

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Richland County

J. Ernest Kinard, Jr., Circuit Court Judge

RECEIVED

OCT 15 2015

S.C. Supreme Court

REGINALD SPELLMAN,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2015-000525

APPENDIX

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1 like a robe of righteousness placed about the shoulders
2 of the defendant which remains with the defendant until
3 it has been stripped from the defendant by evidence
4 satisfying you of the defendant's guilt beyond a
5 reasonable doubt.

6 The presumption of innocence is not a mere
7 legal phrase or a legal theory. It's a substantial
8 right to which every defendant is entitled unless you
9 the jury are satisfied from the evidence of the
10 defendant's guilt beyond a reasonable doubt.

11 Well, what is a reasonable doubt in the law?
12 A reasonable doubt is the kind of doubt that would cause
13 a reasonable person to hesitate -- to hesitate -- to
14 act. Let many me repeat that. A reasonable doubt is
15 the kind of doubt that would cause you or a reasonable
16 person to hesitate to do something, to hesitate to act.

17 The State has the burden of proving the
18 defendant guilty beyond a reasonable doubt. Some of you
19 may have served as jurors in civil cases where you were
20 told that it's only necessary to prove that a fact is
21 more likely true than not true, such as by the greater
22 weight or preponderance of the evidence.

23 In criminal cases, however, the State's proof
24 must be more powerful than that. It must be beyond a
25 reasonable doubt. To think a defendant is probably

1 guilty or the circumstances are suspicious is not
2 enough.

3 Proof beyond a reasonable doubt leaves you
4 firmly convinced of the defendant's guilt. There are
5 very few things in this world we know with absolutely
6 certainty.

7 In criminal cases the law does not require
8 prove that overcomes every possible doubt. If based on
9 your consideration of the evidence you are firmly
10 convinced that the defendant is guilty of the crime
11 charged, you must find the defendant guilty.

12 On the other hand, if you think there is a
13 real possibility that the defendant is not guilty, you
14 must give the defendant the benefit of the doubt and
15 find him not guilty.

16 Now, there are two types of evidence which are
17 generally presented during a trial. They are direct
18 evidence and circumstantial evidence. Direct evidence
19 is the testimony of a person who claims to have actual
20 knowledge of a fact, such as an eyewitness. It is
21 evidence which immediately establishes the main fact to
22 be proved.

23 Circumstantial evidence, on the other hand, is
24 a chain of facts or circumstances indicating the
25 existence of some fact. It's evidence which immediately

1 establishes what we call collateral facts from which the
2 main fact may be inferred.

3 Circumstantial evidence is based on inference,
4 in other words, and not on personal knowledge or
5 observation. But the law makes absolutely no
6 distinction between the weight or value to be given to
7 either direct or circumstantial evidence, nor is a
8 greater degree of certainty required of circumstantial
9 evidence than of direct evidence.

10 You should weigh all the evidence in the case.
11 After weighing all the evidence if you're not convinced
12 of the guilt of the defendant beyond a reasonable doubt,
13 you must find the defendant not guilty.

14 Now, necessarily you must determine the
15 credibility of the witnesses who have testified in this
16 case. Credibility simply means believability. It
17 becomes your duty as jurors to analyze and evaluate the
18 evidence, determine which evidence convinces you of its
19 truth.

20 In determining the believability of witnesses
21 who have testified in this case, you may believe one
22 witness over several witnesses, several witnesses over
23 one witness. You may believe a part of the testimony of
24 a witness and reject the remaining testimony of that
25 same witness.

1 You may believe the testimony of a witness in
2 its entirety or reject the testimony of a witness in its
3 entirety. You may consider whether any witness has
4 exhibited to you any interest, bias, prejudice, or other
5 motive in this case.

6 You may also consider the appearance and the
7 manner of the witness while on the witness stand. The
8 testimony in a case like this of a victim need not be
9 corroborated.

10 In order to establish criminal liability,
11 intent is required, what we call criminal intent is
12 required. For example, the mental state required to be
13 proven by the State for some particular crime might be a
14 specific purpose or knowledge or recklessness or
15 criminal negligence.

16 Criminal intent must be proven by the State
17 beyond a reasonable doubt. Criminal intent is always a
18 matter that must be determined by the jury from the
19 circumstances surrounding the situation.

20 There is no way to prove intent to a
21 mathematical certainty. There is no way medical science
22 can dissect a person's brain and determine what the
23 person had in mind.

24 So the law says that criminal intent may be
25 inferred from the circumstances shown to have existed.

1 This is how you make a determination of whether or not
2 the element requiring intent was present.

3 It's not necessary to establish intent by
4 direct and positive evidence, but intent may be
5 established by inference, in the same way as any other
6 fact, taking into consideration the acts of the parties
7 and all the facts and circumstances of the case.

8 Criminal intent is a mental state, a conscious
9 wrongdoing. It's up to you to determine what the
10 defendant intend to do based on the circumstances shown
11 to have existed at the time and place.

12 Criminal intent can arise from some action or
13 even from a failure to act. It may arise from
14 negligence or indifference to duty or to consequences
15 that are considered by the law to be the equivalent of
16 criminal intent.

17 The defendant is charged with assault with
18 intent to commit first degree criminal sexual conduct
19 with a minor. Now, the State must prove several things.
20 The State must prove beyond a reasonable doubt the
21 defendant committed an assault on the victim with the
22 intent to commit first degree criminal sexual conduct.

23 The first element which the State must prove
24 beyond a reasonable doubt is that the defendant
25 committed an assault. An assault occurs when a person

1 violently or forcefully attempts to hurt or injure
2 another person and has the present ability to complete
3 the attempted injury. An assault is the intentional
4 creation of fear of immediate bodily harm.

5 Next, the State must prove beyond a reasonable
6 doubt that the defendant intended to engage in a sexual
7 battery with the victim. Intent means intending the
8 result which actually occurs, not accidentally or
9 involuntary. Intent may be shown by acts and conduct of
10 the defendant and other circumstances from which you may
11 naturally and reasonably infer intent.

12 A sexual battery as defined by our law is
13 sexual intercourse, cunnilingus, fellatio, anal
14 intercourse, or any intrusion, however slight, of any
15 part of a person's body or of any object into the
16 genital or anal openings of another person's body,
17 except when intrusion is accomplished for medical
18 purposes or medically recognized treatment or diagnostic
19 purposes.

20 The State must prove beyond a reasonable doubt
21 that the victim was less than 11 years old at the time
22 of the sexual battery. Consent, willingness,
23 indifference, or ignorance on the part of the minor, if
24 any, as to what was taking place does not in any way
25 affect the charge of criminal sexual conduct with a

1 minor because an unmarried woman under the age of 14
2 cannot legally consent to sexual intercourse.

3 Now, I think I mentioned this before, but I
4 remind you that during your deliberations, you must not
5 communicate with or provide any information to anyone by
6 any means about this case. You may not use any
7 reference material, including a dictionary, encyclopedia
8 or Bible or internet resources. You will have with you
9 the video disk and you will have with you the ability to
10 play it. We'll send the player in there to you.

11 All right. Now, as I said, nothing that I may
12 have said or done during the course of this trial has
13 been in any way intended to express or suggest a view of
14 the case or an opinion of the facts of the case, the
15 weight of the facts, or the credibility of the
16 witnesses.

17 If any of my actions or words seem to so
18 indicate, please disregard such and form your own
19 opinion as to these matters. I'm required to declare
20 the law as I have done for you in these instructions to
21 help and guide you to a just and lawful verdict.

22 Whether some of these instructions will apply
23 will depend on what you find to be the facts. The fact
24 that I have instructed on various subjects in this case
25 must not be taken as indicating an opinion of this Court

1 as to what you should find the facts to be or what your
2 verdict should be.

3 Now, obviously there are two possible verdicts
4 in this case. They are guilty and not guilty. I'm
5 going to send with you into the jury room a verdict form
6 which reads: As to the charge of assault with intent to
7 commit criminal sexual conduct with a minor in the first
8 degree, we find the defendant, Reginald Spellman --
9 either guilty or not guilty.

10 There is no significance whatsoever to the
11 order in which I state these possible verdicts. It's
12 simply that one must be stated first. All 12 of you
13 must agree on the verdict. Your verdict cannot be based
14 on sympathy, passion, prejudice, emotion, or any other
15 consideration that's not in evidence in this case.

16 Mr. Foreman, when the jury agrees on a
17 verdict, please sign your name as foreperson on the line
18 beneath the jury verdict, knock on the jury room door,
19 inform the bailiff you have reached a verdict; and we
20 will receive your verdict at that time.

21 Now, one other comment about the notes that
22 you may or may not have taken during the course of the
23 trial. I just reiterate the notes are for your
24 recollection of the testimony and the evidence solely.
25 They are not to be used to try to convince someone else

1 that you took better notes than they did. I hope you'll
2 respect my instructions in that regard.

3 All right. Ladies and gentlemen, you can now
4 return to the jury room. As you know, we've ordered
5 lunch for you. I'm not sure exactly what time it will
6 be here, but I think it was not scheduled to be here
7 before 12:00.

8 I'll ask you not to begin your deliberations
9 until you have received all the evidence. When the
10 evidence is brought to you, Mr. Foreman, and the verdict
11 form, you can then begin your deliberations. Thank you
12 very much, ladies and gentlemen.

13 (The jury retires to the jury room at
14 11:27 a.m.)

15 THE COURT: Any exceptions to the charge from
16 the State?

17 MS. BODMAN: No, sir.

18 THE COURT: From the defense?

19 MR. BLANKENSHIP: Only the victim
20 corroboration, Your Honor.

21 THE COURT: Thank you very much. We'll stand
22 at ease until we hear from the jury. Please
23 double-check the evidence and make sure it's all in
24 order.

25 (Pause.)

1 MS. BODMAN: Your Honor, I am sending back the
2 laptop. I turned off the wireless. There are no
3 documents.

4 THE COURT: Ask her if she can load it.

5 MS. BODMAN: Yes, absolutely.

6 THE COURT: Go ahead and do that. Any
7 objection?

8 MR. BLANKENSHIP: No.

9 THE COURT: We didn't get the alternates in;
10 did we? Have they pulled the alternates out?

11 (Pause.)

12 THE COURT: Any objection to dismissing the
13 alternates?

14 MS. BODMAN: No objection.

15 MS. SHEALEY: Any objection to what, Your
16 Honor?

17 THE COURT: Dismissing the alternates?

18 MS. BODMAN: The alternates, we need to get
19 them out of there before they start deliberating.

20 THE COURT: All right. Both counsel have
21 agreed then.

22 MS. BODMAN: Yes.

23 THE COURT: Where are they?

24 MS. BODMAN: They are down in the jury room.
25 I just sent the bailiffs down there to hurry up and get--

1 them out. Frank was about to go into the room. It
2 looks like I see Mr. McCue in the hallway.

3 THE COURT: What?

4 MS. BODMAN: I see Mr. McCue -- is that his
5 name -- the attorney, Mr. McCue in the hallway. So I
6 hope they got him out.

7 (The alternates return to the courtroom.)

8 THE COURT: Mr. 154 and Mr. 181, obviously you
9 were selected as alternates in this case. You cannot
10 participate in deliberations. Did you order lunch?

11 ALTERNATE JUROR: We did.

12 THE COURT: Well, we're not going to deprive
13 you of a fine meal from the Lizard's Thicket. It should
14 be here around 12:00. You're welcome to stay. You're
15 welcome to abandon your Lizard's Thicket meal.

16 But I do want to thank you on behalf of the
17 court system, myself, the lawyers, the participants in
18 this trial. I know Mr. McCue is intimately familiar
19 with this process, but Mr. -- is it Mr. Landon?

20 ALTERNATE JUROR: Yes, sir.

21 THE COURT: I hope you are not -- well, we've
22 got a note from the jury already?

23 THE BAILIFF: Yes, sir.

24 THE COURT: I hope you have enjoyed your time
25 here with us. You're now dismissed. As I indicated

1 earlier, you have a two-year exemption from this date
2 from further jury service.

3 I would hope that if you get called again, you
4 would come back and participate and give us the benefit
5 of your intelligence and your wisdom. I'm going to
6 dismiss you at this time.

7 If you have any questions I'll be glad to try
8 to answer them. I always tell jurors that you're free
9 to go. You don't have to go. You can stay and wait for
10 the decision if you wish to do so. Sometimes it's
11 rather lengthy. I will tell you that.

12 I also will tell you that if anybody wants to
13 talk to you about this case, of course, you're free to
14 talk to them. If you don't want to talk to anybody
15 about this case, if somebody were to approach you and
16 ask you to talk to them about the case and you don't
17 feel like you want to, then I would -- you don't have
18 to.

19 If it got for some reason to be a problem, you
20 can report it to the bailiffs or myself. I assure you I
21 will deal with it harshly. So thank you very much.
22 Good luck to both of you, and see you next trip.

23 ALTERNATE JUROR: Thank you, Your Honor.

24 THE COURT: Yes, sir.

25 ALTERNATE JUROR: Can I approach?

1 THE COURT: Yes, sir.

2 (Whereupon there is a bench conference off the
3 record.)

4 THE COURT: Any problem with this? They
5 request for a fresh air break.

6 MR. BLANKENSHIP: Yes, they deserve it.

7 MS. BODMAN: That's fine, Your Honor.

8 THE BAILIFF: All right.

9 THE COURT: Just make sure they don't
10 deliberate while people are out of the room.

11 (Court Reporter's Note: At 1:08 p.m. the jury
12 sent a note to the Court, and by agreement of all
13 parties, the Court responded in writing, which note was
14 marked as Court's Exhibit Number 3.)

15 (Court's Exhibit Number 3 is marked for purposes
16 of the record.)

17 (The following occurred at 5:10 p.m.)

18 THE COURT: Mr. Blankenship, your client is in
19 D cell if you want him. I'm just going to talk to the
20 jury about whether they want to go home or whether they
21 want to stay. He's right there.

22 MR. BLANKENSHIP: Yeah, can we have him,
23 please?

24 (Pause.)

25 THE COURT: Counsel, what I plan to do is

1 bring the foreman in, ask him how they're doing, where
2 they stand, give them some alternatives, let him go
3 back, talk to the jury to see what they would like to
4 do. They can either stay tonight. We'll feed them or
5 they can go home and have them come back in the morning.
6 Okay?

7 MR. BLANKENSHIP: Okay.

8 THE COURT: Bring the foreperson.

9 (The jury foreman returns to the courtroom.)

10 THE COURT: Mr. Foreperson?

11 THE FOREMAN: Yes, sir.

12 THE COURT: How are you doing?

13 THE FOREMAN: Good.

14 THE COURT: Well, I didn't mean how are you
15 doing personally?

16 THE FOREMAN: I'm doing okay.

17 THE COURT: Let me just ask you a couple of
18 questions. Sometimes jurors think they are locked in
19 that room and have to spend the night and will never get
20 out until they make a decision. That's not true.

21 I just want to inquire -- and I don't want any
22 numbers or votes or anything like that -- if you think
23 the jury is close to making a decision at this point or
24 if not, if you're still deliberating, if you would (A),
25 like to stay and again order a meal for you. (B), go

1 home and start back in the morning or work a little
2 later tonight. We're here.

3 THE FOREMAN: Right.

4 THE COURT: And we're not leaving, and there's
5 no imperative or no reason for you to worry too much
6 about us.

7 THE FOREMAN: Right.

8 THE COURT: You're not holding us up. This is
9 our job.

10 THE FOREMAN: Right.

11 THE COURT: But after close to six hours and
12 although you took time to watch the video and you've
13 taken time to eat, you've still been in there and still
14 be locked in a room for close to six hours.

15 After a while fatigue starts to set in and
16 people start saying the same thing over and over again.
17 I've found that sometimes a good night's sleep and maybe
18 get a chance to think about things on the way home, come
19 back in the morning; and frequently it kind of clears
20 the head a little bit. So I'm going to ask you to go to
21 the jury room and find out for me.

22 THE FOREMAN: Okay.

23 THE COURT: And then just report back and let
24 me know what y'all want to do.

25 THE FOREMAN: Yes, sir.

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

2 THE FOREMAN: Thank you.

3 (The foreman leaves the courtroom and returns
4 at 5:19 p.m.)

5 THE COURT: Yes, sir.

6 THE FOREMAN: The consensus of the jury is
7 that a well night -- or a good night's rest would be
8 very helpful, and we can take this up tomorrow. The
9 jury is willing to come in earlier than, say, 9:30.

10 THE COURT: I'll tell you what, let's just say
11 9:00 o'clock.

12 THE FOREMAN: Okay.

13 THE COURT: And when all the jurors have
14 arrived, you don't need to -- well, maybe I'll bring
15 them in and tell them that.

16 THE FOREMAN: Okay.

17 THE COURT: Why don't you just have a seat.

18 Bring the rest of the jury.

19 I thank you for that.

20 THE FOREMAN: Not a problem.

21 THE COURT: Of course, the end of my sentence
22 was when all jurors are present, you can just begin your
23 deliberations.

24 THE FOREMAN: Okay.

25 THE COURT: Frankly, I'll let you set the

1 time. The courthouse opens at 8:30, but it's sort of
2 like it's in your hands now.

3 THE FOREMAN: I think your suggestion of
4 9:00 o'clock is probably what we want to do if you want
5 to point that out.

6 (The jury returns to the courtroom at
7 5:20 p.m.)

8 THE BAILIFF: The jury is seated, Your Honor.

9 THE COURT: All right. Well, good afternoon
10 ladies and gentlemen. I hope you're holding up well
11 back there. I apologize for the accommodations.
12 They're not very luxurious.

13 I see you've all survived the Lizard's Thicket
14 meal. That is not our choice of restaurants to order
15 lunch from, but that's about -- we're limited to the two
16 that you've already experienced.

17 Your foreman tells me that it probably would
18 be a good time to take an evening break and let
19 everybody go home, relax a little bit, get a good
20 night's sleep, and come back in the morning to continue
21 deliberating.

22 As I told him, we're here as long as you're
23 here. If you want to stay here until midnight, we're
24 here with you. I see some heads shaking. That's
25 probably not the preferable way to go. So I'm going to

1 excuse you now for the evening. Your foreman said you'd
2 like to be back in the morning at 7:30; is that right?

