MILES: And I believe he currently is wanted there
4 for a probation violation because of the worthless checks.

5 THE COURT: Okay. And then there was - I believe
6 there has been several offenses, there is a fourth offense.
7 Financial identity fraud; misdemeanor larceny identity
8 fraud.

9 THE COURT: Okay.

10 MS. MILES: Things of that nature, but there is
11 nothing of this nature, Your Honor.

12 THE COURT: Okay.

13 MS. MILES: Of a sexual nature.

14 THE COURT: And no crimes of violence?

15 MS. MILES: I'm sorry.

16 THE COURT: No crimes of violence?

17 MS. MILES: No, sir, Your Honor.

18 THE COURT: All right.

19 MS. MILES: But that's everything from the State's
20 side and what they may wish to present to you at the
21 appropriate time.

22 THE COURT: Lieutenant?

23 LIEUTENANT KNAFELC: Your Honor, as Ms. Miles stated
24 it did occur on February 6 by the mother of the victim
25 originating the report. Obviously Ms. Miles pretty much

1 covered everything as far as the facts goes so there is
2 really no need for me to state --

3 THE COURT: How did you - How did you process this
4 complaint?

5 LIEUTENANT KNAFELC : Honestly upon search of the
6 victim's phone, cell phones, the communication was
7 obviously gathered from Ms. Flynn or Mr. Flynn and the
8 victim which I took the initiative to go ahead and do the
9 undercover chat. Myself went ahead and got on Facebook and
10 did a fourteen year old obviously from what Ms. Miles has
11 stated a persona of a fourteen year old, became friends.
12 Eventually Mr. Flynn actually wanted to become friends with
13 me. He requested that to happen.

14 Within maybe two or three days Mr. Flynn started
15 talking about meeting. Obviously according to her phone,
16 the victim's phones, I obviously got a phone number, pulled
17 that phone number and got the address of where Mr. Flynn
18 lived. Obviously there is pictures on her phone of a penis
19 during the chat.

20 I actually translated it into Mr. Flynn so the phone
21 number came back to a home in Gastonia, in North Carolina
22 which I did travel to Gastonia, North Carolina based on the
23 fact of trying to find any kind of surveillance. Obviously
24 I notified Gastonia P.D. of what I was about to do.

25 Obviously prior to that me and Tina Smith actually was

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1 obviously talking also and based on that investigation it
2 came to be determined that Tina Smith was actually Mr.
3 Flynn.

4 Tina Smith would ask me questions about Mr. Flynn,
5 what I know, you know, do I think he's cute. She told me
6 where he worked at a Burger King in Gastonia. She told me
7 where she supposedly worked at Heel's for Her a department
8 store or a shoe store in East Ridge Mall which is near
9 Gastonia. When I went to - Actually she told me what high
10 school she went to. So I went to Gastonia, drove to
11 Gastonia and did those searches, nothing came up of a Tina
12 Smith so that obviously arose my suspicion was correct.

13 Showed the picture to the school districts, a picture
14 of Tina Smith, nothing was related to Ms. Smith. Went back
15 to the office, back to Lugoff and determined that the
16 picture actually became a porn site that obviously was done
17 by Mr. Flynn. I just was believing that he was using that
18 persona to persuade other juveniles to actually speak with
19 Mr. Flynn.

20 Eventually conversations got worse as far as what he
21 wanted to do and where we wanted to meet. He actually
22 wanted to speak with me over the telephone. I most
23 definitely could not do that - excuse me - prior to that
24 the pictures that I had on Facebook was of a fourteen year
25 old employee of the sheriff's office with her permission.

1 So we used the pictures when she was fourteen years of age
2 and that obviously enticed him also. But during that
3 conversation, there were several conversations, he wanted
4 to speak with me on the phone. I ask another employee of
5 the sheriff's office to actually speak with him via
6 telephone and one thing led to another and on the 22nd of
7 March was when we actually set the date up to meet at a
8 baseball park in Lugoff.

9 THE COURT: Any travel?

10 LIEUTENANT FNAFELC: I got Gastonia P.D. involved,
11 North Carolina ICAC involved; we had him tracked from the
12 time that he left his residence in Gastonia. We actually
13 had another agency tracking his phone and we had his route
14 pinned down to a tee all the way up and down 77 on 34 into
15 Lugoff. Excuse me, into Fairfield County into Kershaw
16 County and had a deputy in a unmarked car cross the line
17 and he followed him all the way to the ball park.

18 My female that was actually speaking with him on the
19 telephone actually spoke with him all the way through
20 pretty much from the time he left his residence. And as
21 what Ms. Miles has stated he had - when he got out of the
22 car he had his pants down. There was some objects that I
23 was requesting - that me and him requested via text or
24 either on chat which was liquor, condoms. And I requested
25 lotion also but he did not bring that but he wanted to rub

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1 the obviously the fourteen year old's body. But obviously
2 my original female that was on Facebook, the pictures, she
3 was there and he did request some clothing that he wanted
4 her to wear which was some shorts and a tank top which we
5 got her to do that. Obviously several deputies was hiding
6 in a dug out and again the female that was talking on the
7 phone followed him or spoke with him very calmly all the
8 way through. The next thing we know he backs up and we
9 gave a signal or the female that was at the ball park gave
10 the signal of the take down ---

11 THE COURT: Okay.

12 LIEUTENANT KNAFELC: --- without incident.

13 THE COURT: All right. Thank you very much.

14 LIEUTENANT KANFELC: You're welcome.

15 THE COURT: Anybody else want to speak?

16 MS. MILES: I believe the victim's mother would like
17 to, Your Honor.

18 THE COURT: All right.

19 A. Good morning, Your Honor. I'm Julie Shepard.

20 THE COURT: Yes, ma'am.

21 MS. SHEPARD: I could stand here and tell you about
22 the predator that Mr. Flynn is. I could tell you how he
23 pursued my daughter on the internet under the guise of
24 someone else. I could tell you how as soon as he no longer
25 had contact with her he moved on to other girls scanning at

1 least four states. I could tell you how this one man has
2 disrupted my entire family or how my daughter spent the
3 next six months in a psychiatric facility. But the hardest
4 part for her to rebuild from, from this whole ordeal, will
5 be my daughter learning that she can trust and love again.
6 You can sentence Mr. Flynn to all the years in the world
7 but truth be told, sir, he has already sentenced my
8 daughter to life.

9 THE COURT: All right. Thank you very much.

10 Anything further?

11 MS. MILES: That's all from the State, Your Honor.

12 THE COURT: Mr. Riley.

13 MR. RILEY: Judge, with the defendant here today
14 immediately to his right is his mother and to her right is
15 the defendant's brother, Norman Flynn. They drove down
16 today from North Carolina to be here for this court
17 proceeding. He is - Mr. Flynn was thirty-eight years old,
18 he is a high school graduate, he's worked most of his -
19 employment history as a - in the restaurant business mostly
20 as a cook. He has one daughter, she is living in Canada
21 and my understanding is - I've spoken with the couple that
22 she's living with in Canada and from Mr. Flynn and that
23 couple I've learned that she is somewhat mentally
24 handicapped.

25 Mr. Flynn was married. During his incarceration in

1 Kershaw County. In fact on July 12th of last year his wife
2 passed away from a heart attack. He didn't learn about it
3 until after the fact. He's been incarcerated continuously
4 since March the 22nd of 2012.

5 As the assistant attorney general has pointed out all
6 of his prior criminal history involves property crimes with
7 the exception of what we would call fraudulent checks.
8 They bear a slightly different designation in North
9 Carolina. And financially identity fraud. If you put
10 those charges to one side he has practically a clean
11 record, practically no other charges, certainly no violent
12 offenses.

13 And for a thirty-eight year old I think it's worth
14 emphasizing to the court that if this man really and truly
15 suffered from pedophilia he's certainly got up to an age
16 where you would think that if it were a obsession or a
17 deviation in his psyche you would think he would have
18 picked up some previous charges but there is nothing going
19 on on his record to indicate that this has been a life long
20 problem for him.

21 Judge, he and I over the past year have, I feel have
22 gotten to know each other quite well. He's been frank and
23 candid with me. He confessed; I'm not sure if Officer
24 Knafelc mentioned this, but when he was arrested he gave
25 the police following proper Miranda warnings a full

1 confession.

2 He's been extremely remorseful in meetings that I have
3 had with him. He's been particularly in recently very very
4 desirous to get this behind him. On behalf of my client I
5 personally would like to extend an apology to the family
6 members and to the victim in this case. I just do not feel
7 that Mr. Flynn is a - and I've explained to him about
8 sexually violent predator --

9 THE COURT: And the registry.

10 MR. RILEY: Pardon?

11 THE COURT: And the registry.

12 MR. RILEY: Yes, sir. He knows exactly about the
13 registry. But I don't think this gentleman is - falls into
14 the category of a sexually violent predator. But of course
15 that's a decision --

16 THE COURT: That's a decision for another day.

17 MR. RILEY: Exactly, Judge, and I've explained that to
18 him. Judge, I would ask the court, I understand of course
19 the Assistant AG and I have worked on this for quite a
20 while and with predecessors of hers. They're recommending
21 basically essentially concurrent sentences and a twenty
22 year sentence, all charges to run concurrent, or all
23 sentences to run concurrent.

24 I would ask the court to - I would humbly ask the
25 court to consider a split sentence. I think this gentleman

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1 is not a - unlike what Ms. Miles said - I don't think he's
2 a threat to society. I think he for whatever reason went a
3 little bit crazy at this point in time.

4 Judge, I don't know if he or his mother or his brother
5 wished to say anything to the court but I would ask you to
6 allow them to if they do.

7 THE COURT: Absolutely. Be glad to hear from them.

8 Do you have anything you want to tell me, Mr. Flynn?

9 MR. FLYNN: Well it's just like Mr. Riley said, you
10 know I've worked the biggest part of my life. I've also
11 been unemployed, you know, I got - I've fallen short so
12 many times. I've been on drugs, alcohol, one thing led to
13 another and started stealing. Been back on drugs. Most of
14 - I've only had one violation on probation that's one
15 currently in North Carolina. And the only reason on that
16 was is because when there I was incarcerated eighteen
17 months they sent me - my family was up on the Mount Airy,
18 North Carolina, they sent me to Monticello to be
19 discharged.

20 I was called up to the sergeants office at 11:30 at
21 night, they ask me if I could get my family to come pick me
22 up at midnight. 12:01 they released me. There was
23 nothing said about probation. At the probation - After I
24 got out of jail I couldn't find no work there it was a
25 small little town. I left and went to Texas. As I was in

1 Texas I did get into some trouble. There was worthless
2 checks. I was put on probation there. After I paid the
3 fines and restitution and court cost and did all my
4 community service I was - they released me early.

5 THE COURT: What was your drug of choice? What drug?

6 MR. FLYNN: Mine was cocaine.

7 THE COURT: Cocaine. All right. Anything else you
8 want to tell me?

9 MR. FLYNN: Yeah, I just want to apologize to the
10 victims and to the family. Also for, you know, the trouble
11 I put them through. Like you said I've got a daughter
12 sixteen, you know, or she lost her mother nine years ago.

13 THE COURT: Uh-huh.

14 MR. FLYNN: We was in drugs together. We did drugs
15 together me and my wife that passed away and in 2012 did
16 drugs together. So I mean I'm lucky. I should be laying
17 in the graveyard myself.

18 THE COURT: Yeah, sounds that way.

19 MR. FLYNN: But, you know, God has spared me for what?
20 The reason I don't know but I'm here today. And my mother
21 is seventy-two and, you know, I'd like to at least get out
22 and spend some time while she's still left.

23 THE COURT: Anybody else want to say anything?

24 THE MOTHER: I'd like to say I'm sorry. I didn't know
25 all of this was going on. He wasn't raised this way. And

-27-

1 I raised him the best we could. I tried to raise him like
2 I was raised but somewhere something went wrong. And I'm
3 sorry for the lady as well as the child. I know how I
4 would feel if it was one of my kids and I'm sorry. I just
5 pray the Lord have mercy upon him. I love him.

6 THE COURT: Anything further?

7 MR. RILEY: Just his brother I guess.

8 THE COURT: All right. Come on up. You got nothing
9 to say?

10 (PERSON CALLED UPON INDICATED IN THE NEGATIVE.)

11 THE COURT: Solicitor, what do you consider the sexual
12 battery?

13 MS. MILES: The oral sex, Your Honor.

14 THE COURT: Okay. Anything further?

15 MR. RILEY: Not from the defense, Judge.

16 MS. MILES: Nothing further, Your Honor.

17 THE COURT: Approach the bench please.

18 MS. MILES: I'm sorry.

19 THE COURT: Approach the bench, let me see you.

20 (BENCH CONFERENCE OFF THE RECORD AT 03:51 P.M..)

21 THE COURT: All right, Mr. Flynn, on your Indictment
22 No. 2013-28-0-0-8-9 which is the criminal solicitation of a
23 minor, and your 2013-28-0-0-8-8 attempted dissemination of
24 obscene material to a person under eighteen years of age,
25 sentence of the court is that you be committed to the State.

1 Department of Corrections for a period of ten years.

2 On your 2013-28-0-91 criminal sexual conduct with a
3 minor second degree, 2013-28-0-9-0 attempted criminal
4 sexual conduct with a minor second degree, the sentence of
5 the court is that you be committed to the State Department
6 of Corrections for a period of twenty years, all sentences
7 to run concurrent. Good luck to you, sir.

8 MS. MILES: Thank you, Your Honor.

9 MR. RILEY: Thank you, Your Honor.

10 THE COURT: Good luck.

11 (END OF TRANSCRIPT OF RECORD.)
12
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CERTIFICATE OF REPORTER

State of South Carolina)
)
County of York)

I, Wanda Nelson, Official Court Reporter for the Sixteenth Judicial Circuit for 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 Kershaw County, South Carolina, on the 25th day of February, 2013.

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

Wanda Nelson
Wanda Nelson, CVR
Certified Verbatim Reporter,
Official Court Reporter,
Notary Public, in and for
The State of South Carolina.

My Commission Expires: 1/21/2021

DATE: 9-23 / 2013

FORM 5

STATE OF SOUTH CAROLINA)

County of Kershaw)

IN THE COURT OF COMMON PLEAS

ISAAC Claude Flynn)

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

v.)

State of South Carolina)

2013-CP-28-659

APPLICATION FOR

POST-CONVICTION RELIEF

FILED FOR RECORD
2013 AUG 14 AM 11:39
JOYCE McDONALD
CLERK OF COURT
KERSHAW COUNTY, S.C.INSTRUCTIONS B 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 Perry Corr. Inst
2. Name and location of Court which imposed sentence Kershaw General Sessions
3. Name(s) of co-defendant(s) (if any) Ø
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
(a) CSC 2nd

ATTEST True, Correct & Certified
Copy of Original on File in this
Court.
Joyce McDonald
Clerk of Court Kershaw County

- (b) _____
- (c) _____
5. The date upon which sentence was imposed and the terms of the sentence:
- (a) 7-25-13 20 yrs 85%
- (b) _____
- (c) _____
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty ☒
- (b) after a plea of not guilty _____
- (c) after a plea of nolo contendere _____
7. Did you appeal from the judgment of conviction or the imposition of sentence?
- _____
8. If you answered Ayes@ to (7), list:
- (a) the name of each Court to which you appealed:
- i. _____
- ii. _____
- iii. _____
- (b) the result in each such Court to which you appealed:
- i. _____
- ii. _____
- iii. _____
- (c) the date of each such result:
- i. _____
- ii. _____
- iii. _____
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. _____
- ii. _____
- iii. _____
9. If you answered Ano@ to (7), state your reasons for not so appealing:
- (a) I was not told I could Appeal

FILED FOR RECORD
2013 AUG 14 AM 11:39
JOYCE McDONALD
CLERK OF COURT
BERSHAW COUNTY, S.C.

FILED FOR RECORD
2013 AUG 19 AM 11:39
JUDICIAL CLERK
Kershaw County, S.C.

- (b) _____
- (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:
- (a) Ineffective Assistant of Plea Counsel
- (b) Involuntary Plea
- (c) Due Process Violation
11. State concisely and in the same order the facts which support each of the grounds set out in (10):
- (a) Failed to challenge Entrapment law before advising to Plea
- (b) Gave erroneous advice to Plea
- (c) Violation of 14 independent
12. Prior to this application have you filed with respect to this conviction:
- (a) any petition in a State Court under South Carolina Law? Ø
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? Ø
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? Ø
- (d) any other petitions, motions or applications in this or any other Court? Ø
13. If you answered Ayes@ to any part of (12), list with respect to each petition, motion or application:
- (a) the specific nature thereof:
- i. _____
- ii. _____
- iii. _____
- iv. _____
- (b) the name and location of the Court in which each was filed:
- i. _____
- ii. _____
- iii. _____

iv. _____
 (c) the disposition thereof:

i. _____
 ii. _____
 iii. _____
 iv. _____

(d) the date of each such disposition:

i. _____
 ii. _____
 iii. _____
 iv. _____

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

i. _____
 ii. _____
 iii. _____
 iv. _____

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

no

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

(a) which grounds have been presented:

i. _____
 ii. _____
 iii. _____

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

i. _____
 ii. _____
 iii. _____

FILED FOR RECORD
 2013 AUG 14 AM 11:39
 JUDGE MICHAEL D.
 CLERK OF COURT
 HERSHAW COUNTY, S.C.

