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S.C. Supreme Court

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

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Appeal from Greenville County

Robin B. Stilwell, Circuit Court Judge

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RONALD HARRIS

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE # 2015-001451

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APPENDIX

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STATE OF SOUTH CAROLINA )

COUNTY OF GREENVILLE )

COURT OF GENERAL SESSIONS

2001-GS-23-7069

2003-GS-23-2960

STATE OF SOUTH CAROLINA, )  
 PLAINTIFF, )

vs. )

TRANSCRIPT OF RECORD

RONALD HARRIS, A/K/A RONNIE )  
 HARRIS, )  
 DEFENDANT. )

**COPY**

July 15 and 16, 2003  
 Greenville, South Carolina

B E F O R E:

THE HONORABLE C. VICTOR PYLE, JR., JUDGE; and a jury.

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

BRYNA S. SEAY, ESQ.  
 Assistant Solicitor  
 Attorney for the Plaintiff

DANIEL J. FARNSWORTH, ESQ.  
 Attorney for the Defendant

HOLLIE M. JENKINS  
 Official Court Reporter



# I N D E X

(SW) - Denotes State's Witness  
 (DW) - Denotes Defense Witness  
 (IC) - Denotes In Camera

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1 (WHEREUPON, State's Exhibit Nos. 1, 2, 3, 4, 5, 6, 7,  
2 8, and 9 were marked for identification only.)

3 THE COURT: Anything before I bring the jury panel up?

4 MS. SEAY: Nothing from the State.

5 MR. FARNSWORTH: No, Your Honor.

6 THE COURT: The strikes are five for the State, and ten  
7 for the Defense.

8 All right. Bring the jury panel in.

9 (WHEREUPON, the jury panel entered the courtroom.)

10 THE COURT: Ladies and gentlemen, if I can have your  
11 attention. At this time, we will select a jury in the case  
12 of Ronald Harris, also known as Ronnie Harris.

13 Mr. Harris, would you stand up for a moment, turn  
14 around and face the jury panel for me, please, sir.

15 Thank you. You can be seated now.

16 Mr. Harris is indicted for criminal sexual conduct of a  
17 minor in the first degree and for committing a lewd act upon  
18 a child. The indictments allege specifically that on or  
19 about April 23rd, 2001, he committed a sexual battery on a  
20 female less than 11 years of age.

21 And the other indictment alleges that he, Mr. Harris,  
22 being over 14 committed or attempted to commit a lewd and  
23 lascivious act upon the body of this child, who is alleged  
24 to be under the age of 16 years, with the intent of  
25 arousing, appealing to, or gratifying the lust, passions, or

1 sexual desires of himself or the child.

2 JURY QUALIFICATION

3 THE COURT: Now, potential witnesses in this case will  
4 be: Jim Austin, Scott Moore, and David Hayes with the  
5 Greenville County Sheriff's Office; Margaret Young with the  
6 Department of Social Services; Gray Amick with the South  
7 Carolina Law Enforcement Division; Minor Catherine  
8 Sullivan, Dr. John Wilson, Chris Bryan, Renee Pruitt,  
9 Jessica Jordan, Eddie Hucks, James McDonald, Cynthia Sloan,  
10 Calvin Simmons, Eric Dogan, and Reverend Willie McMahan.

11 Now, I would inquire, at this time, if any member of  
12 the jury panel is related by blood, or marriage, or  
13 connected by employment to this Defendant or to any  
14 potential witness in the case? Are you sensible or aware of  
15 any bias or any prejudice with respect to this Defendant, to  
16 the State, or to the subject matter of the case, that being  
17 an alleged criminal sexual conduct with a minor and lewd act  
18 upon a child? Or do you know any reason why you could not  
19 give this Defendant and the State a fair and impartial  
20 trial, based on the law and evidence to be presented?

21 If so, would you please stand and give me your name.

22 (There was no response.)

23 THE COURT: Do I have any member of the panel who has  
24 any connection, family, business, social, or otherwise with  
25 Bob Ariail, the Solicitor, or any member of his staff,

1 including Bryna Seay, who is prosecuting this case, or with  
2 law enforcement, whether that be federal, state, county, or  
3 municipal?

4 If so, would you please stand and give me your name.

5 (There was no response.)

6 THE COURT: Dan Farnsworth represents the Defendant.

7 Do I have any clients now or formerly of Mr. Farnsworth?

8 If so, would you please stand and give me your name.

9 POTENTIAL JUROR WELLS: Geraldine Wells.

10 THE COURT: All right. You have been represented in  
11 the past by Mr. Farnsworth?

12 POTENTIAL JUROR WELLS: He handled my divorce.

13 THE COURT: All right. Well, let me ask you this,  
14 would that in any way interfere with your ability to be a  
15 fair and impartial juror on this case?

16 POTENTIAL JUROR WELLS: No.

17 THE COURT: Thank you, ma'am.

18 All right. Any other questions, counsel?

19 MS. SEAY: No, sir.

20 MR. FARNSWORTH: No, Your Honor.

21 THE COURT: All right. The strikes are five for the  
22 State, and ten for the Defense.

23 Ladies and gentlemen, when your name is called, I'll  
24 ask that you come forward to this podium up front where the  
25 microphone is, turn around, face counsel, and await further

1 instructions.

2 JURY SELECTION

3 THE CLERK: Number 197, Diana C. Steverson.

4 (Diana C. Steverson, a black female, came forward.)

5 THE CLERK: What says the State?

6 MS. SEAY: Please excuse her from this case.

7 THE CLERK: You may be excused in this case.

8 Number 122, George Luzgin.

9 (George Luzgin, a white male,, came forward.)

10 THE CLERK: What says the State?

11 MS. SEAY: Please present the juror.

12 THE CLERK: What says the Defendant?

13 MR. FARNSWORTH: Please swear this juror.

14 THE CLERK: Be seated in the jury box, please, sir.

15 Number 72, Joann Godwin.

16 (Joann Godwin, a white female, came forward.)

17 THE CLERK: What says the State?

18 MS. SEAY: Please present the juror.

19 THE CLERK: What says the Defendant?

20 MR. FARNSWORTH: Please swear this juror.

21 THE CLERK: Be seated in the jury box, please, ma'am.

22 Number 229, Lawrence T. Weston.

23 (Lawrence T. Weston, a white male, came forward.)

24 THE CLERK: What says the State?

25 MS. SEAY: Please present the juror.

1 THE CLERK: What says the Defendant?

2 MR. FARNSWORTH: Please excuse the juror from this  
3 case.

4 THE CLERK: You may be excused from this case.  
5 Number 198, Jesse Stoddard, Jr.

6 (Jesse Stoddard, Jr., a black male, came forward.)

7 THE CLERK: What says the State?

8 MS. SEAY: Please present the juror.

9 THE CLERK: What says the Defendant?

10 MR. FARNSWORTH: Please swear this juror.

11 THE CLERK: Be seated in the jury box, please.  
12 Number 158, John Postage.

13 (John Postage, a white male, came forward.)

14 THE CLERK: What says the State?

15 MS. SEAY: Please present the juror.

16 THE CLERK: What says the Defendant?

17 MR. FARNSWORTH: Please excuse the juror from this case.

18 THE CLERK: You may be excused from this case.

19 Number 169, Cynthia Rice.

20 (Cynthia Rice, a black female, came forward.)

21 THE CLERK: What says the State?

22 MS. SEAY: Please excuse her from this case.

23 THE CLERK: You're excused from this case.

24 Number 172, Annie Robinson.

25 (Annie Robinson, a black female, came forward.)



1 THE CLERK: What says the State?

2 MS. SEAY: Please present the juror.

3 THE CLERK: What says the Defendant?

4 MR. FARNSWORTH: Please swear the juror.

5 THE CLERK: Be seated in the jury box, please, ma'am.

6 Number 240, Billy L. Wright.

7 (Billy L. Wright, a white male, came forward.)

8 THE CLERK: What says the State?

9 MS. SEAY: Please present the juror.

10 THE CLERK: What says the Defendant?

11 MR. FARNSWORTH: Please swear this juror.

12 THE CLERK: Be seated in the jury box, please, sir.

13 Number 248, Geraldine R. Wells.

14 (Geraldine R. Wells, a white female, came forward.)

15 THE CLERK: What says the State?

16 MS. SEAY: Please excuse her from this case.

17 THE CLERK: You may be excused from this case.

18 Number 131, Wayne K. McCoy.

19 (Wayne K. McCoy, a white male, came forward.)

20 THE CLERK: What says the State?

21 MS. SEAY: Please present the juror.

22 THE CLERK: What says the Defendant?

23 MR. FARNSWORTH: Please excuse this juror.

24 THE CLERK: You may be excused from this case.

25 Number 211, Deborah M. Tinch.

1 (Deborah M. Tincher, a white female, came forward.)

2 THE CLERK: What says the State?

3 MS. SEAY: Please present the juror.

4 THE CLERK: What says the Defendant?

5 MR. FARNSWORTH: Please swear the juror.

6 THE CLERK: Be seated in the jury box, please, ma'am.

7 Number 141, Ernest R. Murray.

8 (Ernest R. Murray, a white male, came forward.)

9 THE CLERK: What says the State?

10 MS. SEAY: Please present this juror.

11 THE CLERK: What says the Defendant?

12 MR. FARNSWORTH: Please swear the juror.

13 THE CLERK: Be seated in the jury box, please, sir.

14 Number 8, Bruce L. Barker.

15 (Bruce L. Barker, a white male, came forward.)

16 THE CLERK: What says the State?

17 MS. SEAY: Please present the juror.

18 THE CLERK: What says the Defendant?

19 MR. FARNSWORTH: Please swear the juror.

20 THE CLERK: Be seated in the jury box, please, sir.

21 Number 171, Patricia H. Riddle.

22 (Patricia H. Riddle, a white female, came forward.)

23 THE CLERK: What says the State?

24 MS. SEAY: Please present this juror.

25 THE CLERK: What says the Defendant?

1 MR. FARNSWORTH: Please swear the juror.

2 THE CLERK: Be seated in the jury box, please, ma'am.

3 Number 90, Sara F. Herndon.

4 (Sara F. Herndon, a white female, came forward.)

5 THE CLERK: What says the State?

6 MS. SEAY: Please present the juror.

7 THE CLERK: What says the Defendant?

8 MR. FARNSWORTH: Swear the juror, please.

9 THE CLERK: Be seated in the jury box, please, ma'am.

10 Number 129, Elizabeth M. McAlister.

11 (Elizabeth M. McAlister, a white female, came

12 forward.)

13 MS. SEAY: I'm sorry. Could you repeat the name,  
14 please?

15 THE CLERK: Elizabeth M. McAlister.

16 MS. SEAY: Thank you.

17 Please present the juror.

18 THE CLERK: What says the Defendant?

19 MR. FARNSWORTH: Please excuse this juror.

20 THE CLERK: You may be excused from this case.

21 Number 162, Michael S. Rawls.

22 (Michael S. Rawls, a white male, came forward.)

23 THE CLERK: What says the State?

24 MS. SEAY: Please present the juror.

25 THE CLERK: What says the Defendant?

1 MR. FARNSWORTH: Please excuse the juror.

2 THE CLERK: You may be excused from this case.

3 Number 30, David R. Carlisle.

4 (David R. Carlisle, a white male, came forward.)

5 THE CLERK: What says the State?

6 MS. SEAY: Please present the juror.

7 THE CLERK: What says the Defendant?

8 MR. FARNSWORTH: Please excuse the juror.

9 THE CLERK: You're excused from this case.

10 Number 149, Ernestine Paschal.

11 (Ernestine Paschal, a black female, came forward.)

12 THE CLERK: What says the State?

13 MS. SEAY: Please present the juror.

14 THE CLERK: What says the Defendant..

15 MR. FARNSWORTH: Please swear the juror.

16 THE CLERK: Be seated in the jury box, please, ma'am.

17 THE COURT: Ms. Paschal, take that first seat and serve  
18 as foreperson for me on this case, please, ma'am.

19 THE CLERK: Number 130, Malcom Ray McCoy.

20 (Malcom Ray McCoy, a white male, came forward.)

21 THE CLERK: What says the State?

22 MS. SEAY: Please present the juror.

23 THE CLERK: What says the Defendant?

24 MR. FARNSWORTH: Please swear the juror.

25 THE CLERK: Be seated in the jury box, please, sir.

1 THE COURT: And give me one alternate. One for the  
2 State, two for the Defense.

3 THE CLERK: Number 219, Richard D. Vogel.

4 (Richard D. Vogel, a white male, came forward.)

5 THE CLERK: What says the State?

6 MS. SEAY: Please present the juror.

7 THE CLERK: What says the Defendant?

8 MR. FARNSWORTH: Swear the juror, please.

9 THE CLERK: Be seated in the jury box, please, sir!  
10 You'll be the alternate in this case.

11 THE COURT: Swear the jury, please.

12 THE CLERK: Ladies and gentlemen, stand and raise your  
13 right hands for the oath in these cases. And the  
14 appropriate response after the oath is, "I will."

15 (WHEREUPON, the jury was sworn at approximately  
16 10:24 a.m.)

17 THE CLERK: Thank you. You may be seated.

18 THE COURT: Ladies and gentlemen, there are a couple of  
19 matters I need to take up before we start this case, and  
20 I'll give you a recess.

21 While I do that, you don't know any more about this  
22 case other than what I briefly told you a moment ago. But I  
23 need to instruct you that from this point on, don't talk  
24 about this case. You do not begin discussing the facts of  
25 the case until you've heard all the testimony to be

1 presented, the arguments by the attorneys, and my charge on  
2 the law.

3 So if you'll be at ease and follow the bailiff, we'll  
4 start just as soon as we can.

5 Thank you.

6 (WHEREUPON, the jury was excused from open court at  
7 approximately 10:25 a.m.)

8 THE COURT: And I need the balance of the panel to  
9 report back downstairs to the jury assembly room.

10 Thank you very much.

11 (WHEREUPON, the jury panel exited the courtroom.)

12 THE COURT: Mr. Farnsworth, do you need a Jackson v.  
13 Denno hearing?

14 MR. FARNSWORTH: Yes, sir.

15 THE COURT: All right. Solicitor.

16 MS. SEAY: Actually, Your Honor, this -- I think this  
17 is in reference to the consent to search, which I believe  
18 Mr. Farnsworth --

19 MR. FARNSWORTH: Yes, sir.

20 MR. SEAY: -- has indicated that he'd like to have a  
21 hearing.

22 THE COURT: All right.

23 MS. SEAY: The State would call Investigator Jim  
24 Austin.

25 THE CLERK: Place your left hand on the Bible and raise

1 your right, please.

2 WHEREUPON,

3 JAMES RILEY AUSTIN,

4 after first having been duly sworn, testified as follows:

5 THE CLERK: State your name for the record, please.

6 THE WITNESS: James Riley Austin.

7 THE CLERK: Thank you. Be seated.

8 DIRECT EXAMINATION

9 BY MS. SEAY:

10 Q Investigator Austin, are you currently employed with  
11 the Greenville County Sheriff's Office?

12 A That's correct.

13 Q How many years have you been so employed?

14 A With the Sheriff's Office, 15 years.

15 Q And you work as an investigator; is that correct?

16 A That's correct.

17 Q And part of your duties include investigating alleged  
18 sexual assaults; is that correct?

19 A That's correct.

20 Q As part of your duties, did you have occasion to  
21 investigate a sexual assault that was reported by a victim  
22 by the name of Minor

23 A That's correct.

24 Q On what date did you do that?

25 A It was April 23rd of 2001.

1 Q Did you speak with the victim and develop a suspect in  
2 this case?

3 A Yes, I did.

4 Q And that would be?

5 A The Defendant, Ronald Harris.

6 Q As a result of that information, did you go to the  
7 Defendant's home?

8 A Yes, I did.

9 Q What date did you go to his home?

10 A It was the same date, the 23rd of April.

11 Q Okay. What was that address?

12 A -- , I'm sorry.

13 Q And is that in Piedmont, South Carolina?

14 A Yes, it is.

15 Q In Greenville County?

16 A Yes.

17 Q Did you go there alone or did you have anyone with  
18 you?

19 A Margaret Young, a caseworker with the Department of  
20 Social Services, was with me.

21 Q And she was involved in this investigation for her  
22 agency?

23 A Yes, she was.

24 Q What was the purpose of your going to the Defendant's  
25 home?



1 A We wanted to see Mr. Harris' sleeping arrangements,  
2 where he -- where his room was. We wanted to look it over.

3 Q Is that where the sexual assault was supposed to have  
4 happened?

5 A Yes, it was.

6 Q Is that what the victim told you?

7 A Yes..

8 Q When was it supposed to have happened?

9 A Sometime during earlier that evening, probably the  
10 22nd or over into the morning of the 23rd of April.

11 Q And so at the time you went there, it had happened  
12 within the past 24 hours?

13 A Yes, within the past 12 hours.

14 Q Was anyone present when you arrived at his home?

15 A I think Mr. Harris showed up right as -- after we  
16 arrived at the location.

17 Q Was there anyone else there?

18 A The owner of the place, I think, Mr. Simmons. I think  
19 his name was Calvin Simmons.

20 Q And did you speak with Calvin Simmons?

21 A Yes, I did.

22 Q And what was the extent of your conversation with  
23 Mr. Simmons?

24 A Well, he told me Mr. Harris was working and probably  
25 wouldn't be back home that day.

1 Is there anything specific you want to know that he  
2 said?

3 Q Did Mr. Simmons own the residence?

4 A Yes, he did. Mr. Harris was renting a room from him.

5 Q Is that what he told you?

6 A Yes.

7 Q And so you said that Mr. Harris arrived shortly after  
8 you and Ms. Young got there?

9 A Yes, he did.

10 Q Did you have a conversation with him?

11 A Yes, I did.

12 Q Please tell us what that was.

13 A Well, I advised him that we had a complaint and we  
14 needed to see his room. At that time, he let me and  
15 Ms. Young inside his residence.

16 I filled out a Consent to Search form that we use to  
17 look around his room. And he refused to sign the search --  
18 the Consent to Search, but he did agree to us taking the bed  
19 sheet and the two pillow cases from the bed for evidence.

20 Q Okay. So you stated that you advised Mr. Harris of  
21 the allegation against him; is that correct?

22 A Yes.

23 Q Did you tell him that he had a right not to agree to  
24 this search?

25 A Yes.

1 Q What was his response?

2 A He said he didn't have anything to hide, that we could  
3 look around.

4 Q Okay. And in spite of the fact that you offered a  
5 Consent to Search form for him to sign, he did not sign it;  
6 is that correct?

7 A Because he said he wasn't going to sign any papers.

8 Q Yet, your testimony is that he verbally said, you're  
9 welcome to look around?

10 A Yes.

11 Q Did Mr. Simmons, the owner of the residence, remain  
12 there while this took place?

13 A He was outside. He didn't come inside the residence.

14 Q Did you coerce or threaten Mr. Harris in any way that  
15 he had to consent to this search?

16 A No, I did not. I just advised him of what we were  
17 doing, and it was procedure that we take bedding. And he  
18 said it was fine, that we could take his bedding for  
19 evidence.

20 Q Okay. And so as a result of that, did he show you  
21 where the bedroom was that he stayed in at this residence?

22 A Yes.

23 Q You collected a bed sheet and two pillow cases; correct?

24 A That's correct.

25 Q Did he at any point in time during this procedure ask

1 you to stop what you were doing?

2 A No.

3 Q Did he ever ask you to leave?

4 A No.

5 Q And you clearly advised him that he had the right not  
6 to consent to this?

7 A That's correct.

8 Q Did you promise Mr. Harris anything in return for  
9 agreeing to allow you to see this room and take this  
10 potential evidence?

11 A No, I did not.

12 MS. SEAY: I don't have any further questions.

13 Thank you.

14 THE COURT: All right. Mr. Farnsworth.

15 MR. FARNSWORTH: Thank you, Your Honor.

16 CROSS-EXAMINATION

17 BY MR. FARNSWORTH:

18 Q Mr. Austin, you testified you got to the house there  
19 and Mr. Harris wasn't there at the time you got there, but  
20 he came in while you were there?

21 A Yes.

22 Q Okay. And when he came in, you advised him that there  
23 had been a complaint made against him; is that correct?

24 A That's correct.

25 Q All right. And you told him then that -- I believe

1 your words were, I want to look in your room. Is that what  
2 you said? What's the first thing you told him with respect  
3 to looking or searching his room?

4 A I told him I wanted to look in his room.

5 Q All right. You told him you wanted to look in his  
6 room.

7 All right. Prior to that, did you advise him of his  
8 rights insofar as he didn't have to allow you to search his  
9 room or look in his room?

10 A Yes, I did. Because when he -- before I went into his  
11 room, I filled out this Consent to Search form.

12 Q Okay. And on that, he would not sign that, would he?

13 A He said he wasn't going to sign it.

14 Q Did you explain what that was to him?

15 A Yes, I did.

16 Q And did you read it to him or did you just tell him  
17 what it was?

18 A I told him what it was.

19 Q Okay. In other words, besides telling him it gave you  
20 a right to search his room, you also told him that it gave  
21 you the right and he authorized you to seize or take  
22 anything in his room? Did you tell him that?

23 A Well, I didn't tell him that at that particular time.  
24 But as we went in, I told him it was procedure that we  
25 generally seize the property, and he agreed with it.

1 Q All right. Well, I mean, there's no question that the  
2 consent to search not only is Mr. Harris -- if he signed  
3 it -- he'd be allowing you to search without a warrant, but  
4 also he's authorizing you to consent to anything that you  
5 search and find to seize and take with you. Did you explain  
6 that to him?

7 A Yes, I did. Maybe not at that particular time, but he  
8 was told that before we took the property.

9 Q All right. Did you -- do you have your incident  
10 report --

11 A Yes, sir, I do.

12 Q -- that you filled out? And about the second page --  
13 actually, it's Page 2 of three pages, Mr. Austin, two of  
14 three, the second page.

15 A Yes.

16 Q Do you have that?

17 A Yes.

18 Q Would you look down to the -- well, I'm not sure if  
19 that's -- where it starts about the first big paragraph of  
20 the page where it says, "This investigator came to the LEC."  
21 Starting there, if you'll go down to the bottom there which  
22 talks about the search about three lines -- four lines from  
23 the bottom.

24 A Yes.

25 Q All right. And your words were, "He was asked could

1 his room be seen."

2 A Yes.

3 Q All right. That's the first thing you put in there.  
4 You didn't say anything about, I advised him of his right  
5 to -- not to agree to this search or anything like that, did  
6 you?

7 A I think I asked him. And then before I went in, I  
8 filled out this form because we have to -- that's procedure.  
9 So I would have filled that form out before I went into his  
10 room anyway.

11 Q But you asked him beforehand could you look in the  
12 room --

13 A Yeah.

14 Q -- "Could his room be seen," I believe is your words?

15 A Yeah.

16 Q And you said after that is when you asked -- when you  
17 filled out the Consent to Search, but you said he refused to  
18 sign that?

19 A Yeah. He said he didn't have a problem with me  
20 looking at the room, he just wasn't signing anything.

21 Q All right. But you kept on saying -- and then you  
22 said even after he refused to sign it, you asked him again  
23 could he look -- could you look over his room?

24 A I think he had already told me that. I don't remember  
25 him --

1 Q Well, let me ask you this, if he had already told you  
2 that, why do you suppose he signed -- he wouldn't sign your  
3 Consent to Search?

4 A Well, he wouldn't sign anything. He said he wasn't  
5 going to sign --

6 Q I'm talking about the Consent to Search, though. I'm  
7 not talking about -- did you ask him in that search to sign  
8 anything else, besides this?

9 A No, I didn't.

10 Q All right. That's all you asked him to sign and he  
11 refused to sign it, didn't he?

12 A Yes.

13 Q What did that tell you when he refused to sign it?

14 A It just told me that he didn't want to sign the  
15 document. It didn't say he didn't want me to look in his  
16 room.

17 Q It didn't tell you that if he refused to sign this  
18 that you weren't authorized to search?

19 A No, sir. Because --

20 THE COURT: He's answered your question now. Move on.

21 BY MR. FARNSWORTH:

22 Q Then, as I understand it, you seized the sheets and  
23 pillow cases on the bed; is that correct?

24 A That's correct.

25 Q And did you ask him if you could do that?



1 A Yes, I did.

2 Q And he said "yes"?

3 A Yes, he did. He agreed.

4 MR. FARNSWORTH: All right. That's all I have.

5 THE COURT: Step down.

6 Anything else?

7 MS. SEAY: Your Honor, briefly, I would call Margaret  
8 Young.

9 THE COURT: All right.

10 THE CLERK: Put your left hand on the Bible, please,  
11 and raise your right hand.

12 WHEREUPON,

13 MARGARET YOUNG,

14 after first having been duly sworn, testified as follows:

15 THE CLERK: State your name for the record, please.

16 THE WITNESS: Margaret Young.

17 THE CLERK: Thank you. Be seated.

18 DIRECT EXAMINATION

19 BY MS. SEAY:

20 Q Ms. Young, you're employed with the Greenville County  
21 Department of Social Services; is that right?

22 A Yes.

23 Q And you're an investigator for that agency?

24 A Yes.

25 Q Do your duties include investigating allegations of

1 sexual assaults involving children?

2 A Yes.

3 Q As part of your duties, did you become involved in  
4 this investigation of an assault on Minor

5 A Yes.

6 Q Were you accompanying Investigator Jim Austin on April  
7 23rd, 2001, to the residence of Ronnie Harris?

8 A Yes.

9 Q And what was the purpose for your going there?

10 A Our agency had received the report in reference to a  
11 sexual assault. And I needed to make contact with the  
12 victim and make contact with the alleged perpetrator also.

13 Q And you all had information that Mr. Harris was  
14 residing at ; is that correct?

15 A Yes.

16 Q And when you and Mr. Austin went to that residence,  
17 who was present?

18 A When we initially got there, the owner of the  
19 residence was present.

20 Q Okay. And is that Mr. Calvin Simmons?

21 A Yes.

22 Q Did he allow you into the residence?

23 A Yes.

24 Q At some point, did Ronnie Harris arrive?

25 A Yes.

1 Q Did you have a conversation with him?

2 A Yes, I did.

3 Q Would you please describe that conversation?

4 A Well, when he got there, of course, Mr. Austin  
5 introduced himself and told him why we were there. And, of  
6 course, I introduced myself and just let him know why I was  
7 there also.

8 Q Did Investigator Austin request that Mr. Harris allow  
9 you all to come into his bedroom?

10 A Mr. -- of course, we were already there. And  
11 Mr. Austin asked if it was okay if we looked inside, and he  
12 said it was.

13 Q Mr. Harris said --

14 A Mr. Harris said it was.

15 Q Okay. And did he show you where the room was where he  
16 was staying?

17 A Yes.

18 Q Did he appear to be under the influence or  
19 incapacitated in any way?

20 A No.

21 Q Okay. About what time of day was it?

22 A It was around midday, maybe after 12:00, 1:00, 1:30,  
23 somewhere around that time. I'm really not sure right off  
24 what time it was.

25 Q Okay. Did you ever hear Investigator Austin tell

1 Mr. Harris that he did not have to consent to this search of  
2 his room?

3 A Yes.

4 Q What was Mr. Harris' response?

5 A Well, he said he didn't have anything to hide and he  
6 just kind of like showed us the room.

7 Q Did you witness Investigator Austin preparing a  
8 form -- a Consent to Search form?

9 A I saw him writing and then I heard Mr. Austin say,  
10 "This is the form right here." And he asked him to sign it.

11 Q And what was Mr. Harris' response?

12 A He said he was not going to sign it, but we could look  
13 in the room. And he showed us the room.

14 Q Did he at any point ever ask you all to leave?

15 A No.

16 Q Did he ever ask you to get out of that room or not to  
17 look in that room?

18 A Oh, no, no.

19 Q Did Investigator Austin request permission to take  
20 some items from the bedroom?

21 A Yes, he did.

22 Q And those items were two pillow cases and a bed sheet,  
23 I believe?

24 A Yes.

25 Q Did Mr. Harris agree to that?

1 A Yes.

2 Q Do you recall specifically what was said in regard to  
3 that?

4 A I don't recall exactly what was said, but I know he  
5 didn't object to him taking it. He said, you can take it.  
6 But that may not have been the exact words. I know there  
7 was an agreement for Mr. Austin to take those items.

8 MS. SEAY: Okay. Those are all the questions I have.  
9 Please answer any questions Mr. Farnsworth may have.

10 THE COURT: Mr. Farnsworth.

11 MR. FARNSWORTH: No questions.

12 THE COURT: Step down.

13 All right. Anything else, Solicitor?

14 MS. SEAY: Nothing further.

15 THE COURT: Mr. Farnsworth, do you have anything to  
16 present?

17 MR. FARNSWORTH: No, Your Honor.

18 Your Honor, our motion to suppress is based on the fact  
19 that the officer's testimony that he asked him one time to  
20 look in the room, then they offered him to sign the Consent  
21 to Search. My client refused to sign it. He continued to  
22 ask him. And based on that, we would ask that the evidence  
23 seized be suppressed.

24 THE COURT: And I would deny your motion.

25 I think clearly there was consent to search and to take

1 the items that he agreed to let them take.

2 All right. Do you want to make brief opening  
3 statements to the jury?

4 MS. SEAY: Yes, sir.

5 MR. FARNSWORTH: Yes, Your Honor.

6 THE COURT: All right. Bring our jury in.

7 (WHEREUPON, the jury came into open court at  
8 approximately 10:50 a.m.)

9 THE COURT: All right. Brief opening statement,  
10 Solicitor.

11 OPENING STATEMENTS

12 MS. SEAY: Thank you, Your Honor. May it please the  
13 Court, Mr. Farnsworth.

14 Madam Forelady, and, ladies and gentlemen of the jury,  
15 thank you for being here today. I know that each of you  
16 have other obligations in your lives that you are being  
17 taken away from in order to be here today to perform this  
18 very important service.

19 As Judge Pyle told you yesterday morning when he  
20 qualified the jury panel, jury service is perhaps the  
21 highest honor that you can -- the highest honor and service  
22 you can give your country during peace times. And we  
23 appreciate your being here. It is an important case for  
24 everyone involved, for the Defendant, who is charged with  
25 this crime, and for the victim, who is here today to tell

1       you about what happened to her.

2       Judge Pyle gave you a brief introduction to the case  
3       when he first spoke with you this morning. And he told you  
4       that Ronnie Harris is indicted for two offenses. He is  
5       indicted for criminal sexual conduct in the first degree,  
6       and he is indicted for lewd act on a minor.