3 THE JUROR: I'd prefer not to.

4 THE COURT: How about 9:00 o'clock? Does that
5 suit everybody?

6 THE JUROR: Good.

7 THE COURT: Okay. When you return to the jury
8 room, once all jurors are present -- you don't need to
9 come in the courtroom -- you can just begin your
10 deliberations or resume your deliberations, I should
11 say.

12 Again, I want to remind you, as I always must,
13 you are not to discuss the case with anyone else over
14 the evening hours or do any kind of extracurricular
15 research work or anything like that.

16 You've heard all the evidence. You know this
17 case as well as anybody in this courtroom. I know it's
18 difficult to sometimes come to a unanimous decision, but
19 that's what the law requires. We are grateful to you
20 for your efforts in trying to do that.

21 I'll excuse you now for the evening. We will
22 be here at 9:00 o'clock in the morning if you need me or
23 any of the court staff. We'll be here. As I say, once
24 you reassemble, you may resume your deliberations.

25 You can leave whatever you've got in the jury

1 room. The jury room will be locked tonight. So it will
2 be there ready for you in the morning.

3 We'll have some hot coffee for them,
4 Mr. Addison?

5 THE BAILIFF: Yes, sir. Yes, sir.

6 THE COURT: Okay. Good. How about doughnuts?

7 THE BAILIFF: Your Honor, if you are willing
8 to pay for them, yes, sir.

9 THE COURT: We'll see what we can do about
10 doughnuts. All right. Good luck. Have a pleasant
11 evening.

12 (The jury is excused for the day at 5:23 p.m.)

13 THE COURT: All right. We'll stand at ease
14 until 9:00 o'clock.

15 (Whereupon the proceedings are concluded for
16 January 12, 2012.)

17 (The following proceedings are reported on
18 January 13, 2012.)

19 (The following occurred at 12:02 p.m.)

20 THE COURT: Ladies and gentlemen, I understand
21 we have a verdict or so everybody has been told. I have
22 no idea what it is, and I don't care what it is; but
23 everybody needs to remain calm one way or the other. We
24 have to accept the judgment of 12 people in this
25 community. Bring the jury in.

1 (The jury returns to open court to report its
2 verdict.)

3 THE BAILIFF: The jury is seated, Your Honor.

4 THE COURT: All right. Welcome back members
5 of the jury.

6 Ms. Tull.

7 THE CLERK: Mr. Foreman, has the jury reached
8 a verdict?

9 THE FOREMAN: We have.

10 THE CLERK: Would you pass it to the bailiff,
11 please.

12 (Hands to Court.)

13 THE COURT: All right. You may publish it.

14 (Whereupon the verdict of the jury is
15 published as follows.)

16 THE CLERK: The State of South Carolina,
17 County of Richland, versus Reginald Spellman, Indictment
18 2010-GS-40-7590, indictment for assault with intent to
19 commit criminal sexual conduct with a minor first
20 degree.

21 We the jury by the unanimous verdict find as
22 follows: As to the charge of assault with intent to
23 commit criminal sexual conduct with a minor in the first
24 degree, guilty. It's signed by the foreperson, number
25 305, on January 13th, 2012.

1 Mr. Foreman, is this the unanimous verdict of
2 the entire jury?

3 THE FOREMAN: It is.

4 THE COURT: All right. Anything further from
5 this jury on behalf of the State?

6 MS. BODMAN: No, Your Honor.

7 THE COURT: Anything from the defense?

8 MR. BLANKENSHIP: We'd like for the jury to be
9 polled.

10 THE COURT: All right.

11 THE CLERK: Ladies and gentlemen of the jury,
12 I'm going to ask you two questions relating to your
13 verdict. Please respond yes or no to both questions
14 when I call your juror number.

15 Number 305, was this your verdict?

16 JUROR: Yes.

17 THE CLERK: Is it still your verdict?

18 JUROR: Yes.

19 THE CLERK: 188, was this your verdict?

20 JUROR: Yes.

21 THE CLERK: Is it still your verdict?

22 JUROR: Yes.

23 THE CLERK: 185, was this your verdict?

24 JUROR: Yes.

25 THE CLERK: Is it still your verdict?

1 JUROR: Yes.
2 THE CLERK: 215, was this your verdict?
3 JUROR: Yes.
4 THE CLERK: Is it still your verdict?
5 JUROR: Yes.
6 THE CLERK: 52, was this your verdict?
7 JUROR: Yes.
8 THE CLERK: Is it still your verdict?
9 JUROR: Yes.
10 THE CLERK: 132, was this your verdict?
11 JUROR: Yes.
12 THE CLERK: Is it still your verdict?
13 JUROR: Yes.
14 THE CLERK: 16, was this your verdict?
15 JUROR: Yes.
16 THE CLERK: Is it still your verdict?
17 JUROR: Yes.
18 THE CLERK: 279, was this your verdict?
19 JUROR: Yes.
20 THE CLERK: Is it still your verdict?
21 JUROR: Yes.
22 THE CLERK: 299, was this your verdict?
23 JUROR: Yes.
24 THE CLERK: Is it still your verdict?
25 JUROR: Yes.

1 THE CLERK: 254, was this your verdict?

2 JUROR: Yes.

3 THE CLERK: Is it still your verdict?

4 JUROR: Yes.

5 THE CLERK: 229, was this your verdict?

6 JUROR: Yes.

7 THE CLERK: Is it still your verdict?

8 JUROR: Yes.

9 THE CLERK: Number 1, was this your verdict?

10 JUROR: Yes.

11 THE CLERK: Is it still your verdict?

12 JUROR: Yes.

13 THE CLERK: The jury has been polled, Your
14 Honor.

15 THE COURT: All right. Anything further from
16 anyone from this jury?

17 MS. BODMAN: No, sir.

18 THE COURT: All right. Now, Mr. Foreman,
19 members of the jury, I'm Casey Manning. I'm here in
20 place of Judge Cooper because he felt ill this morning.
21 I want to take this opportunity on behalf of Judge
22 Cooper and everyone else involved in this matter to
23 thank you for your patriotic service.

24 It's difficult to sit in judgment of your
25 fellow citizens. I mean, you see it on TV. You read

1 about it the newspaper. Until you're in that position
2 and serve in the jury room, no one can appreciate and
3 understand how difficult it is. I've been back there
4 myself.

5 So I want to thank you on behalf of everybody
6 for your patriotic service. I'm going to ask that you
7 go back to the jury room. Don't leave yet.

8 I think probably Ms. McBride will want to say
9 goodbye to them?

10 THE CLERK: Correct.

11 THE COURT: Please go back to the jury room.
12 Thank you, once again, for your service as members of
13 the jury.

14 (The jury is excused.)

15 THE COURT: Now, ladies and gentlemen, I might
16 have indicated earlier, I was speaking with Judge Cooper
17 this morning. All I was going to do was take the
18 verdict of course.

19 Sentencing and any motions will be delayed
20 until I can chat with him about it. Let's hope that
21 he'll feel better and be here Tuesday morning. I assume
22 he is scheduled to be here next week.

23 Of course, Mr. Spellman is to remain in
24 custody. Y'all need to check with Judge Cooper,
25 probably next Tuesday, my best guess is; and from there.

1 you can decide what motions, how, where, when, that sort
2 of thing. All right. Good luck to everyone. Thank you
3 very much.

4 MS. BODMAN: Thank you, Your Honor.

5 (Court's Exhibit Number 5 is marked for purposes
6 of the record.)

7 *** END OF REQUESTED TRANSCRIPT OF RECORD ***
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1
2 CERTIFICATE

3 I, the undersigned L. Coconut Pantsari, Official
4 Reporter for the Fifth Judicial Circuit of the State of
5 South Carolina, do hereby certify that the foregoing is
6 a true, accurate, and complete Transcript of Record of
7 all the proceedings had, as reported by Karen Amborziak,
8 and transcribed by me to the best of my ability, and the
9 evidence introduced in the trial of the captioned cause,
10 relative to appeal, in the Criminal Court for Richland
11 County, South Carolina on the 9th through the 13th days
12 of January, 2012.

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

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16
17 August 16, 2014
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21 *L. Coconut Pantsari*

22 Court Reporter
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24
25

STATE OF SOUTH CAROLINA	)	GENERAL SESSIONS
	)	
County of Richland	)	2010-GS-40-7590
	)	
THE STATE,	)	
	)	
	)	
vs.	)	TRANSCRIPT OF RECORD
	)	
REGINALD SPELLMAN,	)	
	)	
DEFENDANT,	)	

February 2nd, 2012
Columbia, South Carolina

BEFORE:

THE HONORABLE G. THOMAS COOPER, JR., JUDGE.

APPEARANCES:

MARGARET FENT-BODMAN, ASSISTANT SOLICITOR
CRAIG PISARIK, ASSISTANT SOLICITOR
Attorneys for the State

REYNOLDS H. BLANKENSHIP, JR., ESQ.
Attorney for the Defendant

KAREN AMBROZIAK
Official Court Reporter

C O N T E N T S

INDEX OF EXHIBITS:

(There were no exhibits introduced.)

INDEX OF WITNESSES:

(There were no witnesses called.)

1 (The following was heard in chambers with Juror 299,
2 Peggy Wilson.)

3 THE COURT: I just -- you may know why you're here.
4 I don't know.

5 JUROR 299: No.

6 THE COURT: But it came to my attention after the
7 trial -- and I'm just going to tell you as best I know it.
8 There was a luncheon over at the Mac's on Main.

9 JUROR 299: Yes.

10 THE COURT: And a number of people were there,
11 including the -- one of the alternate jurors.

12 JUROR 299: Uh-huh.

13 THE COURT: And there was some discussion at that
14 time about the fact that a member of the jury during --
15 and believe me, nobody is in trouble for anything. I just
16 have to get to the bottom of this. A member of the jury
17 during jury deliberations disclosed that...

18 Pull that door to, please.

19 JUROR 299: That I had been sexually abused as a
20 child.

21 THE COURT: Yes.

22 There is absolutely nothing -- I don't want to know
23 anything about it. There is nothing wrong --

24 JUROR 299: Okay.

25 THE COURT: -- with you disclosing that to the jury.

1 The problem is from -- just from my standpoint, that
2 in the pretrial -- I mean, in the -- when we went through
3 all the questions, and then I brought everybody back into
4 the jury room, and I asked the same question to everybody
5 about these questionnaires.

6 A number of women and actually one male -- because it
7 was in his family -- disclosed that they had something in
8 their family or that it had happened to them, including
9 your fellow jurors.

10 Now, they may not have discussed that in the jury
11 room, and that doesn't matter. The fact that they
12 disclosed gave -- and you remember when we picked the
13 jury. We don't pick the jury. We take the names out, and
14 the counsel has the right to strike off anybody that they
15 want to within reason.

16 They can't strike all blacks or all women or all, you
17 know, something that is just unreasonable under the
18 constitution, but I believe -- and I don't -- this was
19 your questionnaire. If I -- based on what I'm looking at,
20 you didn't tell us about that.

21 JUROR 299: No, sir, I did not.

22 THE COURT: As a matter of fact, if you can look at
23 that, you'll see -- I haven't even shown it to them -- you
24 didn't fill it out. I know that because I'm left handed,
25 and I make check marks backwards.

1 JUROR 299: That number three, I should have put a
2 yes.

3 THE COURT: Yes.

4 JUROR 299: I'm sorry.

5 THE COURT: No. That's all right. I mean, that's --
6 that's the only -- that's what I needed to find out,
7 because -- well, I'm not -- for example, that was another
8 lady, and I could go through the whole stack.

9 JUROR 299: Yes, sir.

10 THE COURT: But you see what I'm saying.

11 JUROR 299: Yeah.

12 THE COURT: That -- and I just needed to know.

13 JUROR 299: Well, I was one from the very beginning
14 that had kept saying, "Not guilty. Not guilty. Not
15 guilty" up until that Friday.

16 THE COURT: Friday when we came back?

17 JUROR 299: Uh-huh.

18 THE COURT: The second day?

19 JUROR 299: I kept saying, "Not guilty. Not guilty.
20 Not guilty."

21 The one thing that changed my mind was Thursday
22 night, I literally walked my floors all night long about
23 this.

24 I -- what I did is I went back through my head and to
25 what little bit he did say, the videotape of the child,

1 and her being on the stand and stuff, and it was just like
2 I had put that way, way back in my brain.

3 THE COURT: I understand completely.

4 JUROR 299: And it was like all the sudden, it came
5 forward, and I -- you know, I can remember things she said
6 and actions that she did.

7 I was never sexually -- I mean, I was never
8 penetrated. It was just all that foreplay like she had.

9 THE COURT: Right.

10 JUROR 299: And there were just some things she said,
11 and my thing was her mom could have told her a lot of
12 things just to get back at him, but then there were the
13 things that she -- that really got me was the white stuff.

14 THE COURT: Yes. It was --

15 JUROR 299: That was --

16 THE COURT: It was pretty descriptive.

17 JUROR 299: And the fact that his mother and
18 grandmother were sitting in there. Nobody ever came
19 forward and testified on his behalf, and I never
20 understood that. That was one of the reasons, too,
21 because I never -- I kept saying, "His mother and his
22 grandmother are sitting there. Why weren't they to put on
23 the stand to testify, you know, he is in North Carolina.
24 He's doing whatever. He's doing a good job?"

25 But from the very beginning up until Thursday night,

1 I had found him not guilty.

2 THE COURT: And the -- how was the rest of the jury?

3 JUROR 299: There were -- there were three of us that
4 were not guilty and one that was unsure, and everybody
5 else from the very get go is, "Guilty. Guilty. Guilty.
6 Guilty. Guilty."

7 THE COURT: It's amazing, I have found over the years
8 that when they -- the jury gets -- they get worn out in a
9 day just going over it, going over it, going over it, but
10 I -- and I tell jurors that a good night's sleep, you
11 know, will give you a chance to sort of get away and think
12 about it on your own.

13 JUROR 299: Yes.

14 THE COURT: And generally speaking, jurors will make
15 a decision after they've had time to think about it.

16 JUROR 299: You know, they never told us how much
17 time he would get. Somebody in the jury room said five to
18 ten years.

19 I'm like well, he's young or whatever, but the
20 thought of putting someone in prison for a day, just a
21 day, was driving me nuts, literally driving me nuts.

22 This has haunted me ever since I've been on this
23 trial. It really has. It has never gone away. The fact
24 that I, in the end, found out this guy could have gotten
25 25 years to life.

1 THE COURT: He could have, yes.

2 JUROR 299: And I'm like, "Oh, my God."

3 You know, and my thing is -- and I keep telling
4 myself, only he, she, and God above know exactly what
5 happened.

6 THE COURT: That's true in so many cases because it
7 never -- there's no public --

8 JUROR 299: You see --

9 THE COURT: -- scrutiny.

10 JUROR 299: -- neither one of my husbands, my
11 brother, nobody in my family ever knew this happened to
12 me, other than my mother.

13 THE COURT: Well, I -- you know, I have no --

14 JUROR 299: That was my stepmother, not my real
15 mother, because my real mother, poor little thing, she
16 would have killed somebody, but this was my stepmother's
17 family.

18 THE COURT: Well, you know, we -- our intention is
19 not to embarrass you about this thing. I just needed to
20 know, had -- had you thought about it at that time if you
21 would have disclosed it? Because I try to do everything
22 in as nonconfrontational and as private a manner as I can
23 because I --

24 JUROR 299: I think I just --

25 THE COURT: -- it's such --

1 JUROR 299: -- hit the part that said convicted or
2 whatever, not the other half, part of that thing.

3 THE COURT: Okay.

4 JUROR 299: Does that mean he gets a whole new trial?

5 THE COURT: It might, yes.

6 JUROR 299: God, I'm so sorry..

7 THE COURT: Well, I don't want you to feel -- I don't
8 want you to feel -- I will tell you, this is not the first
9 time this has happened.

10 JUROR 299: I feel so bad.

11 THE COURT: And it's unfortunate because these,
12 generally speaking, are such deep wounds. They're hard.
13 Even if -- even if they're -- even if you think about
14 them, and you say you didn't even think about it, to come
15 forward and tell a bunch of strangers, and I know that.

16 I've got -- we all have children. We all are
17 sensitive to your feelings.

18 What can I do to make you feel better about this? I
19 don't want you --

20 JUROR 299: I feel so bad. I do.

21 THE COURT: Well, you have got -- you have got other
22 problems of your own now. I don't want you to be worried
23 about this. It's over as far as your jury is concerned.

24 We'll deal with it. Whether he gets a new trial or
25 not will be up to the legal process and he may. He may

1 not.

2 Let me -- let me just go one step further and ask you
3 when you did disclose that in the jury room, were you the
4 last one?

5 JUROR 299: I was the second person to speak.

6 THE COURT: No. I mean, on --

7 JUROR 299: Well, I'm sorry.

8 THE COURT: Friday.

9 JUROR 299: On Friday.

10 THE COURT: Okay. Do you think your testimony to the
11 jury convinced --

12 JUROR 299: The other three, yes, sir.

13 THE COURT: -- the other three? Okay.

14 JUROR 299: Because they said it did.

15 THE COURT: Well, I'm sure it was an emotional
16 moment, and I -- as I say, I hope you can put it behind
17 you, not worry about it. It's -- it's part of the system.
18 We're --

19 JUROR 299: Now, this is going to drive me nuts
20 knowing I screwed up.

21 THE COURT: Well, listen, we're all human, and it's
22 not the kind of thing that you should have to worry about.
23 We'll take care of it. I mean, we're all -- we all see
24 these things, not the same thing, but human conditions all
25 the time.

1 I've been doing it for 12 years. I mean, when you're
2 dealing with a jury, 12 people.

3 JUROR 299: You see, everything went through my head.
4 Even when the mom got up there and testified, she just --
5 it really upset me, her attitude and her demeanor. It was
6 just like, "Oh well."

7 I kind of got the attitude that she was really --
8 excuse my language, pissed off at the fact that he got
9 another girl pregnant, went to Georgia, come back to her,
10 and then went to North Carolina.

11 You know, to me, it was like, you know, "I'll get him
12 back. He's not going to divorce me and marry somebody
13 else."

14 I didn't really see the concern for her child. That
15 really upset me. I wanted to go up to her and say, "What
16 in the hell is your problem? This is your child and you
17 act like it's nothing. You need to be in her shoes and
18 know what it was like."