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) There are PCR issues not can only
 (b) be raised in Post Conviction Relief
 (c) _____

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

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

FILED FOR RECORD
 2013 AUG 14 AM 11:39
 JOYCE MEDONALD
 CLERK OF COURT
 Kershaw County, SC

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

(a) the name and address of each attorney who represented you:

i. C.J. Neil Reilly
1121 Broad St.
 ii. Camden, S.C. 29020
 iii. _____

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

i. Plea hearing
 ii. _____
 iii. _____

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

Guilty Plea Vacated Remind for New
Trial

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

Revised 3/2003

STATE OF SOUTH CAROLINA)

County of Kershaw)

VERIFICATION

I, Josiah Claude Flynn, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

X Josiah Claude Flynn

SWORN to and subscribed before me this 9th
day of August, 2013.

Nancy C. Mendenhall (L.S.)
Notary Public

My Commission Expires: 1-23-2023

FILED FOR RECORD
2013 AUG 14 AM 11:29
JOYCE MEDDONALD
CLERK OF COURT
KERSHAW COUNTY, SC

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

I, ISAAC Claude Flynn, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

- (1) I am the applicant in this action and I believe I am entitled to redress.
- (2) Because of my poverty I am unable to pay the costs of said proceeding or give security thereof.

X Isaac Claude Flynn
Applicant

SWORN or affirmed to and subscribed before me this

9th day of August, 2013.

Nancy C. McLeod
Notary Public

My Commission Expires: 1-23-2023

FILED FOR RECORD
2013 AUG 14 AM 11:39
JOYCE McDONALD
CLERK OF COURT
KERSHAW COUNTY, S.C.

STATE OF SOUTH CAROLINA
COUNTY OF KERSHAW

IN THE COURT OF COMMON PLEAS
FOR THE FIFTH JUDICIAL CIRCUIT

Isaac Claude Flynn, #354468,

2013-CP-28-0659

Applicant,

v.

RETURN

State of South Carolina,

Respondent.

Respondent, making its Return to the application for post-conviction relief August 14, 2013, would respectfully show this Court:

I.

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Kershaw County Clerk of Court. Applicant was represented by Neil J. Riley, Esquire. On February 25, 2013, Applicant appeared before the before the Honorable G. Thomas Cooper, where he waived presentment to the Kershaw County Grand Jury and pled guilty to Attempted Dissemination of Obscene Material to Person under 18 years of age (2013-GS-28-0088), Criminal Solicitation of a Minor (2013-GS-28-0089), Attempted Criminal Sexual Conduct with a Minor, 2nd degree (2013-GS-28-0090), and Criminal Sexual Conduct with a Minor, 2nd degree (2013-GS-28-0091). Pursuant to a plea agreement with the State, Judge Cooper sentenced Applicant to imprisonment for ten years for Attempted Dissemination of Obscene Material, ten years for Criminal Solicitation, twenty years for Attempted Criminal Sexual Conduct with a Minor, and twenty years for Criminal Sexual Conduct with a Minor, with all sentences to be served concurrently. Applicant did not appeal his guilty plea or sentence.

Attached herewith and incorporated herein are the records of the Kershaw County Clerk of Court regarding the subject conviction, Applicant's records from the South Carolina Department of Corrections, and guilty plea transcript. 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. "Failed to challenge entrapment law before advising to plea."
2. Involuntary Guilty Plea; in that,
 - a. "Gave erroneous advice to plea."
3. Due Process Violation; in that,
 - a. "Violation of 14th Amendment."

Any claims not specifically enumerated in the PCR application or amendments will be opposed by the State at an evidentiary hearing, and the State will seek summary dismissal of vague or general claims at an evidentiary hearing. S.C. Code §17-27-50. All amendments should be made well in advance of an evidentiary hearing by counsel of record. Rule 11, SCRCP.

III.

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 (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, 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).

Respondent submits that 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, 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.

Respondent submits that Applicant's allegation that his guilty plea was involuntary is without merit. In PCR cases, a defendant asserting a constitutional violation must frame the issue as one of ineffective assistance of counsel. Al-Shabazz v. State, 338 S.C. 354, 527 S.E.2d 742 (1999). A defendant who pleads guilty on the advice of counsel may collaterally attack the

plea only by showing that (1) counsel was ineffective and (2) there is a reasonable probability that but for counsel's errors, the defendant would not have pled guilty and would have insisted on going to trial. Roscoe v. State, 345 S.C. 16, 546 S.E.2d 417 (2001). A defendant alleging that his guilty plea was induced by ineffective assistance of counsel must prove that counsel's advice was not "within the competence demanded of attorneys in criminal cases." Hill v. Lockhart, 474 U.S. 52, 56 (1985). A guilty plea is a solemn, judicial admission of the truth of the charges against the defendant. Statements made during the plea should be considered conclusive unless the defendant presents reasons why he should be allowed to depart from the truth of those statements. Crawford v. U.S., 519 F.2d 347 (4th Cir. 1975); Edmonds v. Lewis, 546 F.2d 566 (4th Cir. 1976).

Respondent submits that the record fully supports the knowing and voluntary nature of Applicant's plea. However, allegations regarding ineffective assistance of counsel and the voluntariness of the plea may raise a question of fact which is not conclusively refuted by the record. Accordingly, Respondent requests an evidentiary hearing on this allegation. Sharper v. State, 305 S.E.2d 247.

V.

Applicant further alleges that he was denied due process of law. Applicant's allegation claims infringement of his rights under certain amendments to the United States Constitution. However, Applicant fails to set forth with specificity the grounds upon which these constitutional violations are based. The Uniform Post-Conviction Procedure Act requires that the Applicant must "... specifically set forth the grounds upon which the application is based." Section 17-27-50 of the Code of Laws of South Carolina (1976). In an application for post-conviction relief, it is incumbent upon Applicant to make at least a prima facie showing which would entitle him to relief before an evidentiary hearing will be scheduled and held. Welch v. MacDougall, 246 S.C.

258, 143 S.E.2d 455 (1965); Blandshaw v. State, 245 S.C. 385, 140 S.E.2d 784 (1965). Since Applicant has failed to make even a prima facie showing, Respondent would submit that this allegation should be dismissed for failing to meet the requirements of the Uniform Post-Conviction Procedures Act. This allegation is so vague that it is impossible for the State to respond.

VI.

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

VII.

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

MEGAN E. HARRIGAN
Assistant Attorney General

By: Megan E. Harrigan
ATTORNEYS FOR RESPONDENT

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

December 11, 2013

STATE OF SOUTH CAROLINA)

COUNTY OF KERSHAW)

IN THE COURT OF COMMON PLEAS

2013-CP-28-0659

ISAAC CLAUDE FLYNN, #354468)

Applicant,)

vs)

AFFIDAVIT OF SERVICE BY MAIL

STATE OF SOUTH CAROLINA,)

Respondent.)

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

Kristy G. Goldberg, Esquire
 Law Office of Kristy Goldberg, LLC
 1720 Main Street, Suite 301
 Columbia, South Carolina 29201

DATED this 11th day of December, 2013.


 Kelly Oppenheimer, Legal Assistant
 For Respondent

STATE OF SOUTH CAROLINA)
COUNTY OF KERSHAW)

IN THE COURT OF COMMON PLEAS
2013-CP-28-659

ISAAC FLYNN)
SCDC # 354468,)

Applicant,)

vs.)

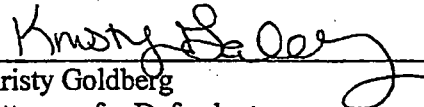
AMENDED APPLICATION
FOR POST CONVICTION RELIEF

STATE OF SOUTH CAROLINA,)
Defendant.)

Based upon further investigation and research, the Post-Conviction Relief Application filed on behalf of the above named Applicant is hereby Amended as follows:

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

- (a) Ineffective assistance of counsel – Trial counsel was ineffective in communicating with the Applicant regarding the status and his legal rights.
- (b) Ineffective assistance of counsel – Trial counsel should had a duty to stand down prior to the Judge accepting the guilty plea when the prosecutor made several irrelevant and inflammatory accusations against the Applicant about alleged incidents which did not result in criminal charges.
- (c) Ineffective assistance of counsel – Failure of trial counsel to file notice of appeal.


Kristy Goldberg
Attorney for Defendant

Kristy Goldberg
Law Office of Kristy Goldberg, LLC.
1720 Main Street, Suite 301
Columbia, SC 29201
803-252-2299
803-799-4059 (fax)
kristy@kristygoldberglaw.com

Columbia, South Carolina
This 9th day of July, 2014

STATE OF SOUTH CAROLINA)
 COUNTY OF KERSHAW)

ISAAC FLYNN)
 SCDC # 354468,)

Applicant,)

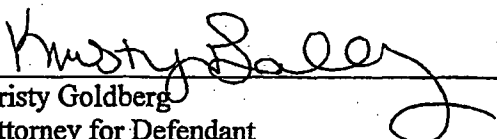
vs.)

STATE OF SOUTH CAROLINA,)
Defendant.)

IN THE COURT OF COMMON PLEAS
 2013-CP-28-659

CERTIFICATE OF SERVICE

I certify that on this date I served the Amended Application for Post-Conviction Relief in this case on The State of South Carolina by delivering a copy of this application to the Office of the Attorney General via U.S. mail at Post Office Box 11549, Columbia, South Carolina 29211-1549.


 Kristy Goldberg
 Attorney for Defendant

Kristy Goldberg
 Law Office of Kristy Goldberg, LLC.
 1720 Main Street, Suite 301
 Columbia, SC 29201
 803-252-2299
 803-799-4059 (fax)
 kristy@kristygoldberglaw.com

Columbia, South Carolina

This 8th day of July 2014

1 STATE OF SOUTH CAROLINA) IN GENERAL SESSIONS
 2 COUNTY OF RICHLAND) COURT
 3)
 4 ISAAC FLYNN,)
 5) TRANSCRIPT
 6 -V-) OF
 7) RECORD
 8 STATE OF SOUTH CAROLINA,) 2013-CP-40-0659
 9 DEFENDANT.)

10

11 JULY 16, 2014

12 RICHLAND, SOUTH CAROLINA

13

14 B-E-F-O-R-E:

15 HONORABLE CASEY L. MANNING, JUDGE;

16

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

18 FOR THE PLAINTIFF:

19 MEGAN HARRIGAN, ESQ.

20

21 FOR THE DEFENDANT:

22 KRISTY GOLDBERG, ESQ.

23

24

25

1	I-N-D-E-X		
2			PG.
3	EXAMINATION OF ISAAC FLYNN:		
4	DIRECT BY MS. GOLDBERG		5
5	CROSS BY MS. KERRIGAN		17
6	REDIRECT BY MS. GOLDBERG		34
7	EXAMINATION OF CORNELIUS RILEY:		
8	DIRECT BY MS. KERRIGAN		38
9	CROSS BY MS. GOLDBERG		51
10	CERTIFICATE OF REPORTER:		68
11			
12			
13			
14	E-X-H-I-B-I-T-S		
15	PLAINTIFF'S		
16	NO.	ID	EXB
17	1. OCTOBER 15TH LETTER.		9
18			
19	DEFENDANT'S		
20	1. PLEA SHEET.	24	25
21			
22			
23			
24			
25			

1 (The following proceedings were held on
2 July 16, 2014.)

3 THE COURT: Everybody's here?

4 MS. KERRIGAN: Everybody's here and ready, Your
5 Honor.

6 THE COURT: Yes, ma'am. Go ahead.

7 MS. KERRIGAN: May it please the Court. Megan
8 Kerrigan on behalf of the attorney general's office. This
9 matter is Isaac Flynn V. the State of South Carolina, docket
10 number 2013-CP-28-0659. Mr. Flynn was represented by
11 Cornelius Riley of the Kershaw County Public Defender's
12 Office on February 25th, 2013. Mr. Flynn appeared before
13 the Honorable G. Thomas Cooper, Jr. -- presentment to the
14 Kershaw County Grand Jury and plead guilty to attempted
15 dissemination of obscene material to a person under 18 years
16 of age, criminal solicitation of a minor, attempted criminal
17 sexual conduct with a minor in the second degree, and
18 criminal sexual conduct with a minor in the second degree.
19 Judge Cooper sentenced Mr. Flynn to imprisonment for 10
20 years for attempted dissemination of obscene material, 10
21 years for criminal solicitation of a minor, 20 years for
22 attempted criminal sexual conduct with a minor in the second
23 degree, and 20 years for criminal sexual conduct with a
24 minor in the second degree with all sentences to be served
25 concurrently. Mr. Flynn did not appeal his guilty pleas or

ISAAC FLYNN DIRECT BY MS. GOLDBERG

1 sentences.

2 On September 24th, 2013, Mr. Flynn filed a timely
3 application for post-conviction relief alleging ineffective
4 assistance of counsel, involuntary guilty plea and due
5 process violations. The State made its return on
6 December 11th, 2013, requesting an evidentiary hearing be
7 held. Mr. Flynn is represented in this action by Christy
8 Goldberg.

9 On July 8th, 2014, Mr. Flynn filed an amended
10 application for post-conviction relief setting forth the
11 following allegations of ineffective assistance of counsel:
12 Ineffective assistance of counsel for failing to communicate
13 with the applicant regarding his case's status and his legal
14 rights; ineffective assistance of counsel for failing to
15 stand down prior to the trial court accepting the plea when
16 the prosecutor made several irrelevant and inflammatory
17 accusations against Mr. Flynn which did not result in
18 criminal charges; and ineffective assistance of counsel for
19 failing to file a notice of appeal.

20 I will turn it over to Ms. Goldberg at this time.

21 THE COURT: All right.

22 Ms. Goldberg.

23 MS. GOLDBERG: Thank you, Your Honor. At this
24 time, we could call Isaac Flynn to the stand.

25 THE COURT: Come around, Mr. Flynn.

ISAAC FLYNN DIRECT BY MS. GOLDBERG

1 BAILIFF: Place your left hand on the Bible, raise
2 your right hand and face the clerk.

3 THEREUPON,

4 ISAAC FLYNN,

5 after having been duly sworn, testified as follows:

6 THE CLERK: Please have a seat. State your full
7 name for the record.

8 BAILIFF: Watch your step up. State your full
9 name for the record.

10 THE WITNESS: Isaac -- Flynn.

11 MS. GOLDBERG: May it please the Court?

12 THE COURT: Yes.

13 DIRECT EXAMINATION

14 BY MS. GOLDBERG::

15 Q. Mr. Flynn, where are you currently housed?

16 A. Perry Correctional Institute.

17 Q. What sentence are you serving?

18 A. A 20-year sentence.

19 Q. Who was your attorney?

20 A. Neil Riley.

21 Q. Was he appointed or obtained?

22 A. He was appointed.

23 Q. Did you have a trial or a guilty plea?

24 A. It was a guilty plea.

25 Q. Was there a plea agreement or any kind of plea offer to

ISAAC FLYNN DIRECT BY MS. GOLDBERG

1 your knowledge?

2 A. Well, after spending almost a year in the county, he
3 came about two weeks prior to the court date and told
4 me that Ron Moak, which was the Camden solicitor,
5 offered a 20-year plea. Mr. Riley then told me at that
6 point in time that he didn't think that was sufficient,
7 that he thought at the point in time that he could get
8 a better deal. He did not bring me the plea right
9 away. He waited until Bethany Miles took over with the
10 attorney general's office and brought it two weeks
11 prior to going to court.

12 Q. The case originally started out in the Kershaw County
13 Solicitor's Office?

14 A. Yes, ma'am.

15 Q. At what point -- when were you arrested?

16 A. I was arrested on March the 22nd, 2012.

17 Q. And when did you plead guilty?

18 A. February 25th, 2013.

19 Q. Were you in jail the entire time?

20 A. Yes, ma'am.

21 Q. At what point did the attorney general's office begin
22 -- get involved in this case?

23 A. I didn't know that they were until we went to court --
24 or two weeks prior when Neil Riley came back to see me
25 and told me.

ISAAC FLYNN DIRECT BY MS. GOLDBERG

1 Q. So when you first received that first 20-year offer,
2 that was not two weeks before the plea, that was
3 earlier than that?

4 A. He never brought me and told me what Ron Moak had
5 offered. He wanted to wait and see if he could get a
6 better plea.

7 Q. There was no official offer from Ron?

8 A. Correct.

9 Q. Do you know what the maximum sentence on each of your
10 charges was?

11 A. I know each one of the CSC's, the attempted and the CSC
12 second degree carries a total of 20 -- 20 years
13 minimum. And then the solicitation and the criminal --
14 dissemination of materials carries 10 each.