7       And as the representative of the State today, it is my  
8       duty and it is also my privilege to present the evidence in  
9       this case to you for your consideration. The State bears  
10      the burden of proof. I'm sure you've heard that the State  
11      must prove a persons guilt beyond a reasonable doubt.  
12      You've heard that term. And that is what I intend to do  
13      today is present evidence to convince you beyond a  
14      reasonable doubt that Ronnie Harris committed these  
15      offenses.

16      These incidents happened back in April of 2001, a  
17      little bit over two years ago. The victim in this case is  
18      his daughter, Minor                      And she is seated in the  
19      courtroom. And you might see her. She is sitting back  
20      there beside her great-grandmother. She is going to take  
21      the stand and she's going to talk to you and tell you about  
22      what happened to her on April 23 of 2001. And I ask you to  
23      listen very carefully and to be somewhat patient with her.  
24      She is but 11 years old. And so this may be a little bit of  
25      a difficult experience for her, as you can imagine.

1           The incident revolves around a period of time when  
2   Minor       would spend time at her father's house in the  
3   evenings while her mother was working third shift. And she  
4   can tell us more about that. And that's when this happened  
5   to her. The offenses that Mr. Harris is charged with, as I  
6   told you, are two, criminal sexual conduct with a minor.  
7   That requires a sexual battery on a child under the age of  
8   11.

9           A sexual battery in South Carolina, according to our  
10   law, is penetration. It can be sexual intercourse or any  
11   intrusion no matter how slight of another person's body.  
12   That's the general definition. And the Judge is going to  
13   give you a more specific definition of these offenses when  
14   he charges you later.

15          The lewd act on a minor charge is an offense which  
16   involves lewdly committing or attempting to commit lewd and  
17   lascivious acts upon the body of a child under the age of  
18   16. So this offense does not require penetration. This  
19   offense is more of a touching or a fondling-type offense.

20          There are going to be some other witnesses that you're  
21   going to hear from that the State is going to present that  
22   are going to talk to you about some visible injuries that  
23   Minor       had on her body, some bruising and suck marks on her  
24   breasts, which are visible. And there will be some  
25   photographs that we'll introduce to you for you to see.



1           And, again, I ask you to listen to the evidence in this  
2 case with an open mind. I know that this is probably, to  
3 say the least, a disturbing situation for you to have to sit  
4 and listen to. And we understand that. But, nevertheless,  
5 you've taken an oath to listen to this evidence and to reach  
6 a just decision in this case.

7           The State is not required to prove a motive as to why a  
8 grown man would find sexual gratification in a child, or why  
9 a grown man would find sexual gratification by molesting his  
10 own child. We're not required to prove that to you. I  
11 can't explain that to you. I cannot give you a reason as to  
12 why something like that would ever happen. And I know it's  
13 hard to believe an adult would do this to a child.

14          But I believe once you've heard the evidence in this  
15 case that you will be firmly convinced of Ronnie Harris'  
16 guilt. I will have an opportunity to speak to you after the  
17 conclusion of the presentation of evidence.

18          And I thank you again for your service.

19          THE COURT: Mr. Farnsworth.

20          MR. FARNSWORTH: Your Honor, may it please the Court.

21          Madam Foreman, and, ladies and gentlemen, my name is  
22 Dan Farnsworth. It's my pleasure also to be here today  
23 representing Mr. Ronald Harris in this case. This case is a  
24 little over two years old. And my client Ronald Harris has  
25 steadfastly denied the allegations in these two indictments

1       since he was arrested on this incident.

2               Some of you might think when he -- well, some of you  
3       that haven't been on jury's might want to think, well, how  
4       is he going to do this? How is he going to prove that he  
5       didn't do this? Well, the point is, he's not required to  
6       prove anything in this case.

7               There are two rules that apply in criminal court, and  
8       that is that the burden of proof is on the State and the  
9       State must prove each and every allegation of these two  
10      indictments to your satisfaction beyond a reasonable doubt.  
11      He's not required to prove anything. He's not required to  
12      prove his innocence.

13              Another rule that His Honor will charge you at the end  
14      of the trial is called the presumption of innocence. Every  
15      person charged with a crime is presumed to be innocent. And  
16      that presumption is one of the oldest in our law. And it  
17      begins the minute a person is arrested and stays with them  
18      during each and every stage of his prosecution and his  
19      trial. In fact, it stays with him until you've heard this  
20      whole case, you've heard the law that applies that Judge  
21      Pyle will charge you, and it applies even when you go in the  
22      jury room. And it stays there unless and until the State  
23      has satisfied you with their proof that he is guilty beyond  
24      a reasonable doubt.

25              So, as I say, some of you have been on jury's and some

1 haven't been on jury's. So this is a real important duty  
2 that guides you all the way through the course of your jury  
3 duty. The way we typically do up here -- actually, it's the  
4 way we always do it. The State will put up their case, and  
5 then we'll put up our case, if we so chose. And at the end  
6 of the case, Judge Pyle will charge you on the law. He'll  
7 tell you about the presumption of innocence and he'll tell  
8 you all of those things.

9 And then you'll go back to the jury room and you'll  
10 base everything you've heard from the witnesses and the law  
11 that's applied, and you'll take those two things and write a  
12 verdict. And that's your function as a jury. And it's  
13 not -- and I wouldn't even suggest -- it's not the easiest  
14 job to have, and particularly on a case like this.

15 But we -- you were all asked when you stood up and when  
16 your name was called, in effect, were any of you so  
17 sensitive to the nature of these charges that you couldn't  
18 be fair and impartial. And nobody stood up and said they  
19 couldn't. So we have every confidence that you'll give both  
20 sides a fair trial. That's all we ask.

21 Just briefly, a little bit about my client, and the  
22 testimony will reflect this. Just briefly, just to let you  
23 know before we start, my client is 46 years old, a  
24 lifelong resident of Greenville County, the Piedmont area.  
25 He has -- including the young lady that you'll be

1 hearing testify today, he has a total of eight children:  
2 Three girls, 16, 17, and 20; four boys, 10, 15, 17,  
3 and 21.

4 He's worked as a truck driver at the same job for 12  
5 years. He worked as a custodian at an elementary school  
6 here in Greenville, Davis Chapel, (sic). And at the time of  
7 this alleged incident, he was working for a place called  
8 Specialty Steel. And so just to let you know a little bit  
9 about him before we start.

10 And all we ask, as I say, is just to -- you took an  
11 oath and you said, I will well and truly try this case based  
12 on the law and the evidence. And that's all we ask you to  
13 do. And we have every confidence in each of you that you'll  
14 be fair and impartial in this case. We appreciate your  
15 service.

16 THE COURT: All right. Solicitor.

17 MS. SEAY: Thank you, Your Honor.

18 The State calls Minor

19 THE CLERK: Put your left hand on the Bible, please, and  
20 raise your right hand.

21 That's good.

22 WHEREUPON,

23 Minor

24 after first having been duly sworn, testified as follows:

25 THE CLERK: And what is your name?

1 THE WITNESS: Minor

2 THE CLERK: And your last name?

3 THE WITNESS: Harris.

4 THE CLERK: Okay. You can be seated.

5 DIRECT EXAMINATION

6 BY MS. SEAY:

7 Q Say your name, Minor and let's see if we can hear  
8 you back here.

9 A Minor

10 Q Okay. Scoot up just a little bit and talk into the  
11 microphone. Okay.

12 All right. Minor state your name one more time and  
13 let me see if we can hear you back here.

14 A Minor

15 Q You're going to need to speak up just a little bit,  
16 Minor Can you scoot up a little bit more? We want to  
17 make sure that all of these people can hear you.

18 Okay. Say your name one more time, please.

19 A Minor

20 Q Okay. Minor how old are you?

21 A 11.

22 Q When is your birthday?

23 A

24 Q Okay. And on , how old will you be?

25 A 12.

1 Q Do you go to school?

2 A Yes.

3 Q Where do you go to school?

4 A Sue Cleveland.

5 MS. SEAY: Your Honor, I'm having trouble hearing her  
6 still.

7 MR. FARNSWORTH: I'm having trouble also.

8 THE COURT: You're going to have to put that right in  
9 her mouth, Solicitor.

10 MS. SEAY: Okay. Scoot up just a little bit more.

11 Is that too close?

12 THE WITNESS: (Witness shook head.)

13 MS. SEAY: It's hard to hear you back there.

14 BY MS. SEAY:

15 Q Where do you go to school, Minor

16 A Sue Cleveland.

17 Q Sue Cleveland?

18 A (Witness nodded.)

19 Q What grade are you going to be in?

20 A The sixth grade.

21 Q Okay. Will you go to Sue Cleveland for sixth grade or  
22 will you go to another school?

23 A Woodmont Middle.

24 Q Okay. Try to speak up just a little bit, please, so  
25 that we can all hear you.

1 A I'll go to Woodmont Middle.

2 Q You're going to go to Woodmont Middle?

3 A (Witness nodded.)

4 Q Where do you live, Minor

5 A Piedmont.

6 Q Who lives at your house?

7 A My grandma.

8 Q Okay. And what's your grandma's name?

9 A Catherine.

10 Q What's her last name?

11 A Sullivan.

12 Q Okay. How long have you lived with your grandma?

13 A About two years.

14 Q Two years?

15 A (Witness nodded.)

16 Q Who is your mother?

17 A Adrian.

18 Q What's her last name?

19 A Sullivan.

20 Q And who is your father?

21 A Ronnie.

22 Q What's his last name?

23 A Harris.

24 Q Do you have brothers and sisters?

25 A (Witness nodded.)

1 Q Who are they?

2 A (There was no response.)

3 Q Can you tell us who your brothers and sisters are?

4 THE COURT: You can help her, Solicitor.

5 MS. SEAY: Okay.

6 BY MS. SEAY:

7 Q Just answer "yes" or "no." Do you have brothers and  
8 sisters?

9 A Yes.

10 Q Okay. Do they live with you?

11 A No.

12 Q Okay. Are you doing okay?

13 A (Witness nodded.)

14 Q All right. Are you a little bit nervous today?

15 A Yes.

16 Q Is it kind of a scary situation for you?

17 A Yes.

18 Q You're doing a good job. Just answer the questions.

19 Minor do you know what it means to tell the truth?

20 A Yes.

21 Q Is it good to tell the truth?

22 A Yes.

23 Q Do you know what it means to tell a lie?

24 A No.

25 Q Do you know that to tell a lie is a bad thing?



- 1 A Yes.
- 2 Q Have you ever told a lie?
- 3 A No.
- 4 Q You've never told a lie in your whole life?
- 5 A (There was no response.)
- 6 Q Minor if you told a lie, what would happen?
- 7 A It would be bad.
- 8 Q That would be bad?
- 9 A (Witness nodded.)
- 10 Q Have you ever gotten in trouble for telling a lie?
- 11 A Yes.
- 12 Q So you have told a lie before?
- 13 A (There was no response.)
- 14 Q Because you've gotten in trouble for it; right?
- 15 A (Witness nodded.)
- 16 Q Okay. Do you get in trouble with your grandma?
- 17 A Yes.
- 18 Q Do you usually try to tell the truth?
- 19 A Yes.
- 20 Q Do you promise to tell the truth in court today?
- 21 A Yes.
- 22 Q When you have lived with your grandma, like you have
- 23 for the last two years, do y'all go to church?
- 24 A Yes.
- 25 Q Where do you go to church?

1 A New Grove (phonetic)

2 Q Say that one more time, please?

3 A New Grove (phonetic)

4 Q What days do you go to church?

5 A Sunday.

6 Q Do you go every Sunday?

7 A Yes.

8 Q Do you learn in church?

9 A Yes.

10 Q What kind of things do you learn?

11 A About the Bible.

12 Q Is one of the things that you learn is to tell the  
13 truth?

14 A Yes.

15 Q Let's talk a little bit about school. Do you like  
16 school?

17 A Yes.

18 Q Do you do well in school?

19 A Yes.

20 Q What's your teacher's name from this past year?

21 A Miss Hutton.

22 Q And do you have any special achievements in school?

23 A Yes.

24 Q Okay. Tell me about that.

25 A Math and science.

1 Q Are those subjects that you enjoy?

2 A Yes.

3 Q Do you do well in them?

4 A Yes.

5 Q What kind of classes are you in at school, Minor

6 A Special ed class.

7 Q Okay. Do you know why you're in special ed classes?

8 A Yes.

9 Q Why?

10 A Because I'm a slow learner.

11 Q Minor did you get perfect attendance in school last  
12 year?

13 A Yes.

14 Q Were you proud of that?

15 A Yes.

16 Q All right. Are you feeling a little bit more  
17 comfortable now that we've talked a little bit?

18 A Yes.

19 Q Okay. Would you like some water?

20 A No.

21 Q Okay. Minor why do you live with your grandma?

22 A Because my momma is in jail.

23 Q Okay. Where is your momma? Do you know?

24 A In Atlanta.

25 Q In Atlanta. Okay. And how long has she been there?

1 A I don't know.

2 Q But you've been with your grandma for about two years?

3 A Yes.

4 Q All right. Do you remember -- before your momma was  
5 in prison in Atlanta, do you remember when she was still  
6 here and she kept you some?

7 A No.

8 Q All right. Do you remember when you used to live with  
9 your mom some?

10 A Yes.

11 Q Okay. Did your mom ever take you to visit with your  
12 dad?

13 A Yes.

14 Q All right. Tell me how that worked, please. Like  
15 when would you go see your dad?

16 A Every day.

17 Q What time of day would it be when you would go see  
18 him?

19 A When I got out of school.

20 Q When you got out of school. Who would take you to  
21 your dad's?

22 A My momma.

23 Q Did she leave you there while she went to work?

24 A Sometimes.

25 Q Okay. Sometimes would she stay there, too? —

1 A Yes.

2 Q Okay. So sometimes she would leave you there and  
3 sometimes she would stay there, too?

4 A (Witness nodded.)

5 Q Okay. Where did your dad stay at that time?

6 A At this boy's house.

7 Q Okay. Do you know the boy's house where he stayed?

8 A No.

9 Q All right. Did you -- do you know the boy's name?

10 A No.

11 Q Okay. Was it near your house, your grandma's house?

12 A Yes.

13 Q Was it in Piedmont?

14 A Yes.

15 Q Okay. So you went over there about every day during  
16 that time?

17 A Yes.

18 Q Okay. Do you remember when you were about nine years  
19 old when you went over there and spent the night one night?

20 A No.

21 Q Okay. Do you remember spending the night where your  
22 dad was staying?

23 A Yes.

24 Q Okay. Do you remember a night when something happened  
25 to you?

1 A Yes.

2 Q Okay. Let's talk a little bit about that.

3 Okay. The Court wants to hear what you have to say  
4 about that, so I want you to try real hard to talk about it.  
5 Okay.

6 A Okay.

7 Q All right. Now, did your momma take you over there  
8 that night?

9 A Yes.

10 Q Okay. What did your momma do?

11 A She went to work.

12 Q Did she work in the daytime or the nighttime?

13 A The night.

14 Q All right. Where did she work?

15 A I've forgotten the name.

16 Q Okay. Can you try to think of it and maybe tell us in  
17 a minute?

18 A Yes.

19 Q Okay. Try to think about where it was that she was  
20 working because I believe you know, don't you?

21 A (There was no response.)

22 Q If you think about it.

23 A She worked at this home place.

24 Q At a home place. What kind of things did she do for  
25 her work? Do you know?

1 A Helped old people.

2 Q Helped old people. Okay. So is that where she had  
3 gone that night?

4 A Yes.

5 Q All right. Where did you sleep when you stayed over  
6 at your dad's?

7 A With my daddy.

8 Q With your daddy. Did he have his own room?

9 A Yes.

10 Q How many bedrooms were in this house? Do you know?

11 A Three.

12 Q And you and your daddy stayed in one room?

13 A Yes.

14 Q Okay. The person who owned the house -- you said he  
15 stayed with a boy, is that the person who owned the house?

16 A Yes.

17 Q And you don't know his name?

18 A No.

19 Q Okay. Did you ever meet him?

20 A Yes.

21 Q Did you know where he stayed in the house?

22 A Yes.

23 Q Tell me where.

24 A In the other room.

25 Q All right. And then that leaves one more bedroom, who

1 stayed in it?

2 A Nobody.

3 Q Nobody. Okay. Minor in the room where you stayed  
4 with your dad, tell me about what kind of furniture was in  
5 the room.

6 A A bed and a TV.

7 Q All right. What was the bed like?

8 A It was a mattress.

9 Q So it wasn't a bed like a big bed with a frame, it was  
10 just a mattress?

11 A Yes.

12 Q Okay. Was it on the floor in this room?

13 A Yes.

14 Q So there was a mattress on the floor and a TV; is that  
15 right?

16 A Yes.

17 Q Okay. Was there anything else in there that you can  
18 remember?

19 A No.

20 Q And that's where you stayed?

21 A Yes.

22 Q All right. When you went over there that night and  
23 your momma went to work where she worked, what did you and  
24 your dad do that night before you went to bed?

25 A I went to sleep.



1 Q Okay. Before you went to sleep, who all was at the  
2 house?

3 A Me and my daddy.

4 Q Was the man who owned the house there?

5 A Yes.

6 Q Was there anybody else there?

7 A Yes.

8 Q Who?

9 A My daddy's friends.

10 Q Your daddy's friends. Okay. Do you know their names?

11 A No.

12 Q How many friends were there?

13 A I don't know.

14 Q Okay. What were they all doing?

15 A Drinking.

16 Q Okay. What were they drinking?

17 A Beer.

18 Q Okay. Did you see them doing that?

19 A No.

20 Q How do you know they were all drinking beer?

21 A Because I was in the kitchen with my momma.

22 Q Okay. You were in the kitchen with your momma?

23 A (Witness nodded.)

24 Q Is this before your momma went to work?

25 A Yes.

1 Q So did you -- how did you know that they were drinking  
2 beer, Minor

3 A Because I seen them.

4 Q You did see them?

5 A Yes.

6 Q Okay. Did they come in the kitchen and get beer?

7 A No.

8 Q Where did they get the beer?

9 A They bought it.

10 Q Okay. Was your daddy drinking beer that night?

11 A Yes.

12 Q After your mom left to go to work, who all was at the  
13 house?

14 A Me and my daddy, and his friends.

15 Q Okay. Did you -- at some point, did you decide to go  
16 to bed?

17 A Yes.

18 Q Did you go to bed by yourself or did your dad go to  
19 bed with you?

20 A I went to bed by myself.

21 Q Where did you go to bed?

22 A On the mattress.

23 Q On the mattress. Okay. Do you remember what you were  
24 wearing?

25 A A nightgown.

1 Q Okay. Did you have on anything else with your  
2 nightgown?

3 A No.

4 Q Okay. Did you have on underwear?

5 A Yes.

6 Q Okay. Did you go to sleep?

7 A Yes.

8 Q All right. What do you remember after that?

9 A My daddy came in there.

10 Q Okay. Did you wake up?

11 A No.

12 Q How do you know he came in there?

13 A Because I heard somebody walking.

14 Q Okay. What did he do?

15 A He went to sleep.

16 Q All right. And after he went to sleep, did you go to  
17 sleep?

18 A I was already asleep.

19 Q Okay. Did you wake up and ask where your momma was?

20 A Yes.

21 Q Why did you do that?

22 A I don't know.

23 Q Did you not remember that she had gone to work?

24 A No.

25 Q Okay. Did you ask your daddy where your momma was?

1 A Yes.

2 Q What did he say?

3 A That she was at work.

4 Q Okay. Minor that night, did your daddy do something  
5 to you?

6 A Yes.

7 Q Okay. Can you please tell us what he did?

8 A He stuck his thing in me.

9 Q Okay. Was that while you were on this mattress in the  
10 room?

11 A Yes.

12 Q Okay. Minor when you say he stuck his thing in you,  
13 are you talking about your private part?

14 A Yes.

15 Q Okay. And when you say "his thing," had you ever seen  
16 that before?

17 A No.

18 Q Okay. Did you see it that night?

19 A No.

20 Q Okay. How do you know that he stuck his thing in you?

21 A Because it hurt.

22 Q All right. When this happened, did you see that it  
23 was your dad?

24 A Yes.

25 Q What do you remember about seeing your dad that night?

1 A His hair.

2 Q Okay. Did he say anything to you?

3 A No.

4 Q Did you tell him that he was hurting you?

5 A No.

6 Q What did you do?

7 A I woke up and I stayed awake (sic)

8 Q You stayed awake?

9 A Uh-huh.

10 Q Did he do anything else to you? Did he touch any

11 other part of your body?

12 A Yes.

13 Q What part of your body?

14 A My breasts.

15 Q What did he do to your breasts?

16 A He sucked on them.

17 Q Okay. Did that hurt you?

18 A Yes.

19 Q Did you cry?

20 A No.

21 Q Were you afraid?

22 A Yes.

23 Q Did you scream or call out to anybody?

24 A No.

25 Q Were you too afraid?

1 A Yes.

2 Q Minor do you remember how your daddy was acting?

3 A No.

4 Q Do you remember saying that he seemed like he was  
5 drunk?

6 A Yes.

7 Q What made you think that?

8 A Because when he did that to me.

9 Q You thought that must be why?

10 A Yes.

11 Q Did he smell like he had been drinking?

12 A Yes.

13 Q Had you ever smelled something that smelled like he  
14 had been drinking before?

15 A Yes.

16 Q Did you tell anybody that night about what your dad  
17 did?

18 A No.

19 Q Did you go home the next morning?

20 A Yes.

21 Q Who came and got you?

22 A My momma.

23 Q Where did she take you?

24 A To my grandma's house.

25 Q Is that what she would do is pick you up in the

1 mornings and take you to your grandma's house?

2 A Yes.

3 Q Did you have to go to school the next day?

4 A Yes.

5 Q Did your momma and your grandma find out what  
6 happened?

7 A Yes.

8 Q How did they find out?

9 A My momma saw when I was changing my clothes.

10 Q You were changing your clothes and what happened?

11 A My momma seen it.

12 Q What did she see?

13 A Red spots.

14 Q Where did she see red spots?

15 A On my breasts.

16 Q Okay. What did you tell her?

17 A That my daddy did it.

18 Q Did you tell your grandma that, too?

19 A Yes.

20 Q What did they do, your momma and your grandma?

21 A Took me to the hospital.

22 Q They took you to the hospital?

23 A (Witness nodded.)

24 Q When you got to the hospital, did some nurses ask you  
25 what had happened to you?

1 A Yes.

2 Q Did you tell them what your dad had done?

3 A Yes.

4 Q Did a doctor ask you what had happened to you?

5 A Yes.

6 Q And you told him what happened?

7 A Yes.

8 Q Did they check your body out real good and everything

9 while you were there?

10 A Yes.

11 Q And they looked at those spots on you?

12 A Yes.

13 Q And did they take some pictures of you?

14 A Yes.

15 Q And do you remember talking to Investigator Austin,

16 this man sitting right here?

17 A Yes.

18 Q Did he ask you what happened to you also?

19 A Yes.

20 Q And did you have to tell him about it?

21 A Yes.

22 Q And do you remember talking to this lady, Mrs. Young?

23 A Yes.

24 Q Did you tell her what happened?

25 A Yes.



1 Q Okay. Did you tell all those people the truth?

2 A Yes.

3 Q Is what you just told everybody in the Court about  
4 what your dad did the truth?

5 A Yes.

6 Q Minor have you talked to your dad since this  
7 happened?

8 A No.

9 Q How do you feel towards him?

10 A Sad.

11 Q I'm sorry. What did you say?

12 A Sad.

13 Q Sad. Okay. It makes you sad what he did?

14 A Yes.

15 Q Minor I'm going to ask you one more question and  
16 then I'm going to be finished with the questions that I have  
17 for you. Okay.

18 A (There was no response.)

19 Q Minor I'm going to ask you one more question.  
20 Okay.

21 A Okay.

22 Q All right. Do you see the person who did those things  
23 to you in the courtroom today?

24 A Yes.

25 Q Okay. Will you point to him?

1 A (Witness pointed.)

2 Q Thank you.

3 Now, your father's lawyer may have some questions to  
4 ask you. And you just answer his questions and tell the  
5 truth. Okay.

6 A (Witness nodded.)

7 THE COURT: All right. Mr. Farnsworth.

8 MR. FARNSWORTH: Thank you, Your Honor.

9 CROSS-EXAMINATION

10 BY MR. FARNSWORTH:

11 Q Minor I'm Mr. Farnsworth. And I'm your daddy's  
12 lawyer. I've been sitting right there all this time since  
13 you've been up there.

14 Did you see me sitting over there?

15 A Yes.

16 Q Okay. I'm a pretty nice guy. I might not quite be as  
17 nice as this lady, but I'm pretty nice. And I just want to  
18 ask you a few questions. Okay.

19 A Okay.

20 Q And if I ask you something and you don't understand or  
21 you don't know the answer, I want you to just tell me and  
22 you take your time. Okay.

23 A Okay.

24 Q All right. Before your mother -- before this bad  
25 thing happened to you at your daddy's house that you've

1 described, didn't you say that you went over to your daddy's  
2 about every day?

3 A Yes.

4 Q And would you spend the night with your daddy every  
5 day -- every night?

6 A Yes.

7 Q Okay. And did -- sometimes did your mother stay, too,  
8 when she didn't have to go to work?

9 A Yes.

10 Q Okay. And, in fact, the night that this bad thing you  
11 say happened to you, hadn't you and your mother and your  
12 daddy been asleep together?

13 A Yes.

14 Q And, in fact, I think you woke up and you wanted to  
15 know where your mother was, didn't you?

16 A Yes.

17 Q And your dad told you that she had gone to work; isn't  
18 that right?

19 A Yes.

20 Q Okay. And wouldn't your mother stay -- all three of  
21 you -- the two of you, you and your mother, stay with your  
22 daddy a lot of nights?

23 A Yes.

24 Q Okay. The night that you said this bad thing happened  
25 to you, your mother was already at work then, wasn't she?

1 A Yes.

2 Q Okay. And I believe after you said this bad thing  
3 happened to you that your mother called from work, didn't  
4 she? She called on the telephone, didn't she?

5 A Yes.

6 Q And this bad thing had already happened to you, hadn't  
7 it?

8 A No.

9 Q It hadn't? It hadn't happened to you when she called?

10 A (Witness shook head.)

11 Q Okay. When she called, were you asleep and had to  
12 be -- somebody had to wake you up to talk to her?

13 A Yes.

14 Q Okay. Who woke you up?

15 A My daddy.

16 Q Okay. And he said that your mother wanted to speak to  
17 you and you talked to her; right?

18 A Yes.

19 Q Okay. And you're saying that nothing bad had happened  
20 to you by then?

21 A No.

22 Q Okay. Did your mother call back after that?

23 A No.

24 Q Okay. Now, you told Ms. Seay that -- when she asked  
25 you about lying, you said, I never have told -- she asked

1 you, have you ever told a lie? And you said, no, didn't  
2 you?

3 A Yes.

4 Q Okay. And then she asked you if you'd ever gotten in  
5 trouble before for telling a lie and you said, yes, ma'am,  
6 too, didn't you?

7 A Yes.

8 Q Okay. Do you remember how many times you might have  
9 gotten in trouble for telling a lie?

10 A No.

11 Q You don't know?

12 A (Witness shook head.)

13 Q Okay. But you have gotten in trouble, at least, once,  
14 haven't you?

15 A Yes.

16 Q Okay. The bedroom that you stayed in, your daddy's  
17 bedroom, there's -- you said there's a mattress that's on  
18 the floor and a TV in the room?

19 A Yes.

20 Q And there's one door that you can go into the room; is  
21 that right?

22 A Uh-huh.

23 Q And that's off the -- I guess the main section of the  
24 house; right? In other words, there's a hallway out beside  
25 the door there?

1 A Yes.

2 Q Okay. And I think you said there were two other  
3 bedrooms in the house; is that right?

4 A Yes.

5 Q Okay. You're doing good.

6 Do you remember when you went to sleep whether the --  
7 was the bedroom door open when you went to sleep?

8 A No.

9 Q It was closed?

10 A Yes.

11 Q All right. Now, you went to sleep, though, when your  
12 mother and daddy were in bed with you; isn't that right?

13 A Yes.

14 Q So when you went to sleep then, was it closed then?

15 A No.

16 Q It wasn't closed then, it was open?

17 A Yes.

18 Q Okay. And did the -- when you stayed, would your  
19 daddy -- did you usually leave the door open?

20 A No -- yes.

21 Q Yes. Okay. You said that this bad thing was done to  
22 you and you said it made you cry; is that right?

23 A Yes.

24 Q Okay. When you were crying, do you remember whether  
25 or not you were crying loud enough for somebody to hear

1       you?

2       A       No.

3       Q       You don't. Were you or were you not crying so  
4       somebody else could hear you?

5       A       No.

6       Q       No, you were not. So your crying wasn't loud? Is  
7       that what you're telling me?

8       A       (Witness nodded.)

9       Q       Okay. And after the bad thing that you described  
10      happened to you, what did you do then?

11      A       I went to sleep.

12      Q       You went back to sleep?

13      A       (Witness nodded.)

14      Q       All right. And the next morning, your mother came to  
15      pick you up to take you to school; is that right?

16      A       Yes.

17      Q       And, in fact, she took your daddy to work, too, first,  
18      didn't she?

19      A       Yes.

20      Q       Okay. And you said that you had on a nightgown and  
21      some underwear?

22      A       Yes.

23      Q       Okay. Now, when your mother got there, did -- you  
24      didn't wear your nightgown home with you, did you?

25      A       No.

1 Q Okay. So what clothes -- did your mother put new  
2 clothes on you or some clothes to wear home?

3 A Some clothes to wear home.

4 Q Okay. And do you remember what that was? Was it  
5 already at your daddy's house or did she bring those  
6 clothes?

7 A It was already there.

8 Q Okay. And what did your mother put on you to ride  
9 home with her to get ready for school?

10 A Some pants and a T-shirt.

11 Q Pants and a T-shirt. Were they shorts or long pants?

12 A Long pants.

13 Q Long pants. Okay. And where did she undress you, in  
14 the bedroom or where did she put these other clothes on you,  
15 in the bedroom or outside somewhere?

16 A In the bedroom.

17 Q Okay. And so where did she do it, on the bed or were  
18 you just standing up?

19 A Standing up.

20 Q Okay. So what she did is she took off your nightgown;  
21 is that right?

22 A (Witness nodded.)

23 Q She took it off for you?

24 A No, I did.

25 Q You took it off. And she was standing like right here



1 close to you?