19 THE COURT: He was a character, wasn't he?

20 JUROR 299: Sir?

21 THE COURT: He was a character, wasn't he?

22 JUROR 299: Yeah, he was a character, but it was that
23 mother that just --

24 THE COURT: God's gift to women.

25 JUROR 299: -- mother was just like not emotional.

1 If that had been my daughter or my grandchild, I would
2 have been in a rage.

3 I wouldn't have cared whether he -- I would have
4 divorced him just for that, you know what I'm saying?

5 The other thing I couldn't understand is why nobody
6 testified for him, but he had his mother and his
7 grandmother sitting right there.

8 At the very first, the thing with his eyes, he never
9 looked at anybody then. His attorney explained that he
10 had that eye problem. So then I watched that eye that he
11 could use, and he would look at you and stuff, but I
12 didn't believe him either.

13 THE COURT: Oh me. Trials are -- I tell you.

14 JUROR 299: I know.

15 THE COURT: They are -- every one is an adventure.

16 JUROR 299: I sit back and being in there one time, I
17 was like, "Oh, my God. I don't know how mama did that all
18 these years."

19 THE COURT: Her mother worked for PTI.

20 JUROR 299: I was just telling a friend of mine
21 that's taking me back and forth to chemo, I said, "You
22 know, right now, I'm carrying like nine pounds of fluid."

23 He said, "You don't pee?"

24 I said, "No. I'm a nurse. We learn to hold it
25 because you're too busy taking care of a patient."

1 I said that's why when we get to this age, we fall
2 apart, because we're too busy taking care of patients.

3 THE COURT: Well, I hope things go well for you with
4 your physical condition. I'm sure you're not looking
5 forward to the next six months.

6 JUROR 299: No. I just want to get it cured and
7 raise my grandchildren. I promised my daughter I would
8 raise those children.

9 THE COURT: Where is your daughter?

10 JUROR 299: My daughter and my son-in-law died three
11 years ago.

12 THE COURT: How, in an automobile?

13 JUROR 299: She was in a car wreck when she was
14 26-and-a-half. The baby was a month from turning two.
15 The kids were two, four and six.

16 She tried to miss a rabbit, and the highway patrolman
17 said when she tried to compensate, those little sparkly
18 things going toward Camden, she hit one of those and
19 flipped her car and broke her back. She was paralyzed
20 from the waist down.

21 She died six years after the wreck from
22 complications, but the kids' dad, he just turned 37 in
23 December. It was in February. Max was sick. He had the
24 flu and stuff. His mother and I kept trying to get him to
25 go to the doctor, wouldn't do it.

1 He was working on the other side of town, so he was
2 going to spend the night with a friend of his. I think
3 this was God's way of not letting him die in my house, but
4 I got a call the next morning that Toby went to wake him
5 up, and he was dead.

6 They did the autopsy and said that he had gone into
7 pulmonary edema, caused him to have a massive heart
8 attack. He died in his sleep.

9 So I had to face these eight, ten, 12 year olds and
10 her and tell them that he died.

11 THE COURT: You've been through it, haven't you?

12 JUROR 299: And then four months later, my daughter
13 died, and the middle grandchildren -- when I was telling
14 Olivia, she was like, "Granny, don't tell" -- because I
15 was going to tell them, you know, "Granny, don't tell him
16 my mommy is going to die, because we'll be the only kids
17 in school with no parents at all."

18 THE COURT: Got a good grandparent.

19 JUROR 299: But whenever Ronnie had the wreck, I
20 closed up their apartment and moved them all in with me.

21 You know, when she died and stuff, those are three
22 little pieces of her I have. I wasn't about to let them
23 go into the system or anything. Those are my -- those are
24 my babies, and I promised her that I would raise them for
25 her.

1 THE COURT: You've got a row to hoe but you're
2 strong. I'm glad you came up here and told us this today.

3 JUROR 299: I'm so sorry.

4 THE COURT: When -- you don't have to be. You don't
5 have to be. We don't want you to be sorry.

6 JUROR 299: I know but I feel so bad.

7 THE COURT: Well, it's done --

8 JUROR 299: -- that everybody has to go through all
9 of this again.

10 THE COURT: Maybe. I'm not sure whether they'll
11 even -- they'll even do it again. That's -- that's
12 another -- that's another day, and that's our problem. I
13 wish it was settled, but it will get settled one day.

14 You worry about your own problems.

15 JUROR 299: Okay.

16 THE COURT: Don't you worry about us. My God, you've
17 got enough on your plate.

18 MS. FENT: Thank you for coming in.

19 THE COURT: All right.

20 (Whereupon, the proceedings were concluded.)
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I, Karen Ambroziak, Official Court Reporter for the 5th Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of General Sessions for Richland County, South Carolina, on the 2nd day of February, 2011.

Karen Ambroziak

Karen Ambroziak, Court Reporter
My Commission Expires: 04/01/14

STATE OF SOUTH CAROLINA	)	GENERAL SESSIONS
	)	
County of Richland	)	2010-GS-40-7590
	)	
STATE OF SOUTH CAROLINA,	)	
	)	
vs.	)	TRANSCRIPT OF RECORD
	)	
REGINALD B. SPELLMAN,	)	
	)	
DEFENDANT,	)	

February 27, 2012
Columbia, South Carolina

BEFORE:

THE HONORABLE G. THOMAS COOPER, JR., JUDGE.

APPEARANCES:

MARGARET FENT BODMAN, ASSISTANT SOLICITOR
Attorney for the State

REYNOLDS BLANKENSHIP, ESQ.
Attorney for the Defendant

KAREN AMBROZIAK
Official Court Reporter

1 REGINALD SPELLMAN, after being duly sworn, testified
2 as follows:

3 THE COURT: All right. Solicitor.

4 MS. BODMAN: Your Honor, to make it clear on the
5 record, this case was called, this indictment was called
6 for trial the week of January 9th of this year. At the
7 end of that week, the jury returned a guilty verdict on
8 assault with intent to commit CSC with a minor in the
9 first degree.

10 Subsequent to the guilty verdict being received and
11 before sentencing was imposed, it came to our attention of
12 potential jury misconduct in -- during deliberations, and
13 Your Honor proceeded to, I guess, talk to a couple of the
14 jurors regarding that.

15 With that issue, they --

16 THE COURT: In the presence of counsel?

17 MS. BODMAN: In the presence of counsel, yes, and the
18 juror in question, we actually were present when Your
19 Honor questioned them, and it was on the record. So there
20 is a record of that.

21 In light of the issues that were raised in that
22 regarding potential juror misconduct and facing a
23 mistrial, defense and I have reached a plea agreement, so
24 we are consenting to the jury's verdict of guilty being
25 set aside. We have reached a plea agreement to a plea to

1 lewd act for 15 years, the maximum for lewd act.

2 THE COURT: And just for the record, the juror
3 disclosed that her failure to disclose at voir dire was
4 unintentional and that it was a repressed memory that only
5 surfaced after the jury began deliberations.

6 So I had serious doubts whether a mistrial should be
7 granted based on her testimony to me and Mr. Blankenship
8 in my presence.

9 Had the -- had that issue been -- come before the
10 court in the form of a motion, in all likelihood, I would
11 reserve judgment until I have heard everything and viewed
12 the law again, but in my opinion based on what she told
13 the three of us -- or I can't remember who else. I know
14 Mr. Pisarik was present also.

15 I just felt that it was an inadvertent thing on her
16 part and probably would have let the verdict stand, but
17 that's neither here nor there. But that's -- after
18 reviewing it, that's the way I think I ruled, had it come
19 before me in the form of a motion for a mistrial.

20 All right. I don't need to review the facts of the
21 case. I'm pretty familiar with them.

22 Mr. Blankenship, have you seen this letter from the
23 victim?

24 MR. BLANKENSHIP: Yes, sir.

25 THE COURT: Okay. Has the State shared that with

1 you?

2 MR. BLANKENSHIP: Yes, sir.

3 THE COURT: All right. Mr. Blankenship, you
4 represent Reginald Spellman?

5 MR. BLANKENSHIP: I do.

6 THE COURT: Have you advised your client of the
7 charge contained in this indictment or the charges for
8 which he is about to plead guilty?

9 MR. BLANKENSHIP: Yes, Your Honor.

10 THE COURT: Have you advised him of the penalty for
11 those charges?

12 MR. BLANKENSHIP: Yes, Your Honor.

13 THE COURT: How does your client indicate he wishes
14 to plead?

15 MR. BLANKENSHIP: Guilty.

16 THE COURT: Mr. Spellman, you're charged in this case
17 now with lewd act upon a child, a charge which carries a
18 penalty of up to 15 years in jail. Do you understand
19 that?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: Understanding the charge you're facing
22 and the punishment you could receive, how do you wish to
23 plead, guilty or not guilty?

24 THE DEFENDANT: Guilty.

25 THE COURT: Do you understand by pleading guilty,

1 you're giving up your right to remain silent? Do you
2 understand by pleading guilty, you're giving up your right
3 to a trial by jury?

4 THE DEFENDANT: Yes.

5 THE COURT: If you requested or demanded a trial by
6 jury, the State would give you a trial. Do you understand
7 that?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: At that trial, you'd have the right to
10 confront and cross-examine all witnesses. You'd have the
11 right to present any witnesses and/or evidence in your own
12 defense. You'd have a right to testify in your own
13 defense.

14 If you wished to do so, no one could make you testify
15 at your own trial. If you decided to go to trial and not
16 testify, the judge would tell the jury they could not hold
17 your failure to testify against you. In fact, the jury
18 could not even consider your failure to testify in their
19 deliberations on your guilt or innocence.

20 You'd be presumed innocent throughout your trial.
21 The State would have to prove you guilty beyond a
22 reasonable doubt to a jury of 12 people, and all 12 people
23 would have to unanimously agree that you were guilty in
24 order for you to be convicted.

25 Even if you were convicted, you'd still have the

1 right to appeal that conviction. Do you understand your
2 rights with regard to a trial by jury?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: Understanding those rights, do you still
5 want to plead guilty?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: Has anyone promised you anything, held
8 out any hope of reward, or threatened you in any manner to
9 make you plead guilty?

10 THE DEFENDANT: No, sir.

11 THE COURT: Are you satisfied with the manner in
12 which your attorney has advised and represented you?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: Have you and your attorney fully
15 discussed the charges against you?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: Has he done everything you asked him to
18 do in preparation for this plea?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: Are you under the influence of any
21 alcoholic beverages, drugs or prescription medications at
22 this time?

23 THE DEFENDANT: No, sir.

24 THE COURT: Are you aware of any mental condition
25 that would keep you from understanding what you're doing

1 here today?

2 THE DEFENDANT: No, sir.

3 THE COURT: Are you pleading guilty of your own free
4 will and accord?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: On or about a period of time from
7 December 31st, 2004 through September 28th, 2006, did you
8 commit some sort of a lewd act upon a child, namely, [REDACTED]
9 [REDACTED]

10 THE DEFENDANT: Yes.

11 THE COURT: I find the decision of the defendant,
12 Reginald Spellman, to plead guilty to be freely and
13 voluntarily, intelligently made. He's had the
14 representation of a competent attorney in a person in
15 Mr. Blankenship with whom he said he's satisfied. I find
16 a factual basis for his plea. Therefore, I will accept
17 his plea.

18 Mr. Spellman, if you disagree with the sentence I
19 give you or the procedure we just completed, you have ten
20 days from today's date within which to file Notice of
21 Intent to Appeal. Do you understand?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: Mr. Blankenship?

24 MR. BLANKENSHIP: I'm sorry?

25 THE COURT: Do you have anything you want to say on

1 behalf of your client?

2 MR. BLANKENSHIP: No. He's provided me with
3 certificates of work programs in the Richland County
4 Detention Center. I'm hopeful that he'll be a model
5 prisoner and hopefully one day will be able to restart his
6 life once he gets out.

7 THE COURT: Well, he will be able to do that.

8 Mr. Spellman, do you have anything you want to tell
9 me?

10 THE DEFENDANT: First of all, I just want to
11 apologize for taking up the Court's time.

12 THE COURT: You don't have to.

13 THE DEFENDANT: And just thank you for letting me
14 take this plea.

15 THE COURT: You want to get it over with?

16 THE DEFENDANT: Yes, sir. I'm ready to get on with
17 my life. I have four kids I'm trying to get home to.

18 THE COURT: What -- how much time has he served? I
19 mean, what kind of credit?

20 THE DEFENDANT: Eighteen months.

21 THE COURT: What?

22 THE DEFENDANT: Eighteen months.

23 THE COURT: Do you have a start date?

24 MS. BODMAN: September 12th, it looks like of...

25 THE DEFENDANT: 2010.

1 MS. BODMAN: 2010.

2 MR. BLANKENSHIP: I believe that's correct.

3 THE COURT: Is that correct.

4 THE DEFENDANT: Yes, sir?

5 THE COURT: September 12th, 2010?

6 THE DEFENDANT: Yes, sir.

7 MS. BODMAN: So the Court is aware, I did -- I've
8 notified the victim's mom from the beginning of the issues
9 that arose and the possibilities of the Court's rulings,
10 and because of the fact that we had agreed to the
11 sentence, she did not want to be here today but was very
12 thankful that we were able to resolve it so that there was
13 no possibility her daughter would have to come to court
14 again and testify again. So she is very happy with this.

15 THE COURT: All right. Well, that's always a
16 consideration.

17 All right. Mr. Spellman, the sentence of the Court
18 is you be committed to the State Department of Corrections
19 for a period of 15 years. I'll give you credit for time
20 served since September 12th, 2010.

21 THE DEFENDANT: Thank you, sir.

22 MS. BODMAN: Thank you, Your Honor.

23 MR. BLANKENSHIP: Thank you, Your Honor.

24 (Whereupon, the proceedings were concluded.)

25

CERTIFICATE OF REPORTER:

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

I, Karen Ambroziak, Official Court Reporter for the
5th Judicial Circuit of the State of South Carolina, do
hereby certify that the foregoing is a true, accurate and
complete Transcript of Record of the proceedings had and
evidence introduced in the trial of the captioned case,
relative to appeal, in the Court of General Sessions for
Richland County, South Carolina, on the 27th day of
February, 2012.

January 31, 2014

Karen Ambroziak

Karen Ambroziak, Court Reporter

My Commission Expires: 04/01/14

STATE OF SOUTH CAROLINA

County of

Richland2013 CP 400 3073

In the Court of Common Pleas

Reginald Bryan Spellman 257838

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

vs.

State

Name of Respondent.

APPLICATION FOR
POST-CONVICTION RELIEFJEANNETTE
C.C.P. McBride
G.S.

2013 JUN 24 AM 11:36

RICHLAND COUNTY
FILEDINSTRUCTIONS — 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 it clear to which question any such continued answer refers.

Since every application must be sworn to 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 applicant was convicted.

1. Place of detention Richland Correctional Institution
2. Name and location of Court which imposed sentence Columbia, SC
Richland County
3. The indictment number or numbers (if known) upon which and the offense or offenses for which sentence was imposed:
 - (a) 2010-GS-40-7590
 - (b) _____
 - (c) _____
4. The date upon which sentence was imposed and the terms of the sentence:
 - (a) February 27th 2012 (15 years non-violent)
 - (b) Mandatory GPS
 - (c) Registry

5. Check whether a finding of guilty was made

(a) after a plea of guilty ☒

(b) after a plea of not guilty N/A

(c) after a plea of nolo contendere N/A

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

Yes

7. If you answered "yes" to (6), list

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

i. South Carolina Court of Appeals (2012-211767)

ii. South Carolina Supreme Court (2013-001040)

iii. _____

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

i. Court dismissed (February 21st 2013)

ii. Court dismissed (May 13th 2013)

iii. _____

(c) the date of each such result:

i. (February 21st 2013) (Court of Appeals)

ii. (May 13th 2013) (Supreme Court)

iii. _____

(d) if known, citations of any written opinion or orders entered pursuant to such results:

i. Remittitur to lower courts

ii. Court would not hear

iii. _____

8. If you answered "no" to (6), state your reasons for not so appealing:

(a) _____

(b) N/A

(c) _____

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

RS(a) Counsel did not make for material after knowledge of camped jury

RS(b) Counsel did not seek second opinion in state D.A. room

RS(c) Counsel did not use info provided to help in defense

10. State concisely and in the same order the facts which support each of the grounds set out in (9):

RS(a) Hill v. Lockhart, 474 U.S. 52 (1985)

RS(b) Whipps v. Smith, 123 S.Ct. 75, 27 (2003)

RS(c) Powell v. Alabama 297 U.S. 71, 53 S.Ct. 265

11. Prior to this application have you filed with respect to this conviction

- (a) any petition in a State Court under South Carolina Law? Court of Appeals
 (b) any petitions in State or Federal Courts for habeas corpus or post-convictions relief? _____
 (c) any petitions in the United States Supreme Court for certiorari other than petitions, if any, already specified in (7)? Supreme Court Writ of Certiorari
 (d) any other petitions, motions or applications in this or any other Court? N/A

12. If you answered "yes" to any part of (11), list with respect to each petition, motion or application:

(a) the specific nature thereof:

- i. to say Direct Appeal (Court of Appeals)
 ii. Writ of Certiorari (Supreme Court)
 iii. _____
 iv. _____

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

- i. Court of Appeals (Columbia SC.)
 ii. Supreme Court (Columbia SC.)
 iii. _____
 iv. _____

(c) the disposition thereof:

- i. Court of Appeals dismissed Feb. 21st
 ii. Supreme Court did not hear and was dismissed
 iii. _____
 iv. _____

(d) the date of each such disposition:

- i. February 21st 2013
 ii. May 13th 2013
 iii. _____
 iv. _____

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

- i. Remitter from Court of Appeals
 ii. Supreme Court will not hear
 iii. _____
 iv. _____

13. Has any ground set forth in (9) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

Yes to both courts

(a) which grounds have been presented:

- i. Loss of Evidence
- ii. Tampered Jury
- iii. Ineffective Counsel

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

- i. Raised in Appeal
- ii. Raised in writ of Certiorari
- iii. _____

15. If any ground set forth in (9) 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) N/A
- (b) N/A
- (c) N/A

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

- (a) your arraignment and plea? YES
- (b) your trial, if any? YES
- (c) your sentencing? YES
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? NO
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? NO

17. If you answered "yes" to one or more parts of (16), list:

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

- i. Reynolds H. Blackenship Jr. (Messella Law Firm)
917 Calhoun St. Columbia SC 29201
- ii. _____
- iii. _____

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

- i. For trial
- ii. Plea Arraignment
- iii. Sentencing

18. State clearly the relief you seek in filing this application.

Allegation dropped against me.
Or an Appeal of case.