15 Q. Did you get the maximum sentence on each charge?

16 A. I'm not sure.

17 Q. Okay. While you were in jail, how often did you meet
18 with your attorney?

19 A. I met with him four times within the year I was
20 there -- or almost the year I was there.

21 Q. Did he go over your discovery materials with you?

22 A. He went over partial of it.

23 Q. Did you ever ask that he be relieved as counsel?

24 A. Yes, I did.

25 Q. How did you go about doing that?

ISAAC FLYNN DIRECT BY MS. GOLDBERG

1 A. While I was in county, I tried to contact Neil several
2 times through letters. Also, my brother and my father,
3 at the time when he was living, came down. My mother
4 made two visits down. They had tried to call Neil
5 Riley's office several times to get Neil Riley to come
6 see me and to get information on what was going on my
7 case. And Neil Riley said -- told them that he could
8 not speak with them. When they were -- whenever Neil
9 Riley first came at the very first beginning to see me
10 and introduce himself, I asked him plainly to talk to
11 my family. He said I can't do that unless you
12 handwrite me a note, and I handwrote him a note that
13 day sitting right there in front of him and give it to
14 him. And he said he would keep in contact with my
15 family and let them know everything that was going on.

16 I got the Bar Association's address while I was in
17 county, wrote them. I had also wrote Doug Strickland
18 letters letting him know about Mr. Riley and how he was
19 failing to let me know what was going on with my case,
20 letting my family know what was going on, and that he
21 wasn't coming to see me. I also -- I told Doug
22 Strickland in the letters that I wished that -- I would
23 like to get, you know, Riley removed from my counsel.
24 I, also, then sent letters to Neil Riley asking him to
25 remove himself from my counsel.

ISAAC FLYNN DIRECT BY MS. GOLDBERG

1 Q. Did you write to the clerk of court as well?

2 A. Yes, I did.

3 MS. GOLDBERG: Your Honor, may I approach?

4 THE COURT: Yes, ma'am.

5 (Plaintiff's Exhibit No. 1 was marked

6 for identification.)

7 BY MS. GOLDBERG::

8 Q. Mr. Flynn, I put a document in front of you. Can you
9 tell me what that is?

10 A. It's one of the letters on October 15th I wrote to the
11 clerk of court's office.

12 Q. That letter doesn't specifically ask that he be
13 relieved as counsel, does it?

14 A. No, ma'am.

15 Q. But it was one of the letters you wrote expressing your
16 dissatisfaction with Mr. Riley?

17 A. Yes.

18 Q. Okay.

19 MS. GOLDBERG: At this time, I would like to enter
20 this document into evidence.

21 MS. KERRIGAN: No objection.

22 THE COURT: All right. Without objection.

23 MS. GOLDBERG: Thank you, Your Honor.

24 (Plaintiff's Exhibit No. 1 was admitted
25 into evidence.)

ISAAC FLYNN DIRECT BY MS. GOLDBERG

1 BY MS. GOLDBERG::

2 Q. Why did you want Mr. Riley removed from your case?

3 A. Because I didn't feel like he was representing me to
4 the best of his ability.

5 Q. When you went to court on February 25th, did you know
6 what was going to happen that day?

7 A. He -- he had come and told me what we was going to be
8 going in to face, but he said I can't guarantee that's
9 what we're going to get, but I didn't know exactly all
10 total what all was going to be going on that day.

11 Q. Did you know you were going to be pleading guilty that
12 day?

13 A. Yes, ma'am.

14 Q. Did you understand that the State was going to be
15 asking for a 20-year sentence?

16 A. That's what he said that they were going to be asking
17 for.

18 Q. Do you have copy of the transcript or have you read a
19 copy of the transcript?

20 A. Yes, ma'am, I do.

21 Q. Okay. During the hearing --

22 MS. GOLDBERG: And I will make this easier for the
23 Court.

24 BY MS. GOLDBERG::

25 Q. On page four of the transcript, the attorney general

ISAAC FLYNN DIRECT BY MS. GOLDBERG

1 states at the bottom that they were requesting 20 years
2 on these charges in consideration of there being
3 additional charges of criminal solicitation and
4 dissemination of obscene material to the minor victim
5 in this case the State does not charge. Was that your
6 understanding of the plea agreement?

7 A. Yes, ma'am.

8 Q. You knew that they could charge other offenses that
9 they were not going to?

10 A. Right.

11 Q. What was on your criminal record prior to this plea?

12 A. Prior?

13 Q. Yeah.

14 A. The only thing I've had is worthless checks, taking
15 property under false pretenses, one count of
16 embezzlement.

17 Q. Nothing violent?

18 A. No, ma'am.

19 Q. Nothing sexual in nature?

20 A. No, ma'am.

21 Q. When you pled guilty, you admitted the criminal sexual
22 conduct charge because of the physical relationship you
23 had with a 15-year-old, is that right?

24 A. Yes, ma'am.

25 Q. You also admitted -- pled guilty to the other charges,

ISAAC FLYNN DIRECT BY MS. GOLDBERG

1 which resulted out of an undercover sting by law
2 enforcement?

3 A. Yes, ma'am.

4 Q. Now, on page 13 of the transcript, lines three through
5 six, the attorney general states that you also admitted
6 having sexual conduct with a 15-year-old victim in this
7 case, this is the one you pled to, but also admitted to
8 having sex with another 16-year-old girl in Maryland.

9 Is that true?

10 A. Yes, ma'am.

11 Q. What are the circumstances of that?

12 A. Well, first the -- they thought the girl in Maryland
13 was under age. Lieutenant Cannapal followed up on that
14 investigation and come to find out, she was, in fact,
15 legal age.

16 Q. What age was she?

17 A. She was 17.

18 Q. So it was not true that you admitted having sex with a
19 16-year-old?

20 A. Right.

21 Q. She was 17 years old?

22 A. Yes, ma'am.

23 Q. On the -- in the next paragraph, the attorney general
24 states that statements were given to law enforcement by
25 young girls stating that you told the victim's

ISAAC FLYNN DIRECT BY MS. GOLDBERG

1 stepsister, who was 12, that you would give her a
2 hundred dollars if she would ride around on her scooter
3 topless? Is that related to the charges that you pled
4 guilty to?

5 A. No, ma'am.

6 Q. Is that anything that you ever confessed to?

7 A. No, ma'am.

8 Q. Is that anything you ever put in your written
9 statement?

10 A. No, ma'am.

11 Q. Were you charged with that?

12 A. No, ma'am.

13 Q. It also states that you also told another 12-year-old
14 girl that you would give her 20-dollars to take her
15 shirt off. Did you ever confess to that?

16 A. No, ma'am.

17 Q. Put it in your written statement?

18 A. No, ma'am.

19 Q. Were you charged with that?

20 A. No, ma'am.

21 Q. To your knowledge, was there any evidence of either of
22 these?

23 A. No, ma'am.

24 Q. The next paragraph, beginning with line 13, the victim
25 provided additional information regarding a cousin she

ISAAC FLYNN DIRECT BY MS. GOLDBERG

1 has in Maryland, who I believe was 16, that Mr. Flynn
2 also traveled to have sexual intercourse with and sent
3 her images of child pornography. Do you know what this
4 has anything to do with?

5 A. No, ma'am. I do know that they said -- Steve Cannapal
6 did say that they took my computer and they scanned it
7 for child porn and said that there was no child porn on
8 my computer. So I did not receive any charges for that
9 either.

10 Q. And none of that is anything you ever confessed to?

11 A. No, ma'am.

12 Q. Nothing you were ever charged for?

13 A. No, ma'am.

14 Q. Now, after all of this was all said by the attorney
15 general, your lawyer did object, isn't that right?

16 A. Yes, he did -- well, he was -- he stood there and I,
17 actually, leaned over and told Mr. Riley myself and --
18 because my mother tugged on me and I looked at her and
19 my mother shook her head and I leaned over and told
20 Mr. Riley that this is nothing -- this has nothing to
21 do with what we're here for today. And that is when
22 Mr. Riley spoke up and said quote, Your Honor, this has
23 nothing to do with what we're here for today.

24 Q. So you pointed that out to him and he spoke up and
25 objected?

ISAAC FLYNN DIRECT BY MS. GOLDBERG

1 A. Yes, ma'am.

2 Q. Okay. He did not ask if he could -- if you all could
3 stand down at that point in time, correct?

4 A. No, ma'am.

5 Q. The attorney general then clearly stated in the
6 transcript that this was all -- this has all shown a
7 continued desire to solicit under-age girls. Do you
8 remember reading that?

9 A. Yes, ma'am.

10 Q. Now, the solicitor asked for the 20-year sentence, is
11 that right?

12 A. Yes, ma'am.

13 Q. What did your lawyer ask for?

14 A. He asked for a split sentence.

15 Q. So this is not the negotiated plea?

16 A. No, ma'am.

17 Q. There was no agreed-upon sentence?

18 A. I don't think so, no, ma'am.

19 Q. To your knowledge, sentencing was up to the judge?

20 A. Right.

21 Q. Did you talk to your attorney immediately after the
22 plea?

23 A. No, ma'am, I did not.

24 Q. Do you remember if immediately after the plea if you
25 remained in the courtroom for a while?

ISAAC FLYNN DIRECT BY MS. GOLDBERG

1 A. I remained, then he brought out the other guy that was
2 in county with me back in. They went ahead and
3 finished us. Ms. Miles left. Neil Riley and my family
4 walked out on the -- out in the hallway. My brother
5 told me the next day when he came back down to see me,
6 he goes, I told Mr. Riley to please check on you to
7 make sure you was okay.

8 During the process of the week that I was still
9 there in county, I sent a staff request with Lieutenant
10 Cato and Harvey to the -- Mr. Riley's office asking him
11 to please come see me. Before they had me up in the
12 holding cell, I could see Mr. Riley coming in and going
13 out. And I kept getting trying to get the sergeant and
14 the lieutenant to try to get him to talk to me. I was
15 trying to inform them before I left that I was trying
16 to get Mr. Riley to notify that I did want to get an
17 appeal started.

18 Q. You wanted him to file notice of appeal?

19 A. Yes, ma'am.

20 Q. And he never checked with you immediately after the
21 plea to ask if you wanted that?

22 A. No, ma'am.

23 Q. And while you were in jail, you attempted to send
24 messages to him?

25 A. Yes, ma'am.

ISAAC FLYNN CROSS BY MS. KERRIGAN

1 Q. Did you ever -- did you only ask -- did you only try to
2 send messages to have him see you or did you try to
3 relay the message that you wanted him to file notice of
4 appeal?

5 A. Well, I tried to do both. And, again, my brother and
6 which my father was at living at the time, tried to
7 call his office and again left voice mails, my son
8 would like to see you because he would like to file
9 appeal.

10 Q. Okay.

11 A. And Mr. Riley never came and followed up with me on
12 that.

13 Q. You would be through this PCR asking this Court to
14 allow you the opportunity to appeal this matter?

15 A. Yes, ma'am.

16 Q. You're also asking this Court to allow you to be
17 resentenced?

18 A. Yes, ma'am.

19 Q. All right.

20 MS. GOLDBERG: No further questions.

21 THE COURT: All right.

22 Ms. Kerrigan.

23 CROSS-EXAMINATION

24 BY MS. KERRIGAN::

25 Q. Good morning, Mr. Flynn.

ISAAC FLYNN CROSS BY MS. KERRIGAN

1 A. Good morning.

2 MS. KERRIGAN: May it please the Court?

3 THE COURT: Yes, ma'am.

4 BY MS. KERRIGAN::

5 Q. Mr. Flynn, how many times did you meet with Mr. Riley?

6 You said four times he came to the jail, is that all
7 you can remember? Did you ever meet with him any other
8 time?

9 A. No, ma'am, he only came to see me four times while I
10 was in county.

11 Q. Did you ever meet with him when you had any bond
12 hearings or any other times in the courtroom beyond
13 those four?

14 A. Never had any bond hearings.

15 Q. You were never brought to the courtroom between when
16 you were arrested and your guilty plea?

17 A. No, ma'am.

18 Q. Okay. And was Mr. Riley the only attorney working on
19 your case?

20 A. Yes, ma'am.

21 Q. You testified before that he showed you parts of your
22 discovery, correct?

23 A. Yes, ma'am.

24 Q. What parts did he show you?

25 A. He -- he, basically, showed me the statements I wrote

ISAAC FLYNN CROSS BY MS. KERRIGAN

- 1 out and asked me if those was correct. He showed me
2 the pictures of my mother's home where I was currently
3 staying in North Carolina and asked me if that was the
4 correct address and stuff of where I was living and I
5 told him yes.
- 6 Q. Did he ever show you any of the internet chats that
7 were recorded between you and this 14-year-old persona?
- 8 A. The 14-year-old, yes, ma'am, he did.
- 9 Q. Okay. Did he show you the phone records between you
10 and this 14-year-old persona?
- 11 A. No, ma'am.
- 12 Q. Did he show you any of the pictures that you had sent
13 the 14-year-old persona of your genitalia?
- 14 A. No, ma'am.
- 15 Q. Do you deny sending pictures of your genitalia to the
16 14-year-old?
- 17 A. No, ma'am.
- 18 Q. Did he show you any of the victim's statements from the
19 minor victim that you did have sexual acts with?
- 20 A. No, ma'am.
- 21 Q. You never saw those statements ever?
- 22 A. No, ma'am.
- 23 Q. Did he show you the statements from several other
24 witnesses and family members of the minor victim?
- 25 A. No, ma'am.

ISAAC FLYNN CROSS BY MS. KERRIGAN

1 Q. So you weren't aware of the allegations against her
2 12-year-old stepsister or other 12-year-olds until you
3 came to court that day?

4 A. Until I came to court that day.

5 Q. You testified before that you did know of some of the
6 other charges the State could bring against you,
7 correct?

8 A. Right.

9 Q. What charges were those to your understanding?

10 A. The ones that Lieutenant Cannapal told me about with
11 the -- supposedly, being the minor up in Maryland. He
12 said that it could result to charges at a later date.
13 Lieutenant Cannapal did -- he said, I am going to do an
14 investigation on this and he goes, I will get back with
15 you. Lieutenant Cannapal did get back with me at a
16 later date and let me know that the girl was of age and
17 that there was not going to be any charges pursued.

18 Q. How did he get back with you and let you know this?

19 A. He came and talked to me.

20 Q. When you were represented by Mr. Riley?

21 A. Before he -- before he was still appointed.

22 Q. Okay. What date was that that he came and told you
23 there were not going to be charges filed for the
24 Maryland cases?

25 A. I'm not sure now.

ISAAC FLYNN CROSS BY MS. KERRIGAN

1 Q. And you testified that you did have a physical sexual
2 relationship with her, but she was 17 at the time, not
3 16?

4 A. Right.

5 Q. Is there any other discovery that Mr. Riley reviewed
6 with you?

7 A. I don't remember.

8 Q. Did you ask him for a copy of your discovery?

9 A. I did.

10 Q. Did he ever give you a reason what he wouldn't give it
11 to you?

12 A. No, ma'am.

13 Q. Do you recall the date when he reviewed the discovery
14 with you?

15 A. We went to court in February. I want to say about late
16 July, first of August.

17 Q. Late July, first of August is when you reviewed the
18 parts of discovery, correct?

19 A. Right.

20 MS. KERRIGAN: May I approach, Your Honor?

21 THE COURT: (The witness nodded head.)

22 BY MS. KERRIGAN::

23 Q. When you wrote Plaintiff's Exhibit 1 to the clerk of
24 court, you had already seen part of your discovery,
25 correct?

ISAAC FLYNN CROSS BY MS. KERRIGAN

1 A. I seen it.

2 Q. Okay. And in there, you say that you haven't seen it,
3 correct?

4 A. No, I said --

5 Q. You want a copy?

6 A. I have asked and --

7 If it please the Court, can I read it?

8 THE COURT: Sure.

9 THE WITNESS: It says, I have asked Mr. Riley for
10 a copy of my discovery. I have been in jail for seven
11 months and still have not gotten a copy of my discovery.
12 This is why -- this is why I'm now turning to you for help
13 to help get a copy of my discovery. Also, Mr. Riley has
14 been -- was to get me in court on the week of June 25th for
15 a bond hearing. He told me -- he told me that he didn't
16 know why I did not go. I don't want a bond, I just want to
17 get in court and go ahead with my case. So maybe I can --
18 so maybe when I send -- so maybe when you send me a copy of
19 my discovery, you could also please try to let me know of a
20 court date.

21 BY MS. KERRIGAN::

22 Q. And so your testimony is that you asked Mr. Riley for a
23 copy of your discovery in full and he refused to give
24 it to you?

25 A. Right.

ISAAC FLYNN CROSS BY MS. KERRIGAN

1 Q. Do you recall discussing possible defenses with Mr.
2 Riley?

3 A. No, ma'am.

4 Q. Did you tell him you wanted to go to trial?

5 A. No, ma'am.

6 Q. Did you tell him you wanted to plead guilty?

7 A. I told him I'd like to go ahead and get it over.

8 Q. So did you ever want a trial?

9 A. No, ma'am.

10 Q. Did you ask him to try to negotiate the best deal
11 possible with the State?

12 A. Yes, I did.

13 Q. Did you ever give him any potential witnesses that
14 could be used in your defense?

15 A. No, ma'am.

16 Q. And you testified before that two weeks or sometime
17 before, Ron Moak had made an unofficial offer of 20
18 years, correct?

19 A. Yeah, that's why he come -- he come to me and told
20 me between the time I got locked up and the time before
21 we went to court, Riley -- Ron Moak had made an offer
22 of 20 years. Riley told me, then he said, I don't
23 sufficiently think that's the best offer we can get.
24 He goes, I would like -- I thought I would wait and see
25 if I could get a better deal before I brought anything

ISAAC FLYNN CROSS BY MS. KERRIGAN

1 to you. Like I said, the solicitor went back on
2 June the 25th for a bond hearing and that got pushed
3 off.