2 A No.

3 Q Well, where was she?

4 A She was in the bathroom.

5 Q In the bathroom?

6 A (Witness nodded.)

7 Q Okay. Well, did she help you change your clothes?

8 A When I got home.

9 Q Oh, okay. When you got home. Okay.

10 So you changed them yourself at your daddy's house?

11 A (Witness nodded.)

12 Q Okay. After y'all -- after you and your mother had  
13 taken your daddy to work and let him out, then you went --  
14 then she left where he worked and drove back to your house;  
15 right, in Piedmont?

16 A Yes.

17 Q And after he got out of the car and y'all pulled off  
18 in your car, did you tell your mother what had happened to  
19 you, the bad thing that had happened to you?

20 A No.

21 Q Okay. And how far is it -- do you know how far it is  
22 from where you went to let your daddy off at work to where  
23 it is that you live in Piedmont? How long did that take?  
24 Do you have any idea?

25 A No.

1 Q Okay. But you and your mother talked on the way to  
2 your house, didn't you?

3 A Yes.

4 Q Okay. But you didn't tell her about what you said had  
5 happened to you that was bad?

6 A Huh-uh.

7 Q All right. And when you got home, did you change your  
8 clothes again to get ready to go to school?

9 A Yes.

10 Q Okay. Now, when you did that, was your mother near  
11 you then?

12 A Yes.

13 Q Okay. And when she took off your shirt and put you  
14 another shirt on or gave you another shirt, is that when  
15 your mother said something about you had some red marks on  
16 your chest?

17 A Yes.

18 Q Okay. And did she ask you who had done that?

19 A Yes.

20 Q And that's when you told her your daddy had; is that  
21 right?

22 A Yes.

23 Q All right. But you had not told her anything about  
24 anything happening to you until she asked you about those  
25 marks, how you got those marks; isn't that right?

1 A Yes.

2 Q Okay. When were you going to tell her? If she hadn't  
3 asked you that morning, when were you going to tell her?  
4 Were you ever going to tell her?

5 A Yes.

6 Q Okay. When were you going to tell her?

7 A When she seen them.

8 Q I'm saying, though -- you said once she had seen them?

9 A (Witness nodded.)

10 Q Okay. I'm just saying if she hadn't seen and asked  
11 you that that day, what happened, Minor what happened and  
12 how did you get those marks on your chest, if she hadn't  
13 asked you that, when were you going to tell her about the  
14 bad thing that happened to you?

15 A I don't know.

16 Q You just don't know. Okay.

17 I'm going to ask you again one of the questions I asked  
18 you before. Do you know the gentleman sitting there next to  
19 the lady on the end there, Mr. Austin? You know Mr. Austin,  
20 don't you?

21 A Yes.

22 Q All right. Do you remember talking to him that day --

23 A Yes.

24 Q -- after all this happened.

25 Do you remember telling him that the bad thing had

1 already happened to you and then you talked to your mother  
2 on the phone? Do you remember telling him that?

3 A Yes.

4 Q Okay. But now, you told me that -- today when I've  
5 asked you that, you told me that you -- that it hadn't  
6 happened to you when you talked to your mother. Do you  
7 understand what I'm saying? Do you understand what I'm  
8 asking?

9 A Yes.

10 Q I'm going to ask you one more time. Did the bad thing  
11 happen to you before you talked to your mother on the phone  
12 that night?

13 A No.

14 Q It didn't?

15 A (Witness shook head.)

16 Q And you're sure of that?

17 A Yes.

18 MR. FARNSWORTH: Just one second, Your Honor.

19 (Pause.)

20 MR. FARNSWORTH: I want to thank you for answering my  
21 questions.

22 THE COURT: Any redirect?

23 MS. SEAY: No, sir.

24 THE COURT: Thank you. You can step down.

25 All right. Take the jury out for a short recess.

1 (WHEREUPON, the jury was excused from open court at  
2 approximately 11:39 a.m.)

3 THE COURT: All right. We'll take a real short recess.

4 (WHEREUPON, a break was taken.)

5 THE COURT: Okay. Bring the jury in.

6 Tell the jury they can bring those Cokes in with them.

7 They can bring them with them.

8 (WHEREUPON, the jury came into open court at  
9 approximately 11:50 a.m.)

10 THE COURT: All right. Solicitor, you may proceed.

11 MS. SEAY: Thank you, Your Honor.

12 The State calls Catherine Sullivan.

13 THE CLERK: Put your left hand on the Bible and raise  
14 your right hand.

15 WHEREUPON,

16 CATHERINE SULLIVAN,

17 after first having been duly sworn, testified as follows:

18 THE CLERK: State your name for the record, please.

19 THE WITNESS: I'm Catherine Sullivan.

20 THE CLERK: Thank you, ma'am. Be seated.

21 DIRECT EXAMINATION

22 BY MS. SEAY:

23 Q Ms. Sullivan, would you state your name again, please?

24 A Catherine Sullivan.

25 Q Thank you. Ms. Sullivan, where do you live?

1 A I live at 138 Patterson Street, Piedmont, in --

2 Q How long -- I'm sorry.

3 A In Greenville County.

4 Q How long have you lived there?

5 A Oh, about 54 years now.

6 Q Okay. And what's your relationship to Minor

7 A I'm her great-grandmother.

8 Q Okay. Tell me how you're her great-grandmother?

9 A Her mother, Adrian -- let me start over. My -- I had  
10 a daughter, who's dead now, and her name was Deborah. And  
11 Deborah was Minor mother's mother. So Delisa's momma's  
12 name is Adrian. So Deborah was Adrian's mother.

13 Q Okay. Did you raise Minor mom, Adrian?

14 A Yeah, after her mother died.

15 Q All right. And are you now helping to raise Minor

16 A Yes.

17 Q How long has Minor been staying with you?

18 A Well, off and on ever since she was born. But she's  
19 been in my custody for -- since her mother had to go to  
20 prison. She's in my custody now.

21 Q All right. And when did her mother go away?

22 A It was -- I believe it was last April. I'm not sure  
23 of the date -- the correct date.

24 Q Okay. So a little over a year ago, you think?

25 A Yes.

1 Q Do you know Ronnie Harris?

2 A Yes.

3 Q And do you know him to be Minor biological father?

4 A Yes.

5 Q Were he and Minor mother ever married?

6 A No.

7 Q Has he -- excuse me. Let me start over.

8 Has Minor visited with him over the years of her life?

9 A Yes.

10 Q Let me draw your attention back to April of 2001.

11 During that time, do you know where Adrian was working?

12 A Yeah. But I just can't think of the name of it.

13 Q What shift did she work?

14 A She worked -- I guess you'd call it third, because she  
15 went to work at 10:30.

16 Q At night?

17 A At night, uh-huh.

18 Q Was it common for her to take Minor over to Minor  
19 father's to stay while she was working?

20 A Yeah, sometimes. Because Minor would -- she would  
21 want to go because she loved her daddy and she would want to  
22 go. So her momma did take her sometimes.

23 Q Okay. And did Adrian stay with Ronnie Harris from  
24 time to time also?

25 A Well, just -- uh-huh, off and on.

1 Q Okay. During this period of time that we're talking  
2 about, do you recall a day when Adrian brought Minor home  
3 to get her dressed for school?

4 A Yes.

5 Q And did you observe some marks on Minor

6 A Yes.

7 Q Would you describe how that came about?

8 A They were getting -- she was getting her ready to go  
9 to school and she, you know, was changing -- putting her  
10 clothes on. And she said -- well, we call Minor "Dee Dee."  
11 And she said, Dee Dee, what's that -- what's wrong with you?  
12 What's that all over you?

13 So then I looked and I saw the marks.

14 Q Okay. Where were the marks?

15 A They were on her -- around her breasts, across her  
16 breasts, like around there.

17 Q Okay. Ms. Sullivan, I'm going to show you these  
18 photographs.

19 MS. SEAY: And, Mr. Farnsworth, you've seen these.

20 MR. FARNSWORTH: Yes.

21 MS. SEAY: And these are marked for identification,  
22 Your Honor, State's Exhibit Nos. 1 through 9.

23 BY MS. SEAY:

24 Q I'm going to ask if these appear to be -- does this  
25 appear to be Minor at that time?



1 A Yes.

2 Q Okay. And I'm going to ask you just to look through  
3 those. Do those look to be like what you saw on her that  
4 day?

5 A Yes.

6 Q Okay. And, Ms. Sullivan, do you know whether those  
7 marks were on her before she went over to her dad's house?

8 A No. I didn't see any marks on her before she went  
9 over there.

10 Q Is Minor generally -- would you describe her as a  
11 quiet child or an outgoing child?

12 A Well, sometimes she's just real quiet. She keeps  
13 things to herself sometimes, but, you know -- but not all  
14 the time, but sometimes she does.

15 Q When her mother discovered these marks and then you  
16 saw these marks, did y'all ask Minor what had happened to  
17 her?

18 A Yes.

19 Q And did she tell you that she had been sexually  
20 assaulted?

21 A Well, she said, my daddy did it. That's what she  
22 said.

23 Q Okay.

24 A My daddy did that.

25 Q Did she tell you when that had happened?

1 A Uh-huh. She said that happened that night after her  
2 mother had gone to work.

3 Q Okay. Did it surprise you that Minor didn't tell  
4 somebody about it right away?

5 A Yeah. I sort of thought that, but I know how she is,  
6 though. It's like -- you know, like I said, sometimes she  
7 just keeps things to herself. But it did sort of surprise  
8 me that she didn't mention it to her momma, you know, when  
9 her mother got home that day.

10 Q Did she seem -- when she finally told you what had  
11 happened, did she seem embarrassed about it?

12 A Yes.

13 Q Just in general, Ms. Sullivan, is Delisa a good  
14 student in school?

15 A Yes.

16 Q Does she give you any problems?

17 A No, just, you know, little things that children do.  
18 But, you know, I don't call that problems, you know.

19 Q She's generally well-behaved?

20 A Uh-huh.

21 Q Had she ever told you that her father had done  
22 anything to her like this before?

23 A No, she hadn't.

24 MS. SEAY: Ms. Sullivan, I think those are all the  
25 questions I have for you. And if you'll answer any that

1 Mr. Farnsworth has, we would appreciate it.

2 THE WITNESS: All right.

3 THE COURT: Mr. Farnsworth.

4 MR. FARNSWORTH: Thank you, Your Honor.

5 CROSS-EXAMINATION

6 BY MR. FARNSWORTH:

7 Q Ms. Sullivan, just one or two questions. You said  
8 sometimes she keeps things to herself; is that right?

9 A Yes, sometimes she does.

10 Q And sometimes she doesn't, isn't that what you said?

11 A That's right.

12 Q Okay. And I believe you said that you were surprised  
13 that she didn't tell her mother about this?

14 A Yeah, I was.

15 MR. FARNSWORTH: Okay. That's all I have.

16 THE COURT: Thank you. You can step down, ma'am.

17 Be careful.

18 MS. SEAY: Thank you, Ms. Sullivan.

19 Your Honor, the State calls Cynthia Sloan.

20 THE CLERK: Put your left hand on the Bible and raise  
21 your right hand.

22 WHEREUPON,

23 CYNTHIA SLOAN,

24 after first having been duly sworn, testified as follows:

25 THE CLERK: State your name for the record, please.

1 THE WITNESS: Cynthia Sloan.

2 THE CLERK: Thank you. Be seated.

3 DIRECT EXAMINATION

4 BY MS. SEAY:

5 Q Ms. Sloan, where are you employed?

6 A Greenville Memorial Hospital.

7 Q And what is your job title there?

8 A I'm a registered nurse.

9 Q Do you work in a particular area?

10 A I do. I work in the Children's Emergency Center.

11 Q How long have you been employed in that capacity?

12 A Nine years. I've been a nurse for 13 years, but I've  
13 been down there about nine years.

14 Q All right. What's your education and training to  
15 perform duties of a registered nurse?

16 A I graduated from Greenville Tech in 1989. And I was  
17 employed as a tech in 1988. And I went on to become a  
18 registered nurse when I passed the boards in 1990. I'm also  
19 a pediatric nurse specialty -- I'm a certified pediatric  
20 nurse in the State of South Carolina. I passed the exam for  
21 pediatric specialty.

22 Q And as part of your pediatric nursing, do you have  
23 occasion to see children that have been abused or sexually  
24 assaulted?

25 A Yes, ma'am.

1 Q Do you have any idea approximately how many cases  
2 you've seen during your career?

3 A I don't know the number. I'd say hundreds.

4 Q Hundreds. Okay. Were you employed in that capacity  
5 on April 23rd, 2001?

6 A Yes.

7 Q And while working on that date at Greenville Memorial  
8 in the children's emergency center, did you have occasion to  
9 see Minor who's testified here today?

10 A I did.

11 Q What was your role in dealing with Delisa Harris that  
12 day?

13 A We have room assignments, and Minor was put in one of  
14 the rooms that I was assigned to. So she became my patient.

15 Q And what were you supposed to do for Minor that day?

16 A My job is to listen to her story. And there are  
17 certain criterias that we have to do when we have a sexual  
18 assault if it happened within the 72-hour time period to see  
19 if we can do an evidence collection kit or if there's been  
20 too much time that has passed. So the first thing that I do  
21 is ask her what has happened.

22 Q Okay. And did you ask her to tell you what happened  
23 to her?

24 A Yes, I did.

25 Q What did she tell you?

1 A She said, I woke up and my dad was sucking on my  
2 breasts.

3 Q Okay. Did she indicate anything else that had  
4 happened to her?

5 A She did. She said that he put his thing down there  
6 and took off my underwear. And she used the words, "He  
7 haunched me."

8 Q Okay. Would you describe what Minor demeanor or  
9 emotional state was at the time you talked to her?

10 A She was a lot like she was today. She was very quiet.  
11 She would look down a lot. She kind of mumbled and you  
12 would have to ask her to please repeat what she said. She  
13 put her fingers in her mouth. She didn't want to make eye  
14 contact.

15 Q Did she seem embarrassed at all to you?

16 A I don't think I would call it embarrassed. I just  
17 think that she was afraid.

18 Q Okay.

19 A In my experience, her reaction was what I would expect  
20 it to be.

21 Q Would you describe her reaction as consistent with  
22 what you've seen with other children who have been  
23 assaulted?

24 A Yes, ma'am.

25 Q And as part of your role in dealing with Minor do

1     you use a specific protocol or examination in order to treat  
2     her or to collect potential evidence?

3     A     Yes, ma'am, we do.

4     Q     Do you use a SLED -- State Law Enforcement Division  
5     protocol?

6     A     Yes.

7     Q     And so you use this particular procedure on every  
8     single sexual assault victim that you're dealing with?

9     A     Yes.

10    Q     Okay. Did you obtain information from Minor     about  
11    whether she had taken a bath or taken a shower since this  
12    had happened to her?

13    A     Yes.

14    Q     Had she, in fact, done that?

15    A     Yes, she had.

16    Q     Okay. And did you ask her whether she had changed  
17    clothes since this had happened to her?

18    A     Yes.

19    Q     And had she done that?

20    A     Yes, ma'am.

21    Q     Okay. Did you observe any marks on Minor     body, in  
22    particular her breast area?

23    A     Yes.

24    Q     Can you describe what you observed?

25    A     They looked like suck marks or bruises.

1 Q I'm going to show you State's Exhibit Nos. 1 through 9  
2 for identification, and ask if you recognize those?

3 A Yes, ma'am, I do.

4 Q Okay. Do those appear to be Minor on the date  
5 that you saw her?

6 A Yes.

7 Q And do they accurately reflect the marks that you  
8 observed?

9 A Yes.

10 Q Ms. Sloan, did you talk to Minor as part of the form  
11 or the procedure that you go over with her about whether the  
12 person who assaulted her had ejaculated?

13 A Yes, I did.

14 Q Do you know if she understood that term?

15 A I asked her if she understood it. And she said, no.  
16 So, therefore, we just -- I asked her -- I don't remember  
17 exactly what I said to her when she said no. But, usually,  
18 if they do not understand that particular term, I'll ask  
19 them if they saw any liquid, any oozing, something that  
20 maybe looked like lotion, those type things.

21 Q Okay. And did she respond to that?

22 A Yes, she did.

23 Q What did she say?

24 A She said that it felt gooey.

25 Q Did you note that in your report?



1 A Yes, ma'am.

2 Q Did you all take a blood sample from Delisha as part of  
3 this procedure also?

4 A Yes.

5 Q And did you -- you personally did that?

6 A Yes.

7 Q And would you have labeled it and made it a part of  
8 this particular sexual assault kit that you obtained?

9 A Yes.

10 MS. SEAY: I'd ask that these be marked for  
11 identification purposes, Your Honor.

12 THE COURT: All right.

13 MS. SEAY: It will be State's Exhibit No. 10.

14 (WHEREUPON, State's Exhibit No. 10 was marked for  
15 identification only.)

16 BY MS. SEAY:

17 Q Ms. Sloan, do you recognize this child sexual assault  
18 evidence collection kit?

19 A Yes.

20 Q How do you recognize it?

21 A It's what we use every time we do a sexual assault.

22 Q Okay. And, in particular, to whom does this one  
23 belong?

24 A This belongs to Delissa Harris. And that's my  
25 writing, and my name is on there.

1 Q Okay. So you filled this information out and  
2 collected this kit?

3 A I did.

4 Q Okay. Ms. Sloan, after you completed the kit -- well,  
5 let me back up. Did a physician assist in performing the  
6 actual physical and pelvic exam of Minor

7 A Yes.

8 Q And that was Dr. Wilson, I believe?

9 A Yes.

10 Q And after y'all completed that, did you then turn the  
11 kit over to someone?

12 A I did.

13 Q To whom did you give it to?

14 A It was the deputy that we had called to investigate  
15 the case.

16 Q Okay. So I believe you turned it over to Deputy  
17 Moore; is that correct?

18 A That's right.

19 MS. SEAY: Okay. Thank you.

20 Please answer any questions Mr. Farnsworth may have.

21 THE COURT: Mr. Farnsworth.

22 CROSS-EXAMINATION

23 BY MR. FARNSWORTH:

24 Q You said you've done, I think you said, hundreds of  
25 these examinations over the years?

1 A Probably, yeah.

2 Q But does the doctor -- in this case, Dr. Wilson --  
3 does he do this thing with you? I mean, I know he does the  
4 pelvic, but does he do the -- does he go through each of  
5 these steps with you?

6 A No. He -- we will do the initial investigation, if  
7 you will. And when we get ready to -- for the doctor to do  
8 his examination, we will tell him that we're finished with  
9 the preliminary questions. And we call Rape Crisis. And we  
10 draw the blood. And then he comes in.

11 Q So really other than drawing the blood, you're job is  
12 mainly to ask the questions that are on this SLED kit, is  
13 that correct?

14 A Yes, sir, and collect the evidence such as, you know,  
15 hair clippings or nail clippings, just the things in the kit  
16 that's asked to be collected.

17 Q All right. But who makes the ultimate decision of  
18 what should be collected and what shouldn't be, you or the  
19 doctor?

20 A I'm sorry.

21 Q Who makes the ultimate decision on what should be  
22 collected, you or the doctor?

23 A It's usually a collaborative effort.

24 Q Okay. Well, in this instance, was -- you mentioned  
25 fingernails, is that what you said, "clippings"?

1 A Yeah. We didn't do any of those, I don't think. I  
2 don't recall doing that.

3 Q All right. Did you take any hair specimens?

4 A I -- can I look at my notes?

5 Q Sure.

6 A Because it's been a while. I think that we probably  
7 did, but I don't remember specifically. And a lot of times,  
8 the reason we collect what we collect is because of what the  
9 person tells us happened.

10 Q I understand that.

11 A Okay. We took the hairs -- the head hairs. We did  
12 select those.

13 Q Okay. That would be the known head hairs?

14 A Right.

15 Q And no pubic hair samples or pubic hair combing  
16 samples were taken?

17 A Right.

18 MR. FARNSWORTH: That's all.

19 THE COURT: Any redirect?

20 MS. SEAY: Just briefly, Your Honor.

21 REDIRECT EXAMINATION

22 BY MS. SEAY:

23 Q Ms. Sloan, why would you make the decision such as we  
24 were just talking about concerning something like fingernail  
25 scrapings and whether or not to collect those?

1 A If there had been a physical -- like if she said that  
2 she had clawed the other person, scratched the other person,  
3 that kind of thing or --

4 Q Do you mean if she had told you that?

5 A Yes.

6 Q Okay. Then you would have had reason to collect that  
7 particular item?

8 A Yes.

9 Q Okay. And pubic hair combings and known pubic hairs  
10 from the victim, did she have any pubic hair? Do you  
11 recall?

12 A No. She did not.

13 Q So that was not something you were able to obtain?

14 A Right.

15 MS. SEAY: That's all I have.

16 Thank you.

17 THE COURT: Thank you.

18 Step down.

19 MS. SEAY: Your Honor, may Ms. Sloan be excused, if she  
20 desires?

21 THE COURT: Any objection?

22 MR. FARNSWORTH: No objection.

23 THE COURT: Thank you.

24 She's excused.

25 MS. SEAY: Your Honor, the State calls Dr. John Wilson.

1 THE CLERK: Place your left hand on the Bible and raise  
2 your right hand.

3 WHEREUPON,

4 JOHN DAVID WILSON, JR., M.D.,  
5 after first having been duly sworn, testified as follows:

6 THE CLERK: State your name for the record, please,  
7 sir.

8 THE WITNESS: John David Wilson, Jr.

9 THE CLERK: Thank you. Be seated.

10 DIRECT EXAMINATION

11 BY MS. SEAY:

12 Q Dr. Wilson, where are you currently employed?

13 A Greenville Memorial Hospital.

14 Q And what is your position there?

15 A Attending in pediatric emergency medicine.

16 Q And as an attending pediatric emergency doctor, can  
17 you please tell us what your education and experience is to  
18 perform those duties?

19 A Doctor of medicine degree, and residency training in  
20 pediatrics, and fellowship training in pediatric emergency  
21 medicine.

22 Q How long have you been practicing in the field?

23 A Ten years.

24 Q And you've been at Greenville Memorial Hospital how  
25 long?

1 A Six years.

2 Q Have you worked consistently in the pediatric area at  
3 Greenville Memorial?

4 A Yes.

5 Q During your employment there, did you have occasion to  
6 treat Minor on April 23rd, 2001?

7 A Yes.

8 Q And do you know for what reason she was referred to  
9 you for an examination?

10 A For an alleged sexual assault.

11 Q All right. Did you personally talk with Minor about  
12 what had happened to her or do you obtain the nurses history  
13 about that?

14 A Most of the history was reviewed from the nursing  
15 history. And I believe I spoke with her briefly about the  
16 history.

17 Q Okay. And so at the time you conducted your exam, you  
18 were aware that there was an allegation of sexual  
19 intercourse and that Minor breasts had been sucked?

20 A The breast part, yes. And then there was a question  
21 about the intercourse. It was unclear exactly what had  
22 happened with that.

23 Q Okay. Would you describe how you go about conducting  
24 your physical exam of a child in this situation?

25 A We do a general physical exam, ears, nose, and throat,

1 heart and lung exam, and a general skin exam, including the  
2 chest and the extremities looking for bruises and things  
3 like that. And then we do a vaginal or a pelvic exam,  
4 depending on the age of the child.

5 Q All right. Let me direct your attention then to the  
6 examination that you did of her upper body area. Did you  
7 notice anything unusual?

8 A Yes. Around her -- on her breasts, she had what  
9 appeared to be bruises, suck or bite marks all around.

10 Q Okay. Have you observed those type of marks in your  
11 career before?

12 A Yes.

13 Q And did these marks appear to be consistent with what  
14 Minor said had happened, the sucking or biting type --

15 A Yes.

16 Q I'll show you the photographs that are State's Exhibit  
17 Nos. 1 through 9 for identification, and ask if you  
18 recognize them?

19 A Can I see a copy of the record?

20 Q And this is a copy of the report.

21 A Okay. Thank you.

22 Q Do you recognize those?

23 A Yes.

24 Q And do those appear to be consistent with what you  
25 observed on that date on Minor



1 A Yes.

2 Q Moving along in your examination, you stated that then  
3 depending on the child's age, you would do some type of a  
4 pelvic examination. Can you describe what you did in this  
5 situation?

6 A With a young child, we usually would not do a pelvic  
7 exam, which technically means we would do a speculum  
8 examination. In her case, we do an external vaginal  
9 exam.

10 Q Okay. And I believe she was nine years old at the  
11 time; is that correct?

12 A Yes.

13 Q And did you make any findings as a result of your  
14 external exam?

15 A The only thing I noted on the report was that she had  
16 a small amount of milky discharge from the vagina. And that  
17 was the only abnormal finding -- or potentially abnormal  
18 finding.

19 Q All right. Are you able to look at something like  
20 that and determine what it is?

21 A No.

22 Q Can you make any statements, based on your education,  
23 about what that discharge might be?

24 A Well, in a pre-adolescent child, it certainly could be  
25 a normal vaginal discharge. And by looking -- just looking

1 at it like we did in this exam, it was unclear as to what it  
2 was. And I think I noted on there that we sent it for  
3 analysis for that reason.

4 Q Okay. So you're unable to tell by looking at it if  
5 it's just a normal discharge from a pre-adolescent child or  
6 whether it could be semen or something like that?

7 A Right.

8 Q And so you sent that for analysis?

9 A Correct.

10 Q If I told you that the analysis indicated that that  
11 substance was not semen, would you be surprised by that  
12 information?

13 A No.

14 Q Why not?

15 A Just what we said before, that it very well could be a  
16 normal vaginal discharge from her age.

17 Q Okay. Did you note any other findings as a result of  
18 your pelvic exam?

19 A We just noted the size of her hymen and that was maybe  
20 borderline large for her age, but there were no tears or  
21 bleeding or anything like that. I think that's all I  
22 noted.

23 Q Okay. Are you able to tell when you do an  
24 examination of that type whether there has actually been  
25 penetration by some object?

1 A That would depend if she had been -- if someone had  
2 had intercourse with her and -- an adult male, for example,  
3 there would likely be some finding, but not always. And  
4 what we usually will see in these examinations is a normal  
5 exam, because there may not have been full penetration or  
6 complete penetration.

7 Q Okay. Do you find it common or uncommon in your  
8 experience of examining children to find actual physical  
9 evidence of penetration?

10 A It's uncommon to find physical evidence of  
11 penetration.

12 Q Doctor, do you have any notes as to whether this  
13 child, Delisa Harris, had begun menstruation at the time you  
14 saw her?

15 A I don't recall that just off the top of my head. If  
16 there was a note -- there may be a note that the nurse would  
17 have taken that information.

18 Can you direct me to a page or -- okay. Yeah, I see it  
19 on the first page, "Date of last menstruation," and  
20 Ms. Sloan put "Not Applicable," meaning she had not started  
21 her period yet.

22 MS. SEAY: Doctor, thank you.

23 And please answer any questions that Mr. Farnsworth  
24 might have.

25 THE COURT: Mr. Farnsworth.

1 MR. FARNSWORTH: Thank you, Your Honor.

2 CROSS-EXAMINATION

3 BY MR. FARNSWORTH:

4 Q Doctor, just previously, I want to be sure. In this  
5 case, you said you made some findings early in this case.  
6 It's my understanding your finding was, based on what you  
7 saw, there was no penetration; is that correct?

8 A No. We did not -- I didn't see evidence of physical  
9 damage or physical findings from penetration.

10 Q So, again, I'm asking you, your finding was that you  
11 found no penetration; isn't that correct? Isn't that what  
12 you testified to?

13 MS. SEAY: Your Honor, I think he's answered the  
14 question.

15 MR. FARNSWORTH: I didn't hear the answer, Your Honor.

16 THE COURT: Go ahead.

17 THE WITNESS: I did not find evidence of penetration.

18 BY MR. FARNSWORTH:

19 Q Okay. Thank you.

20 And the milky discharge that the young lady had  
21 described that felt like something gooey, you took this and,  
22 I assume -- or the nurse did, and put it on a slide or swab  
23 and it was sent off; is that correct?

24 A Correct.

25 MR. FARNSWORTH: Okay. Thank you.

1 THE COURT: Anything else from the Doctor, Solicitor?

2 MS. SEAY: No, sir. And if he may be excused --

3 THE COURT: Any objection?

4 MR. FARNSWORTH: No objection, Your Honor.

5 THE COURT: Thank you, Doctor.

6 THE WITNESS: Okay. Thank you.

7 MS. SEAY: Your Honor, the State calls Scott Moore to  
8 the stand.

9 THE CLERK: Put your left hand on the Bible and raise  
10 your right hand.

11 WHEREUPON,

12 SCOTT MOORE,

13 after first having been duly sworn, testified as follows:

14 THE CLERK: State your name for the record, please.

15 THE WITNESS: Scott Moore.

16 THE CLERK: Thank you.

17 Be seated.

18 DIRECT EXAMINATION

19 BY MS. SEAY:

20 Q Deputy Moore, are you employed with the Greenville  
21 County Sheriff's Office?

22 A Yes, ma'am.

23 Q How long have you been employed there?

24 A Two years and eight months.

25 Q What is your basic training and education to perform

1 your duties?

2 A Nine weeks at the Criminal Justice Academy.

3 Q Speak up just a little bit, or if you can, get a  
4 little closer to that microphone.

5 Thank you.

6 A Nine weeks at the criminal justice academy in  
7 Columbia, and then ongoing in-service training every year.

8 Q Okay. Were you on duty on April 23rd, 2001?

9 A Yes, ma'am.

10 Q On that date, did you respond to Greenville Memorial  
11 in reference to a sexual assault?

12 A I did.

13 Q Did you meet with the victim in this case, Minor  
14 Harris?

15 A I did.

16 Q Did you personally speak with her?

17 A Yes, ma'am.

18 Q Was this privately or were you in the presence of  
19 other people?

20 A We were in the presence of -- I think her mother was  
21 actually in there, the nurse, and also Deputy Hayes.

22 Q Did you ask Minor to give you a description, a basic  
23 description, of what had happened to her?

24 A Yes, ma'am.

25 Q And did she do that?

1 A She did.

2 Q What was her demeanor or emotional state at the time?

3 A She was very quiet, very withdrawn.

4 Q Did you observe any injuries on this child?

5 A Yes, ma'am.

6 Q What did you observe?

7 A I also observed the bite or suck marks on her breasts.

8 Q Okay. As a result of observing those, did you call  
9 someone to come and take these photographs of those injuries?

10 A Yes, ma'am. We requested the Greenville County  
11 Forensic Unit.

12 Q If you'll just briefly quickly look through these,  
13 State's Exhibit Nos. 1 through 9, and see if you recognize  
14 those as what you observed?