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

NO

STATE OF SOUTH CAROLINA

VERIFICATION

County of Richland

I, Reginald Spellman, 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.

Reginald Spellman

SWORN to and subscribed before me this 12

day of June, 19 2013

Virginia Robinson (L.S.)
Notary Public

My Commission Expires: May 20, 2021

RICHLAND COUNTY
FILED
2013 JUN 24 AM 11:37
JEANETTE W. McBRIDE
C.C.P. & G.S.

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

I, Reginald Spellman, 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 therefor.

Reginald Spellman
Applicant

SWORN or affirmed to and subscribed before me this

12 day of June, 19 2013

Virginia Robinson
Notary Public

My Commission Expires May 20, 2021

State of South Carolina
County of Richland
Columbia, SC.

Reginald Bryan Spellman
Applicant,
-VS-
State of South Carolina
Respondent

In The Court of Common
Pleas

C/A No.: _____

Amendment to Applicant's
Application For Post-conviction
Relief

The applicant, Reginald Bryan Spellman comes before this Honorable Court, proceeding pro-se, to offer the following appendage to his Application for Post conviction Relief concerning Indictment No. 2012-211767

In regards to question number nine (9) of page two (2) of the Application for Post conviction Relief:

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

- A. Ineffective Assistance of Counsel
- B. Did not knowingly or intelligently plea guilty.
- C. Coerced into plea of guilty

In regards to question number ten (10) of page two (2) Application for conviction Relief:

(A). Applicant was denied his Sixth and ^{fourteenth Amendment} ~~fourth Amendment~~ Rights to an effective assistance of counsel insofar as his trial counsel failed to provide competent representation and these omissions were prejudicial to his defense.

The Applicant's counsel failed to properly investigate the facts surrounding the circumstances that lead to his arrest. It has been clearly established that the amount of Pre-trial research, or the lack thereof, can most definitely affect the outcome of a criminal defendant's trial. Davis v. Alabama, 100 S.Ct. 1827 (1980).

Effective assistance of counsel, i.e., will satisfy the requirements of the Sixth Amendment, is counsel "reasonable" given the totality of the circumstances. Washington v. Strickland, 683 F.2d 1243, 1250 (CA5, 1982) (en banc) cert. granted, 466 U.S. 668, 104 S.Ct. 2052 (1984); Lockhart v. Estelle, 113 S.Ct. 838 (1993); May v. Balkom, 631 F.2d 48, 52, N.1 (CA5, 1980).

In considering the totality of the circumstances, a court must examine the quality of counsel's assistance from the time of initial retention, through the time of appeal. Goodman v. Balkom, 684 F.2d 794, 803 (CA11, 1981); State v. Williams, 571-522d 703 (4th, 2002).

Would not justice best be served once a criminal defendant raised the issue of ineffective assistance of counsel and the court determines there is a question of whether the defendant received effective assistance, should not the court allow the applicant be granted a hearing regarding the issues?

(B). The applicant contends that his plea cannot be considered voluntary, due to him being denied effective assistance of counsel, and that the plea was brought about by ignorance and the "lack" of competence on the part of his attorney, by issuing "erroneous" advice as to the plea entered by the applicant. Johnson v. State, 317 522d (1989).

Applicant makes the following allegations concerning his plea:

(1) Counsel did not actually or substantially assist him in deciding whether to plead guilty or not;

(2) Counsel did not communicate himself with the facts of the case;

(3) Counsel did not impart to the applicant an understanding of the law on the relation of the facts;

(4) Counsel issued erroneous advice to the applicant as to the length of sentence would result by entering his plea;

(5) Counsel issued advice to the applicant to the effect that no defense was possible to his charge;

(6) Counsel "advised" the applicant into entering his plea by making threats as to length of sentence, he would get by not

pleading guilty.

For a plea to be entered knowingly and voluntarily, a criminal defendant must possess an understanding of the law in relation to the facts. See: McCarthy v. U.S., 39 S.Ct. 1171 (1962). Providing this "understanding" of the law in relation to the facts, is the function of the accused's counsel.

Note: Nor should we ignore the Supreme Court's admonition in Argersinger v. Hamlin, 407 U.S. 25, 92 S.Ct. 2006 (1972), to the effect that: "Beyond the problem of trials and

appeals is that of the guilty plea, a problem with room large in misadventure as well as felony cases; Counsel is needed so that the accused may know precisely what he is doing, so that he is "fully aware" of the prospect of going to prison, and so that he is treated fairly by the prosecution

Can this be said, by the applicant, after relying on the advice of his counsel, that by him pleading guilty after being told by his attorney that no possible defense existed, when in fact, of least one plausible line did? Then could it be said that the applicant, prior to entering his plea, possessed an understanding of the law with regards to the facts?

I should not be assumed that counsel had contributed to the case where he concluded there was no defense possible, and that he exercised his best judgment in advising his client to plead guilty. Whether the attorney, nor the court could say what a prompt and thorough investigation might disclose, as to the facts, or what defenses could be pleaded?

In Howell v. Alabama, 281 U.S. 45, 53 S.Ct. 55 (1933), the court stated: "the right to be heard would be, in many cases of little avail, if it did not comprehend the right to be heard by counsel."

Even in today's media driven society, the intelligent and educated laymen have little or no skill in the exercise of law. If charged with a crime he is incapable, generally, of determining for himself whether the indictment is good or bad.

he is unfamiliar with the rule of evidence, left without the aid of counsel, he may be put on trial without a proper charge, and convicted upon incompetent evidence, or guidance irrelevant to the issues, or otherwise inadmissible. We would lack both the skill and knowledge adequately to prepare his defense, even though he may have a perfect on the requires the guiding hand of counsel of every step in the proceeding against him. Without it, though he may be not guilty, he faces the dangers of conviction, because he does not know to establish his innocence. (Note: as was in the case of the Applicant.)

(C). In this regard, the Applicant contends that had it not been for his counsels, offering of advice, which was based on information obtained directly from the staff, and not as the fruit of its own investigation, the

he would not have entered the plea of guilty that he did. The Applicant contends that his counsel, from the outset, began to speak of a guilty plea, which counsel, saw and portrayed as the Applicant's only opportunity for a reduced sentence. Counsel painted a bleak picture to the Applicant, with little or no hope concerning the likelihood and outcome of any planned trial. Counsel should had

enlighten Applicant about his so-called, on-going deal making with the solicitor. The Applicant being letted with the

pressure of the solicitor's office, and his own counsel,

concerning the length of sentence he would receive, if convicted by a jury, finally, caved into the demand for his plea of guilty.

The Applicant can see no reason behind the thought that this

counsel be considered as having rendered anything near effective

assistance to the Applicant. The Applicant would rather offer that he has clearly met the burden of proof essential in the two (2)

Prong requirements under Strickland v. Washington, 5 upon which there are

based on the foregoing, the Applicant strongly feels that he is entitled to a correction of sentence and judgment and to have

this matter remanded back to the Court of General Sessions for

rehearing

(D). In addition the Applicant contends that counsel failed to advise him as to his right to appeal. The accused is entitled to be made aware of this right to appeal, as an element of attentive assistance of counsel. Weather v. State, 459 SE2d 888 (SC 1995); White v. State, 208 SE2d 35 (SC 1974).

The Applicant was not advised of his right here, doubtlessly because at the time counsel misrepresentation of the facts were not clearly understood by Applicant. Nonetheless even if his advise on this point would have amounted to a mere formality the accused was nonetheless entitled to at least be made aware of this right to appeal, even in the wake of his plea.

Relief Sought

Therefore, the Applicant, Reginald Bryan Spellman, prays that this Honorable Court, by reviewing this record, should conclude that the issues and allegations contained herein, no in fact contain merit, and that the conviction of the Applicant was in violation of the ~~apparent~~ Constitutional laws of the United States, as well as the State of South Carolina, and that this conviction should be vacated, because of the Due process violation, and at a minimum reversed.

Applicant prays also that this Honorable Court would ensure that justice and fairness prevail, and that this court would take whatever steps necessary to examine every allegation and fact, ensuring a fair and just decision for or this Honorable Court.

Date: June 11th 2013

Respectfully Submitted

15/ Reginald Spellman
Reginald Spellman 251838
RCI CB-48
P O Box 2039
Richland SC 29936

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

Reginald Spellman,)

vs.)

The State of South Carolina.)

IN THE COURT OF COMMON PLEAS
Docket Number: 2013-CP-40-3673

AMENDED APPLICATION FOR
POST CONVICTION RELIEF

RICHLAND COUNTY
FILED
2014 OCT 14 AM 10:29
JEANNETTE W. MCBRIDE
C.P. & G.S.

Based upon further investigation and research, the Post-Conviction Relief Application filed on behalf of the above named Applicant is hereby Amended as follows to include in addition to prior grounds stated in the original application for post-conviction relief:

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

- (a) Ineffective assistance of trial counsel—trial counsel fails to properly argue the forensic interview admissibility based on 17-23-175, as well as to preserve the record;
- (b) Ineffective assistance of trial counsel – trial counsel failed to properly argue prior sexual knowledge of the victim should be admissible as evidence as to how she would know to give a statement of this nature;
- (c) Ineffective assistance of trial counsel—trial counsel failed to properly object to photographs of the alleged victim when she was 5 or 6 years old;
- (d) Ineffective assistance of trial counsel—trial counsel fails to properly object and complete the record during the in camera hearing of the victim regarding her understanding of what the truth means;
- (e) Ineffective assistance of trial counsel—trial counsel fails to object to leading questions of the alleged victim during her testimony;

- (f) Ineffective assistance of trial counsel—trial counsel fails to object to bolstering of the alleged victim's testimony during Witnesses Nicole Williams and Investigator Richard Carter
- (g) Ineffective assistance of trial counsel—trial counsel failed to object to Heather Smith being introduced as an expert in forensic interviewing and failed to object to her testimony regarding child abuse victims
- (h) Ineffective assistance of trial counsel—trial counsel failed to make a motion to dismiss due to change of/lack of indictment on date of trial; and
- (i) Ineffective assistance of counsel—trial counsel failed to properly cross-examine witness Melissa Satterfield regarding her background in taking statements from alleged sexual assault victims;

LAW OFFICE OF ANNA GOOD, LLC



Anna Good, Esquire
Attorney for Applicant
1720 Main Street, Suite 303
Columbia, SC 29201
803-429-9107
803-799-4059 (fax)

Columbia, South Carolina
This 13th day of October, 2014

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

Reginald B. Spellman, #251838,

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS
FOR THE FIFTH JUDICIAL CIRCUIT

Case No. 2013-CP-40-3673

RETURN

In response to the post-conviction relief application filed June 24, 2013, the Respondent would show this Court:

I.

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Clerk of Court for Richland County. Applicant was indicted during the December 2010 term of the Richland County Grand Jury for Assault with Intent to Commit CSC with a Minor in the First Degree (2010-GS-40-7590). Applicant was represented by Reynolds Blakenship, Esquire. On February 27, 2012, Applicant appeared before the Honorable G. Thomas Cooper, Jr., where he pled guilty to the lesser included offense of Lewd Act with a Minor. Pursuant to a plea agreement Applicant entered into with the State, Judge Cooper sentenced Applicant to fifteen years imprisonment.

A Notice of Appeal was filed with the South Carolina Court of Appeals. An Order of Dismissal was issued on February 2, 2013 for failure of Appellant to provide a sufficient explanation as required by Rule 203(d)(1)9B)(iv), SCACR. The Remittitur was issued on March 28, 2013. Thereafter, Applicant filed a motion to recall the Remittitur, which was subsequently denied on September 11, 2013.

Attached herewith and incorporated herein are the records of the Richland County Clerk of Court regarding the subject convictions, the Applicant's records from the South Carolina Department of Corrections and the appellate records. The guilty plea hearing transcript has been ordered and will be forwarded upon receipt. The Respondent reserves the right to amend this Return upon receipt of any relevant materials.

II.

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

1. Ineffective Assistance of Counsel;
 - a. "Counsel did not actually or substantially assist him in deciding whether to plead guilty or not;"
 - b. "Counsel did not familiarize himself with the fact of the case;"
 - c. "Counsel did not impart to the Applicant an understanding of the law on the relation of the facts;"
 - d. "Counsel issued erroneous advice to the Applicant as to the length of sentence would receive by entering his plea;"
 - e. "Counsel issued advice to the applicant to the effect that no defense was possible to his charge;"
 - f. "Counsel "coerced" the Applicant into entering his plea by making threats as to the length of sentence he would get by not pleading guilty."
2. "Did not knowingly or intelligently plea [sic] guilty"; and
3. "Coerced into plea of guilty."

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, 104 S.Ct. 2052, 2064, 80 L.Ed.2d 674, 692 (1984); Butler, 334 S.E.2d 813.

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume that counsel

rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Strickland, 466 U.S. 668. The Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

The reviewing court applies a two-pronged test in evaluating allegations of ineffective assistance of plea counsel. First, the Applicant must prove that counsel's performance was deficient. Under this prong, the court measures an attorney's performance by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625, citing Strickland. Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. With respect to guilty plea counsel, the Applicant must show that there is a reasonable probability that, but for counsel's alleged errors, he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 106 S.Ct. 366, 88 L.Ed. 2d 203 (1985).

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

IV.

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

V.

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

Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

KAREN C. RATIGAN
Senior Assistant Deputy Attorney General

MEGAN E. HARRIGAN
Assistant Attorney General

P.O. Box 11549
Columbia, S.C. 29211

By: Megan E. Harrigan
Attorneys for the Respondents

December 12, 2013.

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

IN THE COURT OF COMMON PLEAS

2013-CP-40-3673

REGINALD B. SPELLMAN, #251838

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:

Anna R. Good, Esquire
 Law Office of Anna Good, LLC
 1720 Main Street, Suite 303
 Columbia, South Carolina 29201

DATED this 12th day of December, 2013.


 Kelly Oppenheimer, Legal Assistant
 For Respondent

State of South Carolina) In the Court of Common Pleas
County of Richland) Fifth Judicial Circuit
2015-CP-40-00525

Reginald B. Spellman,)

Appellant,)

vs.)

State of South Carolina,)

Defendant.)

Transcript of Record

December 9, 2014

Columbia, South Carolina

B e f o r e :

The Honorable J. Ernest Kinard, Jr., Judge

A p p e a r a n c e s :

Anna Good, Esquire
Attorney for the Appellant

Clay Mitchell, Esquire
Attorney for the Defendant

Bonnie H. Kelly, CVR
Circuit Court Reporter

I N D E X

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EXHIBITS

<u>NO.</u>	<u>DESCRIPTION</u>	<u>I.D.</u>	<u>EV.</u>
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NO EXHIBITS ENTERED

1 MR. MITCHELL: Your Honor, may it please the Court.
2 The next case, and I believe the last case of the day, is
3 *Reginald B. Spellman v. the State of South Carolina*, Case
4 No. 2013-CP-40-3673.

5 The applicant was indicted during the December 2010
6 term of the Richland County Grand Jury for assault with
7 intent to commit criminal sexual conduct on a minor in the
8 first degree. That's Indictment No. 2010-GS-40-7590. He
9 was represented on these charges by Mr. Reynolds
10 Blankenship.

11 On -- well, it's a bit different procedurally. Mr.
12 Spellman went through the complete trial, was found guilty
13 by the jury. Then a juror brought to the attention of
14 Judge Cooper that she may have -- that she had a repressed
15 memory of some sort that she thought she may have needed to
16 disclose during voir dire. So at that point, Defense made
17 a motion for a mistrial.

18 The solicitor and the Defense talked. They then
19 agreed to set aside the -- the jury's verdict of guilty,
20 and he entered into a plea agreement with the State. So
21 there he pled guilty to the lesser included offense of lewd
22 act on a minor, and -- and then he was sentenced to 15
23 years on that.

24 A notice of appeal was filed with the South Carolina
25 Court of Appeals, which was dismissed February 2, 2013. He

1 filed a -- this post -- this post-conviction relief
2 application June 24, 2013, where he alleged various aspects
3 of ineffective assistance of counsel and that he did not
4 knowingly and intelligently enter into his guilty plea.

5 And I -- I believe some of these allegations go
6 towards counsel's performance at trial and not at the
7 guilty plea. So it's the State's position that any
8 allegations against counsel's performance at trial were
9 waived by pleading guilty where he waives rights to
10 challenge the evidence and whatnot.

11 So it's our position that we should only go forward
12 today on ineffective assistance of counsel during the
13 guilty plea proceeding and what led up to that decision.

14 MS. GOOD: And Your Honor, it's our position that the
15 trial is what led up to that decision and that his plea was
16 not intelligently made because it was based on counsel's
17 actions during the trial, and what our contention is he was
18 ineffective in doing or not doing. And based on the fact
19 of those actions, he believed he would have been found
20 guilty at another trial.

21 I think it is important to note that the plea was an
22 Alford plea, it wasn't a guilty plea; and that he was
23 pleading based on the actions that occurred at the trial.
24 So we believe that we should be able to go into --

25 THE COURT: Well, you can go into it for what it's

DIRECT EXAMINATION BY MS. GOOD - REGINALD SPELLMAN

6

1 worth, yeah.

2 MS. GOOD: Thank you, Your Honor. We're ready.

3 MR. MITCHELL: And I just note my objection ---

4 THE COURT: I know that.

5 MR. MITCHELL: --- for the record.

6 MS. GOOD: At this time the applicant calls Reginald
7 Spellman.

8 REGINALD SPELLMAN, having been first
9 duly sworn, testified as follows:

10 THE CLERK: Please have a seat and state your full
11 name for the record.

12 THE WITNESS: (No audible response.)

13 DIRECT EXAMINATION BY MS. GOOD:

14 Q Please state your full name for the record.

15 A Reginald Brian Spellman.

16 Q Mr. Spellman, what we all just put on the record about
17 the actions leading up to your plea with the trial and the
18 jury and the verdict being vacated, that's all true,
19 correct?