4 Q. Did -- and you said it was about two weeks before when
5 you realized the AG's office was involved in
6 prosecuting your case?

7 A. I didn't even know the AG's office was involved until
8 we went to court.

9 Q. Were you aware that the State was going to be making a
10 recommendation of 20 years?

11 A. I was told -- like I said, that's what he told me that
12 Ron Moak had offered.

13 Q. And I believe you testified before that Mr. Riley
14 advised you of the potential sentences for each charge,
15 correct?

16 A. Yes, ma'am.

17 Q. How much time did you understand you were facing total?

18 A. As far as I -- I didn't know. I mean, he -- I didn't
19 know exactly how much time I could have gotten.

20 MS. KERRIGAN: Your Honor, may I approach?

21 THE COURT: Yes, ma'am.

22 (Defendant's Exhibit No. 1 was marked
23 for identification.)

24 BY MS. KERRIGAN::

25 Q. Do you recognize this document that I'm handing you,

ISAAC FLYNN CROSS BY MS. KERRIGAN

1 which has been premarked for identification as

2 Defendant's Exhibit 1?

3 A. Yes, ma'am.

4 Q. What is that document?

5 A. It's the guilty plea thing, looks like, we signed.

6 Q. I'm turning to page two, is that your signature at the
7 bottom of page two?

8 A. Yes, ma'am.

9 Q. And a date on it?

10 A. Yes, ma'am.

11 Q. Okay. Is that from the date you pled guilty?

12 A. 2/25, yes, ma'am.

13 Q. Okay. And you reviewed this with Mr. Riley before your
14 plea?

15 A. Yes, ma'am.

16 MS. KERRIGAN: I'd like to move this in as
17 Defendant's Exhibit No. 1.

18 MS. GOLDBERG: No objection.

19 THE COURT: All right.

20 (Defendant's Exhibit No. 1 was admitted
21 into evidence.)

22 BY MS. KERRIGAN::

23 Q. Mr. Flynn, if you will look at question number two
24 right there, it says the maximum sentence I could get,
25 correct?

ISAAC FLYNN CROSS BY MS. KERRIGAN

- 1 A. Yes, ma'am.
- 2 Q. What does it say the maximum sentence is?
- 3 A. Sixty.
- 4 Q. So you understood the day of your plea that you were
- 5 facing 60 years if the judge ran them all
- 6 consecutively, correct?
- 7 A. If he run them consecutively, yes, ma'am.
- 8 Q. And then below it, number three, does that say the
- 9 sentence the State is recommending?
- 10 A. Yes, ma'am, 20.
- 11 Q. Twenty years concurrent, correct?
- 12 A. Right.
- 13 Q. So you knew before you went in for your plea, the State
- 14 was going to be asking for a 20-year sentence, correct?
- 15 A. Yes, ma'am.
- 16 Q. If you will review this to yourself for a moment and
- 17 look at the other questions, I'm going to have some
- 18 general questions for you about this two-page form.
- 19 A. (Witness complies.)
- 20 Q. Does this form indicate that Mr. Riley reviewed all
- 21 your constitutional rights with you?
- 22 A. Yes, ma'am.
- 23 Q. Did he explain those rights to you either before or
- 24 while you were filling this out?
- 25 A. Before.

ISAAC FLYNN CROSS BY MS. KERRIGAN

1 Q. And you answered all of these questions truthfully,
2 correct?

3 A. Yes, ma'am.

4 Q. If you could, turn to the second page and look at 17.
5 The question asked, Has your lawyer gone over all your
6 rights and all circumstances of the charges with you,
7 correct?

8 A. Yes.

9 Q. And you indicated yes, correct?

10 A. Yes.

11 Q. So he had gone over all of those things with you for
12 these four charges, correct?

13 A. Right.

14 Q. And you were aware that there were other charges the
15 State was not going to be bringing against you, but
16 could possibly, correct?

17 A. Well -- I said that the only ones I knew that they
18 could pursue that they was -- that they were trying to
19 pursue is one that Steve Cannapal had brought up and he
20 said he did the investigation.

21 Q. And regarding the Maryland charges, you understood that
22 those weren't charges that South Carolina could
23 prosecute because it wasn't against a South Carolina
24 citizen, correct?

25 A. Right.

ISAAC FLYNN CROSS BY MS. KERRIGAN

- 1 Q. And if you will look at question number 18, you
2 indicated you were satisfied with Mr. Riley's
3 representation, correct?
- 4 A. Yes.
- 5 Q. And you signed this sworn statement, correct?
- 6 A. Right.
- 7 Q. So on that date, you indicated you were satisfied with
8 Mr. Riley's representation, correct?
- 9 A. Yes, ma'am.
- 10 Q. You also told Judge Cooper that you were satisfied with
11 Mr. Riley's representation, correct?
- 12 A. Yes, ma'am.
- 13 Q. And you were under oath then, correct?
- 14 A. Yes, ma'am.
- 15 Q. But now you're saying and presenting letters that you
16 weren't satisfied with him, correct?
- 17 A. The letters was already out there before we even went
18 to court. And I was told I had to say that I was happy
19 with his defense.
- 20 Q. Who told you had to say that?
- 21 A. He did.
- 22 Q. Were you satisfied on the day of your plea with
23 Mr. Riley?
- 24 A. No, I wasn't.
- 25 Q. Why did you lie to the Court?

ISAAC FLYNN CROSS BY MS. KERRIGAN

1 A. The -- from what he told me, I had to say that in order
2 to get this agreement, that we had to proceed and I had
3 to say that I was happy with his representation.

4 Q. Well, what agreement, Mr. Flynn, because you said
5 before the State was going to be asking for 20 years,
6 but you knew there was no agreement, that you could get
7 any sentence?

8 A. The judge could -- the judge could have said no, I
9 don't agree with this and give me the 60.

10 Q. So you understood you could get up to 60 years when you
11 pled guilty that day, correct?

12 A. Right.

13 Q. And you got 20 years, correct?

14 A. Yes.

15 Q. And your testimony is Mr. Riley advised you to lie and
16 say you were happy with him so you could get a better
17 sentence?

18 A. Riley knew I wasn't happy with him.

19 Q. But you told the Court you were under oath?

20 A. Yes.

21 Q. And you testified before it was your decision to plead
22 guilty and you never wanted a trial, correct?

23 A. Right.

24 Q. Do you recall telling Judge Cooper during your guilty
25 plea that you wanted to plead guilty?

ISAAC FLYNN CROSS BY MS. KERRIGAN

1 A. Yes, ma'am.

2 Q. Do you recall agreeing with the facts presented by the
3 State during your guilty plea proceeding?

4 A. Up until the -- I agreed with what I was charged for
5 that day.

6 Q. Do you have a copy of the guilty plea transcript up
7 there with you?

8 A. It's in my folder.

9 Q. I may have a copy.

10 MS. KERRIGAN: A moment's indulgence, Your Honor.

11 May I approach, Your Honor?

12 THE COURT: Yes, ma'am.

13 BY MS. KERRIGAN::

14 Q. Mr. Flynn, I'm handing you the original of your guilty
15 plea transcript and I'm turning it to page 15. If you
16 want to briefly review that page and the page before
17 that where the prosecutor is going over the facts
18 giving rise to these charges.

19 A. Okay.

20 Q. If you'll read for the Court lines nine through 13,
21 please, on page 15.

22 A. As to the allegation and factual allegations based on
23 these four indicated, he hasn't been indicated for
24 anything else. Are those facts true? Yes, sir.

25 Q. So you indicated these facts were true and correct, you

ISAAC FLYNN CROSS BY MS. KERRIGAN

1 were -- you had committed those offenses giving rise to
2 the charges, correct?

3 A. Right.

4 Q. Do you recall telling Judge Cooper that you were, in
5 fact, guilty of these four offenses?

6 A. Of the four offenses, yes, ma'am.

7 Q. So you are, indeed, guilty of those four offenses?

8 A. Yes, ma'am.

9 Q. One of your allegations is that Mr. Riley didn't keep
10 you apprized of your case pre-plea, correct --

11 A. Uh-huh.

12 Q. -- he didn't inform you of what was going on? What,
13 specifically, did he not inform you about or keep you
14 up to date with?

15 A. Like I said, you know, when there -- I mean, I know
16 most attorneys -- or I know if I was, my client, if you
17 came to me and offered me -- my client 20 years, I
18 would go to him then, I wouldn't wait four or five
19 months and then go two weeks prior to going to court
20 saying this is the plea that I got and this is the only
21 plea I can get you.

22 Q. When you say four or five months before you would have
23 gone to them, do you know that Ron Moak made a plea
24 offer of 20 years four to five months before?

25 A. Like I said, I know prior to -- before I had wrote the

ISAAC FLYNN CROSS BY MS. KERRIGAN

1 letter in October, I didn't know that Ron Moak had
2 already offered the time at some point in time. I know
3 after this, that after I sent this letter on
4 October 15th, Riley did come and visit me in the county
5 and let me know that Moak had offered 20 years. And he
6 told me then that he didn't feel it was sufficient or
7 he thought he could get a better deal.

8 Q. Another one of your allegations is that you asked him
9 -- you wanted to file an appeal and you tried to get in
10 touch with him to file an appeal, correct?

11 A. The week of the 25th, yes, ma'am. I went to court on
12 that Monday. I went back that evening. And I tried
13 from Tuesday to that Friday to -- like I said, I sent a
14 staff request form with Lieutenant Cato and Harvey to
15 the courthouse for Mr. Riley. And every time I seen
16 him come into the jail -- I had been moved from my pod
17 in the back up to the front. I could see lawyers come
18 and go and every time I would see them come in, I would
19 talk with, I think her name was Sergeant Bradshaw and I
20 believe the gentleman's name, Sergeant Jim Robinson,
21 and told them I would like to talk with Riley. And I
22 even pulled, I don't know the woman's name that's over
23 the jail, but.

24 Q. Did you ever request in writing that Mr. Riley file an
25 appeal on your behalf? I know you said you wrote

ISAAC FLYNN REDIRECT BY MS. GOLDBERG

1 letters requesting he come visit you, but did you ever
2 write him and say please file an appeal on my behalf?

3 A. I didn't have no envelopes.

4 Q. You knew --

5 A. I was indigent.

6 Q. You knew you had 10 days --

7 A. I understand that.

8 Q. -- because you're Exhibit No. -- Defendant's Exhibit
9 No. 1, question 21, clearly, says you have 10 days,
10 correct?

11 A. Right.

12 Q. And then Judge Cooper told you you had 10 days,
13 correct?

14 A. Yes.

15 Q. And you didn't put anything in writing to Mr. Riley
16 saying that you wanted an appeal, correct?

17 A. I sent -- that's what I wrote on the request form that
18 I sent with Lieutenant Cato and Harvey, that I wanted
19 him to file that appeal.

20 Q. You put that in writing with a request to Mr. Riley?

21 A. Yes, ma'am.

22 Q. Do you have copies of any of those?

23 A. No, ma'am, I do not, not with me.

24 Q. And, again, you pled guilty knowing you could get up to
25 60 years, correct?

ISAAC FLYNN REDIRECT BY MS. GOLDBERG

1 A. Yes, ma'am.

2 Q. And you didn't get 60 years, you got 20, correct?

3 A. Right.

4 MS. KERRIGAN: No further questions, Your Honor.

5 THE COURT: Ms. Goldberg?

6 MS. GOLDBERG: Yes, briefly, Your Honor.

7 REDIRECT EXAMINATION

8 BY MS. GOLDBERG::

9 Q. Mr. Flynn, you just stated that when you were trying to
10 -- let me back up, during the course of Mr. Riley's
11 representation, you wrote letters to several people,
12 you stated that?

13 A. Yes, ma'am.

14 Q. Okay. After your guilty plea when you were attempting
15 to get in touch with Mr. Riley and to tell him that you
16 wanted to file notice of appeal, you said you didn't
17 have any envelopes?

18 A. Right.

19 Q. Is there any particular reason why you didn't have any
20 envelopes at this time that you had previously during
21 your incarceration?

22 A. When I first was incarcerated, I went in with money.
23 And trying to get everything situated while I was in
24 county with my child in Canada and my other one in
25 Texas. I was trying to get things situated with them

ISAAC FLYNN REDIRECT BY MS. GOLDBERG

1 as well as my mother's health and my father's health at
2 the point in time. I was writing Neil Riley. Like I
3 said, I wrote several letters to him, to the clerk of
4 court and as well as to Douglas Strickland letting them
5 know about how Riley was doing me and I just ran out of
6 money.

7 Q. Okay. So earlier, you had been able to use your
8 commissary money to pay for envelopes and stamps and
9 things like that, correct?

10 A. Yes, ma'am.

11 Q. After your guilty plea, you had no money left?

12 A. I was insufficient funds, yes, ma'am.

13 Q. Did Kershaw Detention Center have the mechanism whereby
14 you could get those things because you didn't have any
15 money?

16 A. They did, but if I would have did it, the form --

17 Q. Uh-huh.

18 A. -- I wouldn't have got into it after I went to state
19 anyway.

20 Q. It takes a while before you get those documents?

21 A. Yes, ma'am. It takes about a week.

22 Q. So you had no possibility of being able to write and
23 mail him anything at that point?

24 A. That's when they brought me a staff request and
25 Lieutenant Cato said, If you write it, I can take it

ISAAC FLYNN REDIRECT BY MS. GOLDBERG

1 over there and give it to him personally, that way it's
2 not going to cost you anything. He goes, I go to the
3 courthouse everyday. I sent -- like I said, I sent one
4 with him and I also sent one with Lieutenant Harvey.

5 Q. So you did everything within your power to try and get
6 that message to Mr. Riley.

7 A. Yes, ma'am. And whenever he came in, like I said, I
8 talk to Lieutenant -- well, Sergeant Robinson and,
9 also, Sergeant Bradshaw letting them know that I would
10 like to speak to him so I could get that message to
11 him. My brother also phoned and let them know.
12 Because whenever he came down to see me, my brother was
13 like, Are you going to appeal it? I said, I've sent
14 the question -- or information letting him know that I
15 would like to file one. He goes, Would you like me to
16 call him? I said, Yes. My brother told me he
17 supposedly called down there and left a -- and said
18 that Riley was not in the office and left a message on
19 his voice mail.

20 Q. All right.

21 MS. GOLDBERG: Thank you. Nothing further.

22 THE COURT: All right.

23 MS. KERRIGAN: Nothing further, Your Honor.

24 THE COURT: All right. You may step down.

25 Anything further, Ms. Goldberg?

1 MS. GOLDBERG: No, Your Honor.

2 THE COURT: Ms. Kerrigan.

3 MS. KERRIGAN: The State would call Cornelius
4 Riley to the stand.

5 THE COURT: Come around, Mr. Riley.

6 MS. GOLDBERG: Judge, my client has asked if you
7 would allow him to have one hand free to make notes or if --

8 THE COURT: I don't what the policy is with the
9 department of corrections.

10 What is your policy?

11 CORRECTIONAL OFFICER: It's the Court's
12 discretion, Your Honor.

13 THE COURT: He can have one hand free, but I'll
14 tell you if you make a sudden move, they will shoot you. Do
15 you understand that?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: All right. And I will shoot you, too.
18 I have a gun up here, too. You understand that?

19 THE DEFENDANT: Yes, sir.

20 MS. GOLDBERG: Thank you, Your Honor.

21 BAILIFF: Place your left hand on the Bible and
22 turn around the face the clerk.

23 THEREUPON,

24 CORNELIUS RILEY,

25 after having been duly sworn, testified as follows:

CORNELIUS RILEY DIRECT BY MS. KERRIGAN

1 THE CLERK: Please have a seat, state your full
2 name for the record.

3 THE WITNESS: My name is Cornelius J. Riley. I go
4 by Neil.

5 DIRECT EXAMINATION

6 BY MS. KERRIGAN::

7 Q. Good morning, Mr. Riley?

8 A. Good morning.

9 Q. How long have you been practicing law?

10 A. Since May of 1986.

11 Q. What percentage of your practice is criminal defense
12 work?

13 A. Now, all of it because I am full time public defender.

14 Q. Are you the -- what's your title?

15 A. The chief county public defender for Kershaw County.

16 Q. And was that your job when you represented Mr. Flynn?

17 A. Yes.

18 Q. Do you recall the approximate date of appointment?

19 A. No, but it would have been within a couple of weeks
20 after his arrest. The paperwork takes a little bit of
21 time.

22 Q. Do you recall how many times you met with Mr. Flynn
23 prior to his guilty plea?

24 A. Six times. During the year of 2012, we met on
25 April 24th, June the 12th, June the 15th, September the

CORNELIUS RILEY DIRECT BY MS. KERRIGAN

1 13th, and then in 2013, twice in January.

2 Q. Did you file any Brady or Rule 5 motions on behalf of
3 Mr. Flynn?

4 A. I'm sorry?

5 Q. Did you file any Brady or Rule 5 motions on behalf of
6 Mr. Flynn?

7 A. Yes.

8 Q. Did you get the materials from the solicitor's office?

9 A. Yes.

10 Q. Did you review these materials with Mr. Flynn?

11 A. I did.

12 Q. Do you recall when you reviewed them with him?

13 A. I -- on these meetings with him, I just don't recall
14 which one we went over everything.

15 Q. But you do recall going over all discovery with him?

16 A. Yes. There were some things that -- for example, the
17 extensive transcripts of the internet chats that he had
18 been engaged in, he didn't really want to look at
19 those, nor did I want to go over them because they
20 extensive.