15 A Yes, ma'am.

16 MS. SEAY: Your Honor, I'm going to ask that these be  
17 admitted into evidence at this time.

18 THE COURT: All right. Any objection?

19 MR. FARNSWORTH: I just want to look at them.

20 BY MS. SEAY:

21 Q Deputy Moore, after you called forensics to come and  
22 take the photographs, did you notify Investigator Austin  
23 that he should respond to the hospital?

24 A I notified my supervisor, who notified Investigator  
25 Austin.

1 Q All right. And did you have any contact with the  
2 suspect, Ronnie Harris, in this case?

3 A No, ma'am.

4 Q Do you recognize State's Exhibit No. 10 marked for  
5 identification?

6 A Yes, ma'am.

7 Q Did you have any involvement with this sexual assault  
8 kit?

9 A After it was completed, the hospital called us and I  
10 went and picked it up and put it in evidence.

11 MR. FARNSWORTH: Your Honor, these are without  
12 objection.

13 THE COURT: All right. Without objection.

14 (WHEREUPON, State's Exhibit Nos. 1, 2, 3, 4, 5, 6, 7,  
15 8, 9, and 10 were admitted into evidence.)

16 MS. SEAY: Thank you, Deputy Moore.

17 Please answer any questions Mr. Farnsworth has.

18 CROSS-EXAMINATION

19 BY MR. FARNSWORTH:

20 Q Deputy Moore, you said that you talked to Minor and  
21 that was in the presence of her mother and the nurses and  
22 this type thing?

23 A Yes, sir.

24 Q Okay. And so you were more less -- you had been  
25 briefed on -- had you been briefed on what the allegation



1 was before you got there to the emergency room?

2 A Yes -- well, when I arrived at the emergency room, the  
3 nurse briefed me..

4 Q All right. You were already briefed on that, so you  
5 knew -- that told you what you needed to ask her; is that  
6 correct?

7 A Yes, sir.

8 Q Okay. And you -- this was the first time you had ever  
9 seen the young lady, I believe, wasn't it?

10 A Yes, sir.

11 Q All right. But you did say that she -- her emotional  
12 state seemed to be quiet and withdrawn. Did you see -- you  
13 saw her testify today?

14 A Yes, sir.

15 Q Was she -- did she appear about the same in that  
16 instance as she was here --

17 A She also appeared to be quiet and withdrawn today as  
18 well.

19 Q Quiet and withdrawn today. And was she -- would she  
20 make eye contact with you that day? Do you remember?

21 A Make eye contact, yes. Maintain eye contact, no.

22 Q Okay. And so really she appeared to you to be, as you  
23 said, real quiet and emotionally withdrawn; is that  
24 correct?

25 A That's what it appeared to me, yes, sir.

1 Q Okay. I want to show you what's been admitted as  
2 State's Exhibit No. 4. Would you look at that photograph  
3 and tell me, if you can, what she appears to be doing?

4 A It appears she is smiling.

5 Q Appears to be what?

6 A Smiling.

7 Q Smiling. Okay. And State's Exhibit No. 3, can you  
8 tell me -- it doesn't show much of her face, but what does  
9 she appear to be doing?

10 A She also appears to be smiling.

11 Q Okay. And that's in two separate -- State's Exhibit  
12 No. 4 and 3?

13 A Yes, sir.

14 MR. FARNSWORTH: That's all I have, Your Honor.

15 THE COURT: Any redirect?

16 MS. SEAY: No, sir.

17 And may Deputy Moore be excused?

18 THE COURT: Any objection?

19 MR. FARNSWORTH: No objection.

20 THE COURT: Thank you.

21 You're excused.

22 MS. SEAY: He worked third shift last night.

23 The State calls Investigator Jim Austin.

24 THE CLERK: Put your left hand on the Bible, please,  
25 sir, and raise your right hand.

1 WHEREUPON,

2 JAMES RILEY AUSTIN,

3 after first having been duly sworn, testified as follows:

4 THE CLERK: State your name for the record please, sir.

5 THE WITNESS: James Riley Austin.

6 THE CLERK: Thank you. Be seated.

7 DIRECT EXAMINATION

8 BY MS. SEAY:

9 Q Investigator Austin, you are employed with the  
10 Greenville County Sheriff's Office?

11 A That's correct.

12 Q How long have you been employed there?

13 A 15 years.

14 Q What is your position at this time?

15 A I'm an investigator in the sex crimes unit.

16 Q How long have you been investigating sex crimes?

17 A About ten years.

18 Q What's your education and training to perform such  
19 investigations?

20 A Various -- the nine weeks we go to the academy in  
21 Columbia. I've had numerous classes on sex crimes with the  
22 University of Louisville, the University of Florida, and  
23 several other states. And we have in-service every year  
24 also.

25 Q Would you be able to estimate the number of cases that

1 you have personally been involved in during your career  
2 involving sexual assaults?

3 A It's hundreds.

4 Q Okay. Were you working in your current capacity on  
5 April 23rd, 2001?

6 A That's correct.

7 Q Did you respond to Greenville Memorial Hospital that  
8 day?

9 A Yes. I was requested to report over there.

10 Q When you did, who did you meet with?

11 A I think I met with Deputy Hayes initially. And he  
12 briefed me on what was going on or what the allegation was.  
13 And then I met with the child.

14 Q And Deputy Moore, who just testified, was he also  
15 present on the scene at that time?

16 A Yes, he was.

17 Q So you learned generally from them what was going on.  
18 What did you do then?

19 A I think the victim, at the time, was in one of the  
20 examining rooms. And I went in and interviewed her.

21 Q All right. Who was in the room when you interviewed  
22 Minor

23 A I think her mom was there. And I think the nurse was  
24 in there.

25 Q Okay. Did you get the information from Minor

1 or did you get the information from the other people in the  
2 room?

3 A I talked directly to Minor

4 Q Did she talk to you?

5 A Yes, she did.

6 Q How did she appear at that time?

7 A Well, she was somewhat subdued. She was very quiet,  
8 kind of withdrawn, but she answered the questions I asked  
9 her.

10 Q Have you -- over the course of your career, have you  
11 tried to develop a way of talking to female victims of this  
12 age in order to make them feel comfortable talking to you?

13 A Yes. I asked her a number of questions prior to just  
14 asking her what happened, you know, like does she have  
15 sisters and brothers, where did she live, all that. Does  
16 she go to school. It kind of led up to what -- the incident  
17 itself.

18 Q Was she able to relate those kind of details to you  
19 about the school and where she lived, different things like  
20 that?

21 A Yes, she was.

22 Q And when you talked with her about what happened, did  
23 she indicate that she had been sexually assaulted?

24 A Yes, she did.

25 Q Did she tell you when that had happened?

1 A Yeah. She said it had happened after her mom had gone  
2 to work and she was in the room with her father.

3 Q And where did you determine this residence where this  
4 happened to be?

5 A , the residence of the  
6 child's father.

7 Q Okay. Is that in Piedmont?

8 A Yes, it is.

9 Q And is that location in Greenville County?

10 A Yes, it is.

11 Q Now, this residence of Minor father, who, I  
12 believe, is Ronnie Harris, did he own that residence or did  
13 he rent there or what --

14 A He was renting a room there.

15 Q Okay. Do you know who the owner of the property was?

16 A I think his name is Calvin Simmons.

17 Q Okay. After you obtained the information at the  
18 hospital from talking to Minor and found out what  
19 happened, did you go to Ronnie Harris' residence?

20 A We tried to find Mr. Harris, but I think he was  
21 working and he drove a truck and he was on the road and he  
22 couldn't be -- we couldn't find him at the time.

23 Q What do you mean you couldn't find him? What did you  
24 do when you couldn't find him?

25 A I came back to the office.

1 Q Did you at some point at the end of the day go to his  
2 residence?

3 A Yes, later on.

4 Q Did someone go with you?

5 A Margaret Young, the caseworker with DSS, went with me.

6 Q Why would a -- why would you have a Department of  
7 Social Services case worker with you in a situation like  
8 that?

9 A Well, the Department of Social Services also would do  
10 an investigation, because Mr. Harris is the child's father  
11 and everything. An allegation like that, they would get  
12 involved and join in the investigation.

13 Q So do you commonly associate or work with the  
14 Department of Social Services in investigations of this  
15 type?

16 A Yes, we do.

17 Q So you and Ms. Young went to that residence?

18 A Yes, we did.

19 Q Did you see Mr. Harris there?

20 A He wasn't there when we got there, but he arrived  
21 shortly after we were there.

22 Q Did you have a conversation with him about whether you  
23 could look inside the residence?

24 A Yes, I did.

25 Q Would you please describe what the conversation was?

1 A Well, when I saw him, I introduced myself and told him  
2 what the allegation was. He had -- he knew. He had talked  
3 with Minor mom and he had some word about what the  
4 allegation was. And we told him we needed to see his room.  
5 And he said that it was fine.

6 Our procedure is to obtain a Consent to Search or a  
7 search warrant or whatever when you go into a particular  
8 place like this. And I filled out a Consent to Search and  
9 Mr. Harris refused to sign it. But he said it was all right  
10 for us to go in and look around.

11 Q Okay. So you offered him the opportunity to sign this  
12 consent and he said, "No"?

13 A Yes.

14 Q But he said, y'all can come in and look?

15 A Yes.

16 Q Okay. Did you go and look at the room where this --  
17 where Minor said this happened?

18 A Yes. We looked at the room.

19 Q Where was the room in relation to the home itself?

20 A It was -- I think it was the first bedroom off the  
21 hallway as you come through the kitchen, if I remember  
22 correctly.

23 Q Okay. And did you observe what the layout of the rest  
24 of the home was like, like where the other bedrooms would  
25 have been located?



1 A I think they were down the hall, yes.

2 Q So were they on an opposite end of the house --

3 A They were down the hall from the -- it was down the  
4 hall from there.

5 Q Okay. What did you observe in the room that was told  
6 to be Ronnie Harris' room?

7 A He had a mattress on the floor. He didn't have a bed.  
8 It was just a mattress. And I think a TV was there and, I  
9 think, a dresser. There wasn't much furniture in it at all.

10 Q Did you ask Mr. Harris about whether you could take  
11 some items from that room?

12 A Yes. I asked him could we take the bedding from the  
13 mattress and the pillow cases for evidence.

14 Q And why did you want to do that?

15 A Because we -- this was the site where the alleged  
16 incident occurred.

17 Q Okay.

18 A And there might have been fluids or something on it.

19 Q What did Mr. Harris say when you asked to take these  
20 items?

21 A He said it would be fine. He told us to go ahead and  
22 take them.

23 Q Did you coerce him or force him to let you come in the  
24 house and look in the first place?

25 A No.

1 Q Did you promise him anything in exchange for allowing  
2 you to come in and look things over?

3 A No.

4 Q And I ask you the same question in regards to taking  
5 those items from the bedroom. Did you force him to give  
6 them to you, or coerce him, pressure him, or promise him  
7 anything?

8 A No, I did not.

9 Q And, specifically, what did you take then from the  
10 room?

11 A I think we took the bed sheet and two pillow cases.

12 Q Okay. And then did you package those items and  
13 place them into a secure location at property and  
14 evidence?

15 A Yes. They were taken back to the LEC and placed in  
16 property and evidence.

17 Q Okay. And at a later point in time, did you accompany  
18 Ronnie Harris to Greenville Memorial Hospital so that a  
19 blood sample could be collected from him?

20 A Yes. I took him over.

21 Q Do you know what date that was?

22 A I think it was the 5th of September, 2001.

23 Q Okay. And when you accompanied Mr. Harris to the  
24 hospital for this blood sample to be collected, was that for  
25 the purpose of sending it with the potential evidence to the

1 State Law Enforcement Division for any examination and  
2 testing that they could do?

3 A That's correct.

4 Q Did you observe the medical personnel take this blood  
5 sample from Mr. Harris?

6 A Yes. I was in the room the whole time during the  
7 whole examination.

8 Q Did they perform this procedure properly and safely?

9 A Yes, they did.

10 Q And did you then take custody of that blood sample?

11 A I did.

12 Q Did you place it in a secure location in the property  
13 and evidence room?

14 A Yes, I did.

15 Q And then, as I said, did you later have all of these  
16 items, along with the victim's sexual assault kit, sent to  
17 the State Law Enforcement Division?

18 A Yes, I did.

19 Q Okay. Mr. Austin, did you determine how long Ronnie  
20 Harris had been living in that room at ?

21 A I think he told me he had been there about two months,  
22 I think.

23 MS. SEAY: Those are all the questions I have.

24 Please answer any questions Mr. Farnsworth has.

25 THE COURT: Mr. Farnsworth.

CROSS-EXAMINATION

BY MR. FARNSWORTH:

Q Officer Austin, you talked with the child, you said interviewed her, I believe your word was, at the hospital when she was over there when you first got involved in the case?

A That's correct.

Q All right. And I believe that she had told you, basically, that her father -- I mean her mother and she stayed over there with her father off and on?

A Yes. That's correct.

Q And sometimes it would be only her staying there because her mother had to go to work at night; is that correct -- late at night; is that correct?

A That's correct.

Q Okay. And this -- I believe this was a trailer; is that right? We call it a home, but it was a trailer; is that correct, or is it like a -- was it also --

A It was a house. To me, it might have been a modular house.

Q Okay. That's what I meant, yeah.

A All right. And I think you said there were three bedrooms and the one that was Mr. Harris' bedroom was right there off of, I assume, the den or the open room out there, the living room. And do you know -- do you remember whether

1 or not -- how many doors there were, as far as an entrance  
2 to that bedroom?

3 A To Mr. Harris'?

4 Q Yeah.

5 A It wasn't but one.

6 Q Just one. And that door led into the main room there,  
7 the den or whatever you want to call it?

8 A Yes. Correct.

9 Q All right. And when you talked with Minor she more  
10 or less gave you a description of what happened to her, as  
11 she referred to the bad thing that happened to her?

12 A That's correct.

13 Q All right. And I believe she told you that she cried  
14 while it was going on, the bad thing that was going on?

15 A Yes. I think she did.

16 Q And I believe she also told you that after this bad  
17 thing happened with her that she talked to her mother on the  
18 phone?

19 A Yes.

20 Q Is that correct?

21 A Yes.

22 Q Okay. No question about that, that she told you that?

23 A That's what I documented.

24 Q Okay. That's what you wrote?

25 A Yes.

1 Q And do you remember -- isn't it true when you were --  
2 you did talk to Mr. Harris briefly and you said that he  
3 already knew what the allegations were against him when you  
4 saw him; is that correct?

5 A That's correct.

6 Q I think his wife (sic) had called him earlier; is that  
7 right?

8 A Yes, she had.

9 Q And I think, at that point, she was going -- about to  
10 take the child to the hospital when she talked --

11 A When she talked to him, yes.

12 Q And I think, in fact, he told her he was in agreement  
13 with that, didn't he?

14 A Yes. That's what she said, yes.

15 MR. FARNSWORTH: That's all I have.

16 THE COURT: Any redirect?

17 MS. SEAY: No, sir.

18 THE COURT: Thank you.

19 You can step down.

20 Do you want to -- Solicitor, do you want to break now  
21 for lunch or have you got another short one?

22 MS. SEAY: Your Honor, my final witness is going to be  
23 Agent Amick from SLED, who is going to talk about several  
24 things.

25 So I'll let you decide if you want to go ahead and --

1 THE COURT: Well, we'll recess then for lunch.

2 All right. Ladies and gentlemen, we'll recess for  
3 lunch at this time. We'll pick back up at 2:15.

4 Now, during the lunch recess, do not talk about this  
5 case among yourselves or with anyone else. If anybody  
6 contacts you and tries to talk to you about this case, get  
7 their names and addresses and report that to me.

8 Please keep your badges on during the lunch recess. I  
9 ask that you do this so that everyone involved with this  
10 case will know that you're a juror on this case and they  
11 should not discuss this case in your presence.

12 Please be back at 2:15 and report to the jury room  
13 where you've been on recess.

14 (WHEREUPON, the jury was excused from open court at  
15 approximately 12:46 p.m.)

16 THE COURT: Okay. See you all back at 2:15.

17 (WHEREUPON, a lunch break was taken.)

18 THE COURT: Anything before I bring the jury in?

19 MS. SEAY: Nothing from the State.

20 MR. FARNSWORTH: No, Your Honor.

21 THE COURT: Bring the jury in, please.

22 (WHEREUPON, the jury came into open court at  
23 approximately 2:17 p.m.)

24 THE COURT: Okay. Solicitor.

25 MS. SEAY: Your Honor, the State calls Grayson Amick.

1 THE CLERK: Put your left hand on the Bible, please,  
2 sir, and raise your right hand.

3 WHEREUPON,

4 GRAYSON DOUGLAS AMICK,  
5 after first having been duly sworn, testified as follows:

6 THE CLERK: State your name for the record, please,  
7 sir.

8 THE WITNESS: It's Grayson Douglas Amick.

9 THE CLERK: Thank you. Be seated.

10 DIRECT EXAMINATION

11 BY MS. SEAY:

12 Q Mr. Amick, where are you employed?

13 A At South Carolina Law Enforcement Division.

14 Q And we refer to that as "SLED"?

15 A That's right.

16 Q How long have you been employed at SLED?

17 A For approximately ten years.

18 Q What is your job there?

19 A I'm currently assigned to the DNA Department where I  
20 do forensic DNA analysis.

21 Q What's your educational background to perform those  
22 duties?

23 A I received a BS in Biology in 1989, and a PhD in  
24 Biochemistry in 1993 from the University of South Carolina.  
25 I was trained by a court-qualified expert in the field of



1 forensic serology and forensic DNA analysis.

2 I have attended several continuing education classes in  
3 reference to the field and have published in journals and  
4 developed methods and validated methods in the laboratory.

5 Q Okay. And have you previously been qualified as an  
6 expert in the field of forensics involved in DNA analysis  
7 prior to today?

8 A I have.

9 Q Approximately how many times have you testified in  
10 court and been qualified as an expert?

11 A Around 35 or 40 times.

12 MS. SEAY: Your Honor, at this time, I would offer  
13 Grayson Amick as an expert in serology and DNA analysis.

14 THE COURT: Any voir dire touching upon his expertise  
15 in that area?

16 MR. FARNSWORTH: No objection, Your Honor. We're  
17 familiar with Mr. Amick.

18 THE COURT: He's qualified.

19 MS. SEAY: Thank you, Your Honor.

20 BY MS. SEAY:

21 Q Mr. Amick, would you please explain what forensic  
22 serology is?

23 A Forensic serology is, basically, identification of  
24 body fluids as they pertain to cases such as this, rape  
25 cases or murder cases. So, basically, you're identifying,

1 is it blood, is it semen, is it saliva, and urine in some  
2 cases.

3 Q And please, if you would, explain what forensic DNA  
4 analysis is?

5 A Well, forensic DNA analysis is taking evidence from  
6 cases like I mentioned, murders, and criminal sexual  
7 conducts, burglaries, those type of cases, taking the  
8 evidence from those cases and trying to develop a DNA  
9 profile and comparing that to the people involved in the  
10 cases, subjects and victims. And seeing if those people  
11 match the evidence in any way.

12 Q Well, what is DNA or a DNA profile?

13 A Well, DNA is a molecule that everybody has in their  
14 bodies. It's, basically, a molecule that -- it's kind of a  
15 blue print for making a human being, in simple terms. And  
16 it's different for everybody. Everybody has got different  
17 DNA, except for identical twins.

18 So what we're able to do is look at a particular part  
19 of the DNA molecule in everybody and develop a profile  
20 that's unique to that individual. So we can, basically, say  
21 that this stain came from this individual. That's,  
22 basically, DNA -- forensic DNA analysis.

23 Q And each person has a unique DNA profile, except for  
24 identical twins, as you mentioned?

25 A That's correct.

1 Q And would that -- that would hold true even if persons  
2 were related biologically?

3 A That's correct. We can tell that -- basically, the  
4 test that we do, we can tell if somebody is related by the  
5 results we see. But it's still a unique profile.

6 Q Okay. Did you receive evidence in this particular  
7 case concerning Minor and Ronnie Harris? Did you  
8 receive evidence in this case from the Greenville County  
9 Sheriff's Office for your examination?

10 A I did.

11 Q Okay. And did you perform analysis on the evidence  
12 that you received?

13 A I did.

14 Q Would you describe the items that you received and  
15 what analysis you performed?

16 A Yeah. I received a sexual assault evidence collection  
17 kit from Minor which is a -- we call it a rape kit  
18 that's collected at the emergency room from the victim of an  
19 alleged sexual assault. In that kit what's contained is  
20 several envelopes with the evidence from the victim and a  
21 blood standard from the victim, that is, blood from that  
22 person's body.

23 So I have the blood from the victim, then I have the  
24 saliva standard from the victim that is -- they put a little  
25 card in their mouth and take saliva from their mouth. I

1 have vaginal rectal smears, which are microscopic slides. I  
2 have vaginal swabs, oral swabs, rectal swabs, and a  
3 suspected semen swab.

4 Q And those are the items that were described by the  
5 nurse and the doctor as what they collected during their  
6 exam?

7 A Pretty much, correct.

8 And then I also had a suspect collection kit from  
9 Ronald Harris. That is, any suspects or other people  
10 involved in the case have to also submit a blood sample.  
11 And that's what I received in that regard, a suspect kit  
12 from Ronald Harris.

13 And then I also received cuttings from a -- three  
14 cuttings from a sheet for DNA analysis, and two cuttings  
15 from a pillow case.

16 Q Okay. And do you use -- the blood that you receive  
17 from the victim and from Ronald Harris, do you use those to  
18 develop your DNA profile for each of those individuals?

19 A I do. That's what we call "standard." And what I'll  
20 do is take those samples and develop a profile. So that's  
21 that person's known profile. And then I can take the  
22 evidence, the unknowns, and develop profiles from them and  
23 say, okay, does it match this person? This is his known  
24 profile or her known profile. Does it match? And I can do  
25 that for all the evidence.

1           So everybody involved in the case, I have to have a  
2   profile from -- or I have to have blood from them to develop  
3   a profile, a known profile.

4   Q       Okay. And did you develop a profile for Minor  
5   Harris?

6   A       I did.

7   Q       And did you develop a profile for Ronnie Harris?

8   A       I did.

9   Q       Okay. You described the items that you received. And  
10   I think -- I apologize. I interrupted you because I had  
11   asked you to tell us what you did with those items and what  
12   findings you were able to make?

13   A       Okay. For the rape kit, there was -- basically, it  
14   was a negative rape kit. That is, no spermatozoa were  
15   identified on the microscopic slides. No semen was  
16   identified on the vaginal swab, the oral swab, the rectal  
17   swab, or the suspected semen swab. So the rape kit was  
18   negative for semen.

19           Then the other items of evidence that I mentioned, the  
20   sheets and the pillow case, there was no semen identified  
21   from the two cuttings from the pillow case. And from two of  
22   the three cuttings from the sheet, there was semen  
23   identified. Item 3.1, semen was identified. And 3.2, semen  
24   was identified. 3.3, there was no semen identified. So  
25   that --

1 Q And item -- excuse me -- Items 3.1 and 3.2 that you're  
2 referring to, those are cuttings from the sheet?

3 A That's correct. This is one sheet that's processed at  
4 SLED. Cuttings are made where stains are visualized and  
5 they're sent to me for analysis and confirmation. That is,  
6 they -- the technicians will cut this area out. Say, that  
7 it is a stain here, and I will take that and through  
8 forensic serology identify the stain. Is it semen? Is it  
9 blood? Is it saliva?

10 And, in this case, basically, what we're looking for is  
11 semen since there was no real evidence of blood. I mean,  
12 blood you have to -- you see the red stain first, but then  
13 you can confirm it by a chemical test.

14 Q You didn't identify any blood on this sheet?

15 A I didn't test for blood in this case. Because one  
16 thing we do before we test for blood is actually see the red  
17 stain. But I took these three cuttings from the sheet and  
18 tested them for semen. And two of those were positive for  
19 semen.

20 Q Okay. Can you further describe the positive semen  
21 result that you just stated?

22 A Yeah. What we do next is submit -- or subject those  
23 to try to obtain a DNA profile from those. So once we  
24 identify the body fluid, we try to get a DNA profile from  
25 it.

1           So those two items, the cuttings from the sheet -- the  
2           two cuttings from the sheet were subjected to the DNA  
3           process. And then the individuals blood, that was mentioned  
4           before, we also develop a DNA profile from that. And the  
5           item 3.2, which was one of the cuttings from the sheet, the  
6           DNA profile developed from that item matched Ronnie Harris.

7           And the other item, item 3.1, the DNA profile developed  
8           from it was a mixture. And it was a mixture that Minor  
9           Harris and Ronald Harris could not be excluded from. That  
10          is, both of them appeared to be present in that mixture.

11          Q       All right. So just to back up a little bit then. The  
12          first match that you made was a match to Ronnie Harris to  
13          his semen?

14          A       That's correct. The semen that was identified on  
15          that -- one of those cuttings from the sheet matched Ronnie  
16          Harris.

17          Q       All right. And then the other stain that you dealt  
18          with, you identified two persons who cannot be excluded from  
19          contributing to that, those being Ronnie Harris and Minor  
20          Harris; is that right?

21          A       That's correct.

22          Q       Can you explain a little bit more about this mixture  
23          of Ronnie Harris and Minor                           in terms of what are the  
24          ways that a person such as Minor                    might have  
25          contributed her DNA to that stain on the sheet?

1 A Well, there's -- some of the obvious ways would be --  
2 well, first of all, you have a stain -- a semen stain that  
3 matches Ronnie Harris in this case. The question is, how  
4 does this other individual -- how does their DNA get on that  
5 same stained area? And it could be discharge from an  
6 assault. It could be -- any way a person sheds their DNA or  
7 deposits their DNA would be a cause.

8 So a discharge from an assault, saliva from the mouth,  
9 blood from a wound, in this case was not the case, because  
10 there was no blood identified. So the ways you deposit your  
11 DNA, I guess, would be the answer to that. That is, saliva,  
12 skin cells, perhaps, any kind of vaginal discharge, or any  
13 blood.

14 Q Okay. So, in general, bodily fluids?

15 A Most likely bodily fluids, correct.

16 Q Okay. When you say a person's skin cells, let me ask  
17 you to elaborate on that just a little bit. If Minor  
18 Harris were to sleep on a sheet on a bed regularly, would  
19 her skin cells necessarily deposit her DNA there? Would  
20 that be a likely scenario?

21 A It's possible to find her DNA print there. It's not  
22 as likely at the levels that I've found it associated with  
23 this stain. Those levels are more consistent with probably  
24 some kind of a bodily fluid. But skin cells do contain DNA.  
25 So if you sleep in a bed, it's a potential to develop your



1 DNA print from the bedding. It's going to be in a lot lower  
2 level than what we saw in this case here.

3 Q So is it your expert opinion then that her -- the  
4 level of her DNA that you found there is more consistent  
5 with the deposit of a bodily fluid?

6 A That would be accurate.

7 MS. SEAY: Thank you.

8 Please answer any questions, Mr. Farnsworth has.

9 THE COURT: Mr. Farnsworth.

10 CROSS-EXAMINATION

11 BY MR. FARNSWORTH:

12 Q Mr. Amick, you said you had been with SLED for ten  
13 years; is that correct?

14 A That's correct.

15 Q And when -- if you remember, what year did SLED begin  
16 doing DNA analysis?

17 A This particular test, PCR-DNA, we started in September  
18 of '99.

19 Q September of '99. So in April of 2001, you just had  
20 been doing that for about a year and a half; is that correct?

21 A That's correct.

22 Q All right. And do you know roughly when the first  
23 time was that you or any of the other chemists, so to  
24 speak -- I don't know what other word to use, I hope that's  
25 not a wrong term -- did testify in court as to the results

1 of your examinations on DNA?

2 A In regards to PCR --

3 Q To what you're testifying today to.

4 A Can you repeat it --

5 Q In other words, you said that SLED -- that you began  
6 doing DNA analysis back in 1999?

7 A We started doing STR analysis. Now, we did another  
8 DNA test starting in '92. But this particular test, we --

9 Q Well, I'm concerned with the one that you're  
10 testifying to today.

11 A Okay.

12 Q And y'all started that in 1999?

13 A That's correct.

14 Q And, again, do you remember what year the first  
15 testimony was given in Court by you or any of your  
16 colleagues?

17 A I would have been the first one to testify on STR-DNA  
18 analysis. And it probably was on a case -- I don't know for  
19 sure, but it was soon after we started doing that test. I  
20 think I remember a case in December that I testified on.

21 But I validated this method for the laboratory starting  
22 in January of '99. So for nine months, we took this method  
23 and developed it. And I wrote the protocol and then trained  
24 everybody in this test. And the protocol was signed in '99.  
25 And me and another fellow trained everybody the next

1 following year.

2 So we testified over 30 times the next year.

3 Q I understand. I understand that. And I know you  
4 have. My question was, though, do you remember what -- I'm  
5 not trying to pin you down to exact date or month, but do  
6 you remember when you first -- any of the individuals that  
7 do this at SLED, do you remember when you first testified --  
8 the first one that testified? When was that, if you know?

9 A I don't know without checking. I mean, we keep the  
10 records at SLED, but I don't have them with me. I don't  
11 know.

12 Q And on this particular DNA that you've talked about  
13 that you've testified to today, prior to that, those samples  
14 and things were sent out of state; is that correct?

15 A That's correct. We -- if it required this type of DNA  
16 test, which is a sensitive test, more sensitive than the one  
17 we did before, we would send them to a private lab.

18 But I think -- we've done DNA testing at SLED since  
19 1992. The technology changed in '99. So some of the cases  
20 we did from '92 to '99, there wasn't enough DNA for our  
21 method that we were using to get a profile. So we would  
22 send those to a commercial laboratory to do this type test  
23 that we do now.

24 Q All right. Thank you.

25 Now, let me just be sure I understand, and I think I

1 do. But for the jury's benefit, you were sent a -- you  
2 refer to it as a rape kit, a sexual assault evidence kit, on  
3 the victim in this case, Minor Sullivan (sic); is that  
4 correct?

5 A That's correct.

6 Q All right. And, in addition to that, you were sent, I  
7 assume, a sample of her blood and saliva; is that correct?

8 A That's included in the kit, correct.

9 Q All right. And in the kit -- this was all done at the  
10 hospital here?

11 A That's correct.

12 Q And they took vaginal and rectal smears?

13 A That's correct.

14 Q And vaginal swabs, oral swabs, and there was an item  
15 that says, "suspected semen" that was sent to you. And your  
16 test results are that all of this -- these items that you  
17 examined were negative for semen?