20 A Yes.

21 Q Okay. And at that time, your attorney was Reynolds
22 Blankenship?

23 A Yes, it was.

24 Q And about how long had you had Reynolds Blankenship as
25 your attorney?

1 A I'd say maybe -- maybe a couple of months after I -- I
2 let go of Mr. Collins ---

3 Q Okay. And ---

4 A --- my public defender.

5 Q --- you were arrested in October of 2010?

6 A October 2010? No. It was -- I was brought down here
7 September.

8 Q Okay. And about a couple of months after that is when
9 Mr. Blankenship became your attorney?

10 A Yes.

11 Q And was he retained?

12 A Yes, he was.

13 Q And the entire time your charges were pending, were
14 you incarcerated or were you on bond?

15 A I was incarcerated.

16 Q Okay. And in your recollection, about how many
17 meetings did you have with Mr. Blankenship in the two years
18 before your trial?

19 A Like, roughly four.

20 Q Okay. And do you remember when your first meeting was
21 approximately?

22 A Not exactly, but I remember him comingm and you know,
23 just initially telling me that, you know, he's the lawyer
24 -- he's my lawyer and basically, what -- just getting an
25 interview, just talking.

DIRECT EXAMINATION BY MS. GOOD - REGINALD SPELLMAN

8

1 Q And at that time, did you indicate to him whether you
2 wanted a plea or a trial?

3 A I told him I wanted to take it to trial.

4 Q Okay. And at some point -- you said you had about
5 four meetings. When you had your second meeting, do you
6 recall what happened at that meeting?

7 A The second meeting, he brought -- he -- I actually got
8 her -- the CD of the -- the DVD of the -- the alleged
9 victim's testimony.

10 Q Okay. Her forensic interview?

11 A Yes.

12 Q Okay. And you watched that at that time?

13 A Yes, we did.

14 Q And was that the only forensic interview?

15 A Yes, it was.

16 Q Okay. Was there ever any other interviews done?

17 A They did an interview of the brother.

18 Q Okay.

19 A And subsequently, when we asked to see that one, it
20 was lost. The State sent us a letter saying that it was
21 lost.

22 Q Okay. And ultimately, that became a discovery issue
23 at trial that y'all did argue, correct?

24 A Yes.

25 Q Okay. And the Judge denied that at the trial.

1 A Yes, he did.

2 Q And then about several weeks before your trial or --
3 I guess your first trial -- you had one trial set, correct?

4 A Yes, we did.

5 Q And when was that trial set for?

6 A The first trial was set for August.

7 Q Of 2011?

8 A Yes.

9 Q Okay. And what happened when that came to trial, when
10 you came to court for that trial?

11 A I never did go to that -- to that hearing. They just
12 continued it. He let me know that they continued it.

13 Q Okay. And when did it get continued to?

14 A It got continued to October the 5th.

15 Q Of 2011?

16 A Yes.

17 Q Okay. And when you went to trial on October 5th of
18 2011, do you recall what your charges were at that time?

19 A Not initially because I thought I was on the charge of
20 -- the CSC. And I later on -- later on found out that it
21 was changed at the later -- at the -- the next trial date.

22 Q And do you remember when the true bill of that
23 indictment was?

24 A The true bill of the indictment was October the 5th,
25 the same day that I went to -- to my second hearing.

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1 Q So the indictment that you ended up going to trial on
2 in January of 2012 was an indictment that was done on the
3 day that you were at trial, correct?

4 A Yes.

5 Q Okay. Do you know if your attorney was aware of that?

6 A I have no idea.

7 Q When's the first time that you became aware of that?

8 A I became aware of that after I got incarcerated and
9 was doing research on my case, and I found out through the
10 transcripts.

11 Q And before I get to all the issues of this trial, you
12 ultimately pled under *Alford* to this, correct?

13 A Yes, I did.

14 Q Okay. And why did you plead under *Alford* to the
15 lesser -- well, not a lesser included, but the lewd charge
16 with 15 years?

17 A Because I was notified by my lawyer and -- when I got
18 into court that the Judge was not going to -- actually I
19 had -- I initially asked for a new trial because of the --
20 the situation with the juror, but the Judge said that he
21 would then -- he found it unintentional. He was not going
22 to give me a new trial.

23 Q And did you end up pleading based on what happened in
24 that trial?

25 A Yes, I did.

1 Q Okay. Is that the only reason you pled?

2 A Yes. Because I -- I -- I looked at it this way, if --
3 if there wasn't going to be -- if he wasn't going to give
4 me a new trial based -- based on the lady admitting that
5 she tampered the jury, then I really basically didn't have
6 a chance.

7 Q And at that time, were you aware of any of the actions
8 that Mr. Blankenship had taken during the trial, if they
9 were correct or not?

10 A At the time, I didn't know, but as I -- like I say,
11 as I went and got incarcerated and I started doing
12 research, I started seeing the errors that he made; and you
13 know, it just kind of made me -- it drewed [sic] me -- my
14 interest to what else did he do.

15 Q And is that when you filed your PCR application?

16 A Yes, it is.

17 Q Okay. And I'm going to get to the trial now. We kind
18 of a little bit touched on the jury issue, but I'm going to
19 start during jury selection.

20 A Uh-huh.

21 Q During jury selection, was there anything different
22 about jury selection regarding questionnaires that were
23 done?

24 A Yes. There -- we -- there were -- the jurors were
25 given a questionnaire and was asked to fill them out. But

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1 the Judge had told the jurors if it applied to them, that
2 they didn't have to fill it out. So there were numerous
3 jurors that didn't fill it out.

4 Q What time -- type of questionnaires were these?

5 A Questionnaires asking had they ever been abused as a
6 child or had they ever been molested or raped or anything
7 like that.

8 Q And each juror filled one of those out?

9 A Well, like I say, half of the jurors did ---

10 Q Well, supposedly, at the beginning, they ---

11 A Yeah.

12 Q Okay. And then each went back with the Judge and
13 discussed any of their answers?

14 A Yes.

15 Q Okay. Into chambers, correct?

16 A Yes.

17 Q Okay. Ultimately, did an issue come up regarding one
18 of the jurors that were selected?

19 A Yes, ma'am.

20 Q And when did that come up?

21 A That came up after trial.

22 Q Okay. And she came forward -- I'm -- I'm just going
23 to paraphrase because it was kind of put on the record
24 earlier -- but that she had been abused as a child and she
25 didn't disclose it on her questionnaire.

1 A Yes, ma'am.

2 Q Okay. And ultimately, was there a hearing about this
3 juror?

4 A Yes, it was.

5 Q And when was that hearing conducted?

6 A I have no idea. I was not there. I wasn't notified
7 about it until after the hearing was done.

8 Q And who notified you about this hearing that was done?

9 A We had -- what Mr. Blankenship did was Ms. Counts --
10 Ms. Shealy, she -- her husband was down there and I spoke
11 with him. And he notified me of what this -- what was
12 going on about the -- the juror.

13 Q Okay. So you were never taken to this hearing
14 regarding the juror, correct?

15 A No, ma'am.

16 Q After jury selection, there was pretrial motions done.
17 And I won't get into too much detail with you on the
18 pretrial motions as they are in the transcript; however, I
19 do want to touch on them. Was there any pretrial motion
20 done regarding the admissibility of the forensic interview
21 of the alleged victim?

22 A There wasn't -- there was really none -- no kind of
23 objections or nothing to it. It was that she testified and
24 they said that she was qualified to do it.

25 Q Okay. And to your knowledge, did Mr. Blankenship

DIRECT EXAMINATION BY MS. GOOD - REGINALD SPELLMAN

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1 argue the forensic interview admissibility correctly under
2 the statute?

3 MR. MITCHELL: Objection. Calls for a legal
4 conclusion.

5 THE COURT: Yeah. He -- he's not an ---

6 MS. GOOD: Yes, sir.

7 THE COURT: --- expert or anything.

8 MS. GOOD: All right.

9 Q But there was some discussion regarding the forensic
10 interview.

11 A Yes.

12 Q And you don't know whether he argued it correctly or
13 not.

14 A No, I don't.

15 Q All right. In addition, there was also a pretrial
16 motion regarding the sexual knowledge of the victim?

17 A Yes.

18 Q Okay. And this discussion was about her being
19 pregnant, correct?

20 A Yes, it was.

21 Q And everybody agreed that it was not your baby because
22 she was incarcerated at the time, correct?

23 A Yes.

24 Q When did she disclose the alleged sexual abuse by you?

25 A She alleged that after she was -- after she was found

1 out -- that they found out that she was pregnant.

2 Q And was there every any discussion during pretrial
3 motions regarding those allegations coming in or her
4 pregnancy coming in as a result of prior sexual knowledge
5 to show how she would know information?

6 A There was talk of it, but it was never really brought
7 into perspective.

8 Q Okay. At some point during the trial, the alleged
9 victim got up to testify, correct?

10 A Yes. Yes, ma'am.

11 Q And this is ---

12 MS. GOOD: We're referring to Page 225 of the
13 transcript, Your Honor.

14 Q There was an in camera hearing regarding her knowledge
15 of the courtroom and if she understood what the truth is,
16 correct?

17 A Yes.

18 Q Do you recall if she was questioned about her
19 understanding of the truth?

20 A Yes, I do. I remember.

21 Q Do you recall if she answered the questions?

22 A No, she didn't answer it.

23 Q Did your attorney ever object or request for her to
24 complete the questioning?

25 A No, he didn't.

DIRECT EXAMINATION BY MS. GOOD - REGINALD SPELLMAN

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1 Q And in addition, during her testimony, did he ever
2 object to any legal -- leading questions or anything to
3 your knowledge?

4 A No, he never reject -- objected to anything.

5 Q Okay. And then ultimately, after that, several other
6 people testified. Specifically Page 272, Investigator
7 Richard Carter testified. Do you recall during that
8 testimony, which is part of the transcript, the question
9 being asked, "Do you see any inconsistencies with her
10 statement?"

11 A Yes, I do remember that.

12 Q Did your attorney object to that?

13 A No, he didn't.

14 Q And later on, Nicole Williams also testified.

15 MS. GOOD: This is Page 267, Your Honor.

16 Q Do you recall the question being asked -- or her
17 saying that, "I told her to tell the truth and I saw
18 nothing inconsistent"?

19 A Yes, I do remember that.

20 Q Do you remember if your attorney objected to that
21 statement?

22 A No, he never objected to it.

23 Q And then later on, Heather Smith testified ---

24 MS. GOOD: And this begins at Page 3 -- 347, Your
25 Honor.

1 Q Do you recall if she was qualified as an expert in
2 forensic interviewing?

3 A I don't remember her being qualified as -- I remember
4 them saying something, but ...

5 Q Okay. But you don't remember, but it's possible?

6 A Yes.

7 Q Okay. Was there any objection to that?

8 A There was no objections.

9 Q And then she began discussing issues regarding sexual
10 and child abuse. Do you recall there being any objections
11 to any of this testimony?

12 A No.

13 Q Okay. And when the indictment -- go back to the
14 indictment issue, when it was changed prior to your trial,
15 did your attorney ever object to the change in the charge,
16 that it prejudiced you?

17 A No. The only thing that he said was we didn't have a
18 case.

19 Q Okay. And based on all of the actions that occurred
20 regarding specifically bolstering the witness's test -- the
21 victim's testimony during the trial, did you believe at
22 that time, when you pled under *Alford*, that you were going
23 to be found guilty if there was another trial?

24 A I felt that I would be.

25 Q And if you had known then what you had known now

CROSS-EXAMINATION BY MR. MITCHELL - REGINALD SPELLMAN 18

1 regarding what you believe should have happened in the
2 trial, would you have pled guilty that day?

3 A No, I wouldn't have pled guilty.

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

5 CROSS-EXAMINATION BY MR. MITCHELL:

6 Q All right. Good morning, Mr. Spellman.

7 A Good morning.

8 Q Now you pled guilty to lewd act upon a child under
9 16; isn't that correct?

10 A Yes, I did.

11 Q And that was not under an *Alford v. North Carolina*,
12 was it?

13 A Say it again.

14 Q You did not plead guilty under *Alford v. North*
15 *Carolina*, did you?

16 A Not in North Carolina, no.

17 Q You didn't plead guilty under the case -- *Alford* case,
18 did you? It was a straight up -- it was a negotiated plea
19 when you pled guilty to lewd act upon a minor; isn't that
20 right?

21 A Yes. It was -- it was said that I could take the plea
22 if I would plea to the whole 15 years.

23 Q Correct. So you agreed to do the 15 years in exchange
24 for them dropping the charge down a degree; isn't that
25 right?

CROSS-EXAMINATION BY MR. MITCHELL - REGINALD SPELLMAN 19

1 A Yes. But as -- as I said before, it -- I didn't see
2 it -- I was in a lose -- in a lose/lose situation, so I
3 just took the -- the lesser of the -- of the -- of the
4 evils.

5 Q So you pled guilty knowing -- or you pled guilty to
6 not risk going to trial again; isn't that right?

7 A Yes, because of what happened in the last one and I
8 was --

9 Q Okay. You were facing 30 years on the CSC first
10 degree, right?

11 A Yes.

12 Q So then they dropped the charge down to lewd act and
13 the max on that was 15; isn't that right?

14 A Yes.

15 Q And it was a negotiated sentence, so you knew the
16 judge had no discretion in what to sentence you to; isn't
17 that right?

18 A Yes.

19 Q And you waived presentment to that indictment; isn't
20 that right?

21 A Well, I don't see how I can waive presentment to an
22 indictment when it was already brought before the Grand
23 Jury.

24 Q Well, this was a lesser included, so you waived
25 presentment to the lesser included by it being -- being

CROSS-EXAMINATION BY MR. MITCHELL - REGINALD SPELLMAN 20

1 brought to the Grand Jury; isn't that right?

2 A Yes. But it was still off the same -- same indictment
3 that I -- that I had -- that already went before the Grand
4 Jury.

5 Q Right. So you initialed the sentencing sheet that
6 says where you waive presentment to the ---

7 A Yes.

8 Q --- lewd act charge; isn't that right?

9 A Yes.

10 Q And your -- your CSC was changed to attempted CSC;
11 isn't that right?

12 A Yes.

13 Q And that was because they -- the State couldn't prove
14 that there was any penetration.

15 A Yes.

16 Q Okay. So that would -- excuse me. And you testified
17 you met with your attorney how many times?

18 A I think about four times.

19 Q About four times leading up to the case?

20 A Yes.

21 Q Now, Judge Cooper heard your trial; isn't that right?

22 A Yes.

23 Q And he did the sentencing and sentenced you also,
24 right?

25 A Yes.

CROSS-EXAMINATION BY MR. MITCHELL - REGINALD SPELLMAN 21

1 Q And he asked you whether you understood what you were
2 pleading guilty to; isn't that right?

3 A Yes.

4 Q And he asked you how you wished to plead, right?

5 A Yes.

6 Q And you said "guilty"?

7 A Yes.

8 Q Okay. And at that point, he went over the rights that
9 you were giving up by pleading guilty, right?

10 A Uh-huh.

11 Q Right to remain silent ---

12 A Uh-huh.

13 Q --- right? Right to present ---

14 A Yes, sorry.

15 Q A right to present a defense?

16 A Yes.

17 Q Is that right?

18 A Yes.

19 Q Really, just giving up your right to a trial, right?

20 A Yes.

21 Q Okay. And he asked you multiple times whether you
22 understood what you want -- that you were pleading guilty;
23 isn't that right?

24 A Yes.

25 Q And what you were giving up?

CROSS-EXAMINATION BY MR. MITCHELL - REGINALD SPELLMAN 22

1 A Yes.

2 Q And he asked you whether you were satisfied with your
3 attorney at that point and you said "yes"; isn't that
4 right?

5 A Yes.

6 Q And he asked you whether you discussed everything
7 fully with your attorney, and you said "yes"; isn't that
8 right?

9 A Yes.

10 Q And he also asked you had your attorney done
11 everything you'd asked him to do, and you said "yes."

12 A Yes.

13 Q Okay. And he asked you if you were guilty of
14 committing a lewd act upon the victim in this case; isn't
15 that right?

16 A Yes.

17 Q And you said "yes" to that question, also, right?

18 A No, I didn't.

19 Q You did not?

20 A No.

21 Q Okay. You were pleading guilty to committing a lewd
22 act; isn't that correct?

23 A Yes.

24 Q But you never told the Judge that you were guilty?

25 A No.

CROSS-EXAMINATION BY MR. MITCHELL - REGINALD SPELLMAN 23

1 Q Okay.

2 A The -- the transcript that you're reading, that was of
3 the things that my lawyer said. I never -- I never
4 answered that question.

5 Q Okay. Well, you understood you were pleading guilty,
6 so ---

7 A Yeah.

8 Q --- you're standing before the Court saying you were
9 guilty of the charge, correct?

10 A Yes.

11 Q Okay.

12 THE COURT: Well, on Page 5 of the transcript he says
13 he pleads guilty (as read): "Understanding the charge
14 you're facing and the punishment you would receive, how do
15 you wish to plead, guilty or not guilty?"

16 Q Then I point out on Page 7, you also -- asked how you
17 wanted to plead, you also said "guilty." Does that seem
18 right?

19 A Yes.

20 Q Okay.

21 MR. MITCHELL: One moment, Your Honor.

22 (Brief pause.)

23 CROSS-EXAMINATION BY MR. MITCHELL (continues):

24 Q How old was the alleged victim in this case?

25 A Are you speaking of when they said the alleged

REDIRECT EXAMINATION BY MS. GOOD - REGINALD SPELLMAN 24

1 incident happened or ---

2 Q Right. How old was she at that time?

3 A At the time, they -- they were saying she was five or
4 six.

5 Q Okay.

6 MR. MITCHELL: No further questions. Thank you.

7 MS. GOOD: Just very briefly.

8 REDIRECT EXAMINATION BY MS. GOOD:

9 Q He just asked you regarding during the plea colloquy
10 about are you satisfied with your attorney and you said
11 yes. Discussed everything fully with your attorney, he's
12 done everything you asked to do and you said yes. At that
13 time, were you aware of the mistakes he may have made
14 during the trial?

15 A No. I was not -- I was not aware of the errors that
16 he made. I didn't -- until I went to court -- I mean, I
17 went to -- to jail and I started doing research, that's
18 when I found out the things that he did.

19 Q And if you had known those things at the time that
20 those questions were asked at your plea, would you have
21 said you were satisfied with your attorney?