21 Q. But you did go over them with him?

22 A. I made them available to him to go over if he wanted
23 to. He said no.

24 Q. Did you give him a copy of his discovery?

25 A. No.

CORNELIUS RILEY DIRECT BY MS. KERRIGAN

- 1 Q. Why not?
- 2 A. I advised him that it was a mistake to keep copies in
3 his cell in the detention center because I've had many
4 -- having done that with prior clients of mine, on many
5 occasions, either the materials have disappeared, been
6 stolen, or they were reviewed and disseminated among
7 all the inmates in the jail by other inmates. I told
8 him it was a bad idea, especially in crimes or dealing
9 with charges that were of a sexual nature. He didn't
10 want -- I didn't want him to have other inmates know
11 what he was charged with and he didn't want other
12 inmates to know what he was charged with.
- 13 Q. And did you let him know why you didn't think --
- 14 A. Yes.
- 15 Q. -- it would be a good idea to have the discovery? Did
16 he seem to agree with you?
- 17 A. He did, yes.
- 18 Q. Did he ever -- have you ever seen a copy of Applicant's
19 Exhibit No. 1 before?
- 20 A. Yes -- is that the petition?
- 21 Q. No.
- 22 A. That's the letter?
- 23 Q. Yes. I'm going to hand you Applicant's Exhibit No. 1.
24 Have you ever seen that before?
- 25 A. No, I haven't.

CORNELIUS RILEY DIRECT BY MS. KERRIGAN

1 Q. Did you ever get any similar letters requesting a copy
2 of your discovery -- or his discovery from Mr. Flynn?

3 A. Well, I got copies -- I received many letters from
4 Mr. Flynn over the 11 months of my representation. He
5 frequently mentioned discovery. I don't know if he did
6 not remember having reviewed everything or if -- you
7 know, I just don't know, but, you know, it was
8 something he raised frequently, but I kept reminding
9 him we had reviewed all of that material.

10 Q. Did you make the discovery available to him during
11 those six meetings in case he wanted to review it an
12 additional time?

13 A. Say it again.

14 Q. Did you make the discovery materials available to him
15 during these six meetings in case he wanted to review
16 it an additional time?

17 A. Yes. I always brought my whole file down there when I
18 met with him.

19 Q. Did you discuss the four charges that Mr. Flynn has
20 been charged with with him and the elements the State
21 would be required to prove?

22 A. Yes.

23 Q. Did he seem to understand these four charges?

24 A. He did.

25 Q. Were you aware of any other pending or possible charges

CORNELIUS RILEY DIRECT BY MS. KERRIGAN

1 the State could bring against him?

2 A. There was a good bit of evidence that there could have
3 been other charges brought, but I never got any
4 indication from the solicitor's office the time they
5 were handling Mr. Flynn's case that they were planning
6 on bringing other charges against him.

7 Q. Was Mr. Flynn aware of the information that could have
8 given rise to these other charges?

9 A. Yes.

10 Q. Did you discuss it with him?

11 A. Yes.

12 Q. Did you explain to him that the State would not be
13 pursuing any other charges when he pled guilty to these
14 four?

15 A. That was my understanding, both with the solicitor's
16 office while they were handling it and with the
17 assistant AG.

18 Q. When did --

19 A. I told Mr. Flynn that.

20 Q. When did the attorney general's office become involved
21 with Mr. Flynn's case?

22 A. Well, Ron Moak resigned rather suddenly from the
23 solicitor's office in December 2012, I don't remember
24 the exact date, and from that point, it was taken over
25 by the AG's office.

CORNELIUS RILEY DIRECT BY MS. KERRIGAN

1 Q. At that point, did you begin working on the case with
2 the attorney general's office?

3 A. Yes, ma'am.

4 Q. Did you continue plea negotiations with the attorney
5 general's office?

6 A. Yes.

7 Q. Did you discuss Mr. Flynn's version of the facts given
8 rise to these four charges with him?

9 A. Say it again.

10 Q. Did you discuss Mr. Flynn's version of the facts given
11 rise to these charges? Did he ever deny
12 sending genitalia or having inappropriate conversations
13 with a 14-year-old persona?

14 A. No, he never denied any of it.

15 Q. Did he ever deny having a physical sexual relationship
16 with a 15-year-old girl?

17 A. He never denied it.

18 Q. Did he ever indicate to you that he wanted to go to
19 trial?

20 A. No.

21 Q. Did you advise him of his rights if he was to go to
22 trial?

23 A. Yes, ma'am.

24 Q. Did you ever discuss possible defenses with Mr. Flynn
25 or since he wanted to plead guilty, was that not a

CORNELIUS RILEY DIRECT BY MS. KERRIGAN

1 major topic of discussion?

2 A. I don't recall us discussing that in any great detail
3 since he -- he never asked for a trial, he never said
4 he wanted to go to trial. He was always -- over that
5 11 months, he was eager to plead and get it behind him
6 as quickly as possible.

7 Q. Did he give you reason for why he wanted to get it
8 behind him as quickly as possible?

9 A. Well, he said he was miserable in the Kershaw County
10 Detention Center. He didn't elaborate as to why, but
11 he just -- I don't know, maybe there was -- maybe he
12 had difficulties with some of the detention guards, I
13 don't know.

14 Q. Would you briefly characterize for the Court the
15 evidence against Mr. Flynn for these four charges?

16 A. Well, there were -- as I mentioned a minute ago, there
17 were extensive transcripts of online chats between him
18 and what he thought was a 14-year-old girl. He had
19 traveled -- had made -- over the course of their
20 conversations had made arrangements to drive down from
21 Gastonia to Kershaw County to meet with her. She had
22 asked him to bring vodka, condoms and some body lotion.
23 He did, in fact -- you know, after all of the details
24 of when and where they were going to meet, he did drive
25 down from North Carolina. As soon as he was

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1 apprehended and before I was even appointed as his
2 attorney, he had confessed. He also confessed to the
3 conduct with the 15-year-old, who lived in Lugoff, I
4 believe, Lugoff or Elgin. So, you know, all of that
5 was a matter of record before I ever met him for the
6 first time. And he didn't deny any of it.

7 Q. Did he ever tell you his statements weren't voluntary
8 or ask you to challenge his statements?

9 A. No, ma'am.

10 Q. He always fully admitted that he committed these four
11 different crimes?

12 A. Yes, ma'am.

13 Q. Do you recall the plea offers made by the State?

14 A. Well, Mr. Flynn testified about a tentative or
15 preliminary offer made by Ron Moak. I think there was
16 one. I don't specifically recall that, but it may have
17 been shortly before Ron resigned. There was -- as soon
18 as Ms. Miles got involved, there was a concrete offer
19 of 20 years for everything concerned.

20 Q. Was that a negotiation or a recommendation the State
21 was going to make?

22 A. Recommendation.

23 Q. Did you communicate that to Mr. Flynn?

24 A. Yes.

25 Q. Did he understand what that meant?

CORNELIUS RILEY DIRECT BY MS. KERRIGAN

1 A. Yes.

2 Q. Do you recall going over his rights with him prior
3 to -- in writing prior to his guilty plea proceeding?

4 A. Yes, ma'am.

5 MS. KERRIGAN: Your Honor, may I approach?

6 THE COURT: Yes, ma'am.

7 BY MS. KERRIGAN::

8 Q. I'm going to hand you a copy of Defendant's No. 1.

9 A. I have a copy.

10 Q. Do you recognize this from your file?

11 A. Yes.

12 Q. And this is the document you did review with him?

13 A. That's correct.

14 Q. Did you explain to Mr. Flynn that he could possibly
15 receive a 60-year sentence when he pled guilty that
16 day?

17 A. Yes, ma'am.

18 Q. And you told him the State's recommendation was for 20
19 years?

20 A. Yes.

21 Q. And did you sign this document?

22 A. I did.

23 Q. Were you present when he signed it?

24 A. Yes.

25 Q. Who's decision was it for Mr. Flynn to plead guilty?

CORNELIUS RILEY DIRECT BY MS. KERRIGAN

1 A. His.

2 Q. Do you recall the prosecutor, Bethany Miles, making
3 mention of other crimes during his guilty plea
4 proceeding?

5 A. Yes.

6 Q. What was your response to that?

7 A. Well, as that went on, she kept dwelling upon other
8 things that were completely extraneous. I finally
9 objected. I don't recall Mr. Flynn or his relatives
10 prompting me as Mr. Flynn testified to, but, anyway, I
11 objected and Judge Cooper pretty much got Ms. Miles
12 back on track is the way I would characterize it.

13 Q. Do you have a copy of the guilty plea transcript up
14 there with you?

15 A. Yes, I do.

16 Q. If you would turn to page 13, please?

17 A. If I could get a glass of water?

18 Q. Yes.

19 A. Page what now?

20 Q. Thirteen.

21 A. Okay.

22 Q. If you'll just review that, please, to yourself.

23 A. Yes, ma'am.

24 Q. If you'll particularly look at lines 21 through 24,
25 will you read that into the record, please?

CORNELIUS RILEY DIRECT BY MS. KERRIGAN

- 1 A. Judge, this has nothing to do with what he is pleading
2 to here today. All these allegations that she's
3 expressing to the Court involving other alleged victims
4 are not what we're before the Court on.
- 5 Q. And then if you'll turn to the next page, page 14, and
6 review that to yourself. Does Judge Cooper then ask
7 Ms. Miles to only state the specific facts giving rise
8 to each of the four charges then?
- 9 A. Yes. Could I read Judge Cooper's --
- 10 Q. Certainly.
- 11 A. He told Ms. Miles, Just for the record and the
12 Defendant's benefit, let me get you just to go through
13 each indictment.
- 14 Q. And did she appear to do so?
- 15 A. Yes.
- 16 Q. And if you'll turn to page 15. If you'll look at lines
17 nine through 13, does the Court then, focusing on those
18 specific four indictments, ask Mr. Flynn if he's guilty
19 of that conduct?
- 20 A. Yes.
- 21 Q. And does he indicate that he is?
- 22 A. He says, Yes, sir.
- 23 Q. Did you see any reason to stand down or move to
24 withdraw the plea based on the State's comments?
- 25 A. I really didn't.

CORNELIUS RILEY DIRECT BY MS. KERRIGAN

1 Q. Do you recall whether or not the comments about other
2 allegations with minor girls, those girls were related
3 to the minor victim in this case, correct?

4 A. Or related in the sense that they were friends of his
5 daughter or acquaintances or prior schoolmates, that
6 sort of thing.

7 Q. Some of them were, actually, family members of the
8 minor victim, correct?

9 A. Correct.

10 Q. Do you believe they were relevant in that regard to the
11 guilty plea proceeding?

12 A. Yes. I mean, from the State's perspective, clearly,
13 they were relevant. I got irritated by how much Ms.
14 Miles was dwelling on those things.

15 Q. And you objected at that point, correct?

16 A. Correct.

17 MS. KERRIGAN: Court's indulgence, Your Honor.

18 THE COURT: Yes, ma'am.

19 BY MS. KERRIGAN::

20 Q. Mr. Riley, did you inform Mr. Flynn that he had 10 days
21 to file an appeal?

22 A. Not only I did, but Judge Cooper did, too.

23 Q. And you informed him in writing in that advisement
24 sheet, correct?

25 A. Yes.

CORNELIUS RILEY CROSS BY MS. GOLDBERG

1 Q. Did you ever talk to Mr. Flynn after his guilty plea
2 proceeding?

3 A. No. As Mr. Flynn testified, he was in the courtroom
4 and I was back and forth in the courtroom for a while
5 after the guilty plea had concluded. He never tried to
6 catch my attention. He never asked one of the security
7 guards to tell me that he wanted to speak with me. He,
8 certainly, could have done either one. I was not
9 ignoring him. I was looking over to the box where they
10 keep the defendants each and every time I came into the
11 courtroom. He could have easily gotten my attention if
12 he had wanted to.

13 Q. Did you ever receive any letters or phone calls from
14 him or any family members following the guilty plea?

15 A. No, did not.

16 Q. Did he ever ask you to file an appeal on his behalf?

17 A. No.

18 Q. What's your standard course of conduct even when it's
19 been a guilty plea if a client ask you to file an
20 appeal on their behalf?

21 A. Say again, please.

22 Q. What's your standard course of conduct when you're
23 asked to file an appeal following a guilty plea?

24 A. I go ahead and file an appeal, but, of course, with a
25 guilty plea, under the appellate court rules, you have

CORNELIUS RILEY CROSS BY MS. GOLDBERG

1 to provide a reason as to why you're appealing from a
2 guilty plea and the appellate courts can decide whether
3 they're going to take the appeal or not.

4 Q. Do you believe that Mr. Flynn had a meritorious reason
5 on which to pursue an appeal from his guilty plea?

6 A. No, ma'am. If he had ever asked me to file an appeal,
7 I would have advised him that it was probably -- but we
8 never had that conversation.

9 Q. But you would have filed one if he requested?

10 A. Yes, ma'am.

11 MS. KERRIGAN: No further questions, Your Honor.

12 THE COURT: Ms. Goldberg, you ready?

13 MS. GOLDBERG: Yes, Your Honor.

14 THE COURT: All right.

15 CROSS-EXAMINATION

16 BY MS. GOLDBERG::

17 Q. Good morning, Mr. Riley.

18 A. Good morning, Ms. Goldberg.

19 Q. On the transcript on page four.

20 A. Page four?

21 Q. Yes, sir. And this has been -- we've gone over this,
22 but I just want to understand clearly.

23 A. Okay.

24 Q. Lines 21 through 25, the attorney general states that
25 they were requesting 20 years in consideration of their

CORNELIUS RILEY CROSS BY MS. GOLDBERG

1 being additional charges of criminal solicitation and
2 dissemination of obscene material to the victim in this
3 case that they're not charging?

4 A. That's correct.

5 Q. Would you agree that she, essentially, is making it
6 sound to the Court like that was a part of the plea
7 negotiations?

8 A. It reads that way, yes, ma'am.

9 Q. Was that part of the plea negotiations?

10 A. Not to my recollection. That was never referenced in
11 my discussions with Ms. Miles.

12 Q. What were -- and I think you said on direct that there
13 was evidence of other charges. Do you know or do you
14 recall what other charges would have been brought?

15 A. Well, there were -- of course, one of the charges dealt
16 with his transmitting a photograph of his penis to the
17 girl, or who he thought was the girl. There were other
18 pictures that were transmitted, but were not singled
19 out and made the subject of a new charge.

20 Q. So to the best of your recollection, it's just that
21 there may have been more than one photograph or in more
22 that one conversation?

23 A. Yeah, and I -- you know, that was -- neither when Mr.
24 Moak was handling it nor when Ms. Miles took over, was
25 there -- they weren't threatening to do that. They

CORNELIUS RILEY CROSS BY MS. GOLDBERG

1 were hinting at doing that. That was a minor side
2 issue as far as I was concerned.

3 Q. All right. And then if you will go with me to page 13?

4 A. Okay.

5 Q. Page 13 of the transcript pretty much encompasses all
6 of where Ms. Miles talks about other incidents that
7 were unrelated to -- arguably, unrelated to what Mr.
8 Flynn was, actually, pleading guilty to?

9 A. Yes, ma'am.

10 Q. To the best of your recollection, was there, actually,
11 evidence of any of these?

12 A. I didn't know about the Maryland allegation, I didn't
13 know much about those, so I don't know what they had up
14 their sleeve, if anything, as to that subject. But the
15 stuff pertaining to Kershaw County, you know, I felt
16 like they were just setting up straw men, you know, I
17 wasn't concerned with. I wasn't -- I had no worries
18 about them, actually, pursuing other charges against
19 Mr. Flynn.

20 Q. Okay. Did you think any of that was based on reliable
21 information?

22 A. Could have been. I mean, I never know how prosecutors
23 think.

24 Q. But you didn't expect that there were going to be any
25 charges from any of that?

CORNELIUS RILEY CROSS BY MS. GOLDBERG

- 1 A. No, ma'am.
- 2 Q. You objected when attorney general brought up all that
3 information, correct?
- 4 A. Yes.
- 5 Q. And Ms. Miles, clearly, made all these statements for
6 the purpose of having the judge consider it in
7 sentencing, would you agree with that?
- 8 A. Sure. I mean, that's why she went on and on about
9 that.
- 10 Q. It was for the hopes that the judge would sentence him
11 to as high a sentence as possible, is that right?
- 12 A. I'm sure she was hoping to do that.
- 13 Q. And --
- 14 A. Let me -- if I could interject?
- 15 Q. Absolutely.
- 16 A. My recollection is that Ms. Miles and I went into Judge
17 Cooper's chambers before the guilty plea rather than
18 hit him cold with the plea proceedings, discussed it
19 with him and Judge Cooper pretty much indicated that he
20 was comfortable with the recommendation. So I had a
21 great deal of confidence that he wasn't going to up it,
22 okay.
- 23 Q. But at the same time, Ms. Mile was hoping, you would
24 assume, that the judge was going to give her what she
25 was recommending, give Mr. Flynn the recommended

CORNELIUS RILEY CROSS BY MS. GOLDBERG

1 sentence?