18 A That's correct.

19 Q Okay. And on the DNA, there were three sheet  
20 cuttings. I believe you testified that on 3.3 that no semen  
21 was identified in that -- on that cutting?

22 A That's correct.

23 Q And on 3.2, the other sheet cutting, you said that the  
24 semen that you examined was that of Ronnie Harris alone; is  
25 that correct?

1 A I didn't say alone, but it did match Ronnie Harris,  
2 correct.

3 Q But there was no other mixture of anything on that one?

4 A There is actually another profile present that is  
5 consistent with Minor We chose to report this as a  
6 match to Ronnie Harris.

7 Q All right. And, in any event, in your report you say  
8 the results that the profile -- the DNA profile on item 3.2  
9 matches Ronnie Harris?

10 A That's correct. But also in the report is a table  
11 that has all of the --

12 Q I understand that.

13 A -- of all the profiles.

14 Q I understand that.

15 A We just chose to summarize it in that fashion.

16 Q All right. And on the other sheet cutting, I think  
17 you said that was a mixture and you said that it was Ronnie  
18 Harris and Minor Sullivan (sic). And I believe you said  
19 that that -- that her -- that she could have deposited  
20 certain body fluids or anything other that are the basis of  
21 DNA and how it would have gotten there, and you said bodily  
22 fluids; is that right?

23 A That's a possibility, correct.

24 Q And then besides blood and saliva and, I think, you  
25 said discharge, what other bodily fluids are there? What

1 about sweat?

2 A That's a possibility.

3 Q What about her hair?

4 A That's a possibility, yes.

5 Q What about her fingernail?

6 A Do you mean fingernail clippings?

7 Q If a fingernail clipping -- if a fingernail comes off  
8 in the bed and it would be there near this stain.

9 A That's a possibility.

10 Q And could all those contribute to what you're saying  
11 was a mixture of a match in her DNA?

12 A That's correct. All of those things contain DNA.

13 Q Okay. And when you did these examinations, you  
14 weren't aware that she, as well as Mr. Harris, had slept on  
15 those sheets for as long as a month and a half? You weren't  
16 aware of that?

17 A It doesn't -- no. I was not aware of that.

18 MR. FARNSWORTH: That's all I have.

19 THE COURT: Any redirect?

20 MS. SEAY: Just briefly.

21 REDIRECT EXAMINATION

22 BY MS. SEAY:

23 Q Mr. Amick, the scenarios of sweat, hair, and finger  
24 nails, are those likely possible contributors in the  
25 particular DNA that you noted in this case?

1 A The DNA contained in sweat is dilute. And hair is  
2 also in small quantities. This -- the quantity here is,  
3 like I said, more consistent with a bodily fluid. But those  
4 are sources of DNA from an individual.

5 Q Okay. And regarding the question that Mr. Farnsworth  
6 asked you about your knowledge of these two persons having  
7 slept on the sheet, now that you know that, does that in any  
8 way change your findings?

9 A No. It's irrelevant to me.

10 MS. SEAY: Okay. Thank you.

11 And I would ask that Mr. Amick be excused, if there's  
12 no objection.

13 THE COURT: Any objection to excusing this witness?

14 MR. FARNSWORTH: No objection.

15 THE COURT: Thank you.

16 You're excused.

17 MS. SEAY: No further witnesses from the State.

18 THE COURT: All right. Take the jury out a minute,  
19 please.

20 (WHEREUPON, the jury was excused from open court at  
21 approximately 2:40 p.m.)

22 THE COURT: Any motions, Mr. Farnsworth?

23 MOTIONS

24 MR. FARNSWORTH: Yes, Your Honor.

25 Your Honor, with respect to the indictment on the

1 criminal sexual conduct first degree with a minor, I would  
2 move for a directed verdict based on the insufficiency of  
3 the evidence. That statute requires a sexual battery, which  
4 in turn requires a penetration or any intrusion into the  
5 vagina or -- that was what was pertinent in this case, the  
6 vagina.

7 The doctor's expert testimony, their expert, testified  
8 even on direct and on cross-examination that there was no  
9 finding of penetration. So on that reason, I would move for  
10 a directed verdict.

11 THE COURT: Your motion is denied based on the  
12 testimony of the child, Minor Her testimony is  
13 that there was penetration, that it was put in and that it  
14 hurt. That would be sufficient to deny your motion.

15 All right. Are you going to have some testimony?

16 MR. FARNSWORTH: Yes, Your Honor.

17 Could I have about five minutes?

18 I didn't realize --

19 THE COURT: Yes.

20 I mean, is your client going to testify?

21 MR. FARNSWORTH: Yes. We can do that now. He is going  
22 to testify.

23 THE COURT: Madam Clerk, would you put him under oath,  
24 please.

25 THE CLERK: Would you stand and raise your right hand,



1 please.

2 WHEREUPON,

3 RONALD HARRIS,

4 after first having been duly sworn, testified as follows:

5 THE CLERK: What is your name, please, sir.

6 DEFENDANT HARRIS: Ronnie Harris.

7 THE COURT: You can sit back down there, Mr. Harris.

8 Mr. Harris, we're at a point in your trial where the  
9 State has completed its testimony against you. And the time  
10 has come for you to decide whether or not you will present  
11 testimony in your defense and whether you yourself will  
12 testify. Okay.

13 DEFENDANT HARRIS: Yes, sir.

14 THE COURT: I understand from Mr. Farnsworth that you  
15 are going to testify; is that correct?

16 DEFENDANT HARRIS: Yes, sir.

17 THE COURT: This is a decision that you yourself have  
18 made?

19 DEFENDANT HARRIS: Yes, sir.

20 THE COURT: Mr. Farnsworth has not put any pressure on  
21 you to take the stand and testify; is that correct?

22 DEFENDANT HARRIS: No, sir.

23 THE COURT: Is that correct?

24 DEFENDANT HARRIS: That's right.

25 THE COURT: Now, you understand you don't have to

1 testify. You have absolutely no burden in this case. The  
2 burden remains on the State to prove you guilty beyond a  
3 reasonable doubt.

4 Do you understand that right?

5 DEFENDANT HARRIS: Yes, sir.

6 THE COURT: And if you chose not to testify in this  
7 case, I would tell the jury that they could not in any way  
8 hold that against you.

9 Do you understand that?

10 DEFENDANT HARRIS: Yes, sir.

11 THE COURT: Now, with that understanding, you're  
12 telling me that you yourself have made the decision  
13 voluntarily to testify; is that correct?

14 DEFENDANT HARRIS: Yes, sir.

15 THE COURT: Are you under the influence of any alcohol,  
16 drug, or any other substance right at this moment?

17 DEFENDANT HARRIS: No, sir.

18 THE COURT: You're sober, you know what you're doing,  
19 and you have made the decision to testify; is that correct?

20 DEFENDANT HARRIS: Yes, sir.

21 THE COURT: Okay. Now, you need a short recess?

22 MR. FARNSWORTH: If you could, Judge, give me about ten  
23 minutes. And when I start back -- I need to check on one  
24 witness, but I can finish uninterrupted. I can finish all  
25 of it right after the break.

1 THE COURT: All right. Go right ahead.

2 (WHEREUPON, a break was taken.)

3 THE COURT: Are you ready?

4 MR. FARNSWORTH: Yes, sir.

5 THE COURT: Okay. Bring in our jury.

6 (WHEREUPON, the jury came into open court at  
7 approximately 2:50 p.m.)

8 THE COURT: Okay. Mr. Farnsworth.

9 MR. FARNSWORTH: Thank you, Your Honor.

10 Your Honor, the Defendant would call Mr. Calvin Simmons.

11 THE CLERK: Put your left hand on the Bible, please,  
12 sir, and raise your right.

13 WHEREUPON,

14 CALVIN SIMMONS,

15 after first having been duly sworn, testified as follows:

16 THE CLERK: State your name for the record, please.

17 THE WITNESS: Calvin Simmons.

18 THE CLERK: Thank you. Be seated.

19 DIRECT EXAMINATION

20 BY MR. FARNSWORTH:

21 Q Mr. Simmons, would you state your occupation and where  
22 you live?

23 A I'm -- my occupation is landscaping. I live at  
24 in Piedmont, Greenville County.

25 Q Okay. And how long have you lived in Piedmont?

1 A All my life, 45 years.

2 Q Okay. And how long have you been living in the  
3 particular house that you said the address was  
4 ?

5 A Approximately four and a half years.

6 Q Okay. Are you buying or renting that house?

7 A Buying.

8 Q Okay. And you said you're employed as what?

9 A Landscaping.

10 Q Okay. And is that what you've done most of your life?

11 A Well, before that, I drove a truck. But for the last  
12 five or six years, I've been doing landscaping.

13 Q Okay. Did you do anything else in between that?

14 A I worked in the mill, the Air Force.

15 Q Oh, Air Force?

16 A Uh-huh.

17 Q Okay. How long were you in the Air Force?

18 A Three years, nine months, and two days.

19 Q Okay. You remember the two days. You're glad to get  
20 that over with?

21 A Uh-huh.

22 Q You can still remember it after all these years?

23 A Yeah.

24 Q Okay. And who was living at your house back on April  
25 23rd of 2001?

1 A Myself and Ronnie.

2 Q Ronnie Harris?

3 A That's right.

4 Q Okay. And tell the jury how long you've known Ronnie  
5 Harris.

6 A 45 years.

7 Q 45 years. So back when y'all were growing up? You  
8 grew up together?

9 A That's correct.

10 Q In the same area of Piedmont?

11 A That's correct.

12 Q All right. And you went to school together?

13 A That's correct.

14 Q Okay. And you -- you had three bedrooms in your  
15 house, I believe?

16 A That's correct.

17 Q And you -- apparently y'all talked or you decided to  
18 rent him one of the rooms; is that correct?

19 A Yes. He was needing a place to stay. And he called  
20 me and asked me would I rent him a room because I was living  
21 alone.

22 Q Okay. And so what was the -- so he just paid so much  
23 a month, is that what it was, a week, or what?

24 A Yeah. He paid so much a month.

25 Q Okay. And y'all talked about this before you agreed

1 to do it; is that right?

2 A Yes.

3 Q In other words, you knew that he was going to be  
4 allowed to have company over there?

5 A Yes.

6 Q And also his -- Adrian, his -- well, I don't know.  
7 Was it his wife or --

8 A It was his girlfriend.

9 Q But, I mean, they had been together and they had had  
10 Minor together?

11 A Right.

12 Q Okay. So you understood that he was going to be  
13 bringing Adrian and Minor over there some?

14 A Correct.

15 Q Okay. And, in fact, up until this date when  
16 Mr. Harris was charged with these two indictments, you saw  
17 them on a pretty common basis, didn't you?

18 A At least, four or five times a week.

19 Q Okay. And in addition to Minor spending the night  
20 when her mother went to work, Adrian stayed there, too,  
21 didn't she?

22 A Yes.

23 Q And those would be on nights where she didn't work?

24 A Yes.

25 Q And she would go to work, I think, on what they call

1 the third shift, which is about 11:00 at night when she --

2 A That's correct.

3 Q Okay. And do you recall this weekend? I mean, do you  
4 know what day -- what night this was that this incident is  
5 supposed to have occurred?

6 A It was supposed to have happened on a Sunday night.

7 Q Okay. And do you remember that weekend? Do you  
8 remember the Friday and Saturday up to that Sunday?

9 A Yes.

10 Q And -- well, how do you remember that?

11 A Well, let's see. That Friday night, Ronnie and  
12 Adrian, they spent the night at the house.

13 Q Okay. Now, was Minor with them then?

14 A No.

15 Q She wasn't with them?

16 A No.

17 Q Do you have any idea where she was?

18 A No.

19 Q All right. You were saying they spent the night  
20 Friday. Okay.

21 A And then Saturday morning, Ronnie and Adrian left.

22 And then she dropped him back off that Saturday sometime.

23 Adrian dropped Ronnie back off. And then after she dropped

24 him off, he left. And she came back and was wanting to wait

25 on him. But I told her she couldn't because I was going out

1 and I didn't know when he would be back. So she couldn't  
2 stay at my house.

3 Q Okay. Was this the way it usually was, she got to  
4 stay there if he was there? If he wasn't home --

5 A Yeah. If he was there, she could stay.

6 Q Okay. But you didn't want her there or anybody there  
7 when you weren't home?

8 A If he wasn't there, she couldn't stay.

9 Q All right. And you said this was Saturday?

10 A This was Saturday afternoon. And then -- so we went  
11 out Saturday night. Because me and Ronnie, we was out with  
12 two of our friends. And then on Sunday, he came back home  
13 Sunday afternoon, him and the lady he was with on Saturday.

14 Q Okay. There was another lady?

15 A Yes.

16 Q Okay. He was with her on Saturday night?

17 A Right. And then they came back to my house on Sunday  
18 and stayed for a while Sunday afternoon. And then later on  
19 that afternoon is when Adrian came with Minor

20 Q Okay. She came with Minor

21 A Uh-huh.

22 Q And was there any kind of a -- between Adrian and  
23 Ronnie, was there any kind of a problem with him having  
24 another --

25 A Yeah. Because they had argued some Saturday on the



1 phone when I was telling her she couldn't stay because he  
2 had called. And I put him on the phone to tell her she  
3 couldn't stay there on Saturday. And I don't know what the  
4 argument was. I didn't listen.

5 Q Okay.

6 A And then on Sunday after -- she had came and there was  
7 an argument because he had let her talk to the woman on the  
8 phone --

9 Q Okay.

10 A -- that Sunday.

11 Q Now, when you said you told her she couldn't stay  
12 there without him being there -- without Ronnie being there,  
13 what was her impression? Was she upset about that?

14 A Yeah. She was mad and upset.

15 Q All right. Now, your house -- would you just kind  
16 of -- as best you can for the jury, would you just describe  
17 your house as you go in the front door?

18 A Well, if you come in the front door, you go to the  
19 right. That's my bedroom. You come into the living room  
20 and den and to the right is my bedroom. If you go to the  
21 left, you go into the kitchen. You keep straight through  
22 there and you go into where the washer and dryer would be.  
23 And about the time you get to the end of the hall where the  
24 washer and dryer be, if you turn to the right, there's a  
25 little hallway with a bathroom and two bedrooms.

1 Q Okay. And going, again, back to Ronnie's bedroom,  
2 where was his bedroom and what was outside of it? I  
3 understand there was just one entrance to his bedroom.

4 A Yeah. Well, when you come down the hall and turn to  
5 the left, there's his bedroom and the bathroom and across  
6 from that is the other bedroom.

7 Q All right. But if you went out his bedroom, how would  
8 you go to get in the living room area?

9 A Well, you'd have to come out and take a right and pass  
10 the -- my little bar thing that's in the kitchen where the  
11 sink and all that is, and turn back to the left and come  
12 that way.

13 Q All right. Now, I want to call your attention to  
14 Sunday night again. Do you remember whether or not Adrian  
15 and Minor came down there Sunday night?

16 A They came Sunday afternoon right before dark.

17 Q Okay. And what went on after that, just normal  
18 things?

19 A Yeah. Well, I was in the front room watching TV. And  
20 Ronnie and Adrian, they was arguing about something back  
21 there in his room. And I guess Minor was back there with  
22 them or outside one, because I didn't try to keep up with  
23 where she was at.

24 Q Okay. And were you awake when Adrian left that Sunday  
25 night? Were you awake then?

- 1 A Yes.
- 2 Q Okay. And about what time was that? Do you know?
- 3 A When she left?
- 4 Q Yeah.
- 5 A I guess it was about 10:30.
- 6 Q Okay. And she, as far as you knew, was going to work?
- 7 A Yes.
- 8 Q And she left Minor there; is that correct?
- 9 A Correct.
- 10 Q What did Ronnie Harris do, if you remember, after she
- 11 left to go to work?
- 12 A Well, he came in and started watching TV. Me and
- 13 him was sitting in the living room watching TV and
- 14 talking.
- 15 Q Okay. Do you know where Minor was then?
- 16 A In the bed asleep apparently.
- 17 Q Okay. And later on, after Ronnie went to bed, did you
- 18 get any phone calls?
- 19 A Yes. Adrian called about 11:45 that night.
- 20 Q All right. And you answered the phone?
- 21 A That's correct.
- 22 Q All right. What did you do after you answered the
- 23 phone?
- 24 A I went and stepped in the hallway and told Ronnie
- 25 telephone —

1 Q All right. And was Ronnie in the bed then?

2 A Yeah. He was laying on his side asleep facing the  
3 window.

4 Q Okay. Was Minor in the bed?

5 A She was laying on her side facing the wall asleep.

6 Q Okay. And was the bedroom door open or did you have  
7 to open it to go in there?

8 A It was opened.

9 Q The bedroom door was open?

10 A It was opened.

11 Q Okay. And on this telephone call, do you know whether  
12 or not Ronnie did talk to Adrian?

13 A Yeah. He picked up the phone on it. Because I woke  
14 him up and he picked up the phone and was talking to her.  
15 And I was standing there, and I went back in the front room.

16 Q All right. So you don't know whether or not Minor  
17 talked to her mother?

18 A I don't know about that.

19 Q Okay. Were there any more phone calls after that one?

20 A Yeah. There was one about 1:00. She called again  
21 about 1:00.

22 Q All right. Did you answer the phone?

23 A Yes. Because I was in the kitchen fixing me something  
24 to eat.

25 Q Okay. After you answered the phone, what did you do?

1 A I stepped -- the phone is right there at the hall at  
2 the door. And I just stuck my head around the corner. And  
3 I told her that he was sleeping and I wasn't waking him up  
4 because he had to get up after 6:00 to get up to go to work.

5 Q All right. And when you went in there that time or  
6 looked in there, was the door open -- bedroom door open  
7 then?

8 A It was still opened.

9 Q Okay. And how late did -- was it when you went to bed  
10 that night?

11 A Probably going on 2:00.

12 Q 2:00?

13 A Uh-huh.

14 Q Okay. And during that period of time up until 2:00,  
15 did you hear anything unusual coming out of that bedroom,  
16 any type of noise at all that was unusual?

17 A No. Because most of the time, I was in the kitchen.  
18 Like I said, I was fixing me something to eat around 1:00,  
19 you know, that time. I was in the kitchen fixing me  
20 something to eat.

21 Q Okay. Were there any more phone calls that night or  
22 the next morning?

23 A Well, she called again that morning, I guess, about  
24 6:20, 6:25 to wake him up to go to -- to make sure he would  
25 be ready to go to work when she got there.

1 Q All right. Did you answer the phone then?

2 A Yes.

3 Q All right. What did you do after you answered the  
4 phone?

5 A I went down through there to wake him up. And the  
6 door was still open. And I called him, you know, when I  
7 walked in the hall, I called him and woke him up and told  
8 him telephone. He picked it up and told her, yeah, I'm up  
9 now. And he hung up the phone.

10 Q Okay. And do you remember whether Minor was asleep  
11 or awake?

12 A She was still asleep.

13 Q Okay. And after this phone call at 6:30 in the  
14 morning from Adrian, did she come to the house shortly after  
15 that?

16 A Yeah. She got there about ten minutes to 7:00.

17 Q Okay. And she -- what did she do when she got there?

18 A I'm not -- I know she came in and went in the bedroom.

19 Q Okay. So she went in the bedroom?

20 A Yeah. She went in the bedroom. And after that, I  
21 don't know. Because I left out the kitchen. Because I had  
22 opened the door for her to get in.

23 Q Okay. And -- what now?

24 A I had to open the door for her to get in.

25 Q The what?

1 A The door for her to come into the house.

2 Q Oh, okay. I understand now.

3 So did you see her any more until she left that  
4 morning?

5 A No.

6 Q Okay. And when she left, she had Ronnie with her and  
7 Minor is that right?

8 A That's correct.

9 Q And, as far as you knew, she was taking him to work  
10 and her home with her to school?

11 A That's correct.

12 Q Okay. And I believe you were at home that next day  
13 when the police came down there, Mr. Austin here who  
14 testified?

15 A That's correct.

16 Q And you talked briefly with him?

17 A That's correct.

18 Q And, in fact, you told him that you had been there all  
19 night and that you didn't hear anything or see anything  
20 unusual, didn't you?

21 A That's correct.

22 MR. FARNSWORTH: All right. Answer any questions the  
23 Solicitor may have.

24 THE COURT: Solicitor.

25 MS. SEAY: Thank you.

CROSS-EXAMINATION

BY MS. SEAY:

Q Mr. Simmons, I just have a few questions for you.

You, I believe, had told us that you had three bedrooms in this home?

A That's correct.

Q And Ronnie Harris was renting one room and it was down on this end of the house near where the kitchen is; is that right?

A That's correct.

Q And your bedroom is on this end of the house; is that right?

A That's correct.

Q And you stated that you stayed up watching TV until about 2:00 a.m.; correct?

A That's correct.

Q What did you do when you finished watching TV?

A I went to bed, went in my room.

Q So you went to your room and went to bed?

A Uh-huh.

Q Did you leave your door open or closed?

A Open.

Q And you're, basically, on the other end of the home from the other bedrooms; correct?

A That's correct.



1 Q You told us about a couple of times that there were  
2 phone calls and so you had a reason to go and look into  
3 the room or to tell Ronnie Harris that there was a phone  
4 call?

5 A That's correct.

6 Q And on both of the occasions that you went in there,  
7 you stated that he was in the bed and that Minor was in the  
8 bed with him; is that right?

9 A That's correct.

10 Q Okay. Now, during the night, do you know if Ronnie  
11 Harris got up to use the bathroom?

12 A Not after 2:00, I couldn't say he did.

13 Q Okay. Do you know after 2:00 if Minor got up and  
14 used the bathroom?

15 A I couldn't say if she did.

16 Q Do you know if either one of them got up to get a  
17 drink or water or anything like that?

18 A No.

19 MS. SEAY: That's all I have.

20 Thank you.

21 THE COURT: Thank you.

22 You can step down.

23 MR. FARNSWORTH: Your Honor, we would call the accused,  
24 Ronald Harris.

25 THE CLERK: Put your left hand on the Bible, please,

1 sir, and raise your right hand.

2 WHEREUPON,

3 RONALD HARRIS,

4 after first having been duly sworn, testified as follows:

5 THE CLERK: State your name for the record, please,  
6 sir.

7 THE WITNESS: Ronnie Harris.

8 THE CLERK: Thank you. Be seated.

9 DIRECT EXAMINATION

10 BY MR. FARNSWORTH:

11 Q Are you going to need some water, Mr. Harris?

12 A Yes.

13 Q There's some right there by you, if you know how to  
14 use that thing. The first time I used it, it spilled all  
15 over me.

16 All right. Mr. Harris, how old are you?

17 A 46.

18 Q Okay. And you've lived in Greenville County how many  
19 years?

20 A 46 years.

21 Q And what particular area have you lived in?

22 A In the Piedmont area.

23 Q Okay. And you have worked most of your adult life?

24 A Yes, sir.

25 Q And I believe you worked as a truck driver for about

1 12 years for a company, didn't you?

2 A Yes, sir.

3 Q And you also worked as a custodian at a school?

4 A Yes, sir.

5 Q And by the way, where did you go to school, where in  
6 Piedmont?

7 A Woodmont High.

8 Q Where?

9 A Woodmont High.

10 Q Woodmont High?

11 A Yes, sir.

12 Q Okay. And you finished there?

13 A Yes, sir.

14 Q Okay. And you have several children, I believe?

15 A Yes, sir.

16 Q And Minor is the youngest?

17 A Yes, sir.

18 Q Okay. And I think there's three other girls that's,  
19 what, 16, 17, and 20?

20 A Yes, sir.

21 Q And four boys of various ages?

22 A Yes, sir.

23 Q Okay. And you and Adrian -- she is Minor mother?

24 A Yes, sir.

25 Q And you two -- and you're her father?

1 A Yes, sir.

2 Q And you two have never gotten married, though, have  
3 you?

4 A No, sir.

5 Q But you've been together how long?

6 A About 13 or 14 years.

7 Q Okay. And during that period of time, have you spent  
8 time with Minor

9 A I've been with Minor ever since she was born. When  
10 she was born -- I've been with her ever since she was born.

11 Q Okay. By that, what do you mean? What do you mean by  
12 that?

13 A Well, I -- ever since she was born and come into the  
14 world, I've been --

15 Q You've been there as a father?

16 A Yes, sir.

17 Q Okay. And have y'all -- now, I know that the  
18 testimony -- you heard Mr. Simmons testify that you lived  
19 with him and they came and stayed with you a good bit?

20 A Yes, sir.

21 Q But were there times before that that y'all lived  
22 together, just the three of you, at your own place?

23 A Yes, sir. We lived several places.

24 Q Where did you live?

25 A We lived at Piedmont Manor. We lived at Fieldcrest.

1 We lived with my mom. And we lived also in Piedmont.

2 Q All right. Now, I'm going to call your attention to  
3 April 23rd of 2001. And you've been in the courtroom all  
4 day. And that's what we call the "incident date" when this  
5 allegedly occurred.

6 A Yes, sir.

7 Q And how long had you been living at Calvin Simmons  
8 house when this incident occurred?

9 A Approximately two months.

10 Q Two months?

11 A Yes, sir.

12 Q And of those two months, how much time do you think  
13 Minor and Adrian spent down there, as far as the number of  
14 days?

15 A Well, they came -- about every day they came.

16 Q All right. And about how much would they spend the  
17 night, both of them?

18 A When I moved in there, they were spending the night  
19 the whole time I was -- the two months I was there.

20 Q Okay. And the nights that Adrian had to work during  
21 this two-month period that you were living there, Minor  
22 stayed with you?

23 A Yes, she stayed.

24 Q All right. And usually the next day, Adrian would  
25 come and pick her up and you, too, and take you to work?

1 A Yes, sir.

2 Q All right. I want to call your attention to this --  
3 to April 23. And do you remember which night of the week  
4 this was?

5 A It was on Sunday night.

6 Q Okay. And tell the jury what you had been doing that  
7 weekend, just briefly, not in detail. But what had you done  
8 since, say, Friday? You had worked Friday?

9 A Well, that Friday, yes, sir.

10 Q All right. What did you do after that?

11 A I came home and me and my friend, Calvin, we got  
12 together and we went out.

13 Q Okay. Just you and Calvin?

14 A Yeah, and another friend of ours.

15 Q Okay. Then what?

16 A And we came back. And the next day -- I have a little  
17 job on the side on Saturdays that I detail cars.

18 Q All right. And you did that?

19 A Yeah.

20 Q Okay. And so you didn't see Adrian or Minor on  
21 Friday night?

22 A On Friday night?

23 Q Yes.

24 A I seen Adrian, but I didn't see Minor

25 Q Okay. She was staying with her grandmother?

1 A I didn't know where she was at that time.

2 Q Okay. Now, tell me, did you see either Adrian, or  
3 Adrian and Minor both on Saturday?

4 A On Saturday, I seen Adrian, but I didn't see Minor

5 Q Okay. You didn't see her Friday or Saturday?

6 A No, sir.

7 Q Okay. I'll take you to Sunday. Tell me what happened  
8 on Sunday.

9 A Well, Sunday, I had just got out of church and --

10 Q What church is that?

11 A That's Flat Rock Missionary Baptist Church. That's in  
12 Piedmont, too.

13 I had got out of church and came in and the phone rung  
14 and it was Adrian. And she asked me would I keep my  
15 daughter while she went to work that night. And I told her  
16 I would do it.

17 Q Okay. So did she bring her over there?

18 A Yes.

19 Q And approximately when -- what time Sunday did she  
20 bring her over there?

21 A I would say around -- it was around about 7:00 or so,  
22 about 7:45, somewhere in there.

23 Q All right. Let me interrupt you. Did you -- either  
24 Friday or Saturday, did you have a date or anything with  
25 another woman, other than Adrian?

1 A Yes, I did.

2 Q Okay. And what night was that?

3 A That was after me and Adrian had got in -- well, a  
4 little dispute.

5 Q All right.

6 A And that's when I told her that, you know, she can go  
7 back home with her grandmomma.

8 Q All right. That was -- when did you say that was?

9 A I said that there the night before -- the night before  
10 my other friend came over.

11 Q All right. So that was, what, Friday night?

12 A Yeah. It was Friday night.

13 Q All right. Well, go ahead and tell us, they got over  
14 there about 7:45 on Sunday afternoon. What did y'all do?

15 A Well, when they came over, Adrian came in and Delisa  
16 and I fed them. And we were done. And after we finished  
17 eating, we went in and laid down on the bed and jumped  
18 around for a while.

19 Q The three of you?

20 A Yes. And after that there, a friend of mine, he came  
21 over, a guy named "Eric." He came over. And I left Minor  
22 and Adrian in there on the bed. They were asleep.

23 Q All right.

24 A And I went in there where Eric and Calvin was. And we  
25 started joking around about the old days and what we used to



1 do back in the days.

2 Q All right. Now, where was Adrian all this time while  
3 you were doing that?

4 A She was back there with Minor They were back there  
5 asleep.

6 Q Oh, they were asleep?

7 A Yes, sir.

8 Q All right. After you got through talking to them, was  
9 there a point in time that Adrian left?

10 A Excuse me. Will you say --

11 Q Did Adrian have to go to work that night?

12 A Yes.

13 Q Well, how did that happen about? How did that come  
14 about, if she was asleep?

15 A Well, I went back to wake her up. And she got ready  
16 for work. And I walked her out to the car. And I came back  
17 in there in the house. And I went back up there where Eric  
18 and Calvin was. And I sat around with Eric and Calvin for,  
19 like I said, approximately 45 minutes. And I went back to  
20 check on my daughter. And when I went back there, my  
21 daughter woke up and she asked me where her momma was, and I  
22 told her she was gone. And I pulled the door. And I went  
23 back up there where Calvin and Eric was.