22 A No, I wouldn't have -- I wouldn't have been satisfied
23 with his work.

24 MS. GOOD: No further questions, Your Honor. No
25 further questions.

DIRECT EXAMINATION BY MR. MITCHELL - REYNOLDS BLANKENSHIP 25

1 MR. MITCHELL: No further questions.

2 THE COURT: You can step down.

3 MS. GOOD: Nothing further from the applicant, Your
4 Honor.

5 MR. MITCHELL: Your Honor, the State calls Reynolds
6 Blankenship.

7 REYNOLDS BLANKENSHIP, having been
8 first duly sworn, testified as follows:

9 THE CLERK: Please have a seat and state your name for
10 the record.

11 THE WITNESS: Reynolds Blankenship.

12 DIRECT EXAMINATION BY MR. MITCHELL:

13 Q Good morning, Mr. Blankenship.

14 A Good morning.

15 Q Thank you for being here today. All right. Have you
16 had a chance to review your file in this case or ---

17 A I ---

18 Q --- review some materials?

19 A I reviewed the materials you provided, the guilty plea
20 transcript, your return, which contains a sentencing sheet;
21 and the indictment. I'm not in possession of the -- the
22 defense file.

23 I'm no longer with the law firm I was with that --
24 when we handled this, so I -- I don't know where the file -
25 - I assume they have it or -- or Mr. Spellman's counsel has

DIRECT EXAMINATION BY MR. MITCHELL - REYNOLDS BLANKENSHIP 26

1 it. I don't know.

2 Q Were you appointed or retained in this case?

3 A Retained.

4 Q Were you present during Mr. Spellman's testimony just
5 -- just before you -- you stepped on the stand?

6 A Yes, sir.

7 Q Okay. Did you go over the charges that he was facing
8 in this case?

9 A Yes. Before trial and before the plea.

10 Q Okay. Now, before trial, he was facing CSC first;
11 isn't that right?

12 A Correct, with a minor under 11.

13 Q Okay. And then why did that charge -- that charge was
14 changed.

15 A That was changed. When we finally got to trial in
16 January, the solicitor approached us and said we need to
17 change it to "attempt," because they didn't think they
18 could prove penetration; which we hoped they wouldn't
19 change it because we -- we didn't think they could prove it
20 either.

21 Mr. Spellman was consulted. We said we could object
22 to this at the last minute, and what we would probably end
23 up doing is coming back in two months or at some point
24 after they had a chance to amend it; and did he want to
25 wait for that or did he want to just go forward now. He

DIRECT EXAMINATION BY MR. MITCHELL - REYNOLDS BLANKENSHIP 27

1 consented to the amendment.

2 Q Would the State have been able just to reindict him
3 under a different -- just issue a new indictment; is that
4 right?

5 A My understanding. I -- I'm not exactly sure. I'm not
6 sure. I assume they'd have to go back to the Grand Jury
7 and reindict it.

8 Q There's nothing stopping them from going back to the
9 Grand Jury re -- to reindict him on a different charge.

10 A I think that's what they were going to do.

11 Q Okay. As you advised him, what discussions did you
12 have with him about his rights to a trial?

13 A He knew he had the right to a jury trial. At the very
14 beginning, when I met him, he was pretty adamant on
15 fighting the charge and going to trial.

16 And throughout, we had some plea discussions or plea
17 offers. This lewd act was offered early. We rejected it.
18 I think that was their best offer before trial. So we went
19 to trial.

20 Q What was the -- what was your strategy at trial?

21 A The -- this was a classic he said/she said case. It
22 was -- the girl didn't make the accusation until four years
23 after it supposedly happened. And we thought it was -- or
24 she did this after Mr. Spellman said to his estranged wife,
25 who was the girl's mother, that he was going to start a

DIRECT EXAMINATION BY MR. MITCHELL - REYNOLDS BLANKENSHIP 28

1 divorce proceeding. He was living in North Carolina at the
2 time.

3 We thought this was all just some sort of revenge
4 tactic by the mother of some sort. There was no physical
5 evidence. It had never been reported. It was going to be
6 -- there was no witness that we knew of. And it turns out
7 there wasn't any witness. It was Mr. Spellman said it
8 never happened, that was the whole strategy.

9 Q So he denied -- did he deny it from the beginning ---

10 A Yeah.

11 Q --- that he committed this crime?

12 A Yes. Yes, he did.

13 Q All right. So the strategy was to really point out
14 inconsistencies in the victim's statements and testimony?

15 A Well, we -- we told the State -- or we told the jury
16 that the State was going to parade eight witnesses up in
17 front of them and only one of them mattered, this little
18 girl. She was the only one who knew the truth. Everyone
19 else was there to make it look like there was more evidence
20 than there was. That was the whole strategy.

21 We thought we had evidence that Mr. Spellman had a
22 problem with the mother. We didn't really have a good
23 explanation for why the girl, you know, would be making
24 these things up other than, you know, kids sometimes help
25 their mothers or had been led to believe something by the

DIRECT EXAMINATION BY MR. MITCHELL - REYNOLDS BLANKENSHIP 29

1 parent. We had no actual evidence. We just had sort of
2 implication.

3 And -- and you know, the fact that it wasn't reported
4 for four years until divorce came up, we thought that was
5 important. And also the fact that Mr. Spellman had healthy
6 sexual relationships with adult women, we thought was
7 pretty impactful. Why would he be doing this with a five-
8 year-old? And that's pretty much it.

9 Q Okay. Earlier Mr. Spellman testified -- testified
10 that you -- you did not object to -- you did not object to
11 the victim's testimony. Is there a strategy behind that,
12 while the victim was testifying?

13 A The -- Ms. Shealy handled -- was handling that, but
14 I'll -- I'll take full responsibility for her not
15 objecting. We didn't object to a lot of the witnesses. In
16 these -- the Judge was going to overrule pretty much any
17 objection. There were a lot of objections we could have
18 made. We could have fought more on the ARC video even
19 coming in. There's a statute that allows it in. The case
20 law's going to allow it in. We could have done that to
21 preserve appeal.

22 A lot of times you think you're objecting just to
23 preserve for appeal, but it's not going -- it highlights
24 issues for the jury. So I don't think we objected to much
25 of anything that the girl said.

DIRECT EXAMINATION BY MR. MITCHELL - REYNOLDS BLANKENSHIP 30

1 Q Did the age -- did her age have anything to do with
2 your strategy of not objecting forcefully?

3 A Sure. Exactly. We didn't want to look like we were
4 attacking a child.

5 Q About how old was the child when -- would the child
6 have been during the alleged crimes?

7 A Five or six.

8 Q Okay.

9 A I don't remember.

10 Q And about how old would she be at the trial, if you
11 give an estimate, if you remember?

12 A Ten to twelve.

13 Q Okay. Now, can you explain what happened with the --
14 with the verdict being -- jury's verdict being set aside?

15 A It was never actually set aside -- well, it -- it was
16 at the plea. But Judge Cooper got a call from -- the
17 reserve jurist -- juror -- sorry -- was a lawyer. So we
18 had a lawyer on there. And I forget which law firm he was
19 from, but he was the reserve juror.

20 And he had called Judge Cooper, apparently, and said,
21 you know, the foreman, jury foreman had called him and kind
22 of wanted to know what to do about something came to light
23 that this one lady on -- they got the case -- sorry.

24 They got the case on Friday, deliberated for about six
25 hours, were sent home, came back in the morning. And this

DIRECT EXAMINATION BY MR. MITCHELL - REYNOLDS BLANKENSHIP 31

1 other juror, who had been siding with Mr. Spellman, sort of
2 revealed that she had been molested as a child. Everybody
3 was supposed to have disclosed that during voir dire. So
4 the -- the foreman thought that was kind of important and
5 it got -- eventually got to Judge Cooper.

6 Judge Cooper called me and Ms. Bodman, who was the
7 solicitor, said we needed to have an in-camera hearing.
8 Mr. Spellman -- it was going to be in chambers. Mr.
9 Spellman was not to be at the hearing. And it was just
10 going to be the judge, me, Ms. Bodman, the court reporter,
11 and this juror.

12 And the juror revealed it. She said she had a
13 repressed memory. She was on Mr. Spellman's side, along
14 with one other juror. And when she got home that night,
15 she was pacing around and had a repressed memory come to
16 light; and so that's what she testified to.

17 I don't think I've answered your question yet. Judge
18 Cooper said he didn't think it was an intentional
19 withholding of information, which he found to be the legal
20 standard to grant a new trial. He told me to research it,
21 Ms. Bodman to research it. That seemed to be the correct
22 legal conclusion.

23 He said he was probably not going to grant a new trial
24 -- or mistrial based on this juror because it had not been
25 intentional. But he said why don't you two guys, me and

DIRECT EXAMINATION BY MR. MITCHELL - REYNOLDS BLANKENSHIP 32

1 Ms. Bodman, see if you can work something out, and she re-
2 offered lewd act.

3 Mr. Spellman -- I went to see him at the jail. We
4 discussed it -- well, first time I went, he was in medical.
5 I went back the next day. We discussed it then and he
6 agreed to do that. I discussed it with his mother over the
7 phone.

8 I don't know whether they spoke, but he agreed to take
9 the deal. That's when the verdict got set aside. It -- it
10 was never set aside because of the misconduct. It was
11 technically set aside because of the plea deal.

12 Q So this was before he was sentenced by the Court,
13 right?

14 A Correct.

15 Q From a jury verdict?

16 A Correct.

17 Q And just to clear things up, this was not an *Alford*
18 plea.

19 A Not an *Alford* plea.

20 Q Okay. It was a negotiated 15 years on the lesser
21 included lewd act ---

22 A Correct.

23 Q --- correct? Okay.

24 And I hate to jump around, but going back to jury
25 selection -- scratch that. Excuse me.

DIRECT EXAMINATION BY MR. MITCHELL - REYNOLDS BLANKENSHIP 33

1 Going back to the victim's sexual -- sexual knowledge,
2 that was brought up and raised in pretrial; is that right?

3 A I think there was a pretrial motion. I know that
4 before the girl was to testify, we tried -- we tried to
5 proffer testimony on that issue because there was a weird
6 sequence of -- the girl disclosed her allegation against
7 Mr. Spellman in, like, April of 2010.

8 And then in September of that same year, it came to
9 light that an uncle and an uncle's friend or something had
10 -- had also maybe inappropriately touched a friend of the -
11 - of the girl. And so there wasn't -- that was after the
12 fact. There was a big fight over whether that's still
13 relevant, we should get that stuff in. You know, do we
14 attack the uncle as a possible perpetrator, you know, as --
15 as a third-party-guilt situation?

16 The judge wouldn't allow us to get into it. And I
17 know there was a lengthy argument on that and prior
18 knowledge issues. The -- I think the argument was mainly
19 mid-trial, not pretrial.

20 Q Okay. And Mr. Spellman pointed out that there were
21 parts of the trial where I believe Investigator Carter
22 stated something along the lines of are there any -- do you
23 find any inconsistencies in the testimony and you did not
24 object to that. But as far as trial strategy goes,
25 bringing out the inconsistencies in the victim's story,

CROSS-EXAMINATION BY MS. GOOD - REYNOLDS BLANKENSHIP 34

1 wasn't that mainly the theme of the trial?

2 A Yeah, that -- that was. The whole thing was -- I
3 don't remember that testimony, but the whole -- yeah, the
4 theme was she's not telling the truth. We didn't want to
5 call her a liar, but you know, she wasn't telling the
6 truth.

7 Q Right. Back to the plea, did you have any reason to
8 think the applicant did not understand he was pleading
9 guilty?

10 A No.

11 Q Did you see any problems with the plea?

12 A No, it was negotiated. It was -- it was what we
13 agreed to.

14 MR. MITCHELL: That's all the questions I have.
15 Please answer any questions Ms. Good has. Thanks.

16 THE COURT: I'm going to take a one-and-a-half-minute
17 break. Just stay there.

18 (Whereupon a short break was taken.)

19 THE COURT: You may keep your seats.

20 MS. GOOD: Thank you, Your Honor.

21 CROSS-EXAMINATION BY MS. GOOD:

22 Q Good morning, Mr. Blankenship.

23 A Morning.

24 Q I'll try not to jump around too much. I want to start
25 with the indictment issue. Can you explain to me again the

1 timing of -- I guess when you -- y'all were originally set
2 for trial in October, correct? October 5th you went to
3 court?

4 A Correct.

5 Q And at that time, when you were set for a trial, what
6 was the charge?

7 A I was still CSC. And I don't know whether the
8 solicitor was going to ask me to change it then. I don't
9 know.

10 Q Okay. And at that point, did you have a copy of the
11 CSC indictment?

12 A Yes.

13 Q Okay. And that was ultimately continued, correct?

14 A That was. And it was continued because the State
15 dumped some evidence on us about the subsequent uncle issue
16 at the last minute.

17 Q And you weren't aware at that time that they were
18 going to be amending the indictment, correct?

19 A No idea.

20 Q And then ultimately you went to trial January, 2012.
21 At that time, did you have a copy of the indictment they
22 were going forward on?

23 A It was still CSC until the day -- that morning of.

24 Q I'm going to show you -- if I can find it.

25 MS. GOOD: I believe this is part of the record

CROSS-EXAMINATION BY MS. GOOD - REYNOLDS BLANKENSHIP 36

1 already, Your Honor, in your file.

2 Q The indictment that he was found guilty of (hands
3 a document to the witness.) Can you tell me the true bill
4 date of that indictment?

5 A October 5, 2011.

6 Q So the day that y'all originally went to trial in
7 October. And so at the time in January, it had already
8 been true billed as an assault with intent to commit CSC,
9 correct?

10 A I guess so, yeah.

11 Q Okay. So you did not have a copy of that indictment
12 going into the day of trial?

13 A No. I -- I don't remember seeing this, no.

14 Q When you are prepping for a trial, how do you -- do
15 you ever get copies of your indictment? Do you go to the
16 clerk's office to check their file, to see what indictments
17 are in there, so you can review the indictments and see if
18 there's anything that needs to be quashed or dismissed?

19 A I thought we had the -- I remember we had the CSC
20 indictment, and I don't remember any change until January.

21 Q Do you remember if that indictment was ever served on
22 Mr. Spellman?

23 A This one?

24 Q Yes.

25 A If it was, it would have been the morning of trial,

1 when we agree to the change. Maybe -- maybe she said she'd
2 never served it, I don't know. But that's -- I'd never
3 seen any change until the morning in January.

4 Q And you stated that it had been y'all's strategy all
5 along, there was never any -- well, there was several
6 strategies, but one of them was that there was never any
7 penetration, correct?

8 A That's ---
9 Q So changing the indictment prejudiced Mr. Spellman, in
10 your opinion, when it came to what you were going to be
11 arguing, correct?

12 A It hurt our case. Yeah. It hurt the -- we thought we
13 had a good case with CSC -- with CSC.

14 Q And did you ever argue to the Court or ask for that
15 indictment right there to be quashed or dismissed because
16 it prejudiced Mr. Spellman since he had never been served
17 with it?

18 A No. Because the -- the -- what would have happened
19 was they would have -- the -- the state, who controls the
20 docket, would have withdrawn it. We'd have -- we'd have
21 come back in a month or two, and we would have been facing
22 this charge.

23 Q But that charge had already been -- if you had -- but
24 you didn't make a motion to dismiss that or that it
25 prejudiced your client from even being changed from a CSC

1 to an assault, correct?

2 A Correct, I didn't do that.

3 Q And you stated that this was basically a she said/he
4 said, correct? It's all based on credibility?

5 A (No audible response.)

6 Q And I'm not going to get -- I guess, let me touch on
7 the jury issue real quick. When y'all went back into
8 chambers, you stated the juror said that she was on Mr.
9 Spellman's side?

10 A Yes.

11 Q Okay. And it was her and one other juror?

12 A Correct.

13 Q And Judge Cooper decided not to overturn or grant a
14 mistrial because he said it was non-intentional, correct?

15 A He said that's what he was probably going to do, as I
16 think it's set forth in the -- in the plea transcript. He
17 said he would, of course, reserve judgment until he heard
18 evidence and arguments. But his inclination was he
19 probably would not give us a new trial.

20 Q Okay. And -- I guess -- so y'all never went on the
21 record when it came to making objections because he never
22 actually made a decision on it?

23 A Correct.

24 Q Okay. Moving back to the trial strategy, you say
25 it's all based on credibility because y'all's strategy was

1 it never happened and the victim's was the only testimony
2 as to what actually occurred that day in her mind, correct?

3 A Correct.

4 Q How long have you been an attorney?

5 A Ten years.

6 Q And how often do you -- I mean, I assume you do
7 continuing legal education every year, correct?

8 A Correct.

9 Q How much CLEs have you done based on or looking at
10 CSC cases and the law surrounding CSCs?

11 A I have no idea. I've -- I've done criminal CLEs, but
12 I don't know. I honestly don't know if any touched on CSC.

13 Q And you -- at that time, were you up to date on the
14 CSC laws when it came to forensic interviewing?

15 A I think so.

16 Q Okay. First go to, I guess, the victim. Prior to the
17 in-camera hear -- or pretrial, y'all went over the forensic
18 interview, correct?

19 A (No audible response.)

20 Q Do you recall if you ever argued that it was -- did
21 not have particular guarantees of trustworthiness?

22 A We retained an expert. We got money to retain our own
23 expert to review the video. She mentioned that -- her only
24 trouble with the video was at the end -- and I forget the
25 fifth step where she --

CROSS-EXAMINATION BY MS. GOOD - REYNOLDS BLANKENSHIP

40

1 Q The closure?

2 A The closure. She -- our expert said the only thing
3 that the State's expert did wrong was didn't do closure.

4 Q Okay.

5 A So we found -- you know, we thought if we raised a big
6 stink about that, we were doing nothing but highlighting
7 the importance of this ARC video after we just told the
8 jury "disregard it."

9 Q Well, I'm talking about the pretrial and in-camera,
10 not in front of the jury. Did you ever argue to the judge
11 that there was inconsistencies and it was not trustworthy
12 -- the trustworthiness guarantees were not?

13 A I don't remember.

14 Q And then in additional pretrial, you -- you stated
15 that y'all had argued about the third-party guilt when it
16 came to this allegation and the sexual knowledge, correct?