2 A. That she was hoping?

3 Q. Yes.

4 A. That's what she was recommending, so she was adopting
5 that sentence recommendation, sure. And, of course,
6 you know as well as I, Ms. Goldberg, that
7 prosecutors -- in the course of a guilty plea
8 proceeding, my experience is that prosecutors, for
9 whatever reasons, like to portray the defendant as the
10 most abominable person on earth. That just seems to be
11 part of their standard strategy.

12 THE COURT: That includes somebody here from the
13 Fifth Circuit, maybe a deputy solicitor?

14 THE WITNESS: I think so.

15 (Laughter.)

16 THE COURT: Go ahead.

17 BY MS. GOLDBERG:.

18 Q. Mr. Riley, in your direct, you pointed out on page 14
19 that after you objected to all of the other issues
20 being mentioned, Judge Cooper got the attorney general
21 back on track?

22 A. Yes.

23 Q. And, specifically, he told her give me the facts for
24 each indictment, is that right?

25 A. Yes, ma'am.

CORNELIUS RILEY CROSS BY MS. GOLDBERG

- 1 Q. And he did that because the judge has to have a clear
2 factual basis for every charge he's going to accept a
3 guilty plea for?
- 4 A. Yes.
- 5 Q. Is that right? So he needed to be clear as to what the
6 indictments were, actually, for?
- 7 A. Yes.
- 8 Q. Okay. And the guilty plea -- if you will look at page
9 15?
- 10 A. Fifteen?
- 11 Q. Page 15, yes, sir.
- 12 A. Okay.
- 13 Q. Lines 14 through 16.
- 14 A. Okay.
- 15 Q. That is, actually, when the guilty plea was accepted,
16 would you agree with that?
- 17 A. Yes, because Judge Cooper ends the first paragraph
18 with, I will accept his plea.
- 19 Q. So prior to the plea being accepted is when you
20 objected, is that right?
- 21 A. Well, yeah, the objection to Ms. Miles going on and on
22 about extraneous matters.
- 23 Q. Okay. The plea had not been accepted yet?
- 24 A. Right.
- 25 Q. So do you agree that you could have had the right to

CORNELIUS RILEY CROSS BY MS. GOLDBERG

1 stand down at that point in time?

2 A. Yes, but I didn't want to do that knowing he was facing
3 a potential 60 years.

4 Q. That was why you decided not to stand down?

5 A. Yes.

6 Q. And after the guilty plea, you stated that you were --
7 let me go back, while you represented Mr. Flynn, did he
8 ever write to you asking you to file a motion to be
9 relieved?

10 A. No, not that I -- now, he did -- as Mr. Flynn, I think,
11 testified to, before the guilty plea, I knew that he --
12 because I received noticed, he had a filed or lodged a
13 complaint with the Commission of Grievances and
14 Discipline. I knew that was pending. It ended up
15 being dismissed, but that was after the guilty plea was
16 over. I went ahead and represented him through to the
17 end knowing that there was a pending ethical complaint
18 against me. So he's quite correct, I knew that he
19 wasn't happy with me, but, nevertheless -- and I don't
20 know -- I don't mean to jump to conclusions about your
21 line of questioning, but --

22 Q. That's all right.

23 A. -- on the advisement of rights form, never did I tell
24 him that he had to say that he was satisfied with his
25 lawyer. That is simply not true.

CORNELIUS RILEY CROSS BY MS. GOLDBERG

1 Q. After his guilty plea, you did not go over and check in
2 with him to see if he wanted to appeal?

3 A. I didn't, no. But as I said, I was looking in that
4 direction, he never flagged me, he never asked one of
5 the security guards to please ask me to come over to
6 talk to him. He testified as to subsequently every
7 time I came into the Kershaw County jail, he tried to
8 get my attention, I don't -- I don't remember ever even
9 seeing him at the Kershaw County jail after the plea.

10 Q. Okay.

11 MS. GOLDBERG: Beg the Court's indulgence?

12 THE COURT: Yes, ma'am.

13 MS. GOLDBERG: Nothing further, Your Honor.

14 MS. KERRIGAN: Nothing else, Your Honor.

15 THE COURT: All right. You may step down, Mr.

16 Riley.

17 Anything further?

18 MS. KERRIGAN: Nothing further from the State,
19 Your Honor.

20 MS. GOLDBERG: Your Honor, I do have just some
21 brief argument.

22 THE COURT: Proceed.

23 MS. GOLDBERG: Thank you.

24 THE COURT: Well, let's let Mr. Riley sit down.

25 MS. GOLDBERG: Yes.

1 THE COURT: Yes, Ms. Goldberg.

2 MS. GOLDBERG: Thank you, Your Honor, may it
3 please the Court. As to -- in looking at our amended
4 application as to our first ground, just that Mr. Riley was
5 ineffective with communications and informing my client as
6 to his status, I think that's been testified to fully and I
7 will let the record remain on that one.

8 THE COURT: Okay.

9 MS. GOLDBERG: As to our second ground regarding
10 the irrelevant comments, Your Honor, I believe -- the
11 problem I have here, I know it's been testified to, all of
12 those comments are made on page 13. They are not incidents
13 or allegations from which there were charges. I would
14 assume that if there was enough probable cause out there
15 that he would have been charged with these things. They are
16 wholly unrelated to what he was, actually, admitting guilt
17 for, what he was, actually, supposed to be sentenced on.
18 Mr. Riley did do the right thing, I believe, in objecting,
19 but my argument would be the plea was not accepted yet,
20 those statements remained fully for the purpose of trying to
21 get Mr. Flynn sentenced higher, and Mr. Riley should have
22 stood down at that point because the plea was, for lack of a
23 better term, contaminated at that time. It doesn't appear
24 fair, Your Honor. I do have some case law, but nothing
25 directly on point. But for arguments sake, and I'll hand

1 these up to the Court, I've provided these to the attorney
2 general.

3 THE COURT: I understand, Ms. Goldberg.

4 MS. GOLDBERG: The one that I believe -- there's
5 nothing directly on point that I've been able to find. The
6 most --

7 THE COURT: The closest one.

8 MS. GOLDBERG: The closest one would be State V.
9 Gulledge, that's 326 S.C. 220, for the record, that's a 1997
10 case. All three cases -- for the record, I'll say I've
11 handed up, State V. Gulledge, State V. Thomason and State V.
12 Cantrell, they're all South Carolina cases. I will note
13 that all three of these are appellate cases. They're not
14 PCR's, they're direct appeals from the guilty plea
15 themselves.

16 In Gulledge, there is an appeal after a breach of
17 trust guilty plea. It had to do with a restitution hearing.
18 The Defendant, basically, argued the Court shouldn't have
19 considered a handwritten summary from the victim. The Court
20 was clear to say the rules of evidence do not necessarily
21 apply to sentencing hearings. However, the Court said that
22 what is offered in a sentencing hearing should be limited by
23 constitutional provisions, which require evidence to be
24 relevant, reliable and trustworthy. And in this particular
25 case, I don't believe that this information was necessarily

1 relevant. I don't believe it was necessarily reliable or
2 trustworthy as well because there was no -- it's not clear
3 that there was ever even any probable cause of the charges.
4 These are just statements that were made. I don't think
5 it's fair in a sentencing hearing for this type of
6 information to be presented.

7 THE COURT: Well, what if the State had brought
8 the victims, the first cousins or the classmates into court,
9 wouldn't they have been allowed to make a statement at that
10 time?

11 MS. GOLDBERG: If the victim herself was brought
12 into court, she would, obviously, be allowed to make a
13 statement as to whatever and I don't know that the Court
14 would necessarily feel comfortable limiting what she said.
15 So if she went off into other facts and circumstances --

16 THE COURT: Like he did the same thing to my first
17 cousin who lives next door.

18 MS. GOLDBERG: Right.

19 THE COURT: And that first cousin is there and
20 says yep, that happened to me, too.

21 MS. GOLDBERG: And the only argument I have really
22 with that is that, typically, when the victim provides
23 impact testimony, it's toward the end of the plea. This was
24 all said prior to the plea being accepted in the factual
25 basis. So at this point in time, I think the defense

1 attorney could have stood down, could have done it again.
2 While the defense attorney argued that there was an offer of
3 a recommendation of 20 years concurrent, I don't know that
4 that offer is such that it's too good to pass up and try in
5 front of a different judge. That's the maximum sentence on
6 one charge concurrent for everything.

7 That dovetails into my second ground for PCR, Your
8 Honor, which would just be failure to file notice of appeal.
9 I say that because I suppose it's -- my argument in PCR is
10 that Mr. Riley should have stood down at this point,
11 however, all of the case law I can find on point is
12 appellate direct appeal from guilty plea.

13 THE COURT: I understand.

14 MS. GOLDBERG: So I believe if Mr. Riley had filed
15 notice of appeal, this could have been an appellate issue.

16 THE COURT: But if Mr. Riley, as he argued or
17 indicated in his testimony, if he had stepped down, then
18 he's exposing his client not to 20 years, but to 60 years.
19 Obviously, he's between a rock and a hard place.

20 MS. GOLDBERG: Yes, Your Honor --

21 THE COURT: And I'm not arguing with you, I'm just
22 saying.

23 MS. GOLDBERG: You're right. And I failed to ask
24 the question and attorney general didn't either, neither of
25 us did ask Mr. Riley if there was any threat of the plea

1 being withdrawn if they stood down. I'm not sure -- or the
2 plea offer. I'm not sure if that was the case or not.

3 THE COURT: Well, I'll let Mr. Riley answer that
4 now.

5 MR. RILEY: What's the question, Judge?

6 THE COURT: The question is whether or not there
7 was any threat of the plea being withdrawn by the State or
8 by the attorney general's office at the time?

9 MR. RILEY: I don't know, Ms. Miles never said
10 that. But, obviously, Judge, if I asked to step down and if
11 Judge Cooper had granted that because he hadn't officially
12 accepted the plea, I would have ended up in front of another
13 judge and I might not have been so lucky -- Mr. Flynn and I
14 might not have been so lucky.

15 THE COURT: It was a tactical decision on your
16 part, is that correct?

17 MR. RILEY: Yes, sir.

18 THE COURT: All right.

19 MS. GOLDBERG: That's all, Your Honor.

20 THE COURT: All right.

21 Ms. Kerrigan.

22 MS. KERRIGAN: Yes, briefly, Your Honor. I will
23 just start off with the first one in Ms. Goldberg's amended
24 application in regards to Mr. Riley's ineffectiveness in
25 communicating with the applicant. The State would submit

1 there was no deficiency. We have testimony from Mr. Riley
2 that he met with his client six times. He reviewed all of
3 the discovery with him, gave him a strategic reason why he
4 did not wish to give him a copy of the discovery. And he
5 indicated that his client understood that and agreed with
6 the decision. He also advised him of all rights he had,
7 offers, and that was memorialized in Defendant's Exhibit No.
8 1, the two-page advisement of rights form that was signed by
9 both Mr. Flynn and Mr. Riley. So the State would submit
10 there's no deficiency in regards to that.

11 Furthermore, the State would also submit that no
12 prejudice has been shown by Mr. Flynn. He did not show or
13 establish what any other meetings, communications or other
14 time with Mr. Riley could have yielded. It's speculative at
15 best. And the State would submit the allegation must be
16 denied in full based on the lack of deficiency and
17 prejudice.

18 Turning to allegation number two, that trial
19 counsel had duty to stand down. The State would submit
20 there's no deficiency. Mr. Riley appropriately objected.
21 And, furthermore, he already had assurances from Judge
22 Cooper that he wouldn't go over the 20-year recommendation
23 from the State. Your Honor just heard additional commentary
24 from Mr. Riley as to why he made the strategic decision to
25 stand down at that time. The State would submit there is no

1 deficiency as he did object and gave a strategic reason for
2 why he did not stand down. The State would also submit
3 there's no prejudice because there is a valid strategic
4 reason that was given by Mr. Riley.

5 In regards to the three cases that were handed up
6 by Ms. Goldberg, I'll start with State V. Gullledge first.
7 The State would submit that's distinguishable because it
8 deals with restitution. And here, Mr. Riley properly did
9 object to the solicitor's comments. The Court reviewed the
10 specific charges and facts giving rise to each charge with
11 Mr. Riley and Mr. Flynn. And, therefore, it cured any
12 possible error. And, also, there's no prejudice because Mr.
13 Flynn was well aware the State was going to seek 20 years.
14 He educated Mr. Riley, told him he would probably get 20
15 years, but he understood he could get all the way up to 60
16 at that time.

17 Turning next to State V. Thomason, regarding that
18 the outside information must be relevant. The State would
19 submit that this information was relevant because it's all
20 related to the victim's family members and friends. It
21 showed as a continuous pattern of Mr. Flynn victimizing
22 young girls and continued victimization of this particular
23 victim because her friends and family members had been
24 impacted and sought out for sexual pleasure by Mr. Flynn.
25 Also, the State would submit that State V. Cantrell is not

1 on point either. Those cases all, as Ms. Goldberg did point
2 out, deal with appeals, not with post-conviction relief
3 matters.

4 And all three cases also show that there's no
5 right to be able to withdraw a guilty plea proceeding or to
6 stand down. The State would submit that even if Mr. Riley
7 after the plea had made a motion to withdraw, it likely
8 would have been denied because Judge Cooper cured any
9 possible error on pages 14 and 15 when he asked the
10 solicitor to go over the specific facts giving rise to each
11 of these charges. The State would submit these cases, while
12 not on point, are, actually, more beneficial to the State's
13 argument.

14 Turning to the third allegation in Mr. Flynn's
15 application, the State would submit there's no deficiency
16 for failing to file a direct appeal on his behalf. Mr.
17 Riley advised him both orally and in writing as well as
18 Judge Cooper advising him in writing that he had 10 days to
19 file an appeal. Mr. Riley testified that he remained in the
20 courtroom dealing with other clients while Mr. Flynn was in
21 there and Mr. Flynn never attempted to communicate with him
22 or let him know that he wanted to file an appeal.
23 Furthermore, Mr. Riley indicated that he was never contacted
24 by Mr. Flynn following the plea regarding an appeal.
25 Furthermore, counsel has no duty to confer with a client

1 regarding an appeal following a guilty plea proceeding, so
2 the State would submit there's no deficiency and no
3 prejudice shown.

4 THE COURT: Any reply, Ms. Goldberg?

5 MS. GOLDBERG: No, Your Honor. I think it's been
6 covered.

7 THE COURT: Well, thank you both for your lively
8 presentation. I'll take everything into account and I'll
9 let you know my decision.

10 END OF PROCEEDINGS

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1 COUNTY OF RICHLAND)

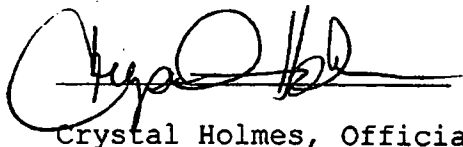
2 CERTIFICATE OF REPORTER

3 I, Crystal Holmes, hereby certify that I reported
4 the preceding case entitled Isaac Flynn Vs. State of SC Case
5 No. 2013-CP-40-0659, at the Richland County Courthouse, July
6 16, 2014.

7 I FURTHER CERTIFY that the foregoing pages 1
8 through 68 constitute a true, accurate and full transcript
9 of said hearing.

10 I FURTHER CERTIFY that I am not employed by any of
11 the parties hereto and I have no financial interest in the
12 outcome of said case.

13 IN WITNESS WHEREOF, I have heretofore set my hand
14 and seal at Richland County on this 10th day of November,
15 2014.

16 

17 Crystal Holmes, Official Court Reporter

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STATE OF SOUTH CAROLINA
COUNTY OF KERSHAW

Isacc Flynn, SCDC # 354468,

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS
FOR THE FIFTH JUDICIAL CIRCUIT

Case No. 2013-CP-28-0659

ORDER OF DISMISSAL

FILED FOR RECORD
2014 SEP 24 AM 11:30
JOYCE McDONALD
CLERK OF COURT
KERSHAW COUNTY, S.C.

This matter comes before the Court by way of an application for post-conviction relief filed September 24, 2013. The State made its Return on December 11, 2013, requesting an evidentiary hearing be held. Thereafter, on July 8, 2014, Applicant filed an Amended Application for Post-Conviction Relief. An evidentiary hearing into the matter was convened on July 16, 2014, at the Richland County Courthouse. Applicant was present at the hearing and was represented by counsel, Kristy Goldberg, Esquire. Respondent was represented by Assistant Attorney General Megan E. Harrigan of the South Carolina Attorney General's Office. After reviewing all testimony and other evidence presented at the hearing, along with a review of all records provided to the Court, this Court finds that there are no constitutional deprivations or other grounds on which to grant relief and is denying and dismissing this application with prejudice.

PROCEDURAL HISTORY

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

ATTEST True, Correct & Certified
Copy of Original on File in this
Court.