24 Q You say you pulled the door what?

25 A I pulled the door shut because we was a little loud.

1 Q Oh, okay. So the door -- was the door open when you  
2 went in the room?

3 A Yeah. The door was open, yes, sir.

4 Q All right. But you pulled it closed when you went in  
5 there because of the noise?

6 A Yes, sir.

7 Q All right. And about what time did you go to sleep?  
8 Do you know?

9 A It was around about 12:15.

10 Q Okay. So you went to sleep and she was in the bed  
11 too; is that right?

12 A Yes.

13 Q Okay. And do you remember what she had on? I mean,  
14 did she have on a nightgown, bed clothes, or what?

15 A She had on a long nightgown.

16 Q Okay. And do you remember what you had on?

17 A Yes, sir.

18 Q What did you have on?

19 A I had on short -- short pants and a T-shirt.

20 Q All right. Sometime after you got to sleep, did  
21 somebody wake you up?

22 A When Adrian called Calvin, yeah.

23 Q All right. So who -- how did you know that Adrian  
24 called?

25 A Calvin had came in the room and told me telephone.

1 Q All right. So -- and there was a telephone in your  
2 bedroom, too?

3 A Yes, sir.

4 Q All right. Did you pick up the phone?

5 A Yes, I did.

6 Q All right. And you talked to Adrian?

7 A Yes.

8 Q All right. And do you know whether or not Minor --  
9 do you remember whether she talked to her?

10 A Yes. Minor talked to her, yes.

11 Q All right. How long did both of those conversations  
12 last?

13 A Well, about five minutes.

14 Q Okay.

15 A Minor talked to her five minutes.

16 Q All right. After you hung up on that phone  
17 conversation, what's the next thing you remember?

18 A I hung the phone up and I laid back down and was  
19 nodding off to sleep. And I'd say in about 30 more minutes,  
20 Adrian beeped me on my beeper. And I looked at my beeper, I  
21 knew who it was, but I didn't call her back.

22 Q Okay. And you don't know what time that was?

23 A No. I don't know what time it was.

24 Q And did you ever hear the other phone ring any more  
25 after you and Minor talked to her that one time?

1 A No. I didn't hear it no more.

2 Q All right. What time did you get up the next morning?

3 A Adrian called me around 6:20 that morning. And I  
4 didn't wake right up. I dozed back off to sleep. And I got  
5 up right about five until 7:00. I woke up on my own.

6 Q All right. Did Calvin Simmons come back there and  
7 tell you that the telephone was for you?

8 A At five until 7:00?

9 Q No, at 6:30, or whatever you said it was.

10 A I don't remember him coming back and telling me.

11 Q Okay. Well, did the phone ring and you picked it up?  
12 Is that what you're saying?

13 A Yeah.

14 Q All right. And after that phone call, did you get up?

15 A No, sir. Not at 6:20, I didn't.

16 Q All right. What woke you up?

17 A I just woke up on my own about five until 7:00. And I  
18 knew I was late, you know.

19 Q All right. Was -- do you remember when you woke up  
20 whether or not Minor was awake or asleep?

21 A She was asleep.

22 Q Okay. Did she finally wake up?

23 A When -- I went in the bathroom and got a wash-up and I  
24 came back and I woke her up, yes, sir.

25 Q Okay. And how soon after that that you woke her up

1 was it that her mother got there?

2 A About ten minutes after she went in the bathroom and  
3 got herself together, her mother came in.

4 Q All right. And what did her mother do? You were  
5 running late for work, weren't you?

6 A Yes, I was.

7 Q Okay. And did you let Adrian know that, that you were  
8 running late?

9 A Yes.

10 Q Okay. Did you see her -- do you know whether or not  
11 she dressed Minor there at your house?

12 A Well, I was in the kitchen fixing me some lunch. And  
13 I seen my daughter sitting between Adrian's lap and she was  
14 putting her on a shirt..

15 Q Okay. She was putting on a shirt?

16 A Yes.

17 Q Was that shirt different than what she had on that she  
18 slept in?

19 A Yeah. It was different.

20 Q Okay. So she took the gown off and put a shirt on?

21 A Yes.

22 Q Okay. And then shortly after that, y'all left?

23 A Yes, we left.

24 Q And Adrian took you to work?

25 A Took me to work, yes, sir.

1 Q And you didn't -- then they went somewhere else, to  
2 either school or home; is that right?

3 A Yes, sir.

4 Q All right. Now, I believe you went to work and I  
5 believe you got a phone call that morning?

6 A Yes, sir.

7 Q From your boss; is that right?

8 A Yes, sir.

9 Q And that was to call Adrian?

10 A Yes, sir.

11 Q All right. And tell the Court what you were told.

12 A Well, when I called Adrian and got -- Adrian told me  
13 that --

14 MS. SEAY: Your Honor, I would object as to hearsay.

15 THE COURT: Yes.

16 BY MR. FARNSWORTH:

17 Q Did -- let me put it this way. You said you got a  
18 phone call from Adrian?

19 A Yes, sir.

20 Q After that phone call, did you -- were you made aware  
21 or did you find out allegations were being made against you?

22 A Yes, sir.

23 Q All right. After you found out these allegations were  
24 being made against you, what did you do? What did you do?

25 A When she called me?

1 Q After she called you and told you that, what did you  
2 do?

3 A I was shook (sic).

4 Q All right. What did you do, though?

5 A I told her that if I had did anything, you know,  
6 just -- she said she was going to take the baby to the  
7 hospital. And I said, well, whatever.

8 Q You were in agreement with that?

9 A Uh-huh.

10 Q All right. Did you go back to work?

11 A Yes. I went on and did half of my route. And it  
12 started bothering me. So I brought the truck back in and I  
13 told my -- asked my boss if I could have the day off. And  
14 that's when my boss, he took me home. And Mr. Austin and  
15 them, they was down there.

16 Q All right. So your boss drove you home?

17 A Yes.

18 Q And you told him what you were being accused of?

19 A Yes.

20 Q And when you got home, Mr. Austin was there?

21 A Yeah, Mr. Austin.

22 Q And I believe this lady, Ms. Young, was there, too?

23 A Yes. She was there, too.

24 Q All right. So you let them look in your room?

25 A Yes, I did.

1 Q Okay. And after that, I think they took some sheets  
2 and stuff?

3 A Yes, sir.

4 Q Out of the bedroom?

5 A Yes, sir.

6 Q And I think later on that day, you were charged with  
7 these crimes?

8 A Yes, sir.

9 Q I'm going to ask you, Ronnie, did you do these things  
10 to your daughter?

11 A No, sir.

12 Q Would you under any circumstances do that to your  
13 daughter?

14 A No, sir.

15 Q When your wife would come down there and stay -- or  
16 not your wife. When Adrian would come down there and  
17 stay with you, would you and Adrian have sex in your  
18 bedroom?

19 A Yes, sir.

20 Q Okay. But not with your daughter in there?

21 A No, sir.

22 Q Okay. She would be put somewhere else?

23 A Yes, sir.

24 Q But you have had sex with Adrian in that bed?

25 A Yes, sir.



1 Q And that's not anything uncommon, is it? I mean, it's  
2 common more than it is uncommon?

3 A Yes, sir.

4 MR. FARNSWORTH: All right. Answer any questions the  
5 Solicitor may have.

6 THE COURT: Solicitor.

7 MS. SEAY: Thank you, Your Honor.

8 CROSS-EXAMINATION

9 BY MS. SEAY:

10 Q Mr. Harris, Minor was truthful when she said that she  
11 used to see you every day, wasn't she?

12 A Yes, ma'am.

13 Q And Minor was truthful when she said that she would  
14 come and stay with you while her mother worked at night,  
15 wasn't she?

16 A Yes, ma'am.

17 Q Minor was truthful when she told about where she  
18 slept in your home, wasn't she?

19 A Yes, ma'am.

20 Q Minor was truthful about that particular evening  
21 about going to sleep with her mother and you, and then  
22 waking up and asking you where her mother was, wasn't she?

23 A Yes, ma'am.

24 Q And she was truthful about remembering that her mother  
25 had called sometime during the night, wasn't she?

1 A No, she wasn't.

2 Q She remembered her mother calling during the night.  
3 Do you recall her testifying to that?

4 A Well, she -- yes, ma'am, she was.

5 Q All right. So she was truthful about that?

6 A Yes, ma'am.

7 Q And she told the truth about the next morning that her  
8 mom came and picked you and her up; is that right?

9 A Yes, ma'am.

10 Q And she told the truth about changing clothes there at  
11 your home?

12 A Yes, ma'am.

13 Q And she told the truth about then going and taking you  
14 to work?

15 A Yes, ma'am.

16 Q She told the truth about her momma taking her home to  
17 her grandmother's and changing her clothes for school,  
18 didn't she?

19 A Yes, ma'am.

20 Q And so are you telling us that the only thing that  
21 she's mistaken about is what she said you did to her?

22 A Will you restate that? Will you say it again?

23 Q Are you telling us that the only thing that she's  
24 mistaken about is what she said you did to her?

25 A Yes, ma'am. That's the only thing, yes, ma'am.

1 Q Was she truthful when she said that there were some  
2 people -- friends of Mr. Simmons and yours coming and going  
3 that night?

4 A No. They wasn't coming and going, no.

5 Q You testified that a person by the name of Eric Dogan  
6 came by; correct?

7 A Yes, he came.

8 Q Did anybody else come over?

9 A That was it.

10 Q And was she truthful when she said that there was beer  
11 drinking going on?

12 A No.

13 Q She wasn't?

14 A No.

15 Q You don't drink beer?

16 A Yes, I drink beer. Yes, I do.

17 Q And are you testifying that you didn't drink beer that  
18 night?

19 A Well, that night, me and Eric -- he had one can of  
20 beer. And me and him and Calvin, we halved it. But my  
21 child, she wasn't able to see us. She was in the bedroom.

22 Q So you did drink beer that night?

23 A Yes. We drank beer that night.

24 Q So she was telling the truth about that?

25 A Well, she didn't see us drink no beer. She didn't see

1 us drinking.

2 Q She just happened to know that?

3 A Yeah.

4 Q Okay. And so she's, basically, told the truth about  
5 that, even though you don't think she was up to see it?

6 A No. She wasn't up to see that.

7 Q Okay. And Minor -- when you found out that Minor  
8 had told her mother about what had happened, you said you  
9 were shook?

10 A Uh-huh.

11 Q And did I understand you to say that when Adrian told  
12 you that she was going to take Minor to the hospital, you  
13 said, "Well, whatever"?

14 A Well, I told her, you know, I know I didn't do this.  
15 So she said she was going to take her on. So that's what I  
16 said, you know, yeah.

17 Q So you have information that your child has been hurt  
18 and her mother is taking her to the hospital and your  
19 response was, "Well, whatever"?

20 A Well, the way I said it -- see, I didn't do this here.  
21 And I was shook and so -- I didn't know what else to do.

22 Q Well, you were shook because you were surprised that  
23 she had told what you did, weren't you?

24 A No. I didn't do nothing to her.

25 Q That's why you were shook, isn't it?

1 A I didn't do anything to her.

2 Q Did it surprise you that she told?

3 A No, sir (sic). I didn't do anything to her, ma'am.

4 Q But you would characterize your daughter as a truthful  
5 child?

6 A No, ma'am.

7 Q You wouldn't?

8 A I didn't do anything to her.

9 Q Would you call her a truthful child?

10 A Well, she do tell lies. Because we have caught her on  
11 some, me and her momma, about her school work and stuff.

12 Q Have you ever told a lie?

13 A Yes, I have.

14 Q Okay. Do you love your daughter?

15 A Yes, I do.

16 MS. SEAY: I don't have any other questions.

17 THE COURT: Anything else?

18 MR. FARNSWORTH: Nothing further, Your Honor.

19 THE COURT: Step down.

20 MR. FARNSWORTH: The Defendant rests, Your Honor.

21 THE COURT: Anything in reply, Solicitor?

22 MS. SEAY: No, sir.

23 THE COURT: Take the jury out, please.

24 (WHEREUPON, the jury was excused from open court at  
25 approximately 3:30 p.m.)

1 THE COURT: Any motions?

2 MR. FARNSWORTH: Your Honor, I'd just restate my prior  
3 motions.

4 THE COURT: And I deny your motions.

5 All right. Now, tell me about how much time you think  
6 you need to talk to this jury. I'm just trying to think  
7 whether to send it to the jury today or whether to do it in  
8 the morning.

9 MS. SEAY: I probably wouldn't need more than about  
10 20 -- 15 or 20 minutes, Your Honor.

11 MR. FARNSWORTH: Your Honor, I'd probably need the  
12 same. But I'd probably like to have a good bit -- some time  
13 to sit down and get my argument together. I don't think  
14 either one of us thought we would be through today.

15 THE COURT: Well, do you want to argue and charge at  
16 9:00 in the morning?

17 MR. FARNSWORTH: That would suit me.

18 MS. SEAY: Whatever you want to do is fine, Your Honor.

19 THE COURT: All right. Bring the jury in, please.

20 (WHEREUPON, the jury came into open court at  
21 approximately 3:32 p.m.)

22 THE COURT: Ladies and gentlemen, the testimony in this  
23 case is complete. What we have remaining is the final  
24 arguments by the attorneys and then my charge on the law in  
25 this case. We'll do that tomorrow morning. I have some

1 legal matters that I need to take up with the attorneys at  
2 this time. So I'll excuse you at this time and ask that you  
3 be back at 9:00 tomorrow morning.

4 Now, please remember that when you leave, you do not  
5 talk about this case among yourselves or with anyone else.  
6 This includes even members of your own family. You can tell  
7 family members that you're serving on this case, what kind  
8 of case it is, but do not discuss the case with them or, as  
9 I said, anyone else.

10 Now, if anybody contacts you and tries to talk to you  
11 about this case, get their names and addresses and report  
12 that to me in the morning. Please have your badges on when  
13 you come back in the morning so that everyone involved will  
14 know that you are a juror and they should not discuss this  
15 case in your presence.

16 So with that, I'll ask that you be back at 9:00 in the  
17 morning.

18 Thank you.

19 (WHEREUPON, the jury was excused from open court at  
20 approximately 3:34 p.m.)

21 THE COURT: All right. Any requests to charge?

22 Let me -- I'll tell you what I'm going to charge and  
23 then -- I'm charging the first degree criminal sexual  
24 conduct with a minor, lewd act on a child, circumstantial  
25 evidence, voluntary intoxication not being a defense, and

1 then my general charge.

2 Have I overlooked anything?

3 MS. SEAY: I'm not aware of anything.

4 MR. FARNSWORTH: Your Honor, I was wondering whether  
5 you were going to charge assault and battery high and  
6 aggravated nature.

7 THE COURT: As a lesser included?

8 MR. FARNSWORTH: Of the criminal sexual conduct.

9 THE COURT: Is it?

10 MR. FARNSWORTH: I think, Your Honor, it would depend  
11 on each case, but.

12 Your Honor, I'll look. If you don't want -- we can  
13 wait until the morning before you decide.

14 THE COURT: Well, if you can get me --

15 MR. FARNSWORTH: I think that I've had that before  
16 charged. And what I was saying is sometimes it depends on  
17 the facts of the case and that type of thing --

18 THE COURT: I understand that.

19 MR. FARNSWORTH: -- and the testimony.

20 MS. SEAY: Your Honor, I have the case of State v.  
21 Elliott. I think that's the most recent case on the issue,  
22 I believe. It's 2001. And in that the Supreme Court did  
23 conclude that to be lesser included, I believe. I need to  
24 review it again.

25 Do you want ~~the~~ cite on this case?



1 THE COURT: Give it to me!

2 MS. SEAY: It's 552 S.E.2d 727.

3 THE COURT: Have you got the South Carolina cite?

4 MS. SEAY: Yes, sir, 346 South Carolina 603. It's a  
5 2001 Supreme Court case.

6 THE COURT: All right. I'll take a look at that, too,  
7 but we'll decide that in the morning.

8 MR. FARNSWORTH: Okay, Your Honor.

9 THE COURT: Okay. Folks, I'll see you in the morning.  
10 (WHEREUPON, the proceedings were concluded at  
11 approximately 3:37 p.m., to be reconvened on  
12 Wednesday, July 16, 2003.)  
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All right. Mr. Farnsworth.

CLOSING ARGUMENTS

MR. FARNSWORTH: May it please the Court, Your Honor, Ms. Seay.

Ladies and gentlemen, thank you for your service on this jury. And the case actually didn't go quite as long as we thought it would. But in any event, I think you got to, of course, hear everything that was said and all the evidence that was presented in the case.

What I'm going to do -- and, again, let me just preface this by saying what I'm about to say to you, ladies and gentlemen, is my opinion of the case and what I think the case looks like. And it's not -- what I say to you is not evidence in this case. And it's just -- I just call it the final summation, the final argument. And when I sit down, Ms. Seay will stand up here and tell you what she thinks that she has proven, her case, and her view of the case. And then when we sit down, that's when, as I told you yesterday, Judge Pyle will charge you the law.

In other words, you just heard the facts up until now. And he'll tell you that you are the judges of the facts. Nobody can decide the facts but you, the jurors. But you can't decide the case until you've had the law charged to you. Some of you may come up here and sit on a jury and think that you know what the law is or what it ought to be, well, you need to forget about all ~~that~~. You took an oath

1 to well and truly try the case based on all the evidence.  
2 And he's going to give you the law. And then you take that  
3 and you go back there and try to reach a verdict in the  
4 case. That's what you do.

5 What I was going to do is just briefly go through the  
6 witnesses. I'm not going to take a long time. And I'm  
7 going to be redundant, but I think it's important that I  
8 touch on each witness and what they said. Because that's --  
9 the witnesses and what they've said is the evidence -- is  
10 the only evidence in the case.

11 And, as I told you yesterday, the State has a burden of  
12 proof in this case beyond a reasonable doubt. And the  
13 accused has no burden of proof at all. He does not have to  
14 prove his innocence.

15 So there's a general scenario as you heard yesterday,  
16 Adrian and Ronald Harris -- Adrian Sullivan and Ronald  
17 Harris, they had a daughter, Minor The incident -- the  
18 night this supposedly occurred was, I think, April the 23rd  
19 of 2001. Ronnie Harris had been living there on

20 with Calvin Simmons. He was renting a room there for  
21 about two months. There's no dispute in the testimony that  
22 on many occasions during that two-month period that the  
23 mother, Adrian, and Minor would come over there and spend  
24 the night with Ronnie Harris.

25 And, particularly, any time that she had to go to work

1 at 11:00 or whenever it was, she would leave the child and  
2 she'd go to work and she'd come back the next morning. And  
3 she would, you know, take the child to school, dress her,  
4 and take her to school and sometimes would take Mr. Harris  
5 to work. So that's generally undisputed.

6 And it's undisputed also that on the night of the 23rd  
7 that while her mother was at work that she alleges that  
8 this -- as she put it this "bad thing" happened to her.  
9 And, as I say, she alleges that. So I'm going to just touch  
10 on each witness after that. I'm going to save her just for  
11 last, if you don't mind. Basically, she -- her mother took  
12 her to the hospital alleging that she had been -- had sexual  
13 intercourse with her father and that he had put the bruises  
14 on her chest by sucking her breast area and up in there.

15 And so the first witness that appeared on the stand was  
16 the nurse. And if you'll remember, she told you that, oh, I  
17 just go by this form that SLED gives us, you know, check  
18 everything, get all the information, the background, and  
19 what might have happened, and this type of thing. And she  
20 took that information and then she gave that -- when the  
21 doctor came in to do the pelvic examination, she gave that  
22 information to him so he would be briefed on exactly what  
23 had happened and, you know, what's supposed to have  
24 happened.

25 Her testimony was that -- as I say, she says that she

1 did that, she took the information. Her name was Cynthia  
2 Sloan. She observed bruises on the child. There was  
3 supposed to have been some allegation of some kind of liquid  
4 fluid or some type of thing that may have been in the  
5 child's vagina area. In any event, that was, basically, her  
6 testimony.

7 The doctor testified next. It was Dr. Wilson. And he  
8 did a complete examination on her. And, if you remember,  
9 his final thing that I asked him, "Did you make a finding of  
10 penetration?" And he said, "No, I did not make a finding of  
11 penetration." Well, I'm not going to harp on it, but the  
12 Judge is going to charge the law. And you've got to -- the  
13 State, in order to prove this indictment of criminal sexual  
14 conduct, has to prove to you beyond a reasonable doubt that  
15 that child was penetrated.

16 Well, how do we -- how does the State prove whether she  
17 was or was not? Well, the only way you can prove it --  
18 there are two ways. She says she was and the doctor said  
19 that she wasn't. And that's his testimony. He's done -- as  
20 he said, he's done hundreds of these things. But that was  
21 his testimony. I think he even said there was no bleeding.  
22 There was no evidence of any tearing or anything like that.

23 I think after the nurse told him about the liquid  
24 discharge or whatever that was from the little girl that he  
25 marked that and wanted to send that to get it examined and

1 see what it was, find out if it was semen. We later found  
2 out that that was -- there was no semen identified in that  
3 liquid that was found there.

4 The next person that testified, he didn't actually --  
5 all he did was -- it was Officer Scoot Moore. He said the  
6 child was quiet, withdrawn, and not making good eye-to-eye  
7 contact. And then that was the officer, if you'll remember,  
8 that I asked him to look at these two pictures that the  
9 State has put into evidence. And you'll have these, if you  
10 haven't already seen them, to go back to the jury room with  
11 you. But -- and these two pictures -- and you can -- I'll  
12 put that right there. They're in evidence.

13 Look at this picture. And what is it that she appears  
14 to be doing? I mean, in one of them, she was smiling. And  
15 in the other one, she was smiling and laughing. And that's  
16 certainly contrary to what he said her emotional outlook or  
17 her being was at that time.

18 But the -- then Jim Austin testified. He told you he  
19 went out to the home where Calvin Simmons owned and he asked  
20 about could he see the room, and he did. He took the sheets  
21 and pillow cases. And those were put into evidence and, of  
22 course, were later sent to SLED to be examined. And you  
23 heard the testimony on that.

24 Then the last witness, of course, was Dr. Amick from  
25 SLED. He testified about the sexual assault kit that was

1 sent down there and the DNA that he -- the DNA test. And if  
2 you'll remember the -- and he went down the list. There  
3 were -- what was sent to SLED was -- and this is, as I  
4 understand it from the testimony, a thing that they go by on  
5 every one of these type cases. I believe they take blood  
6 and saliva samples. They do smears from the vagina and the  
7 rectum. They do vaginal swabs. They do oral swabs, rectal  
8 swabs. And then, of course, there was the suspected semen  
9 that the doctor found. And his findings on the -- on this  
10 was that it was -- all of this was negative for semen.  
11 Every bit of it was negative.

12 He then told you about the DNA testing that they ran.  
13 They took cuttings off of these sheets off of Mr. Harris'  
14 bed. And they sent three cuttings down there and they  
15 examined -- he examined those for -- to see what the stains  
16 were and who deposited those stains on the bed. And one of  
17 the cuttings was that there was no semen identified at all.  
18 And then another cutting was that there was semen  
19 identified. And through the DNA, he said that was deposited  
20 by Ronald Harris.

21 Well, you know, that's his bed. And he's been sleeping  
22 there for two months. And he's got a girlfriend, Adrian.  
23 And I think the testimony was he might have been seeing  
24 another lady. But in any event, it's nothing unusual for  
25 that to be on his bed. You know, they didn't say this was



1 semen from last night or that type of thing. And nobody  
2 said how long it had been there. But in any event, that was  
3 his semen they said on the DNA. And, you know, that doesn't  
4 surprise me. I think that's a normal type thing. That does  
5 not prove anything as far as these charges that are up here.  
6 And then the other was a mixture.

7 And I'm just going to briefly tell you the way I see  
8 this thing. And they just -- as he said, they've just been  
9 doing it since 1999. And Lord knows 99 percent of the  
10 lawyers in Greenville don't know hardly anything about this.  
11 And it's just a new thing in South Carolina. But if you  
12 remember, I asked him, what happened before y'all learned  
13 it? And he said that they had to send it out of state.

14 But in any event, he said that these -- that the other  
15 stain on the cutting from the sheet was a mixture, one was  
16 Ronald Harris and his semen. Again, I don't know what that  
17 proves, other than he had semen in his bed. They don't know  
18 how long it's been there or when it was deposited or any of  
19 this type thing. And the mixture of her, he said, was  
20 probably from bodily fluids. And she slept in that bed,  
21 too, for, you know, a good bit of time over a two-month  
22 period.

23 And he said that her mixture could have been a -- was  
24 most likely bodily fluid, which when I asked him, it could  
25 have been blood, it could have been saliva, it could have

1     been even urine. I asked him, could stuff like your hair  
2     and even a fingernail that had come off or something like  
3     that, would that show up on DNA? And he said it could. But  
4     he most likely thought -- he said it was from some bodily  
5     fluid. He said it could be a vaginal discharge type thing,  
6     anything like that. So that's what he testified to, so.

7             But the thing that concerns me and I don't know if you,  
8     ladies and gentlemen, are thinking about, well, this semen  
9     on that bed nobody said it, but was that there from that  
10    night or did anybody say that? No, they didn't. And what  
11    I've got, if you're thinking that, is one thought is that  
12    there's no semen from the tests they did on her at the  
13    hospital. And those are thorough tests. So if there's no  
14    semen found in her vagina area, as the expert testified, how  
15    could her -- it be on the, you know -- on the bed or any  
16    mixture of her?

17            So I think he was -- you know, he told you what the  
18    results were and that's the best I understand them. And,  
19    again, if you think I'm trying to say something that isn't,  
20    I'm not. I just -- you, ladies and gentlemen, each heard it  
21    and y'all can decide what he said. But I think that's,  
22    basically, what he said, that third was a mixture. He's not  
23    saying that she had sexual intercourse, and as a result of  
24    that, that stain was there. He didn't say that at all. He  
25    never suggested it. And that, ladies and gentlemen, was the

1 last witness.

2 And what the State does is they put the witnesses up to  
3 prove their case. And each one of them testifies as to, you  
4 know, what they're -- what they can tell you about the case.  
5 It just strikes me that that was their case, other than the  
6 little girl, Minor

7 And going to her, there's no question that she says  
8 that her daddy did this bad thing to her. And this is --  
9 she was nine years old when it happened. And she's, I  
10 think, 11 now, she said. But you watched her and heard her  
11 testify. And, again, I'm not criticizing this young lady.  
12 I'm not and don't think I am. And I tried to be as nice  
13 and -- for lack of a better word, as gentle and  
14 compassionate as I could be asking questions. I'm supposed  
15 to do that. I'm not saying that, you know -- but it's a  
16 hard job for Ms. Seay and myself to do a case like this.  
17 And I know it's hard for you, ladies and gentlemen, to sit  
18 on a jury like this. And I sympathize with you, too.

19 But, if you remember, after the first question or so  
20 about her name and this type thing, Ms. Seay asked her  
21 about, you know, what happens when you tell a lie, you know,  
22 bad things happen to you and this type of thing. And the  
23 next question or right after that was, "Have you ever told a  
24 lie?" And her answer was, "No, I haven't."

25 Well, sure enough, a few questions after that, she was

1 asked, well -- and something to the effect, have you ever  
2 been punished for telling a lie, or that's the way her  
3 statement came out. And she said, yeah, I've been punished  
4 for telling a lie. And I asked her on cross-examination how  
5 many times has that happened to you? And she said, I don't  
6 know, or I can't remember, that type of thing. But anyway,  
7 that's, basically, her testimony. And she did say -- as I  
8 say, she said her father did this thing to her.

9 Now, she -- her mother came -- her mother -- and I  
10 think this is a real important part of this case, her mother  
11 left and went to work. There's testimony from Calvin  
12 Simmons and my client that the mother called, I think, it  
13 was somewhere around 11:45 or somewhere around 12:00. He  
14 went in -- Calvin Simmons went into the bedroom to tell  
15 Ronnie Harris that the telephone was for him, that it was  
16 Adrian.

17 And if you'll remember, he said the door was open and  
18 they were both asleep. All right. He wakes them up. He  
19 talks on the phone. And, as you remember, Ronnie Harris  
20 said, well, she did talk to her mother that first time. And  
21 I asked her -- when I asked her, did she -- "Did you talk to  
22 your mother that night during the time when you were over  
23 there?" And she said, "No, I didn't."

24 All right. If you'll remember one of the few questions  
25 I asked James Austin, the detective, I said, did she tell

1 you that she had talked to her mother and didn't she say  
2 that this bad thing had already happened to her when she  
3 talked to her mother? And if you'll remember, James Austin  
4 said yes. So she didn't tell us the truth about that. And  
5 that is a very, very important part of this case.

6 I mean, she had just had this experience, she says,  
7 occur, her mother calls -- and I'm not saying that she  
8 should have told her mother right then. I'm not saying that  
9 at all. I'm just saying if this thing happened and she told  
10 James Austin that it had happened before the phone call when  
11 she talked to her mother, she's just not telling the truth  
12 at all on that. It's just a complete lie.

13 There's testimony from Calvin Simmons and my client  
14 that there's another phone call a little later on. And he  
15 goes in and he answers the phone every time, Calvin Simmons  
16 does. He goes in there and, again, the door is open and  
17 both of them are asleep. And he tells her that time, he  
18 says, I'm not going to wake him up, he's asleep, so. And  
19 that's the end of that.

20 So there's another phone call, as I understand it, the  
21 next morning from her to my client at about 6:30. And it's  
22 Adrian calling again to, I guess, wake him up because she's  
23 going to come pick them up. And this was already planned  
24 that she would come over there and pick him up and take him  
25 to work and take her to school. And the phone rings.

1 Calvin Simmons answers the phone. He goes down to the  
2 bedroom and they're both asleep. The door is open and he  
3 wakes Ronnie Harris up. So those are three different phone  
4 calls.

5 And one time -- the officer testified that she did tell  
6 him that she talked to her mother before this bad thing  
7 happened. And two other witnesses from the Defense were  
8 there and there's no question from them that the phone call  
9 did come in. So that's, I think, an important part of her  
10 testimony. And it goes to the truth of this case, I  
11 believe. In other words, if you talked to your mother right  
12 after something like this happened to you, why in the world  
13 wouldn't you remember that you had talked to her? And she  
14 remembered the next morning that she talked to her because  
15 she told Officer Austin that. And not only did I talk to  
16 her, it happened -- the bad thing happened before I talked  
17 to her on the phone. So that's, I think, a crucial thing in  
18 this case. But, basically, that was her testimony.

19 And the testimony from Calvin Simmons is just the fact  
20 that he went in there three times about the phone calls.  
21 And, I mean, he can't -- there are no eyewitnesses to this  
22 case. I mean, y'all know that. And it's just a she-said  
23 he-said type of situation. And so it's just -- we can't  
24 present you somebody. She can't and I can't that came in  
25 there and saw what happened. This -- it's just this little

1 girl and her father, and that's what it is.

2 And so what you're going to have to do is you're going  
3 to have to consider all the -- after you consider that,  
4 you're going to have to consider all the other evidence in  
5 the case. And the most important is the fact of Dr. Wilson,  
6 there is no penetration, I found no penetration.

7 And, again, Judge Pyle will charge you that the law  
8 requires that. And the Solicitor told you that on her  
9 opening statement to you, you've got to prove penetration.  
10 That's what criminal sexual conduct is. And I submit that  
11 there's no question, even given their evidence to the most  
12 favorable benefit of the doubt, which we're not required to  
13 do, their own witness, no penetration.