17 A We wanted to. We -- we tried to explore it.

18 Q Did y'all ever make the argument that the sexual
19 knowledge should come in to show that she has knowledge of
20 these types of actions; that could it have come from
21 somewhere other than Mr. Spellman, to explain why she would
22 say these things?

23 A I think that's the avenue we were trying to get that
24 argument in. I don't know that we got the argument in.

25 Q Okay. But y'all based it mostly on the third-party

1 guilt, correct, not on the fact that she was pregnant so
2 she has knowledge of sex just in general?

3 A I honestly don't remember. If she were pregnant, I
4 can't imagine we didn't explore that, but I -- I don't ---

5 Q Well ---

6 A --- know.

7 Q --- the pregnancy was discussed, but did y'all ever
8 argue that obviously she has knowledge of sex from
9 somewhere, not necessarily where or who or getting into
10 details of it, but that she has knowledge of it and that
11 could have been put into the allegations?

12 A Yeah. We -- I don't remember how it came up, but we
13 definitely approached the issue of she's now 10 to 12, I
14 forget how old she was. In the meantime, since this
15 allegedly happened and by the time of trial, she could have
16 learned these things. Or even more importantly, April,
17 when she gave a statement, she could have learned in that
18 four years where white stuff and -- and things came from.

19 Q Correct.

20 A That issue came up. I don't remember how it came up.

21 Q Okay. I'm getting into the victim and the in-camera
22 hearing, not in front of the jury. There was a whole
23 colloquy with -- between Judge Cooper and the victim. I
24 believe Ms. Bodman also asked some questions regarding did
25 she understand what the truth was. Do you remember that?

CROSS-EXAMINATION BY MS. GOOD. - REYNOLDS BLANKENSHIP 42

1 A I'm sure it happened, but no, I don't remember it.

2 Q Do you remember if she answered the questions when he
3 asked them?

4 A I don't. I don't remember.

5 Q And do you recall not objecting to her not answering
6 the questions or asking her to complete the questions?

7 A I don't remember. And I have -- I mean, if -- if --
8 if the transcript says that, I'm not going to disagree with
9 it.

10 Q I'm going to move on now to, I guess, Investigator
11 Carter and Nicole Williams. I'll get to Heather Smith in a
12 minute. But when Investigator Carter testified --

13 MS. GOOD: And I believe, Your Honor, this is on Page
14 ...

15 Q You said this whole thing came down to credibility,
16 correct? It was just the victim, basically, as to what she
17 was saying happened.

18 MS. GOOD: This is Page 284, Your Honor.

19 Q Do you recall the question being asked to Investigator
20 Carter (as read): "In reviewing all those things we talked
21 about, Derrick Morgan's statements, notes, Deputy
22 Satterfield, the forensics interview, and her trauma
23 narrative notes or therapy, based on your investigation,
24 did you observe any inconsistencies in her disclosures?"
25 And he answered, "No, ma'am."

1 Did you ever -- you never objected to that question,
2 did you?

3 A I don't know. I'm not -- whatever the transcript
4 says, I'm -- I'm not going to disagree with it.

5 Q And that could be considered bolstering, correct,
6 asking if she was telling the truth or not, just in
7 different words?

8 A I guess it could be, yeah.

9 Q Okay. And same thing with Nicole Williams. I
10 believe she was the victim advocate at the ARC, where the
11 forensic interview took place.

12 And she testified in front of the jury that the only
13 thing she tells the victim to say when she comes to court
14 is to tell the truth, and she saw nothing inconsistent.
15 Did you ever object to those statements?

16 A I don't -- if I didn't, I didn't. I don't know.

17 Q And in your opinion, wouldn't that also somewhat imply
18 that she's telling the truth in court because she's told to
19 tell the truth and there was no inconsistencies?

20 A It could be.

21 Q And finally, I want to get to Heather Smith. She was
22 qualified as an expert in forensic interviewing, correct?

23 A Yes.

24 Q And at that time, the Kromah case had not come out,
25 but several other cases had come out regarding forensic

CROSS-EXAMINATION BY MS. GOOD - REYNOLDS BLANKENSHIP 44

1 interviewing. Were you aware of *State v. Hill*, which was
2 an Appellate decision in 2011?

3 A I don't remember the names. I knew we were constantly
4 keeping current on those and -- even through trial. That
5 was a big -- because we really wanted to attack ARC videos
6 because philosophically, we felt they were very
7 prejudicial. But there was a statute on that and we were
8 trying to find ways to get around that statute.

9 Q So you were aware of *State v. Hill* and *State v.*
10 *Jennings* that both came out in 2011 before this trial?

11 A I'm sure we were.

12 Q Okay. And -- but you never objected to the forensic
13 interviewing based on those two cases, did you?

14 A I didn't -- there was case law we found didn't apply.

15 Q Which case law did you find, do you remember?

16 A I don't remember. I -- I -- I just remember we
17 searched high and low and hadn't found anything that we
18 felt really -- really helped us.

19 Q In *State v. Hill*, the judge -- the forensic
20 interviewer testified that his -- in his expert opinion,
21 the child had not been coached and was therefore presumably
22 truthful. Obviously, she didn't testify that she was
23 truthful in this case, but she testified there was no
24 inconsistencies, correct?

25 A Yeah. We -- the three of us -- we had three lawyers

1 on that-- we intentionally sat and listened for something
2 that we could call "bolstering." Bolstering wasn't
3 necessarily the only thing, but we didn't hear anything
4 that we thought was going to be an objection to get us
5 anywhere we -- that was going to help us.

6 Q Did you ever think to object to preserve an appeal for
7 an issue that had not been in front of the Supreme Court
8 before when it came to forensic interviewers?

9 A We didn't see anything -- and when you're trying a
10 case -- a lot of people don't even know this -- you can
11 object to certain things to preserve for appeal. A lot of
12 times those objections hurt you at trial.

13 Q Correct.

14 A And -- and so the decision to be made of: Are we
15 going to highlight something for the jury but we preserved
16 for the appeal. It's a balance.

17 We -- we listened for it. We didn't hear anything to
18 object to on bolstering or making her -- supported that the
19 girl was telling the truth.

20 Q And in Ms. Smith's case, Heather Smith, she was
21 qualified as an expert just in forensic interviewing,
22 correct?

23 A I think so.

24 Q And then -- she then go on to discuss ---

25 MS. GOOD: Page 359, Your Honor.

RE-DIRECT EXAMINATION BY MR. MITCHELL - REYNOLDS BLANKENSHIP 46

1 Q --- delayed disclosure in child sexual abuse,
2 minimization, other issues regarding child sexual abuse
3 cases, not -- not as a part of forensic interviewing; do
4 you recall that?

5 A I -- I don't.

6 Q And if I were to say that's in the transcript, would
7 you agree?

8 A I've not - yeah. I haven't read the transcript, and
9 I'm -- if it says that, then it says what it says.

10 Q And at that point, you didn't object to her not being
11 qualified to answer those questions, that she was not
12 considered an expert in that field, correct?

13 A I don't know.

14 Q Okay.

15 MS. GOOD: Beg the Court's indulgence. No further
16 questions, Your Honor.

17 MR. MITCHELL: One or two quick follow-ups.

18 REDIRECT EXAMINATION BY MR. MITCHELL:

19 Q On the indictment issue, do you believe the -- do you
20 believe Mr. Spellman knew what he was being charged with at
21 that time?

22 A Yeah, and -- he did. I -- it came -- I remember it
23 coming to us in January, at trial, as an amended indictment
24 and if we had any objection to it. Margaret -- Ms. Bodman
25 asked us if we had objection to it. We talked about it and

RE-DIRECT EXAMINATION BY MR. MITCHELL - REYNOLDS BLANKENSHIP 47

1 the decision was, you know, we could fight over it or come
2 back -- come back in two months.

3 Q So -- so you were on notice of what the charges were
4 against your client?

5 A Correct. And you know, I mean -- you know, we were --
6 we were hoping to face the actual CSC. But yeah, we knew
7 what we were facing at that point.

8 Q And he could have just been re-indicted and then come
9 back two weeks later and tried on that new -- the new
10 indictment; isn't that right?

11 A I guess so.

12 Q So you retained an expert, and then pursuant to her
13 conclusions, you based your challenges to the State's
14 forensic interviewer off of your hired expert; is that fair
15 to say?

16 A Yes. And she didn't see where her coming to trial
17 would help us. So we decided not to bring her to trial.
18 And again, the closure issue wasn't something that we found
19 significant enough to make a big deal of as far as the
20 problems she found.

21 Q As far as third-party guilt, that was argued to the
22 judge -- was it argued to the judge?

23 A I don't know that third-party guilt was argued to the
24 judge. We were trying to set it up to get it arguable with
25 the uncle, but the judge was not going to allow us to get

RE-DIRECT EXAMINATION BY MR. MITCHELL - REYNOLDS BLANKENSHIP 48

1 anything with the uncle in. So I don't know that we got to
2 actually argue -- I know we didn't argue it to the jury.

3 Q Right.

4 A And I don't -- I don't know if we got to that point
5 with the judge either.

6 Q And was the sexual knowledge component argued
7 pretrial?

8 A I believe it was.

9 Q Okay. And the record will speak for itself on that.
10 Did you see any benefit to objecting to the victim's
11 not answering questions pretrial in-camera hearing?

12 A I don't remember -- I honestly don't remember doing
13 that. I don't know that I would have objected. A lot of
14 times -- I -- I don't know. I really don't know. I don't
15 know why we would have.

16 Q Okay. And inconsistencies, I mean, that really was --
17 came down to what the case was about, what your defense was
18 about; isn't that right?

19 A (No audible response.)

20 Q You point out inconsistencies in closing and
21 throughout the testimony; is that true?

22 A That's -- that was the goal. That's what we tried to
23 do.

24 MR. MITCHELL: All right. No further questions.

25 Thank you.

1 MS. GOOD: Nothing further, Your Honor.

2 THE COURT: You can step down.

3 THE WITNESS: Thank you.

4 MR. MITCHELL: That's all the witnesses from the
5 State.

6 THE COURT: All right.

7 MR. GOOD: Thank you, Your Honor. Kind of want to
8 focus on two things here. First, honestly, the plea is
9 what takes precedent. And our argument is that his plea
10 was based on what happened at the prior trial and the
11 actions that were or were not taken by Mr. Blankenship
12 regarding objections, specifically, when it came to
13 bolstering the witnesses.

14 As Your Honor knows, there's numerous case law that's
15 come out in recent years regarding forensic interviewers
16 and what any witness is allowed to say regarding victims
17 and sexual abuse -- children that are alleging sexual
18 abuse.

19 Specifically, at the time, nobody was allowed to
20 testify that the child was being truthful. And I believe
21 through at least three different witnesses, questions were
22 asked regarding did you see any inconsistencies, which
23 implies, if they say no, that they believe the child is
24 telling the truth.

25 In addition, Your Honor, it goes on to the forensic

1 interviewer. And she began discussing numerous things
2 regarding delayed disclosure, minimization, and child abuse
3 that she was not qualified as an expert in. And
4 subsequently, in case law -- which obviously I'm not going
5 to argue Mr. Blankenship should have known at the time
6 because it didn't come out until 2012 -- forensic
7 interviewers are specifically not allowed to even testify
8 about that -- this -- that now at the time. But then he
9 never even objected to that information to preserve it for
10 appeal.

11 While I understand strategy not to put excess thoughts
12 in a juror's head, when there's three separate witnesses
13 continuously bolstering the victim in this case, I believe
14 that's ineffective on his part, showing that the child was
15 telling the truth when everybody agrees and has testified
16 to this is purely a she said/he said case.

17 In addition, Your Honor, I believe the testimony has
18 shown that this charge was originally a CSC charge, and
19 they went to trial on -- on October 5 of 2011, and at that
20 time, it was CSC. And on that date, unbeknownst,
21 obviously, to Mr. Blankenship, this was in the Grand Jury
22 being true billed as an amended indictment.

23 This amended indictment was not served on Mr. Spellman
24 until the day of trial. Mr. Blankenship has testified that
25 they would have had -- they would have rather had the CSC

1 indictment because there was no testimony regarding
2 penetration, nobody said that there was ever penetration.
3 And he never argued to dismiss that it prejudiced Mr.
4 Spellman in any way.

5 And in addition, the prior CSC would have already been
6 true billed if this was an amended indictment, Your Honor.
7 So they could have gotten that CSC charge, which is what
8 they wanted anyway. The sentencing would not have been any
9 different, as the assault with the intent to commit CSC
10 with a minor first degree is the same as CSC minor with the
11 first degree.

12 So based on all of that, Your Honor, we ask that this
13 PCR be granted and that Mr. Spellman be given a new trial.

14 MR. MITCHELL: Your Honor, I'll start with the plea.
15 I think at the plea, Mr. Spellman waives any challenges to
16 the evidence, he waives any challenges to this jury trial.
17 And I think he absolutely waives anything that happened
18 before the trial as far as counsel's ineffectiveness -- or
19 counsel's performance, excuse me.

20 And I think going through that, you know, I don't
21 think we get to any of this examination of what happened at
22 trial. We just focus on whether he knowingly, voluntarily
23 entered into the plea. And I think the record fully
24 supports that he pled down from CSC first, max of 30.

25 He testified today that he did that because he thought

1 it was a good deal. He was worried about exposure. He
2 made the voluntary choice to plead to 15. It is a
3 negotiated sentence, the judge had no discretion. He knew
4 exactly what he was pleading into. He knew the sentence he
5 was going to get.

6 And let's see, as far as the trial goes, I don't -- I
7 don't consider that bolstering. I don't think that's near
8 enough to be considered bolstering a witness using, you
9 know, just a few lines of a 500-page transcript here and
10 there. I -- I -- I don't think that turns into bolstering
11 just by talking about inconsistencies. I mean, any
12 inconsistencies would be in favor of the defendant. I
13 think that's what the trial strategy was about. So he
14 could -- he attacked that on cross-examination and in
15 arguments to the jury in closing.

16 I think all that recent case law that came out after
17 this trial is completely irrelevant because it's not the
18 law at the time of the case. How's he supposed to know how
19 the Supreme Court would view this case today? That doesn't
20 matter at all.

21 As far as the indictments go, I think any change to
22 the indictment, there's absolutely no prejudice because the
23 solicitor can just not call the case that week, go get an
24 indictment from the Grand Jury that day, and call the case
25 ---

1 THE COURT: It's a lesser included anyway.

2 MR. MITCHELL: Right. I mean, so it's -- it's on
3 there any way as an intent. It's not like it's changing
4 from, you know, burg to murder, something like that. It's
5 a -- they could go out and just get a new indictment. I
6 don't think it's deficient in any manner. And it's the
7 State's position that he's not shown deficiency or
8 prejudice.

9 But I think what we really need to focus on is that he
10 knowingly and voluntarily entered into the plea and I think
11 the record fully supports that. Thank you.

12 THE COURT: Okay. Well, here's how it comes down. I
13 haven't read the whole transcript, but I read enough of it.

14 Twelve jurors listened to it. He's kind of lucky
15 because Judge Cooper would have give him 30 years on the
16 jury verdict. He indicated he was not going to set it
17 aside. And he didn't make the rule, but he said,
18 basically, he was not going to set it aside.

19 As -- as the trial went on, when the child testified
20 and didn't answer the questions, that's -- that's up to the
21 judge. Now, Judge Cooper had six children, so he
22 understands children and whether they're believable or not
23 looking at them, you know. So -- I mean, he's had a lot --
24 and he's got a lot of grandkids. So you don't have to get
25 into a very lengthy colloquy with a child to know whether

1 they understand the difference between the truth or not.

2 And she basically said she did on that issue. She did
3 equivocate sometimes, but then she's 12 years old. You
4 know, so he allowed it in. And of course, counsel did
5 object to letting it in. Not at that point, but when they
6 offered it, he objected and Judge Cooper overruled him at
7 that point.

8 It's pretty hard to overturn a negotiated sentence
9 when it's a he said/you said trial. As far as bolstering
10 went during the trial, when somebody's first witness
11 testified there were, you know, no inconsistencies, that's
12 not saying I believe what she said. That's just going --
13 he didn't find any inconsistencies. The attorney couldn't
14 point out any inconsistencies. And that does that.

15 Now, Heather Marie Smith should have been shot down.
16 That's way too much she got into. None of that would have
17 been admissible today. But on the grand scale of things,
18 on a he said/she said, she went into way too much about how
19 children don't report things and so forth and so forth. I
20 mean, it's pages and pages of it. I read it all. Any
21 objection would have cut her off at that point.

22 But I don't feel that's a -- that influenced him in
23 that sense in that he's already -- he said and then she
24 testifies, and he gets the benefit of the lewd act versus
25 the criminal sexual conduct.

1 So another trial, he probably gets convicted of
2 criminal sexual conduct -- well, assault with intent and
3 gets hammered. So it's in his best interest just to take
4 the 15 years that he doesn't like.

5 I don't see anything that the attorney did other than
6 the Heather Smith stuff during the trial. And I don't
7 believe that would have impacted the outcome of the
8 decision, because she's -- she's just talking about how
9 children delay reporting and so forth. She does go way too
10 far into it, but that's beside the point. So I -- I'm not
11 going to set it aside.

12 The negotiated sentence, he knew what he was doing at
13 that point. And he did read the transcript later and came
14 up with all these reasons, but at the time, having just
15 heard 12 jurors say he's guilty, he made the wise decision
16 and take the lewd act charge.

17 Hard to set aside a negotiated sentence, so I'm not
18 going to do it. Good luck.

19 MS. GOOD: Thank you, Your Honor.

20 MR. MITCHELL: Thank you, Your Honor.

21 -- END OF TRANSCRIPT RECORD --

CERTIFICATE

I, the undersigned Bonnie H. Kelly, Official Court Reporter for the Fifth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of all the proceedings had and evidence introduced in the hearing of the captioned cause, relative to appeal, in the Fifth Circuit Court for Richland County, South Carolina, on the 9th day of December, 2014.

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



Bonnie H. Kelly, CVR

Official Court Reporter

Columbia, South Carolina

June 1, 2015

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

Reginald B. Spellman, #251838,

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS
FIFTH JUDICIAL CIRCUIT

2013-CP-40-03673

ORDER OF DISMISSAL

RICHLAND COUNTY
FILED
2015 FEB 20 AM 10:36
JEANNETTE W. MCBRIDE
C.C.P. & C.S.