Joyce McDonald
Clerk of Court Kershaw County

Clerk of Court. Applicant was represented by Cornelius Riley, Esquire, of the Kershaw County Public Defender's Office. On February 25, 2013, Applicant appeared before the before the Honorable G. Thomas Cooper, Jr., where he waived presentment to the Kershaw County Grand Jury and pled guilty to Attempted Dissemination of Obscene Material to Person under 18 Years of Age (2013-GS-28-0088), Criminal Solicitation of a Minor (2013-GS-28-0089), Attempted Criminal Sexual Conduct with a Minor, 2nd degree (2013-GS-28-0090), and Criminal Sexual Conduct with a Minor, 2nd degree (2013-GS-28-0091). Judge Cooper sentenced Applicant to imprisonment for ten years for Attempted Dissemination of Obscene Material, ten years for Criminal Solicitation of a Minor, twenty years for Attempted Criminal Sexual Conduct with a Minor, and twenty years for Criminal Sexual Conduct with a Minor, with all sentences to be served concurrently. Applicant did not appeal his guilty plea or sentence.

On September 24, 2013, Applicant filed an application for post-conviction relief alleging ineffective assistance of counsel, involuntary guilty plea, and due process violations. On July 8, 2014, Applicant, through counsel, filed an amended application, setting forth the following allegations:

1. Ineffective Assistance of counsel for failing to communicate with the Applicant regarding his case's status and his legal rights;
2. Ineffective assistance of counsel for failing to stand down prior to the trial court accepting the plea when the prosecutor made several irrelevant and inflammatory accusations against Mr. Flynn with did not result on criminal charges; and
3. Ineffective assistance of counsel for failing to file a notice of appeal.

At the evidentiary hearing, Applicant proceeded forward solely on the allegations alleged in his amended application.

SUMMARY OF TESTIMONY PRESENTED AT EVIDENTIARY HEARING

At the evidentiary hearing, Applicant testified on his own behalf. Respondent presented testimony from plea counsel, Cornelius J. Riley, Esquire (hereinafter "Counsel"). This Court also had before it Applicant's guilty plea transcript, the records from the Kershaw County Clerk of Court regarding the subject convictions, and Applicant's records from the South Carolina Department of Corrections.

Applicant testified first on his own behalf. He testified that Counsel was appointed to represent him and that they met four times prior to his guilty plea. He testified that he does not believe that Counsel met with him enough and that he and several family members attempted to contact Counsel to discuss his case. He testified that he wrote various letters complaining of Counsel's performance and requesting an update on his case's progress (such as an October 15, 2012 letter to the Kershaw County Clerk of Court introduced as Applicant's Ex. No.), but that these letters went unanswered. He elaborated that similar letters were also sent to the South Carolina Bar and Douglas Strickler as the Chief Public Defender for the Fifth Judicial Circuit. He testified that he wanted Counsel to be relieved because he did think Counsel could represent him to the best of his ability. He acknowledged that he told the plea court while under oath that he was satisfied with Counsel's performance, but testified that this was only at Counsel's urging in order to plead guilty.

He testified that he reviewed "parts" of his discovery with Counsel, including his statements, witness statements, transcripts from online conversations, and photographs of his genitalia that he sent to a fourteen year old. He testified that he asked Counsel for a personal copy of his discovery materials to keep with him in the county jail but that Counsel refused to provide him with a copy. He testified that Counsel presented him with a twenty year plea offer, but that Counsel advised him that he could negotiate a better plea offer. He testified that this offer came while the case was being handled by the Kershaw County Solicitor's Office and before the Attorney General's Office began prosecuting the case. He acknowledged that he understood the State would be requesting a twenty year sentence if he pled guilty and that he understood he could possibly receive an aggregate term of sixty years imprisonment if the sentences were run consecutively by the plea court. He testified that Counsel reviewed possible sentences, as well as various other constitutional rights, with him prior to his plea, all of which were memorialized in a signed, written document. See Respondent's Ex. No. 1. He acknowledged that this included the right to file an appeal within ten days of his guilty plea proceeding. He testified that he "wanted to get it over with" quickly and that is why he pled guilty.

He testified that he recalled his guilty plea and acknowledged that he told the plea court he was guilty and agreed with the facts presented by the State. He testified that he admits to certain allegations, such sending photographs of his genitalia to minors and having a physical, sexual encounter with a fifteen year old girl, but denied other inappropriate conduct, such as asking twelve year old girls to perform various activities topless and sleeping with another minor

in Maryland as cited by the State during his sentencing proceeding. He testified that he was not charged with any additional crimes stemming from the alleged conduct and, therefore, Counsel should have objected to these improper comments from the State. He acknowledged that Counsel did object to these comments, but that Counsel did not do enough to protect his rights, such as requesting he be allowed to stand down.

He testified that following, the guilty plea, he remained in the courtroom while Counsel went into the hallway with his family. He testified the he tried to get Counsel's attention to let him know that he wanted to appeal, but that he was not able to make contact with counsel. He acknowledged that he understood that he only had ten days to file a notice of appeal. He testified that he attempted to notify Counsel that he wanted to file appeal by filing out an inmate grievance form, but did not present any such forms to this Court.

Following Applicant's testimony, Counsel was called to the stand by Respondent. He testified that he had been practicing law since May of 1986 and that he is the Chief Public Defender for Kershaw County. He testified that he was appointed to represent Applicant shortly after his arrest and met with him at least six times at the Kershaw County Detention Center based on detailed notes in his file. He testified that he filed all appropriate discovery motions and reviewed all materials thoroughly with Applicant. He testified that he advised Applicant that it was not in his best interest to have a personal copy of the discovery materials with him while incarcerated pre-trial due to the risk of dissemination amongst other inmates, especially in light of the charges involving sexual acts and minors, and that Applicant ultimately agreed with him and declined to receive a copy. He characterized the State's evidence as strong, including

"extensive transcripts of online chats between [Applicant] and a fourteen year old girl," evidence that he traveled to South Carolina to have sexual relations with her, a full confession, and evidence of other sexual conduct with a fifteen year old girl. He testified that Applicant would have likely been convicted of all charges if he had proceeded to trial. He testified that Applicant wrote him frequently and he tried to respond to all letters. He testified that he was aware of other alleged conduct of Applicant, including additional activity in South Carolina and in Maryland, but that none of these activities were ever indicted and that he did not believe would be indicted based on conversations with the State.

He testified that Applicant was insistent that he wanted to plead guilty from the inception of their attorney-client relationship and that Applicant's paramount concern was negotiating a favorable plea with the State. He testified that Applicant did not provide him with any defenses or possible witnesses and that his investigation yielded none as well. He testified that he advised Applicant of the elements of all indicted offenses, the sentence exposure of up to sixty years imprisonment, and all constitutional rights. He testified that the case was originally being prosecuted by the former Assistant Solicitor Ron Moak of the Kershaw County office of the Fifth Circuit Solicitor's Office. He testified that Moak presented him with an informal twenty year offer that was not in writing. He testified that he advised Applicant of this offer, but at Applicant's request, kept attempting to negotiate a more favorable plea offer. He testified that shortly thereafter, Moak resigned suddenly from office and the case was transferred to the Attorney General's Office for prosecution. He testified that he attempted to negotiate a plea with the new prosecutor to no avail, other than a recommendation for twenty years imprisonment. He

testified that during an in-chambers discussion between both parties and the plea court, he received assurances from the plea court that his client would receive concurrent time, effectually capping his sentence exposure at twenty years imprisonment. Counsel testified that he relayed this information to his client, who decided to plead guilty. He testified that he advised Applicant that he would ask the plea court for a more lenient sentence, but that he could receive a sentence of up to twenty years imprisonment. He testified that he memorialized these discussions with Applicant into a pre-plea waiver form, introduced as Respondent's Ex. No. 1, which he reviewed with Applicant and Applicant signed. He testified that it was ultimately Applicant's decision to plead guilty and he thought it was in Applicant's best interest.

He testified that during the plea, the prosecutor mentioned other activities that were not subject to the indictments Applicant was pleading guilty. He testified that he objected to this conduct and asked the court to limit the scope to just the indicted offenses. See Tr. p. 13. He testified that following his objection, the plea court asked the State to clarify the conduct giving rise to each indictment and that Applicant had not been indicted for any other conduct. See Tr. p. 14-15. He elaborated that he objected because he thought the State's comments were inappropriate and that he thinks any possible error or prejudice was cured by the plea court's clarification of the indicted offenses immediately following his objection. Additionally, he testified that he did not seek withdrawal Applicant's plea or ask that Applicant be able to stand down, because there was no formal plea negotiation and he was afraid that his client could receive a harsher sentence of up to sixty years in contrast to the assurances from the plea court of a sentence of no more than twenty years.

He testified that following the plea, he spoke with Applicant's family and then remained in the courtroom to attend to other matters. He testified that Applicant never attempted to contact him following the plea, both while he remained in the courtroom and the days following the plea. He testified that Applicant never requested he file an appeal. He testified that he advised Applicant orally and in writing that he had ten days to file an appeal and that the plea court also advised him of this during his plea. He testified that he would have filed an appeal on Applicant's behalf if requested to do so, but that neither Applicant nor his family ever requested one.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has had the opportunity to review the record in its entirety and has heard the testimony at the post-conviction relief hearing. This Court has further had the opportunity to observe the witnesses presented at the hearing, closely pass upon their credibility and weigh their testimony accordingly. This Court finds that Counsel's testimony is credible and should be afforded great weight; conversely, this Court finds that Applicant's testimony lacks credibility. Set forth below are the relevant findings of facts and conclusions of law as required pursuant to S.C. Code Ann. §17-27-80 (1985).

Ineffective Assistance of Counsel

In a post-conviction relief action, the applicant has the burden of proving the allegations in his or her application and establishing that he is entitled to relief. Abney v. State, 408 S.C. 41, 45, 757 S.E.2d 544, 546 (S.C. Ct. App. 2014), *reh'g denied* (Apr. 24, 2014) (citing Goins v. State, 397 S.C. 568, 573, 726 S.E.2d 1, 3 (2012)). 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 (1984); Butler, 286 S.C. 441, 334 S.E.2d 813.

The proper measure of performance is whether an 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, 286 S.C. 441, 334 S.E.2d 813. An applicant must overcome this presumption to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

Courts use a two-pronged test in evaluating allegations of ineffective assistance of counsel. First, the applicant must prove that counsel's performance was deficient. Under this prong, attorney performance is measured by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 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. "[T]he court should recognize that counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment." Abney, 408 S.C. at 46, 757 S.E.2d at 546 (citing Strickland, 466 U.S. at 690). 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); Roscoe v. State, 345 S.C. 16, 546 S.E.2d 417 (2001).

After careful review based on the standard discussed above, including a review of the testimony of the witnesses presented at the evidentiary hearing, this Court denies this application on the basis that Counsel's performance did not fall below the standard required and there was no resulting prejudice to Applicant from these alleged deficiencies. Below are this Court's findings in regards to each of Applicant's specific allegations of ineffective assistance of counsel:

Allegation that Counsel did not effectively communicate with Applicant regarding his legal rights and his case's status

Applicant alleges that Counsel was ineffective failing to properly communicate with him regarding his case's progression and his legal rights. At the evidentiary hearing, Applicant testified that Counsel only met with him four times and did not advise him of his constitutional rights and case status despite repeated requests. In contrast, Counsel's credible testimony reveals that he met with Applicant at least six times based on detailed notes in his file and reviewed all rights with Applicant, memorialized in a written document signed by Applicant. See Respondent's Ex. No. 1. This Court finds that Applicant has failed to meet his burden of establishing any deficiency in regards to this allegation. This Court finds that Counsel's performance was reasonable and prudent based on the facts and circumstances of this case and that Applicant has failed to establish any deficiency of Counsel. Furthermore, this Court finds that Applicant cannot establish any resulting prejudice from Counsel's alleged deficiencies, as there is no reasonable likelihood that the result of the proceeding would have been different or

that Applicant would have proceeded to trial. The uncontroverted testimony from both Applicant and Counsel was that Applicant wanted to plead guilty and understood that that he could receive a sentence of up to sixty years imprisonment. Therefore, this Court finds that Applicant has failed to meet his burden of proof in regards to both deficiency and prejudice and that this allegation must be denied and dismissed with prejudice.

Allegation that Counsel was ineffective for failing to stand down following the prosecutor's comments regarding unindicted alleged conduct by Applicant

Applicant alleges that Counsel was ineffective because he "had a duty to stand down prior to the [plea court] accepting the guilty plea when the prosecutor made several irrelevant and inflammatory accusations against the Applicant about alleged incidents which did not result in criminal charges." See Amended Application No. 11(b). In support of this allegation, Applicant cited the prosecutor's comments concerning "possibly another victim up in Maryland" and allegations that he offered two different twelve year old girls money in exchange for topless activities. See Tr. p. 13. Applicant acknowledges that Counsel objected to these comments, but alleges that this was not enough to cure any error or prejudice and that Counsel should have requested to stop the plea and allow him to stand down.

At the evidentiary hearing, Counsel testified that he thought the prosecutor's comments were impermissible and that he objected immediately. See Tr. p. 13. He testified that following his objection, the plea court requested that the prosecutor clarify exactly what conduct gave rise to each indictment subject to the guilty plea and then confirmed with Applicant that this was indeed guilty the conduct to which he was pleading guilty. See Tr. p. 14-15. Counsel testified that he made a strategic decision not to have Applicant stand down at this time out of a fear that

his client would receive a harsher sentence under a different sentencing judge, as his client was facing up to sixty years imprisonment and there was no plea offer from the State, but rather, only assurances from the plea court that Applicant would receive a sentence of no more than twenty years.

This Court finds that Applicant has failed to meet his burden of establishing any deficiency in regards to this allegation. This Court finds that Counsel's performance was reasonable and prudent based on the facts and circumstances of this case and that Applicant has failed to establish any deficiency of Counsel. Counsel's credible testimony and the record reveal that Counsel took appropriate measures to protect his client when the prosecutor commented on unindicted alleged conduct. See Tr. p. 13-15. Additionally, this Court finds that Counsel has articulated a valid strategic basis for not moving to stand down based on a legitimate and reasonable fear that his client could receive a harsher sentence from a different court without assurances for concurrent time. See Edwards v. State, 392 S.C. 449, 456, 710 S.E.2d 60, 64 (2011) (quoting Lounds v. State, 380 S.C. 454, 462, 670 S.E.2d 646, 650 (2008)) ("[W]hen counsel articulates a *valid* reason for employing a certain strategy, such conduct generally will not be deemed ineffective assistance of counsel. The validity of counsel's strategy is viewed under an 'objective standard of reasonableness.'") Therefore, this Court finds that Applicant has failed to meet his burden of proof and that this allegation must be denied and dismissed with prejudice.

Allegation that Counsel failed to file a notice of appeal on Applicant's behalf

Applicant alleges that Counsel was ineffective failing to file a notice of appeal on his behalf and that he is therefore entitled to appellate review pursuant to White v. State, 263 S.C. 110, 208 S.E.2d 35 (1974). “[C]ounsel has a constitutionally imposed duty to consult with the defendant about an appeal when there is reason to think either (1) that a rational defendant would want to appeal (for example, because there are non-frivolous grounds for appeal), or (2) that this particular defendant reasonably demonstrated to counsel that he was interested in appealing.” Roe v. Flores-Ortega, 528 U.S. 470, 480 (2000). “Even in cases when the defendant pleads guilty, the court must consider such factors as whether the defendant received the sentence bargained for as part of the plea and whether the plea expressly reserved or waived some or all appeal rights.” Id. Absent extraordinary circumstances, there is no constitutional requirement that a defendant be informed of the right to a direct appeal from a guilty plea. Turner v. State, 380 S.C. 223, 224, 670 S.E.2d 373, 374 (2008). “One extraordinary circumstance which would require counsel to advise a defendant of the right to appeal from a guilty plea would arise when the defendant inquires about an appeal.” Weathers v. State, 319 S.C. 59, 61, 459 S.E.2d 838, 839 (1995).

After careful review based on the standard discussed above, this Court finds that Applicant has failed to carry his burden in this action. Uncontroverted testimony reveals that Counsel reviewed Applicant's right to appeal with him prior to his guilty plea – both orally and in writing – and that the plea court also reviewed this specific right with him during the guilty plea. Counsel's credible testimony reveals that Applicant knew he had ten days in which to file

an appeal and never contact him requesting an appeal. Applicant failed to present any credible evidence that he made or attempted to make such a request of Counsel. This Court finds that Counsel's performance was reasonable and effective. Therefore, this Court finds that this allegation must be denied and dismissed with prejudice.

CONCLUSION

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

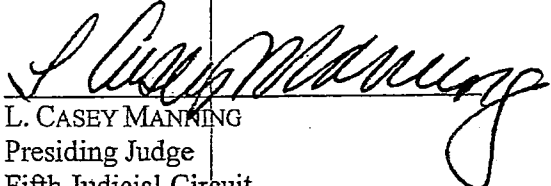
This Court notes that Applicant must file and serve a Notice of Appeal within thirty days from the receipt by counsel of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453 (1991), an applicant has a right to an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

IT IS THEREFORE ORDERED:

1. That the Application for Post-Conviction Relief shall be denied and dismissed with prejudice; and

2. The Applicant shall remain remanded to the custody of the State.

AND IT IS SO ORDERED this 19 day of September, 2014.


L. CASEY MANNING
Presiding Judge
Fifth Judicial Circuit

Columbia, South Carolina.

STATE OF SOUTH CAROLINA

COUNTY OF

Kershaw

STATE

VS.