14 This -- as I say, this is a case, ladies and gentlemen,  
15 that is -- it's an unusual type of case. I imagine many of  
16 you thought you wouldn't have to sit on something like this,  
17 but you did. And, again, I'm sure Ms. Seay also agrees with  
18 me that -- I have no problem that, you know -- we feel like  
19 that you've heard the case. We picked you out as fair  
20 jurors for both sides.

21 And, again, I want to point out about the burden. The  
22 accused in this case, Ronald Harris, has no burden of  
23 proving anything. The law does not require him to. So that  
24 means he doesn't have to prove that he's not guilty. He  
25 doesn't have to prove he's innocent. But the State does

1 have to prove.

2 And I submit to you the evidence that the State has is  
3 Minor word that this happened to her. The medical  
4 testimony, particularly Dr. Wilson, and the semen from  
5 the -- all the swabs and all from her that was sent down  
6 there, all of those are negative for semen. And it's a  
7 situation where you have to look at the other evidence other  
8 than -- you have to consider it because all you've got is,  
9 like I say, he said this, she said this. And that's all  
10 you've got to go with.

11 But -- and in closing, you know, you would -- I know  
12 you have sympathy for this young lady, and I do too. I have  
13 sympathy for her. But you can't let that sympathy sway you  
14 or effect you to the extent that you can't take the law and  
15 evidence and decide the case on that. You don't decide the  
16 case on sympathizing with her. You can't do that.

17 You base it only on the law and the evidence in this  
18 case. And, you know, it's about like if she says that he  
19 penetrated her, did this and that, it's about like -- I hate  
20 to put it this way, but it's about like if she's telling the  
21 truth, Dr. Wilson is lying. That's about what it amounts  
22 to.

23 Anyway, I'm going to step down now. And I'm going to  
24 tell you I appreciate your time again. I just ask you to  
25 listen to Ms. Seay in this case after I sit down. And then



1 after both of us are through -- again, what we tell you is  
2 not evidence. So you don't even have to worry about what we  
3 say. We're just trying to represent our clients --  
4 perspective clients. And she'll be standing up here next.  
5 But just consider everything. Just use your good common  
6 sense and your knowledge that you've picked up over the  
7 years. And just reach a verdict that speaks the truth and  
8 nobody will have a right to criticize you.

9 Thank you.

10 THE COURT: Solicitor.

11 MS. SEAY: Thank you, Your Honor. May it please the  
12 Court, Mr. Farnsworth.

13 Madam Forelady, ladies and gentlemen of the jury, I  
14 agree that you should decide this case on the evidence and  
15 not on anything else. Let's talk a little bit about the  
16 evidence.

17 The first person that you heard from in this courtroom  
18 yesterday to give testimony was Minor who's seated  
19 out here beside her great-grandmother. She's now 11 years  
20 old. And you saw her yesterday. She took the stand and she  
21 testified about what happened to her. You were able to get  
22 to know as much as you can get to know about a person under  
23 these circumstances. And I tried to gather some information  
24 from her that would be useful to you in assessing the  
25 situation.

1           You are the judges of a person's credibility when they  
2       take the stand, their believability. You can observe their  
3       demeanor. You can listen to what they have to say, how they  
4       say it, how they appear, and you decide their believability,  
5       their truthfulness.

6           Now, I submit to you that you have to take into  
7       consideration what you're dealing with here. This is a very  
8       unique situation in that it is a child. She did yesterday  
9       what many adults probably might be unable to do. She came  
10      in here and she talked to 13 strangers, various people  
11      sitting out in the courtroom, the Defendant, who had done  
12      this to her sitting here, his attorney, his family and  
13      friends, a judge, a court reporter, a clerk of court,  
14      bailiffs, and deputies. And she had to talk about something  
15      very embarrassing that happened to her. She had to talk  
16      about something that she probably doesn't even fully  
17      understand, sexual things at her age. And that's what was  
18      asked of her. And she did that. And she did it to the best  
19      of her ability. And I think that you know that from  
20      watching her and listening to her. She's now 11 years old.  
21      And she told you a little bit about her academic background,  
22      that she's in special ed classes. She's a rising sixth  
23      grader. She was in third grade and nine years old when this  
24      happened.

25           I think that if you think about this from the

1 perspective of what did Minor have to gain by doing  
2 that, then you will reach the answer in this case. What did  
3 she have to gain by what she went through yesterday?  
4 Nothing. She had nothing to gain whatsoever by just coming  
5 here and telling you the truth. That was the culmination of  
6 what led up to this.

7 She had already suffered through the incident itself.  
8 She had then had to tell her mother and her  
9 great-grandmother what happened. She then had to go to the  
10 hospital where she told the nurse what happened. She told  
11 the doctor what happened. They came and they took  
12 photographs of her breasts. And this is a nine-year-old  
13 child. And I wonder if we can even imagine how embarrassing  
14 that might have been for her, at her age in particular.

15 She then talked to Deputy Moore. And he looked at her  
16 breasts. She then had to talk to Investigator Austin and  
17 tell him what happened, to Margaret Young with the  
18 Department of Social Services. She went through an entire  
19 physical exam. You heard a lot about that, where they did a  
20 general physical exam.

21 Then Dr. Wilson did an intrusive pelvic examination of  
22 a nine-year-old. You heard what all kind of swabs and  
23 smears and everything else they had to do to this child to  
24 send off for testing. And this all culminated in her having  
25 to come in here and tell you all about it. And I submit to

1 you that she had zero to gain by going through all that. In  
2 fact, I think she's been pretty brave for an 11-year-old.

3 So two years ago, April 23rd, 2001 -- a little over two  
4 years ago, this all happens. She consistently tells  
5 everyone that she has to tell who asks her, "What happened  
6 to you, Delisa?" She says, "My daddy put his thing in me  
7 and he sucked my breasts." And she consistently repeated  
8 that because it was the truth. That's how she was able to  
9 tell all those people.

10 Because, you know and I know when you tell the truth,  
11 you don't have to think about what you're telling. You  
12 don't have to try to remember what you're supposed to tell.  
13 If you tell the truth, you don't have anything to worry  
14 about. And that's what she's done. And two years later,  
15 she came here and she told you the same thing, because  
16 that's what happened to her. And she remembers it and she  
17 will probably always remember it, unfortunately. For the  
18 rest of her life, she will carry that memory.

19 I don't think that Minor is sophisticated enough --  
20 and I don't mean that in an unkind way. But, again, I point  
21 out that she's a child. And she is somewhat challenged in  
22 some ways. And I don't think that she's sophisticated  
23 enough to have been able to manipulate the entire criminal  
24 justice system to get here in order to carry through some  
25 kind of false accusation against her father. She just

1 isn't.

2 She never even told anybody what happened to her until  
3 her mother was dressing her that morning and said, what in  
4 the world is that, speaking about the bruises on her  
5 breasts. You saw her demeanor. She's a somewhat quiet,  
6 shy, and at times, a very withdrawn child. Who knows if she  
7 would have ever even told anybody, if her mother hadn't  
8 discovered that. Maybe she didn't want her father to get in  
9 trouble. I'm sure that that was a very confusing situation.  
10 But she didn't make all this happen. It -- when her mother  
11 asked her about it, the ball started rolling and Minor just  
12 did as she was asked. She told the truth. He's the one  
13 that got her here, not her.

14 The physical evidence in this case cannot be ignored.  
15 Mr. Farnsworth said this is a he-said she-said. No, it  
16 isn't. Mr. Farnsworth said all you have to go on is the  
17 witnesses testimony, that's it. No, it isn't. You have  
18 physical evidence in this case, along with the witnesses  
19 testimony that you heard.

20 Let's talk first about the bruises. You all haven't  
21 seen all of these photographs yet. There are, I think, nine  
22 total. This one shows Minor as she was that day at the  
23 hospital on April 23, 2001. And you'll have these in the  
24 jury room during your deliberations so that you can look  
25 carefully at them. You'll be able to see the bruises on her

1 breasts, the suck marks, as they were described by the  
2 medical professionals. You'll have all of these. And it's  
3 quite obvious that these marks are there. And they've been  
4 documented for you.

5 Dr. Wilson told you it's very rare in a physical -- in  
6 a sexual assault case to find physical evidence, that that's  
7 uncommon. But, ladies and gentlemen, here it is. You have  
8 it. Something happened to Delisa, and she told you what  
9 happened. She told you how these marks got there. And you  
10 heard from Mrs. Sullivan, her great-grandmother. The marks  
11 weren't there the day before. These marks got there just  
12 like she said they did.

13 There were comments made about her facial expression  
14 being a smile in these two pictures. And, again, I just ask  
15 you to consider how embarrassing and confusing this  
16 situation was for this child having to bear her breasts so  
17 that photographs could be taken of them, complete strangers  
18 looking at her.

19 Dr. Wilson, who did the pelvic exam that we've been  
20 talking about, told you that he found a substance that he  
21 didn't know what it was, that he can't tell just by looking  
22 at it from this vaginal exam what it was. He couldn't tell  
23 if it was a discharge or semen or what it might be. So, of  
24 course, he sent that substance -- he swabbed it and sent it  
25 for testing. But it's also very important what he told you

1 that in a pre-adolescent female of that age, of a  
2 nine-year-old age, that that would be something he would  
3 expect to see. That that would be a hormonal thing, a  
4 discharge that he would expect to see in a girl of that age.

5 And he also told you that while he didn't find evidence  
6 of penetration that that doesn't mean that there wasn't  
7 slight penetration. And the Defense kind of left that part  
8 out. And so I want to be sure to bring that back to your  
9 attention that Dr. Wilson said it is not common to find  
10 evidence of penetration. It is not common at all. But that  
11 doesn't mean that there couldn't have been slight  
12 penetration, especially the way she described it. She said  
13 that it hurt. She said, he put it in me and it hurt. And I  
14 submit to you that under the law, the slightest penetration  
15 whatsoever is sufficient for you to find a sexual battery in  
16 this case. And let me tell you why I think that this  
17 evidence bears out that there was penetration.

18 Let's move on to the DNA. You heard from Dr. Amick  
19 from SLED. He was qualified as an expert in serology and  
20 DNA analysis by this Court. He has been qualified as an  
21 expert numerous times. You heard his qualifications. He's  
22 very well trained and educated. And he knows what he's  
23 doing. And I think that you, again, can judge his  
24 credibility and believability by what you heard from him on  
25 the stand.

1           There was some issue about that SLED has only been  
2   doing DNA testing since 1999, but that's not entirely  
3   accurate. Dr. Amick told you, no, we've been doing DNA  
4   testing since 1992, I believe he said. This advanced  
5   technology, what's called PCR testing, we gained the  
6   capability of doing that in 1999. And Dr. Amick told you  
7   that he's the one that validated that entire system for SLED  
8   for the DNA lab, that he trained all the other scientists in  
9   performing it. And they've been doing that for several  
10   years now.

11           This is a reliable method. And he told you that what  
12   he found in the sexual assault kit from Delisa Harris is  
13   that that substance was not semen. Well, that's not  
14   entirely surprising, based on what Dr. Wilson told us.  
15   Because he said that could have been a very likely discharge  
16   from a girl of this age. So that's probably what it was.

17           He then -- Dr. Amick looked at cuttings from the sheet  
18   from the bed where Minor said this happened. One of the  
19   cuttings, there was no semen identified. You heard that.  
20   The other cuttings, the two that I want to focus your  
21   attention on, one of the cuttings is Ronnie Harris' semen.  
22   I, like Mr. Farnsworth, think that's probably very normal.  
23   That's probably not extremely significant to this particular  
24   situation, especially considering the testimony that you  
25   heard about him and his sexual relations with different



1 women in this bed.

2 The one thing, though, that I think you need to focus  
3 on is the cutting that had the DNA mixture that Dr. Amick  
4 told you about. He developed a DNA profile for Minor  
5 Harris from her blood. And he developed a DNA profile from  
6 Ronnie Harris from his blood. There was a mixture of those  
7 two people, Ronnie Harris' semen, and a DNA deposit from  
8 Minor all together in one semen stain. That,  
9 ladies and gentlemen, is your evidence that this child was  
10 penetrated.

11 How else did her bodily fluid get into that semen stain  
12 if she wasn't penetrated? That's how it got there. She had  
13 a discharge of some sort or a fluid of some sort in her  
14 vagina which he got on his body when he penetrated her. And  
15 this was then all deposited into this semen stain on the  
16 bed. Her DNA did not come from a fingernail. It didn't  
17 come from skin. It didn't come from hair. It didn't come  
18 from anything, but most likely a bodily fluid. Dr. Amick  
19 told you it was most consistent with a bodily fluid because  
20 of the level of the profile that he developed.

21 It was a very strong profile, a very strong presence.  
22 He didn't think that it could have come from something as  
23 innocuous as a sloughing off of skin or something like that.  
24 It was a bodily fluid. Is it likely that she drooled on  
25 that particular semen stain? No. Is it likely that she

1     urinated on that particular semen stain? No. What makes  
2     sense is what you have to ask yourself. And what makes  
3     sense is that what she said happened happened. He  
4     penetrated her with his penis, got her DNA, deposited it  
5     with the semen stain, and that's why the mixture is there.

6     I want to speak briefly about Calvin Simmons testimony.  
7     Mr. Simmons doesn't, I don't think, really have anything to  
8     gain or lose by coming here and telling you what he did. He  
9     is a lifelong friend of Ronnie Harris. And I think that he  
10    was trying to be helpful, as best he could, to tell you what  
11    went on there that night and what he knew about it or didn't  
12    know about it.

13    I think he doesn't know a lot about it. He told you  
14    that his bedroom is on the other end of the house from where  
15    Ronnie and Minor were sleeping. Every time he went to look  
16    in the room when there were all these phone calls, they were  
17    in the bed together. So Minor has told you the truth about  
18    that. The mother wasn't there. It was just the two of  
19    them.

20    Mr. Simmons said he went to bed at about 2:00 a.m. on  
21    the other end of the house. And I asked him a couple of  
22    questions about whether Ronnie Harris ever got up to use the  
23    bathroom during the night. Well, I don't know. I don't  
24    know what happened after 2:00 a.m. Well, did Minor get up  
25    to use the bathroom? I don't know. Did either one of them

1 get up to get a drink of water? I don't know. I don't know  
2 what happened after 2:00 a.m. So he claims to know what  
3 happened up until 2:00 a.m., but I submit to you that he may  
4 not even know that. But he certainly doesn't know what  
5 happened after he went to bed. And we have, unfortunately,  
6 no way of knowing the exact minute in time that this  
7 happened. We just don't know that and we don't have any way  
8 of knowing that. But Minor told you it was during that  
9 night.

10 Ronnie Harris testified yesterday, and you heard what  
11 he had to say. And he acknowledged that his daughter is a  
12 truthful child, that she had told the truth about  
13 everything, except she was, of course, lying about what she  
14 said he did to her. But she's generally a truthful child.  
15 He said, well, she tells lies concerning school. Well,  
16 again, all children at times have told lies. All of us have  
17 told lies. I don't think there's a human being out there  
18 who hasn't told a lie of some sort during his or her  
19 lifetime.

20 But generally speaking, he didn't tell you that there  
21 was any problem with her. He didn't tell you that there was  
22 any animosity or any issue between them that would have  
23 caused her to make this up. There was simply no explanation  
24 for why she would have said this unless it happened. And he  
25 talked to you, but he didn't tell you how the bruises got

1       there. I want you to think about that.

2           It's not realistic to expect that he would have taken  
3       that stand yesterday and confessed to you or admitted to  
4       you, oh, yes, I sucked her breasts and left those bruises  
5       and I tried to have sex with my own daughter. That is not  
6       realistic. That does not happen, except on TV. It doesn't  
7       happen here. And I think he said exactly what we probably  
8       all would have expected him to say in this particular  
9       situation in which he's telling you, I didn't do that.

10           But consider his response when Adrian, the mother of  
11       his child, told him, this is what she said happened to her  
12       and I'm taking her to the hospital. Well, whatever. Is  
13       that an appropriate response? No. He said he was shook.  
14       And I asked him, I said, you were shook because you couldn't  
15       believe that she told what you did. That's why he was  
16       shook. Oh, my gosh, what am I going to do now? She has  
17       told it.

18           He finally admitted that, yes, in fact, there had been  
19       drinking going on that night and that he was one of the ones  
20       drinking. He did not want to tell you that. Because he, at  
21       first, denied it. I said, was Minor       being truthful when  
22       she said that there was beer drinking going on, that you  
23       were drinking beer? No. She said that you were drinking  
24       beer. Well, but she didn't see it. Well, then how did show  
25       know that he had been drinking? She told you when he did

1 this to her she smelled it. She thought he was drunk and  
2 that that was why he did it. She told you that.

3 The Judge is going to tell you when he gives you the  
4 charge on the law that voluntary intoxication is not a  
5 defense to any crime. If that is the circumstance under  
6 which this happened, then so be it, then that's the  
7 circumstance under which it happened. If that's what caused  
8 him to lose his judgment and do this horrible thing to his  
9 child, so be it. That doesn't change the fact that it  
10 happened.

11 She is in a position to tell you what happened. She  
12 hadn't been drinking anything. And she's going to remember  
13 it even if he doesn't. She's going to remember it for the  
14 rest of her life. She's lost her father. She doesn't have  
15 her mother around. She certainly had nothing to gain.

16 The Judge is going to talk to you about reasonable  
17 doubt and that the State has a burden of proving this case  
18 beyond a reasonable doubt, each and every element of the  
19 crimes. And I submit to you, ladies and gentlemen, that the  
20 State has met its burden in this case. Beyond a reasonable  
21 doubt is not some unreachable burden. It doesn't mean that  
22 you can't have a doubt about something. If that were true,  
23 there would never be a person convicted of a crime in any  
24 court anywhere. You need to be firmly convinced based on  
25 the evidence in this case.

1       The evidence has been put before you, and I ask you not  
2       only for justice for Ronnie Harris in this case, but I ask  
3       you for justice for Delisa. And what is justice in this  
4       case? I don't know that you can ever make it right with  
5       her, because we can't undo what's happened to her. But you  
6       can hold him responsible for it.

7       Thank you.

8                   CHARGE ON THE LAW

9       THE COURT: Now, no one in or out of the courtroom  
10      during my charge. So if anyone needs to leave, now is the  
11      time to go.

12      Now, ladies and gentlemen, as you know, the Defendant  
13      in this case is first indicted for criminal sexual conduct  
14      with a minor in the first degree. Several years ago, our  
15      legislature enacted a law that brought into one package or  
16      put under one umbrella, so to speak, all of our laws dealing  
17      with sexual battery or with sexual assault. And this law is  
18      known as criminal sexual conduct.

19      Now, it is generally accomplished in one of three ways.  
20      And that is criminal sexual conduct or sexual battery,  
21      either with the use of force that would constitute criminal  
22      sexual conduct in the first degree; or, secondly, with the  
23      threat of the use of force that would constitute second  
24      degree; or, third, when the alleged victim is in some  
25      fashion incapacitated, this would constitute criminal sexual

1       conduct in the third degree.

2               Now, ladies and gentlemen, with respect to the  
3       indictment in this case, you're not concerned with whether  
4       or not force was used, with whether or not there was any  
5       threat of the use of force, or whether or not the alleged  
6       victim in the case was in some fashion incapacitated. And  
7       that's because Section 16-3-655 of our Code of Laws provides  
8       as follows: "A person is guilty of criminal sexual conduct  
9       in the first degree if the actor engages in sexual battery  
10      with a victim who is less than 11 years of age."

11              Now, ladies and gentlemen, in this connection, our Code  
12      of Laws defines "actor" as the person who is accused of  
13      criminal sexual conduct. And it defines "victim" as the  
14      person alleging to have been subjected to criminal sexual  
15      conduct. Now, ladies and gentlemen, under the statute which  
16      I tell you about, sexual battery means, among other things,  
17      sexual intercourse.

18              Now, sexual intercourse means the completed act of  
19      sexual intercourse. That is, there must be some degree of  
20      intrusion or penetration of the female's vagina by the  
21      male's penis, but any intrusion or penetration, however  
22      slight, is all that is necessary. And it is not necessary  
23      to prove ejaculation or emission.

24              So, ladies and gentlemen, with respect to this  
25      particular charge against this Defendant, the elements of

1 the offense which the State must prove beyond a reasonable  
2 doubt are, first of all, the State must prove that the age  
3 of the victim was less than 11 years of age. And, secondly,  
4 that this Defendant engaged in sexual battery as I have  
5 defined that term to you.

6 Now, ladies and gentlemen, I charge you that with  
7 respect to this charge, consent is not a defense to the  
8 commission of the alleged crime. Section 16-3-657 of our  
9 Code of Laws, ladies and gentlemen, reads as follows: "The  
10 testimony of the victim need not be corroborated in  
11 prosecutions under Section 16-3-652 through 16-3-658." And  
12 that includes the section of the code that I read to you  
13 with respect to first degree criminal sexual conduct with a  
14 minor.

15 Now, ladies and gentlemen, the section that I read to  
16 you imposes strict liability for its violation. Because, as  
17 I said, neither consent, intent, nor knowledge are made  
18 elements of the offense. Under the statute, if a person  
19 engages in the prohibited conduct with a person less than 11  
20 years of age, whether the age of that person is known or  
21 unknown to the accused, the offense is committed.

22 Now, ladies and gentlemen, although not specifically  
23 included with language in this indictment, there is a lesser  
24 included offense. It is not specifically set forth in the  
25 indictment, but it is a lesser included offense that I must



1 charge you on. And this is assault and battery of a high  
2 and aggravated nature.

3 Now, an assault, ladies and gentlemen, is an attempt or  
4 it is an offer with force or violence to do bodily harm to  
5 another. In other words, an attempt is an attempt to do  
6 violence to the person of another in a rude, angry, or  
7 resentful manner.

8 Now, a battery, of course, is the carrying into effect  
9 of an assault by using or applying force to the person of  
10 another. In other words, a battery is the successful  
11 accomplishment of an attempt to do bodily harm. Now, on  
12 assault and battery of a high and aggravated nature, it must  
13 be attended with circumstances of aggravation. And examples  
14 of aggravation are the difference in the sexes of the people  
15 involved, the taking of indecent liberties with a female, or  
16 where there is the infliction of serious bodily harm. Those  
17 are circumstances of aggravation that constitute assault and  
18 battery of a high and aggravated nature.

19 Now, the Defendant in this case is also indicted with  
20 committing a lewd act upon a child. This, too, is a  
21 statutory offense. And Section 16-15-140 of our Code of  
22 Laws provides in part as follows: "It is unlawful for a  
23 person over the age of 14 years to willfully and lewdly  
24 commit or attempt a lewd or lascivious act upon or with the  
25 body or its parts on a child under the age of 16 years with

1 the intent of arousing, appealing to, or gratifying the lust  
2 or passions or sexual desires of the person or of the child.

3 Now, the statute that I just read to you applies only  
4 to a person who is over the 14 -- over the age of 14 years  
5 and violates the other provisions of the statute that I read  
6 to you. And age is an element of the offense which the  
7 State must prove.

8 Now, the other elements that the State must prove  
9 beyond a reasonable doubt are, first of all, that this  
10 Defendant willfully and lewdly committed or attempted to  
11 commit a lewd or lascivious act.

12 Now, the term "willfully" means that something is done  
13 intentionally, that is, not by accident. It implies that  
14 the act is done knowingly and with an evil intent. "Lewdly"  
15 designates a form of immorality that has a relation to  
16 sexual impurity. "To commit" means to do, to accomplish, to  
17 perpetrate an offense or a crime. Now, an "attempt," ladies  
18 and gentlemen, in this connection, means an intent to do a  
19 particular criminal thing combined with an act which falls  
20 short of the thing intended.

21 Now, a lewd act is an obscene, an indecent, a lustful  
22 and chaste or licentious act. And as used in this statute,  
23 it must be in relation to a sexual act. And, lastly, ladies  
24 and gentlemen, a lascivious act is synonymous with lewd with  
25 the additional connotation of expressing lust or being

1       wanton.

2               Now, next, ladies and gentlemen, the act must be upon  
3       the body of a child under the age of 16 years. That is, one  
4       who has not yet reached her 16th birthday. Next, there must  
5       have been an intent of arousing, appealing to, or gratifying  
6       the lust or passions or sexual desires of this Defendant  
7       and/or those of the child.

8               Now, ladies and gentlemen, "intent" is defined as a  
9       purpose or an aim. In the law, it is the state of a  
10      person's mind that directs his actions toward a specific  
11      object. Ladies and gentlemen, the purpose of the statute in  
12      this case is to provide societal protection for minors in  
13      the area of criminal sexual conduct. And, therefore,  
14      consent is not an issue in the prosecution of this offense  
15      since, under our law, a person under the age of 16 years is  
16      incapable of giving consent to sexual acts.

17              Now, ladies and gentlemen, in the trial of a case, the  
18      State can rely on direct evidence, on circumstantial  
19      evidence, or on a combination of the two, as here. Direct  
20      evidence proves the existence of a disputed fact by using  
21      one or more of our five senses without the aid of any  
22      emphasis. For example, the testimony of a person who  
23      asserts or claims to have actual knowledge of a fact. In  
24      other words, an eyewitness, that is direct evidence.

25              Circumstantial evidence, on the other hand, is where

1 certain facts known through using one or -- one of our five  
2 senses produces a logical inference that other facts exist  
3 without directly proving those facts. Circumstantial  
4 evidence is the proof of a chain of facts and circumstances  
5 indicating the existence of a fact.

6 Now, as I've told you, the State may rely on either or  
7 both of this type evidence, direct or circumstantial. And  
8 neither is inferior to the other, but one is as good as the  
9 other if equally convincing to you, the jury. They're each  
10 entitled to the same weight.

11 Now in order to sustain a conviction on circumstantial  
12 evidence, ladies and gentlemen, all of the circumstances  
13 proved must be consistent with the theory that this  
14 Defendant is guilty, and at the same time inconsistent with  
15 the theory that he is innocent, and with every other  
16 reasonable theory except that of guilt.

17 Ladies and gentlemen, I charge you that voluntary  
18 intoxication is never an excuse for or a defense to the  
19 commission of a crime. A person who voluntarily renders  
20 himself or herself intoxicated is no less responsible for  
21 his or her acts while in that condition. If one voluntarily  
22 drinks intoxicating liquors, including beer or wine, and  
23 while in that -- or becomes intoxicated to any degree and if  
24 while in that condition commits an act that would be a crime  
25 if it had been committed by a sober person, the fact of

1       intoxication would not relieve the intoxicated person from  
2       responsibility.

3       Now, ladies and gentlemen, I am the judge of the law in  
4       this case. You are the judges of the facts. The  
5       Constitution of our state does not allow me to charge you on  
6       the facts of this case, or to discuss the facts with you, or  
7       in any way or manner let you know what my personal feelings,  
8       if any, are about this case. That is because you and you  
9       alone are the judges of the facts. Therefore, if during the  
10      course of this trial or if during the course of my charge,  
11      you have a feeling or you have been left with the impression  
12      that I have a personal feeling about this case one way or  
13      another, then you disregard that feeling or that impression.

14      Now, ladies and gentlemen, it is your duty and your  
15      duty alone to weigh the testimony and the evidence presented  
16      in this case and to pass upon the credibility or the  
17      believability of the witnesses you heard testify. In this  
18      connection, you have the right to believe all that a witness  
19      told you or you can disbelieve all that a witness told you.  
20      You can believe a part of what a witness told you and  
21      disbelieve a part of what a witness told you. You can  
22      believe one witness as against several, or you can believe  
23      several as against one. You also have the right to take  
24      into consideration any bias, or prejudice, or interest you  
25      feel a witness in the case might have.

1           As I told you, I am the judge of the law. And I am  
2           required to charge the law that applies to the facts in this  
3           case. It is not a question of what you feel the law might  
4           be or what it should be. It is not necessarily what the  
5           lawyers may have told you it is. Because under your oath,  
6           you are required to take the law as I give it to you, apply  
7           that law to the facts as you determine those facts to be,  
8           and to write your verdict accordingly.

9           Ladies and gentlemen, in this case, as in all criminal  
10          cases, this Defendant comes into this courtroom presumed to  
11          be innocent. And this presumption continues and carries  
12          through the entire trial until and unless it is removed by  
13          evidence that satisfies you of his guilt beyond a reasonable  
14          doubt.

15          The burden is on the State in this case to prove this  
16          Defendant guilty and to prove each and every element of the  
17          offenses with which he is charged beyond a reasonable doubt.  
18          Now, some of you may have served in the past as jurors on  
19          civil cases. And if so, you were likely told that it was  
20          only necessary to prove that a fact was more likely true  
21          than not true. But in criminal cases, the State's proof  
22          must be more powerful than that. As I told you, it must be  
23          beyond a reasonable doubt.

24          Now, proof beyond a reasonable doubt, ladies and  
25          gentlemen, is proof ~~that~~ leaves you firmly convinced of this

1 Defendant's guilt. There are very few things in this life  
2 that we know with absolute certainty. And in criminal  
3 cases, our law does not require proof that overcomes every  
4 possible doubt.

5 If based on your consideration of the evidence in this  
6 case, you are firmly convinced that this Defendant is guilty  
7 as charged, then you must find him guilty. If, on the other  
8 hand, you think there is a real possibility that he is not  
9 guilty, then you must resolve that doubt in his favor and  
10 find him not guilty.

11 Ladies and gentlemen, under the oath you took in this  
12 case, you swore to try this case based only and solely on  
13 the testimony and evidence presented in this courtroom. I  
14 tell you that it is your duty to lay aside all outside bias,  
15 prejudice, or sympathy you may have in reaching your  
16 verdict.

17 The word "verdict" is taken from the Latin word  
18 veredicto, which means to speak the truth. You have no  
19 enemies to punish or friends to reward in this case. I  
20 charge you to abide by your oath and return a verdict that  
21 speaks the truth.

22 Now, you'll have in the jury room with you the two  
23 indictments in this case. These indictments do not  
24 constitute evidence. They simply set forth the allegations  
25 by the State. These indictments are the legal documents

1 that bring this case into the courtroom and presents it to  
2 you for your determination.

3 Now, ladies and gentlemen, with respect to the  
4 indictment for committing a lewd act on a child, there are  
5 one of two possible verdicts, either guilty or not guilty.

6 Now, with respect to the indictment for criminal sexual  
7 conduct with a minor in the first degree, there are three  
8 possible verdicts, guilty, not guilty, or guilty of assault  
9 and battery of a high and aggravated nature.

10 Madam Foreman, with respect to this indictment, I have  
11 written out those three possible verdicts on a slip of  
12 paper. I will send it into the jury room and you can use  
13 that simply to correctly write out what the verdict of the  
14 jury is on that indictment.