This matter comes before the Court pursuant to an application for post-conviction relief (PCR) filed June 24, 2013. Respondent made its Return on December 13, 2013, requesting an evidentiary hearing be convened. Anna R. Good, Esquire, was appointed by the Richland County Clerk of Court. Applicant filed an Amended Application for Post-Conviction Relief on October 14, 2014.

An evidentiary hearing was held on December 9, 2014, at the Richland County Courthouse. Applicant was present and represented by Counsel Good. J. Clayton Mitchell, Esquire, of the South Carolina Attorney General's Office represented Respondent.

Applicant testified on his own behalf at the PCR hearing. Also testifying was Applicant's plea counsel, Reynolds H. Blankenship, Jr., Esquire. The Court had before it the Richland County Clerk of Court records, Applicant's South Carolina Department of Corrections records, the PCR application, the Return, the appellate records, and the guilty plea transcript.

I. PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Clerk of Court for Richland County. Applicant was indicted during the December 2010 term of the Richland County Grand Jury for Assault with Intent to

Commit CSC with a Minor in the First Degree (2010-GS-40-7590). Applicant was represented by Counsel Blankenship. Applicant's case was called for trial the week of January 9, 2012, before the Honorable G. Thomas Cooper, Jr., where the jury returned a guilty verdict on the charge as indicted. Subsequent to the guilty verdict being received and before sentencing was imposed, a juror came forward and revealed that she unintentionally failed to disclose a repressed memory that only surfaced after jury deliberations began. The court noted in detail that Counsel and the prosecuting solicitor were present during this revelation. (Guilty Plea Transcript p. 3 - 5). At this juncture, Counsel made a motion for a mistrial. The court took this motion under advisement. Counsel and the prosecuting solicitor then entered into plea discussions where they agreed upon a negotiated plea deal of fifteen (15) years imprisonment on the lesser included charge of Lewd Act Upon a Child Under 16.

On February 27, 2012, Applicant waived presentment to the Lewd Act indictment (2010-GS-40-7590) and pleaded guilty. Judge Cooper accepted the parties' negotiations and sentenced Applicant to fifteen (15) years imprisonment.

A Notice of Appeal was filed with the South Carolina Court of Appeals. An Order of Dismissal was issued on February 2, 2013, because Applicant failed to provide a sufficient explanation as required by Rule 203(d)(1)(B)(iv), SCACR. The Remittitur was issued on March 28, 2013. Thereafter, Applicant filed a motion to recall the Remittitur, which was subsequently denied on September 11, 2013. This PCR action follows.

Applicant alleges that he is being held in custody unlawfully for the following reasons:

1. Involuntary guilty plea in that Applicant pleaded guilty because he was previously convicted at trial.

II. SUMMARY AND EVIDENCE PRESENTED AT THE PCR HEARING

Applicant's Testimony

Applicant alleged that he pleaded guilty involuntarily. Applicant testified he retained Counsel Blankenship and met with him four times. During those meetings Counsel advised Applicant of his rights to a trial and made the decision to take the case to trial.

Applicant conceded he was facing a maximum sentence of thirty (30) years imprisonment on the CSC charge, but pled to the fifteen (15) year negotiated sentence to avoid the risk of being convicted if the motion for mistrial was granted. Applicant claimed he only pled guilty because he had already been found guilty by the jury. Applicant also testified that his testimony and answers given at the guilty plea hearing were at odds with his testimony at the PCR hearing. He acknowledged that he fully admitted his guilt, understood and waived his various constitutional rights, and even stated that he was satisfied with Counsel's performance and representation at the guilty plea hearing.

Applicant also testified in support of his allegations that Counsel was ineffective during the trial preceding his admission of guilt and his plea of guilty.

Counsel Reynolds H. Blankenship, Jr.'s Testimony

Counsel testified he was retained by Applicant to represent him on the charges he is currently challenging. Counsel testified he advised Applicant of his rights to a jury trial and that they proceeded to trial where the jury rendered a verdict of guilty. Counsel testified that a juror came forward and expressed that she may have failed to disclose a repressed memory during voir dire questioning. Counsel then moved for a mistrial. The trial court took the motion under advisement.¹ Counsel explained that the prosecuting solicitor and he then entered into plea

¹ This Court notes that Judge Cooper indicated that he would have denied Applicant's motion for a mistrial and let the jury's guilty verdict stand.

discussions in an attempt to come to a disposition agreeable to both sides. Counsel testified he apprised Applicant of the juror's disclosure and his motion for a mistrial. Counsel stated he reviewed with Applicant the lewd act charge and the plea offer that Applicant ultimately entered into. Counsel testified that he advised Applicant of the rights he was waiving by pleading guilty. In Counsel's opinion, Applicant had a full understanding of those rights.

III. APPLICABLE LAW

In a post-conviction relief action, the Applicant bears the burden of proving the allegations in their application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, 104 S. Ct. 2052, 2064, 80 L.Ed.2d 674, 692 (1984); Butler, 334 S.E.2d 813.

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Strickland, 466 U.S. 668. Applicant must overcome this presumption in order 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. Id. at 117, 386 S.E.2d at 625. First, the applicant must prove counsel's performance was deficient. Id. Under this prong, courts measure an attorney's performance by its "reasonableness under prevailing professional norms." Id. (citing Strickland, 466 U.S. at 688). Second, any 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." Id. at 117-18, 386 S.E.2d at 625. With respect to guilty plea counsel, the Applicant must show 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, 59 (1985).

IV. FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has reviewed the testimony presented at the evidentiary hearing, observed the witnesses presented at the hearing, passed upon their credibility, and weighed the testimony accordingly. Further, this Court has reviewed the Clerk of Court records regarding the subject convictions, the trial transcript, Applicant's records from the South Carolina Department of Corrections, the application for post-conviction relief, the appellate records, and the legal arguments made by the attorneys. Pursuant to S.C. Code Ann. § 17-27-80 (2003), this Court makes the following findings of fact based upon all of the probative evidence presented.

As a matter of general impression, this Court finds Applicant's testimony and assertions to be not credible. In contrast, this Court finds counsel's testimony to be credible and persuasive on all matters. These credibility findings have been applied to the Court's findings and conclusions set forth below.

Ineffective Assistance of Counsel at Trial

In Applicant's Amended Application for Post Conviction Relief, he set forth numerous allegations that Counsel was ineffective at Applicant's trial which preceded his guilty plea. Respondent made a motion to dismiss all allegations as to Counsel's effectiveness at trial and argued Applicant waived those allegations by pleading guilty. This Court agrees. "A guilty plea constitutes a waiver of nonjurisdictional defects and claims of violations of constitutional rights." Jamison v. State, 410 S.C. 456, 467, 765 S.E.2d 123, 129 (2014) (citing State v. Rice, 401 S.C.

330, 331-32, 737 S.E.2d 485, 485-86 (2013); Hyman v. State, 397 S.C. 35, 44, 723 S.E.2d 375, 379 (2012)). Notably the South Carolina Supreme Court has held "A guilty plea represents a break in the chain of events which has preceded it in the criminal process." Id (citations omitted). "When a criminal defendant has solemnly admitted in open court that he is in fact guilty of the offense with which he is charged, he may not thereafter raise independent claims relating to the deprivation of constitutional rights that occurred prior to the entry of the guilty plea." Id (citing Rice, 401 S.C. at 332, 737 S.E.2d at 486). Applicant argues he should be allowed to litigate his claims regarding Counsel's performance at trial. This Court finds that by pleading guilty Applicant expressly waived any challenge to those prior proceedings. This Court also finds it unnecessary to detail the testimony relating to the allegations of Counsel's ineffectiveness at trial as they are not relevant in its determination. Therefore, this Court will only consider Applicant's allegation that he did not plead guilty voluntarily.

Involuntary Guilty Plea

This Court finds Applicant failed to meet his burden to show his plea was involuntarily entered. This Court finds Counsel's testimony very credible regarding his advice to Applicant concerning the guilty plea. Accordingly, this Court finds Counsel adequately conferred with Applicant and was thoroughly competent in his representation. Applicant was fully informed of the nature and consequences of his plea.

To find a guilty plea is voluntarily and knowingly entered into, the record must establish the defendant had a full understanding of the consequences of his plea and the charges against him. Boykin v. Alabama, 395 U.S. 238, 89 S. Ct. 1709, 23 L.Ed.2d 274 (1969). Defendant's knowing and voluntary waiver of statutory or constitutional rights must be established by a complete record, and "may be accomplished by colloquy between court and defendant, between

court and defendant's counsel, or both." Roddy v. State, 339 S.C. 29, 34, 528 S.E.2d 418, 421 (2000) (citing State v. Ray, 310 S.C. 431, 437, 427 S.E.2d 171, 174 (1993)). This Court finds Judge Cooper carefully explained the various rights Applicant was waiving by pleading guilty. (Plea Tr. P. 5-7). The record fully reflects that Applicant admitted his guilty to the court. Applicant answered in the affirmative when asked whether he understood the rights he was waiving. Applicant cannot now contest those sworn responses. See Dalton v. State, 376 S.C. 130, 137-38, 654 S.E.2d 870, 874 (Ct. App. 2007) ("[S]tatements made during a guilty plea should be considered conclusive unless a criminal inmate presents valid reasons why he should be allowed to depart from the truth of his statements." (citing Crawford v. United States, 519 F.2d 347 (4th Cir.1975); Edmonds v. Lewis, 546 F.2d 566 (4th Cir.1976))). Applicant told the court that he had not been promised or threatened by anyone to entice him to plead guilty. This Court finds Applicant's testimony on this issue not credible as his testimony at the PCR hearing is wholly inconsistent with his testimony at his guilty plea hearing. This Court finds that Applicant had a full understanding of the consequences of the plea and the charges against him. This Court finds Judge Cooper correctly found that Applicant's plea was freely, voluntarily and intelligently made.

All Other Allegations

As to any and all allegations that were raised in the application or at the hearing in this matter and not specifically addressed in this order, the Court finds Applicant failed to present any evidence regarding such allegations. Accordingly, the Court finds Applicant has abandoned any such allegations.

V. CONCLUSION

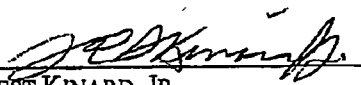
Based on the foregoing, the Court finds and concludes Applicant has not established any constitutional violations or deprivations that would require this Court to grant his application. Applicant failed to demonstrate counsels' performance was unreasonable under prevailing professional norms. Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625; Stalk v. State, 383 S.C. 559, 563, 681 S.E.2d 592, 594 (2009). Therefore, this application for post-conviction relief must be denied and dismissed with prejudice.

The Court notes Applicant must file and serve a notice of appeal within thirty (30) days from PCR counsel's receipt 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, 409 S.E.2d 395 (1991), Applicant has a right to appellate counsel's assistance in seeking review of the denial of post-conviction relief. Rule 71.1(g), SCRCR, provides that if Applicant wishes to seek appellate review, PCR counsel must serve and file a notice of appeal on Applicant's behalf. Applicant is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

IT IS THEREFORE ORDERED THAT:

1. The Application for Post-Conviction Relief is denied and dismissed with prejudice; and
2. Applicant will remain in the custody of the South Carolina Department of Corrections to complete service of his sentence.

AND IT IS SO ORDERED this 13 day of February, 2015.


J. ERNEST KINARD, JR.
Presiding Judge

Camden, South Carolina

WITNESSES

(S) Richard Carter - Richland County Sheriff

ARREST WARRANT NUMBER

1938482

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date:

OCT 05 2011

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2010- 40-7590

AMENDED

The State of South Carolina

County of

Richland

COURT OF GENERAL SESSIONS

DECEMBER TERM 2010

92

**THE STATE
vs.**

REGINALD BRYAN SPELLMAN

**Indictment for
ASSAULT WITH INTENT TO COMMIT
CSC WITH MINOR, 1ST DEG**

SC Code: 16-03-0655(A)(1) & 16-03-0656
CDR Code: 0385

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

Defendant

Reginald Bryan Spellman
hereby appear in my own proper person and plead
guilty to the within indictment or to

Lewd Act

Defendant

Witness:

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

CERTIFIED TRUE COPY
OF ORIGINAL FILED,
Jeannette M. M. M.
C.C.C. & G.S.
RICHLAND COUNTY
SOUTH CAROLINA

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

INDICTMENT

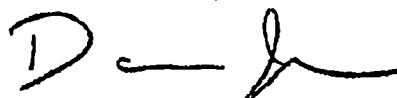
At a Court of General Sessions, convened on DECEMBER 8, 2010 the
Grand Jurors of Richland County present upon their oath:

ASSAULT WITH INTENT TO COMMIT
CRIMINAL SEXUAL CONDUCT WITH A MINOR
FIRST DEGREE

CDR: 0385 16-03-0655(A)(1)

That REGINALD BRYAN SPELLMAN did in Richland County, State of South Carolina, on or between DECEMBER 31, 2004 AND SEPTEMBER 28, 2006, willfully and unlawfully did commit an assault with the intent to commit a sexual battery upon and with the body of a minor who was less than eleven (11) years of age, to wit: [REDACTED] in violation of Section 16-3-655(A)(1) and 16-3-656, S. C. Code of Laws, 1976, as amended.

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



DAN JOHNSON, SOLICITOR

ARREST WARRANT JUL 23 2010

1-938482

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Richland / Pontiac

THE STATE

1004220623

against

Reginald Bryan Spellman

Address:

Phone: [REDACTED] SSN: [REDACTED]
Sex: M Race: B Height: 5 8 Weight: 250

DL State: SC DL #: 007867885
DOB: 10/21/1976 Agency ORI #: 04000

Prosecuting Agency: Richland County Sheriff Department

Prosecuting Officer: Richard Carter - 1220

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

Offense Code: 0385

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

This warrant is CERTIFIED FOR SERVICE in the

☐ County/ ☐ Municipality of

The accused

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

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to

defendant on Reginald B. Spellman
9/17/2010

D.A. McKinney / Jenkins
Signature of Probation/Law Enforcement Officer

RETURN WARRANT TO:

Pontiac Magistrate
10509 Two Notch Road
Elgin, SC 29045

ENTERED NCIC 072312

NIC #W W920890476

SC # 07/19/2010

Signature of Issuing Judge
G.A. Surles

Judge Code: 5039

CLEAR

ORIGINAL

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Richland / Pontiac

Personally appeared before me the affiant Richard Carter

being duly sworn deposes and says that defendant Reginald Bryan Spellman

did within this county and state on or about 01/01/2006

State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of

Richland / Pontiac

In the following particulars:

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

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

That on or about January 1, 2006 while at [REDACTED] Lot 30 in the Pontiac Magisterial District of Richland County, one Reginald B. Spellman did commit the crime of CSC with a minor under 11 1st Degree, Statute Number 16-3-655. It is believed the defendant committed the crime because he did between 01/01/06 and 09/01/06 wilfully, unlawfully and on multiple occasions commit sexual battery on [REDACTED] who was 6 YOA at the time. During this time, the defendant resided with the Victim and her mother. On one occasion, the Victim was asleep in her mother's bedroom and awoke to find the defendant holding her legs up while she was on her back. The defendant then placed his penis in the Victim's vagina and had sexual intercourse with her. A forensic interview of the Victim was conducted at the Assessment and Resource Center where the Victim disclose details of the incidents implicating the defendant.

Affiant and others are witness to prove same.

Signature of Affiant

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Richland / Pontiac

Affiant's Address 5623 Two Notch Road

Columbia, SC 29223-

Affiant's Telephone (803)576-3000

ARREST WARRANT

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

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

on or about 1/1/2006 defendant Reginald Bryan Spellman

did violate the criminal laws of the State of South Carolina (or ordinance of

☒ County/ ☐ Municipality of Richland / Pontiac

) as set forth below:

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

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

from to and subscribed before me

on 07/19/2010

Signature of Issuing Judge
G.A. Surles

Judge Code: 5039

Judge's Address 10509 Two Notch Road

Elgin, SC 29045-

Judge's Telephone (803)576-2520

Issuing Court: ☒ Magistrate

☐ Municipal

☐ Circuit

ORIGINAL

ORIGINAL

ORIGINAL

636

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Richland
STATE VS.
Reginald Bryan Spellman

AKA:

Race: B Sex: M Age: 35DOB: 10-21-1976 SS#: [REDACTED]Address: 439 Shaw AvenueCity, State, Zip: Southern Pines, NC 28387DL#: 007867885 SID#: 01036769*CDL Yes ☐ No ☒ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

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

TO: Sex / Lewd Act, committing or attempting lewd act upon child under 16 (June 4, 1996)

INDICTMENT/CASE#: 2010-GS-40-7590A/W#: 1938482Date of Offense: 12/31/2004 - 9/28/2006S.C. Code §: 16-3-656CDR Code #: 0385

SENTENCE SHEET

in violation of § 16-15-0140 of the S.C. Code of Laws, bearing CDR Code # 2468
☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☒ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45
The charge is: ☐ As Indicted, ☐ Lesser Included Offense, ☒ Defendant Waives Presentment to Grand Jury. RS (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☒ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Margaret Fent Bodman
Bodman, Margaret Fent70937
SC Bar#Reginald Spellman
DefendantReginald Spellman
Attorney for Defendant72784
SC Bar#WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,

for a determinate term of 15 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

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

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections. 9-12-10☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

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

Payment Terms: _____

☐ Set by SCDPPPS _____

Recipient: _____

*Fine:

§ 14-1-206 (Assessments 107.5 %)		\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114(BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCCJA Surcharge)	\$5	\$
§ 44-53-450(C) (Conditional Discharge)	\$350	\$
3% to County (if paid in installments)		\$
TOTAL		\$

Clerk of Court/ Deputy Clerk: Jeannette Mc BrideCourt Reporter: Amberlynn

SCCA 217 (06/2010)

PTUP _____

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

☐ Condition Discharge, § 44-53-450(C) requires
\$350 be paid to the Clerk prior to case disposition☐ Appointed PD or appointed other counsel,
§ 47.12 requires \$500 be paid to Clerk during probation.

Presiding Judge

Judge Code: 2126Sentence Date: 2-22CERTIFIED TRUE COPY
OF ORIGINAL FILEDG. J. [Signature]
CLERK OF COURTRICHLAND COUNTY
SOUTH CAROLINA