Issac Claude Flynn

AKA:

Race: W

Sex: M

Age: 38

DOB: 04/14/1974

SS#: [REDACTED]

City, State, Zip: Gastonia, NC 28056

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: Attempted Dissemination of Obscene Material to Person under 18 years of age

In violation of § 16-15-0345 of the S.C. Code of Laws, bearing CDR Code # 0375

☒ 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 Presentment to Grand Jury. C.I.F. (def.'s initials)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☒ Recommendation by the State.

ATTEST:

B. B. Miles

78212

Assistant Attorney General

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 10 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. 3-22-12☐ 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

Substance Abuse Counseling ☐

*Fine:

§14-1-206 (Assessments 107.5%)	\$	
§14-1-211 (A)(1)(Conv. Surcharge)	\$100	\$ 100.00
§14-1-211 (A)(2)(DUI Surcharge)	\$100	\$
§56-5-2995 (DUI Assessment)	\$12	\$
§56-1-286 (DUI Breath Test)	\$25	\$
Proviso 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	\$
§56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCCJA Surcharge)	\$5	\$ 5.00
3% to County (if paid in installments)	\$	\$ 3.90
TOTAL	\$	\$ 133.90

Clerk of Court Deputy Clerk

Court Reporter: Wanda Nelson

Random Drug/Alcohol Testing ☐

Fine may be pd. in equal consecutive weekly/monthly

pmts. of \$ Beginning

\$ Paid to Public Defender Fund

Other: ATTEST True, Correct & Certified

Copy of Original on File in this

Court.

James M. Donald

☐ Appointed PD or appointed other county \$47.12 requires \$500 be paid to Clerk during probation.

Presiding Judge

Judge Code: 2126

Sentence Date 2-25-13

WITNESSES

Lt. Steve Knafelc, Kershaw County Sheriff's Office

DOCKET NO. 2013-GS-28-0088

The State of South Carolina

County of Kershaw

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.
Claude L. Fry
Defendant

COURT OF GENERAL SESSIONS

2013 TERM

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

ARREST WARRANT NUMBER

M-965764

THE STATE

Defendant

VS.

Witness:

ACTION OF GRAND JURY

ISSAC CLAUDE FLYNN
D.O.B. [REDACTED]

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

Foreperson of Grand Jury
Date:

VERDICT

Indictment for

**ATTEMPTED DISSEMINATION OF
OBSCENE MATERIAL TO PERSON
UNDER AGE EIGHTEEN**

Foreperson of Petit Jury
Date:

South Carolina Common Law and
SC Code: 16-15-345
CDR Code: 0375

ATTEST True, Correct & Certified
Copy of Original on File in this
Court.
Debra M. Lawrence
Clerk of Court Kershaw County

STATE OF SOUTH CAROLINA)

INDICTMENT

COUNTY OF KERSHAW)

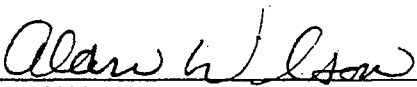
ATTEMPTED DISSEMINATION OF
OBSCENE MATERIAL TO PERSON UNDER
AGE EIGHTEEN

At a Court of General Sessions, convened on _____, 2013,
the Grand Jurors of Kershaw County present upon their oath:

That Issac Claude Flynn, on or about March 8, 2012, did willfully and knowingly attempt to commit the crime of dissemination of obscene material to person under the age of eighteen. To wit: Issac Claude Flynn, a person eighteen years of age or older, did knowingly disseminate and/or attempt to disseminate to a person he believed to be under the age of eighteen in Kershaw County, material via text message which he knew or reasonably should have known to be obscene within the meaning of Section 16-15-305, of the South Carolina Code of Laws (1976), as amended. This is in direct violation of Section 16-15-345 and Section 16-1-80, of the South Carolina Code of Laws (1976), as amended.

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

OFFICE OF THE ATTORNEY GENERAL


ALAN WILSON (BBM)
ATTORNEY GENERAL

BAIL set by

Judge David D. [Signature]
 on 3/24/11

Type and Amount: C/\$ 60,000.00

Name of Surety: _____

PRELIMINARY HEARING held by

Judge _____

on _____

Defendant/Attorney: _____

Decision: _____

DISPOSITION before

Judge _____

on _____

by _____
 (indicate jury trial, bench trial, plea, not pros., etc.)

Disposition: _____

Sentence: _____

JURORS

WITNESSES

Name: _____
 Address: _____

Telephone: _____

Name: _____
 Address: _____

Telephone: _____

Name: _____
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Telephone: _____

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Name: _____
 Address: _____

Telephone: _____

Name: _____
 Address: _____

Telephone: _____

CODEFENDANTS



STATE OF SOUTH CAROLINA

COUNTY OF

Kershaw

STATE

VS.

Issac Claude Flynn

AKA:

Race: W Sex: M Age: 38

DOB: [REDACTED] SS#: [REDACTED]

Address:

City, State, Zip: Gastonia, NC 28056

DL#

SID#

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

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

TO: Criminal Solicitation of a Minor

In violation of § 16-15-0342 of the S.C. Code of Laws, bearing CDR Code # 2999

☒ 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 Presentment to Grand Jury. C.I.F. (def.'s initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☒ Recommendation by the State.

ATTEST:

B. B. Miles
Assistant Attorney General78212
SC Bar #Claude d. Flynn
DefendantN. K. Riley
Attorney for Defendant6468
SC Bar #WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections ☐ County Detention Center,for a determinate term of 10 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. (3-22-12)☐ 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

Substance Abuse Counseling ☐

*Fine:

§14-1-206 (Assessments 107.5%)	\$	
§14-1-211 (A)(1)(Conv. Surcharge)	\$100	\$ 100.00
§14-1-211 (A)(2)(DUI Surcharge)	\$100	\$
§56-5-2995 (DUI Assessment)	\$12	\$
§56-1-286 (DUI Breath Test)	\$25	\$
Proviso 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	\$
§56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCCJA Surcharge)	\$5	\$ 5.00
3% to County (if paid in installments)	\$	\$ 3.90
TOTAL	\$	\$ 133.90

Clerk of Court/Deputy Clerk
Court Reporter: [Signature]Random Drug/Alcohol Testing ☐
Fine may be pd. in equal consecutive weekly/monthly

pmts. of \$ Beginning

\$ Paid to Public Defender Fund

Other: ATTEST True, Correct & Certified

Copy of Original on File in this

Court.

☐ Appointed PD or appointed other counsel
\$47.12 requires \$500 be paid to Clerk
during probation.

Presiding Judge

Judge Code: 2126

Sentence Date 2-25-13

WITNESSES

Lt. Steve Knafelc, Kershaw County Sheriff's Office

DOCKET NO. 2013-GS-28-0089

The State of South Carolina

County of Kershaw

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.
Claude d. Flynn
Defendant

COURT OF GENERAL SESSIONS

2013 TERM

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

ARREST WARRANT NUMBER

M-965765

THE STATE

Defendant

vs.

Witness:

ACTION OF GRAND JURY

ISSAC CLAUDE FLYNN
D.O.B. [REDACTED]

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

Foreperson of Grand Jury
Date:

VERDICT

Indictment for

**CRIMINAL SOLICITATION
OF A MINOR**

SC Code: 16-15-0342
CDR Code: 2999

Foreperson of Petit Jury
Date:

ATTEST True, Correct & Certified
Copy of Original on File in this Court.
James McDonald
Clerk of Court Kershaw County

STATE OF SOUTH CAROLINA)
)
 COUNTY OF KERSHAW)

INDICTMENT

CRIMINAL SOLICITATION OF A MINOR

At a Court of General Sessions, convened on _____, 2013,
 the Grand Jurors of Kershaw County present upon their oath:

That Issac Claude Flynn, between the dates of February 29, 2012 and March 22, 2012, did willfully and knowingly commit the crime of criminal solicitation of a minor. To wit: Issac Claude Flynn, a person eighteen years of age or older, did knowingly contact and communicate with a person he reasonably believed to be under the age of eighteen, in Kershaw County, for the purpose of or with the intent of persuading, inducing, enticing, or coercing the person to engage or participate in a sexual activity as defined in Section 16-15-375(5), or a violent crime as defined in Section 16-1-60, or with the intent to perform a sexual activity in the presence of the person reasonably believed to be under the age of eighteen. This is in direct violation of Section 16-15-0342, of the South Carolina Code of Laws (1976), as amended.

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

OFFICE OF THE ATTORNEY GENERAL


 ALAN WILSON (BBM)
 ATTORNEY GENERAL

BAIL set by

David D. [Signature]

Judge _____
on 3/24/12

Type and Amount: \$15,600.00

Name of Surety: _____

PRELIMINARY HEARING held by

Judge _____

on _____

Defendant Attorney: _____

Decision: _____

DISPOSITION before

Judge _____

on _____

by _____
(Indicate jury trial, bench trial, plea, not pros., etc.)

Disposition: _____

Sentence: _____

JURORS

WITNESSES

Name: _____
Address: _____

Telephone: _____

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Name: _____
Address: _____

Telephone: _____

CODEFENDANTS



STATE OF SOUTH CAROLINA

COUNTY OF

Kershaw

STATE

VS.

Issac Claude Flynn

AKA:

Race: W

Sex: M

Age: 38

DOB: [REDACTED]

SS#: [REDACTED]

Address: [REDACTED]

City, State, Zip: Gastonia, NC 28056

DL#

SID#

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

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

TO: Attempted Criminal Sexual Conduct with a Minor, 2nd degree

In violation of § 16-3-0655(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 Presentment to Grand Jury, C.I.F. (def.'s initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☒ Recommendation by the State.

ATTEST:

Bettany B. Miles
Assistant Attorney General

78212

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: _____

Obtain GED ☐☐ Set by SCDPPPS

Attend Voc. Rehab. Or Job Corp. _____

Recipient: _____

May serve W/E beginning

Substance Abuse Counseling ☐

*Fine:

§14-1-206 (Assessments 107.5%)		\$	
§14-1-211 (A)(1)(Conv. Surcharge)	\$100	\$	100.00
§14-1-211 (A)(2)(DUI Surcharge)	\$100	\$	
§56-5-2995 (DUI Assessment)	\$12	\$	
§56-1-286 (DUI Breath Test)	\$25	\$	
Proviso 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	\$	
§56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$	
Proviso 90.5 (SCCJA Surcharge)	\$5	\$	5.00
3% to County (if paid in installments)		\$	3.90
TOTAL		\$	133.90

Clerk of Court/Deputy Clerk

Court Reporter:

Random Drug/Alcohol Testing ☐

Fine may be pd. in equal consecutive weekly/monthly

pmts. of \$ _____ Beginning _____

\$ _____ Paid to Public Defender Fund

ATTEST True, Correct & Certified

Other: Copy of Original on File in this

Court.

[Signature]

☐ - Appointed PD or appointed in the Counsel, \$47.12 requires \$500 be paid to Clerk during probation.

Presiding Judge

Judge Code: 2128

Sentence Date

2-25-13

WITNESSES

Lt. Steve Knatelec, Kershaw County Sheriff's Office

DOCKET NO. 2013-GS-28-0090

The State of South Carolina

County of Kershaw

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

Claude C. Flynn

Defendant

COURT OF GENERAL SESSIONS

2013 TERM

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

ARREST WARRANT NUMBER

M-965767

Defendant

THE STATE

vs.

Witness:

ACTION OF GRAND JURY**ISSAC CLAUDE FLYNN**

D.O.B. [REDACTED]

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

Foreperson of Grand Jury

Date:

VERDICT

Indictment for

**ATTEMPTED CRIMINAL SEXUAL
CONDUCT WITH A MINOR IN THE
SECOND DEGREE**

Foreperson of Petit Jury

Date:

SC Code: 16-3-655(B)

CDR Code: 0396

ATTEST True, Correct & Certified
Copy of Original on File in this
Court.

Dennis McDonald
Clerk of Court Kershaw County

STATE OF SOUTH CAROLINA)

INDICTMENT

COUNTY OF KERSHAW)

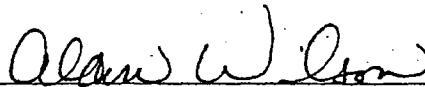
ATTEMPTED CRIMINAL SEXUAL CONDUCT
WITH A MINOR IN THE SECOND DEGREE

At a Court of General Sessions, convened on _____, 2013,
the Grand Jurors of Kershaw County present upon their oath:

That Issac Claude Flynn, did willfully and knowingly attempt to commit the crime of criminal sexual conduct with a minor in the second degree. To wit: Issac Claude Flynn, a person eighteen years of age or older, did knowingly travel to and arrive at a pre-arranged location within the County of Kershaw, State of South Carolina, for the purpose of or with the specific intent to engage in sexual battery, as defined in Section 16-3-651(h), with a person whom he reasonably believed to be a fourteen year-old girl. This is in direct violation of Section 16-3-655(B) and Section 16-1-80, of the South Carolina Code of Laws (1976), as amended.

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

OFFICE OF THE ATTORNEY GENERAL


ALAN WILSON (BBM)
ATTORNEY GENERAL

BAIL set by

Judge

on

Type and Amount:

Name of Surety:

PRELIMINARY HEARING held by

Judge

on

Defendant Attorney:

Decision:

DISPOSITION before

Judge

on

by

(Indicate jury trial, bench trial, plea, nol. pros., etc.)

Disposition:

Sentence:

JURORS

WITNESSES

Name:

Address:

Telephone:

Name:

Address:

Telephone:

Name:

Address:

Telephone:

Name:

Address:

Telephone:

Name:

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Telephone:

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Name:

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Name:

Address:

Telephone:

CODEFENDANTS



STATE OF SOUTH CAROLINA

COUNTY OF

Kershaw

STATE

VS.

Issac Claude Flynn

AKA:

Race: W

Sex: M

Age: 38

DOB: [REDACTED]

SS#: [REDACTED]

Address: [REDACTED]

City, State, Zip: Gastonia, NC 28056

DL#

SID#

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

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

TO: Criminal Sexual Conduct with a Minor, 2nd degree

In violation of § 16-3-0655(B)(2) of the S.C. Code of Laws, bearing CDR Code # 0397

☐ 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 Presentment to Grand Jury.

C.D.F. (def.'s initials)

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

ATTEST:

Bethany B. Miles

78212

Claude C. Flynn

N. Riley

6468

Assistant Attorney General

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. (3-22-12)☐ 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:

§14-1-206 (Assessments 107.5%)		\$	
§14-1-211 (A)(1)(Conv. Surcharge)	\$100	\$	100.00
§14-1-211 (A)(2)(DUI Surcharge)	\$100	\$	
§56-5-2995 (DUI Assessment)	\$12	\$	
§56-1-286 (DUI Breath Test)	\$25	\$	
Proviso 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	\$	
§56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$	
Proviso 90.5 (SCCJA Surcharge)	\$5	\$	5.00
3% to County (if paid in installments)		\$	3.90
TOTAL		\$	133.90

Clerk of Court/Deputy Clerk

Court Reporter: Wanda Nisbet

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2013-GS-28 - 0091

AW#: direct presentment

Date of Offense: December 1, 2011-January 31, 2012

S.C. Code §: 16-3-0655(B)(2)

CDR Code #: 0397

SENTENCE SHEET

☐ CONVICTED OF or ☒ PLEADSObtain 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: SALES TAX, EXCISE & License

Copy of Original on File in this

Court.

☐ Appointed PD or appointed other counsel.
 \$47.12 requires \$500 be paid to the County during probation.

Presiding Judge

Judge Code: 2126

Sentence Date: 2-25-13

WITNESSES

Lt. Steve Knafelc, Kershaw County Sheriff's Office

DOCKET NO. 2013-GS-28-0041

The State of South Carolina

County of Kershaw

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.
Claude J. Flynn
Defendant

COURT OF GENERAL SESSIONS

2013 TERM

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

ARREST WARRANT NUMBER

Direct presentment

THE STATE

Defendant

vs.

Witness:

ACTION OF GRAND JURY

ISSAC CLAUDE FLYNN
D.O.B. [REDACTED]

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

Foreperson of Grand Jury
Date:

VERDICT

Indictment for

**CRIMINAL SEXUAL CONDUCT WITH A
MINOR IN THE SECOND DEGREE**

Foreperson of Petit Jury
Date:

SC Code: 16-3-655(B)(2)
CDR Code: 0397

ATTEST True, Correct & Certified
Copy of Original on File in this Court.
James McDonald
Clerk of Court Kershaw County

STATE OF SOUTH CAROLINA)
)
)
 COUNTY OF KERSHAW)

INDICTMENT

CRIMINAL SEXUAL CONDUCT
 WITH A MINOR IN THE SECOND DEGREE

At a Court of General Sessions, convened on _____, 2013,
 the Grand Jurors of Kershaw County present upon their oath:

That Issac Claude Flynn, did in Kershaw County, between the dates of December 1, 2011 and January 31, 2012, willfully and knowingly commit the crime of criminal sexual conduct with a minor in the second degree. To wit: Issac Claude Flynn, a person over the age of eighteen and older than the victim, did engage in sexual battery with a minor, Minor who was at least fourteen (14) years of age but less than sixteen (16) years of age. This is in direct violation of Section 16-3-655(B)(2) of the South Carolina Code of Laws (1976), as amended.

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

OFFICE OF THE ATTORNEY GENERAL


 ALAN WILSON (BBM)
 ATTORNEY GENERAL