15 Now, Madam Foreman, whatever the verdict of the jury  
16 is, on each indictment, you will see a place on the back of  
17 the indictment where it says "Verdict," write out the  
18 verdict of the jury in that space and then sign your name  
19 where it says "Foreperson of the Petit Jury."

20 Ladies and gentlemen, whatever your verdicts are, they  
21 must be unanimous, that is, all 12 of you must agree.

22 Now, ladies and gentlemen, at this time, I'm required  
23 to suspend and go over my charge with the attorneys. I need  
24 you to go back into your jury room, but do not begin  
25 deliberating until I send word in for you to do so.



1 Thank you very much.

2 (WHEREUPON, the jury was excused from open court at  
3 approximately 10:24 a.m.)

4 THE COURT: All right. Anything further from the  
5 State?

6 MS. SEAY: Nothing from the State.

7 THE COURT: From the Defendant?

8 MR. FARNSWORTH: Nothing from the Defendant, Your  
9 Honor.

10 THE COURT: All right. Do we have all the exhibits  
11 accounted for?

12 THE COURT REPORTER: Yes, sir.

13 THE COURT: All right. Take all this to the jury and  
14 tell them to begin deliberating.

15 And my alternate, I believe, is Mr. Vogel. Would you  
16 bring him out.

17 (Pause.)

18 THE COURT: Mr. Vogel, since our 12 jurors have made it  
19 through this case, this will conclude your service on this  
20 one. I am not sure what the balance of the day holds for  
21 you. And what I need you to do is go back to the jury  
22 assembly room downstairs on the first floor.

23 ALTERNATE JUROR VOGEL: Okay. Thank you.

24 THE COURT: Thank you very much.

25 We will be in recess pending the jury's verdict.

1 (WHEREUPON, the proceedings were recessed at  
2 approximately 10:27 a.m.)

3 QUESTIONS FROM THE JURY

4 THE COURT: The jury has a question in State v. Ronald  
5 Harris.

6 Bring the jury in.

7 (WHEREUPON, the jury came into open court at  
8 approximately 12:03 p.m.)

9 THE COURT: Now, Madam Foreman, you've sent in two  
10 questions. The first is: "What did the Judge say about  
11 penetration regarding the law?"

12 I defined for you sexual intercourse. And I told you  
13 that sexual intercourse meant the completed act of sexual  
14 intercourse, which means that there must have been some  
15 degree of penetration of the vagina by the penis. There's  
16 got to be some amount of penetration, but that can be slight  
17 penetration. And I told you that it did not require any  
18 ejaculation or any emission.

19 Now, does that help you with respect to sexual  
20 intercourse?

21 FOREPERSON PASCHAL: Your Honor, do --

22 THE COURT: If you -- if I've not satisfied you, when  
23 you get back, write out your question again and I'll try to  
24 answer it for you. Okay.

25 Now, "Explain #3 regarding guilty of assault and

1 battery of a high and aggravated nature."

2 Now, that, as I told you, is a lesser included offense  
3 of criminal sexual conduct. If you find, in this case, that  
4 the State has not carried its burden of proving this  
5 Defendant guilty of criminal sexual conduct, then you would  
6 move on down and consider assault and battery of a high and  
7 aggravated nature and make a determination as to whether or  
8 not the State has proved that he's guilty of that lesser  
9 included offense.

10 Now, there are actually three degrees of assault and  
11 battery. First of all, there's simple assault and battery.  
12 There is assault and battery with intent to kill. And then  
13 there's assault and battery of a high and aggravated nature.

14 Now, you're concerned, in this case, with assault and  
15 battery of a high and aggravated nature. And, as I  
16 explained to you, an assault is an attempt to do bodily harm  
17 to another person. And the battery is the carrying into  
18 effect of an assault.

19 But the thing that makes assault and battery of a high  
20 and aggravated nature different is that simple assault and  
21 battery is where there might be just some slight injury.  
22 Assault and battery with intent to kill is where there must  
23 have been actually some intent to kill the person who was  
24 assaulted and battered.

25 Now, with respect to aggravated assault and battery,

1 that assault and battery has to be attended or with some  
2 circumstances or accompanied with circumstances of  
3 aggravation. And I gave you some examples of aggravation.  
4 I told you that this could be -- one circumstance is a  
5 difference between the ages and sexes of the participants.  
6 And another would be the taking of indecent liberties with a  
7 female, or where there was some serious bodily injury  
8 involved. Now, those would be the aggravating circumstances  
9 for you to consider in this case.

10 If you are considering assault and battery of a high  
11 and aggravated nature, then you would determine, first of  
12 all, if the State has proved that an assault and battery was  
13 committed on this child. And then you would determine  
14 whether or not that assault and battery was attended or  
15 accompanied by circumstances of aggravation, that is,  
16 whether or not there was a difference in the ages or sex,  
17 whether indecent liberties were taken, or whether some  
18 serious injury was sustained.

19 Okay. Now, if you'll retire and continue with your  
20 deliberations. If you need anything else answered from me,  
21 please write out the other question and send it in to me and  
22 I'll see what I can do.

23 Thank you.

24 (WHEREUPON, the jury was excused from open court at  
25 approximately 12:08 p.m.)

1 THE COURT: Let's see if they have another question  
2 (WHEREUPON, Court's Exhibit No. 1 was marked for  
3 identification and admitted into evidence.)

4 (WHEREUPON, the proceedings were recessed at  
5 approximately 12:08 p.m.)

6 THE COURT: All right. The jury has a question.  
7 Bring the jury in.

8 (WHEREUPON, the jury came into open court at  
9 approximately 3:26 p.m.)

10 THE COURT: I'm sorry I couldn't get back to you before  
11 now, ladies and gentlemen. I was having the arguments and  
12 the charge on another case and I couldn't take a break. And  
13 that's why I had to hold you up. I'm sorry.

14 Now, your question: "Does #3, guilty of assault and  
15 battery of a high and aggravated nature, take away the sex  
16 crime?"

17 Ladies and gentlemen, I can't answer that question for  
18 you, but you're not concerned with that issue. You are  
19 concerned only with whether or not the Defendant in this  
20 case is guilty as charged.

21 Now, if you find in this case that the State has failed  
22 to prove him guilty beyond a reasonable doubt as to criminal  
23 sexual conduct, then you would move on and determine whether  
24 or not he is guilty of assault and battery of a high and  
25 aggravated nature without concerning yourself with anything

1 else. And if the State has failed to prove that, then you  
2 would find him not guilty.

3 Okay. Ladies and gentlemen, please retire and continue  
4 with your deliberations.

5 (WHEREUPON, the jury was excused from open court at  
6 approximately 3:28 p.m.)

7 THE COURT: All right. Folks, please stay close and  
8 maybe we'll get a verdict soon, I hope

9 (WHEREUPON, Court's Exhibit No. 2 was marked for  
10 identification and admitted into evidence.)

11 (WHEREUPON, the proceedings were recessed at  
12 approximately 3:29 p.m.)

13 THE COURT: All right. Now, ladies and gentlemen, I  
14 understand we have a verdict in the case. And we, of  
15 course, don't know what that verdict is. But I need  
16 everyone in the courtroom to understand that regardless of  
17 the verdict, I will not permit or condone any outbursts of  
18 any kind and no displays of emotion. And should there be  
19 any, then I will treat that as contempt of court and I will  
20 punish accordingly.

21 Bring the jury in, please.

22 (WHEREUPON, the jury came into court at approximately  
23 3:35 p.m.)

24 THE COURT: Madam Foreman, if you've reached a verdict,  
25 then hand it to the bailiff, please, ma'am.

1           Okay. Publish the verdicts, please.

2                               VERDICT

3           THE CLERK: Your Honor, case number 2003-2960, the  
4           State v. Ronald Harris, also known as Ronnie Harris,  
5           indicted for lewd act upon a child, the verdict is guilty,  
6           signed Ernestine Paschal, Forelady.

7           2001-7069, the State v. Ronald Harris also known as  
8           Ronnie Harris, indicted for criminal sexual conduct with a  
9           minor first degree, the verdict is guilty, signed Ernestine  
10          Paschal, Forelady.

11          If these are your verdicts, then please raise your  
12          right hand.

13          (All jurors raised their hands.)

14          THE COURT: Anything further from the jury?

15          MS. SEAY: Nothing from the State.

16          MR. FARNSWORTH: No, Your Honor.

17          THE COURT: Thank you, ladies and gentlemen, for your  
18          service on this case.

19          We can let you go for the rest of the day. And I'm  
20          sorry, but we need you back in the morning. I'll ask that  
21          you be back in the jury assembly room at 9:00 in the  
22          morning, 9:00 in the morning.

23          Thank you very much.

24          (WHEREUPON, the jury was excused from open court at  
25          approximately 3:37 p.m.)

MOTIONS

THE COURT: All right. Any motions?

MR. FARNSWORTH: Your Honor, I just restate my earlier motion for a directed verdict and we would move for that again as well.

THE COURT: And I would deny your motion.

Have you got the sentencing sheets, Solicitor?

MS. SEAY: Yes, sir. I just need to complete them. I'm almost finished.

THE COURT: All right. Anything else?

MR. FARNSWORTH: No, Your Honor.

THE COURT: All right. If not, come around, please. Any prior record?

MS. SEAY: Yes, Your Honor.

1984, shoplifting; 1989, non-support; 1990, disorderly conduct, two counts of non-support; 1991, assault and battery; 1992, non-support two counts, and disorderly conduct; 1993, three counts of non-support; 1998, assault and battery.

THE COURT: Okay. Mr. Farnsworth.

MR. FARNSWORTH: Okay. Thank you, Your Honor. May it please the Court.

Your Honor, I don't think that he's ever been in General Sessions Court on a conviction. Those are -- from my understanding, they're magistrate's cases.





1 time that you have served pursuant to Section 24-23-40, and  
2 that will be calculated and applied by the State Department  
3 of Corrections.

4 \*\*\*\*\*END OF TRANSCRIPT OF RECORD\*\*\*\*\*  
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CERTIFICATE OF REPORTER

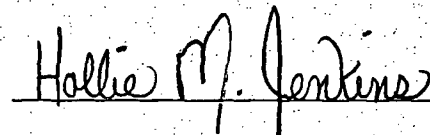
STATE OF SOUTH CAROLINA )

COUNTY OF GREENVILLE )

I, HOLLIE JENKINS, Official Court Reporter for the Thirteenth 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 the evidence introduced in the trial of the captioned case, relative to appeal, in the Court of General Sessions for Greenville County, South Carolina, on the 15th and 16th days of July, 2003.

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

December 9, 2003



Hollie M. Jenkins, Court Reporter

My Commission Expires: 11-17-10

## FORM 5

STATE OF SOUTH CAROLINA )

County of Greenville )

IN THE COURT OF COMMON PLEAS

Ronnie Harris #294716 )

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

v. )

State of South Carolina )

APPLICATION FOR

POST-CONVICTION RELIEF

2004-CP-23- 4417

FILED-CLERK OF COURT  
GREENVILLE CO. S.C.  
PAUL B. WICKENHEIMERINSTRUCTIONS B READ CAREFULLY

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

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

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

1. Place of detention Perry Correctional Institute, 430 Oaklawn Road, Pelzer, SC 29669
2. Name and location of Court which imposed sentence \_\_\_\_\_
3. Name(s) of co-defendant(s) (if any) none
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:  
(a) 2001-GS-23-7069 CSC first degree w/minor

- (b) 2003-GS-23-2960 Lewd Act Upon a Child
- (c) \_\_\_\_\_
5. The date upon which sentence was imposed and the terms of the sentence:
- (a) July 16, 2003 - 20 years.
- (b) July 16, 2003 - 15 years concurrent.
- (c) \_\_\_\_\_
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty \_\_\_\_\_
- (b) after a plea of not guilty yes not guilty
- (c) after a plea of nolo contendere \_\_\_\_\_
7. Did you appeal from the judgment of conviction or the imposition of sentence? yes.
8. If you answered Ayes@ to (7), list:
- (a) the name of each Court to which you appealed:
- i. SC Court of Appeals
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_
- (b) the result in each such Court to which you appealed:
- i. Dismissed
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_
- (c) the date of each such result: 4/15/04
- i. \_\_\_\_\_
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. Order of Dismissal
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_
9. If you answered Ano@ to (7), state your reasons for not so appealing:
- (a) \_\_\_\_\_

- (b) \_\_\_\_\_
- (c) \_\_\_\_\_
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:
- (a) Please see additional page 3(a) \_\_\_\_\_
- (b) \_\_\_\_\_
- (c) \_\_\_\_\_
11. State concisely and in the same order the facts which support each of the grounds set out in (10):
- Please see additional page 3(a)
- (a) \_\_\_\_\_
- (b) \_\_\_\_\_
- (c) \_\_\_\_\_
12. Prior to this application have you filed with respect to this conviction:
- (a) any petition in a State Court under South Carolina Law? no
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? no
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? no
- (d) any other petitions, motions or applications in this or any other Court? no
13. If you answered Ayes@ to any part of (12), list with respect to each petition, motion or application:
- (a) the specific nature thereof:
- i. \_\_\_\_\_
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_
- iv. \_\_\_\_\_
- (b) the name and location of the Court in which each was filed:
- i. \_\_\_\_\_
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_

Ronnie Harris #294716  
PCR Additional Page 3(a)

### Allegations.

9(a). The Applicant was denied his Sixth and Fourteenth Amendment to the United States Constitution and Article 1§3, and Article 1§14, of the Constitution of the State of South Carolina because of ineffective assistance of trial counsel during his jury trial July 16, 2003.

### Supporting Facts.

10(a). The Applicant will submit to this Court that on or about July 16, 2003, my trial counsel was ineffective and denied me my right to a fair and impartial trial by jury. The Applicant will submit the following:

1. Applicant received ineffective assistance of counsel inasmuch, Counsel failed to object to hearsay testimony during my trial. When Ms. Sullivan was ask about the child being sexually assaulted, Ms. Sullivan, Stated, "Well, she said, my daddy did it. That's what she said." Tr. p. 75, lines 1-2. Trial counsel failure to object denied the Applicant his rights to a fair trial and but for trial counsel's errors, the outcome of my jury trial would have been different.

2. Applicant received ineffective assistance of counsel in as much, trial counsel failed to object to hearsay testimony during my trial. When Ms. Sloan was ask about the child being sexually assaulted, Ms. Sloan, stated, "She said, I woke up and my dad was sucking on my breats." Tr.p. 79, lines 1-8. Trial counsel's failure to object denied the Applicant his rights to a fair trial and but for trial counsel's errors, the outcome of my jury trial would have been different.

3. Applicant received ineffective assistance of counsel in as much, trial counsel failed to object to hearsay testimony during my trial. When Mr. Austin was ask about the child being sexually assaulted, Mr. Austin, stated, "Yeah, she said it had happened after her mom had gone to work and she was in the room with her father." Tr.p. 103, lines 6-11. Trial counsel's failure to object denied the Applicant his rights to a fair trial and but for trial counsel's errors, the outcome of my jury trial would have been different.

\*\*\*\*\*

The Applicant leaves this application open so, that he may amend by leave of the Court or after appointment of Counsel or Pro se.

See: Sanchez v. State, 569 S.E.2d 363 (S.C. 2002)  
Dawkins v. State, 551 S.E.2d 260 (S.C. 2001)

- iv. \_\_\_\_\_
- (c) the disposition thereof:
  - i. \_\_\_\_\_
  - ii. \_\_\_\_\_
  - iii. \_\_\_\_\_
  - iv. \_\_\_\_\_
- (d) the date of each such disposition:
  - i. \_\_\_\_\_
  - ii. \_\_\_\_\_
  - iii. \_\_\_\_\_
  - iv. \_\_\_\_\_
- (e) if known, citations of any written opinions or orders entered pursuant to each such disposition:
  - i. \_\_\_\_\_
  - ii. \_\_\_\_\_
  - iii. \_\_\_\_\_
  - iv. \_\_\_\_\_

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

no

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

- (a) which grounds have been presented:

- i. \_\_\_\_\_
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_

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

- i. \_\_\_\_\_
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_



16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:

(a) Failed to object to hearsay testimony.

(b) Ineffective assistance of trial counsel.

(c) \_\_\_\_\_

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

(a) your arraignment and plea? \_\_\_\_\_

(b) your trial, if any? yes

(c) your sentencing? yes

(d) your appeal, if any, from the judgment of conviction or the imposition of sentence? yes

(e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? no

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

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

i. Daniel J. Farnsworth - Retained

ii. Aileen P. Clare - Appointed

iii. \_\_\_\_\_

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

i. Trial and Sentencing

ii. Direct Appeal

iii. \_\_\_\_\_

19. State clearly the relief you seek in filing this application:  
Vacate judgment and sentence. New Trial. Appoint Counsel. Grant  
Discovery.
20. Are you now under sentence from any other court that you have not challenged?  
no

Revised 3/2003

STATE OF SOUTH CAROLINA )  
 )  
 County of Greenville )

## VERIFICATION

I, Ronnie Harris #294716, 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.

Ronnie Harris

SWORN to and subscribed before me this 25th  
 day of June, 2007

[Signature]  
 Notary Public S.C.

My Commission Expires: 18 June 2012

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

I, Ronnie Harris #294716, hereby apply for leave to  
proceed in this action without prepayment of fees or costs or security therefor. In support of my  
application I declare under penalty of perjury that the following facts are true:

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

Ronnie Harris  
Applicant

SWORN or affirmed to and subscribed before me this

25<sup>th</sup> day of June, 2004

[Signature]  
Notary Public S.C.

My Commission Expires: 1st June 2012

FILED-CLERK OF COURT  
GREENVILLE CO. S.C.  
PAUL R. WICKINS

2004 JUL -2 P 12:49

|                          |   |                              |
|--------------------------|---|------------------------------|
| STATE OF SOUTH CAROLINA  | ) | IN THE COURT OF COMMON PLEAS |
|                          | ) | C.A. No. 2004-CP-23-4417     |
| COUNTY OF GREENVILLE     | ) |                              |
|                          | ) |                              |
| Ronnie Harris,           | ) |                              |
| S.C.D.C. No. 294716,     | ) |                              |
|                          | ) |                              |
| Applicant,               | ) |                              |
|                          | ) | RETURN                       |
| v.                       | ) |                              |
|                          | ) |                              |
| State of South Carolina, | ) |                              |
|                          | ) |                              |
| Respondent.              | ) |                              |
| _____                    | ) |                              |

In response to the post-conviction relief application filed July 2, 2004, the Respondent would show this Court:

I.

The Applicant is incarcerated with the South Carolina Department of Corrections pursuant to the Greenville County Clerk of Court's orders of commitment. The Greenville County Grand Jury indicted the Applicant at the October 2001 term of General Sessions for first-degree criminal sexual conduct (CSC) with a minor (2001-GS-23-7069) and at the April 2003 term of General Sessions for lewd act upon a child (2003-GS-23-2960). Daniel J. Farnsworth, Sr., Esquire represented the Applicant.

The State called the Applicant's case to trial on July 15, 2003. After the jury found the Applicant guilty as indicted, the Honorable C. Victor Pyle, Jr. sentenced the Applicant to concurrent sentences of twenty (20) years for first-degree CSC with a minor and fifteen (15) years for lewd act upon a child.

A timely Notice of Appeal was filed on Applicant's behalf at the South Carolina Court of Appeals. Aileen P. Clare, Esquire, of the South Carolina Office of Appellate Defense then filed

an Initial Anders Brief. The Applicant, however, submitted an affidavit indicating he wished to “drop the appeal formerly filed on [his] behalf.” The Court dismissed the appeal by Order dated April 15, 2004.

Attached herewith and incorporated herein by reference are the records of the Greenville County Clerk of Court regarding the subject convictions, the Applicant’s records from the South Carolina Department of Corrections, and the trial transcript.

## II.

In his application for post-conviction relief the Applicant alleges he is being held in custody unlawfully for the following reason:

1. Ineffective assistance of counsel – failure to object to several instances of hearsay testimony.

## III.

The Respondent asserts the Applicant’s allegation that his attorney was ineffective is without merit. The Respondent asserts the Applicant’s attorney rendered effective assistance well within the standard of “reasonableness within professional norms” for a criminal defense attorney.

Where ineffective assistance of counsel is alleged as a ground for relief, the Applicant must prove that “counsel’s conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied on as having produced a just result.” Strickland v. Washington, 466 U.S. 668, 686, 104 S. Ct. 2052, 2064 (1984); Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985).

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

“rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment.” Strickland, 466 U.S. at 690, 104 S. Ct. at 2066. The Applicant must overcome this presumption in order to receive relief. See Cherry v. State, 300 S.C. 115, 118, 386 S.E.2d 624, 625 (1989).

A two-pronged test is used in evaluating allegations of ineffective assistance of counsel. First, the applicant must prove counsel’s performance was deficient. Under this prong, attorney performance is measured by its “reasonableness under prevailing professional norms.” Cherry v. State, 300 S.C. at 117, 386 S.E.2d at 625 (quoting Strickland, 466 U.S. at 688, 104 S. Ct. at 2065). Second, counsel’s deficient performance must have prejudiced the Applicant such that “there is a reasonable probability that, but for counsel’s unprofessional errors, the result of the proceeding would have been different.” Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. “A reasonable probability is a probability sufficient to undermine confidence in the outcome of trial.” Johnson v. State, 325 S.C. 182, 186, 480 S.E.2d 733, 735 (1997) (citing Strickland v. Washington, 466 U.S. 668, 104 S. Ct. 2052 (1984)).

The Respondent submits the Applicant cannot satisfy either requirement of the Strickland v. Washington test. However, the allegation of ineffective assistance of counsel probably raises questions of fact that cannot be conclusively refuted by the record. The Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 265, 305 S.E.2d 247, 248 (1983) (citing Norman v. State, 276 S.C. 278, 277 S.E.2d 707 (1981)).

#### IV.

The Respondent denies each allegation that is not expressly admitted, qualified or explained.

V.

WHEREFORE, having made its Return, the Respondent requests that a hearing be held  
and counsel appointed to represent the Applicant.

Respectfully submitted,

HENRY DARGAN McMASTER  
Attorney General

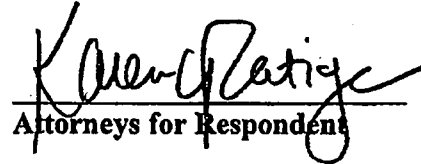
JOHN W. McINTOSH  
Chief Deputy Attorney General

SALLEY W. ELLIOTT  
Assistant Deputy Attorney General

KAREN C. RATIGAN  
Assistant Attorney General

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

By:

  
Attorneys for Respondent

September 27, 2004

|                          |   |                            |
|--------------------------|---|----------------------------|
| STATE OF SOUTH CAROLINA  | ) | COURT OF COMMON PLEAS      |
|                          | ) |                            |
| COUNTY OF GREENVILLE     | ) | Case No(s) .:04-CP-23-4417 |
|                          | ) |                            |
| Ronnie Harris,           | ) |                            |
|                          | ) |                            |
| Plaintiff,               | ) |                            |
|                          | ) |                            |
| -VS-                     | ) | TRANSCRIPT OF RECORD       |
|                          | ) |                            |
| State of South Carolina, | ) |                            |
|                          | ) |                            |
| Defendants.              | ) |                            |

---

February 16, 2005  
Greenville, South Carolina

B E F O R E:

HONORABLE JOHN C. FEW, Judge.

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

KAREN C. RATIGAN, Esquire  
Assistant Attorney General

CAROLINE HORLBECK, Esquire  
Attorney for Plaintiff

TERESA B. JOHNSON  
OFFICIAL REPORTER



|    | <u>DIRECT</u>           | <u>CROSS</u> | <u>REDIRECT</u> | <u>RECROSS</u> |
|----|-------------------------|--------------|-----------------|----------------|
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| 2  | Motions                 | 4            |                 |                |
| 3  | Certificate of Reporter | 14           |                 |                |
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## EXHIBITS

3

| <u>NO.</u> | <u>DESCRIPTION</u>   | <u>ID</u> | <u>EV</u> |
|------------|----------------------|-----------|-----------|
| 1          |                      |           |           |
| 2          |                      |           |           |
| 3          | PLAINTIFF'S EXHIBITS |           |           |
| 4          | No exhibits offered. |           |           |
| 5          |                      |           |           |
| 6          | DEFENDANT'S EXHIBITS |           |           |
| 7          | No exhibits offered. |           |           |
| 8          |                      |           |           |
| 9          | COURT'S EXHIBITS     |           |           |
| 10         | No exhibits offered. |           |           |
| 11         |                      |           |           |
| 12         |                      |           |           |
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P R O C E E D I N G S

**THE COURT:** Okay.

**MRS. HORLBECK:** Your Honor, this is Mr. Ronnie Harris. And he is alleging ineffective assistance of counsel for failure to object to inadmissible hearsay testimony that came in during the trial. And also --

**THE COURT:** You need more paper than that. Oh, I'm sorry.

Hold on.

There's another one coming. Go get that one. Wait.

Go ahead.

**MRS. HORLBECK:** That's our main ground. He's also alleging that Mr. Farnsworth was ineffective for failure to argue a motive for the child's allegations in closing argument and bring that before the jury.

**THE COURT:** Hearsay and failure to make an argument about the child's motives.

**MRS. HORLBECK:** Yes, in a nutshell.

**THE COURT:** Why don't you point to me the specific places in the transcript where, first of all, you contend there was hearsay admitted and second of all -- okay. There wouldn't be a specific place. Never mind. Point me to --

1           **MRS. HORLBECK:** I will be glad to point those  
2 out to you right now.

3           **THE COURT:** Yeah, that's what I want.

4           **MRS. HORLBECK:** All right. Specifically page 74  
5 lines 21 through 24. I'll be glad to continue when  
6 Your Honor's ready.

7           **THE COURT:** 74, 21 through 24?

8           **MRS. HORLBECK:** Yes, sir.

9           **THE COURT:** Okay.

10          **MRS. HORLBECK:** Page 78 --

11          **THE COURT:** Wait a minute. All right. Hold on.

12          **MRS. HORLBECK:** Beginning 78 line 25 and that  
13 would continue on to page 79 lines 1 and 2.

14          **THE COURT:** All right. I got 74. And did you --  
15 I've got 74.

16          **MRS. HORLBECK:** Lines 21 through 24.

17          **THE COURT:** Yeah.

18          **MRS. HORLBECK:** Page 78 line 25 continuing to  
19 page 79 lines 1 and 2.

20          **THE COURT:** Okay.

21          **MRS. HORLBECK:** And page 103 lines 1 and 2.

22          **THE COURT:** Okay.

23          **MRS. HORLBECK:** And that's it.

24          **THE COURT:** Uh, is there really any need to  
25 present any evidence in this? I'm going to have to

1 read the transcript. I can tell that it's  
2 objectionable. That's simple enough. But whether or  
3 not, the first prong and the second prong are going  
4 to kind of tie in together -- because in order to  
5 understand why he actually should have made an  
6 objection, I've got to see how that evidence fits in  
7 the rest of trial.

8 MRS. HORLBECK: Yes, sir.

9 THE COURT: And the motive that you contend  
10 should have been argued is, uh, is there -- he didn't  
11 present evidence about that? It would have to be an  
12 argument based on what was in the record, right?

13 MRS. HORLBECK: Yes, sir. I think that's our  
14 least important argument. If I could just consult  
15 with my client very briefly.

16 THE COURT: About motive?

17 MRS. HORLBECK: Yes, sir. And ask if he --

18 THE COURT: Okay.

19 MRS. HORLBECK: I'll ask my client.

20 THE COURT: Sure.

21 (WHEREUPON, Mr. Horlbeck consulted with Mr. Harris.)

22 MRS. HORLBECK: We're going to go ahead and  
23 waive those two arguments. Not the improper hearsay.  
24 He does not feel that there is a need for testimony  
25 from Mr. Farnsworth regarding the issues unless Your

1 Honor just wants to hear them. I can do it briefly.

2 **THE COURT:** There may be evidence that the State  
3 wants to offer about some strategic motive that Mr.  
4 Farnsworth had for not making an objection. But I  
5 was wondering if you had any reason to offer evidence  
6 on it.

7 **MRS. HORLBECK:** No, I really don't. My main  
8 argument is just what I pointed out.

9 **THE COURT:** That he should have made an objection  
10 and that that evidence should have been excluded?  
11 Really, the questions were not the problem. It was  
12 the answer. The --

13 **MRS. HORLBECK:** My argument would be that all  
14 that testimony was cumulative and the effect of that  
15 cumulative testimony just can't be harmless. The  
16 State may want to put him up to articulate a  
17 strategy. I don't really know that that's really an  
18 issue anyway. I've got some cases here. Ingle  
19 versus State that says that there's really not a  
20 valid strategy, an articulable valid reason for  
21 allowing that sort of testimony or eliciting it.

22 **THE COURT:** I will take that case. The question  
23 on page 78 is a general question.

24 **MRS. HORLBECK:** And our main objection is just  
25 that.

1           **THE COURT:** Where is the case? Okay. Any other  
2 evidence from the applicant?

3           **MRS. HORLBECK:** No, Your Honor.

4           **THE COURT:** He was charged with what  
5 specifically?

6           **MRS. HORLBECK:** Criminal Sexual Conduct against  
7 a minor.

8           **MRS. RATIGAN:** Yes, sir. First degree CSC with  
9 a minor.

10          **THE COURT:** Okay. Okay. Anything from the  
11 State?

12          **MRS. RATIGAN:** Your Honor, the record speaks  
13 for itself. Clearly, there were no objections.

14          **THE COURT:** There's no strategic reasons to offer  
15 for failing to object?

16          **MRS. RATIGAN:** No, sir.

17          **THE COURT:** I will have to read the record. But  
18 the applicant has proven the first prong on the  
19 Strickland case on failure to object. And then there  
20 is the question of whether or not it was reasonable  
21 and what the probability that it would have made that  
22 the outcome would have been any different. You've  
23 got any argument on that?

24          **MRS. HORLBECK:** I could --

25          **THE COURT:** The case -- I've assumed that you

1 read the transcript. The statements that you  
2 challenge came from three different witnesses. The  
3 victim has told three different people that her dad  
4 is the one who made the assault. The rule clearly  
5 limits her prior consistent statement to the time and  
6 place of the sexual assault.

7 MRS. HORLBECK: Yes, Your Honor. I read through  
8 the record. I did not see where counsel had opened  
9 the door to initiate that sort of testimony.  
10 Regarding that, there should have been an objection  
11 from counsel if the State attempts to bring in that  
12 sort of testimony. I think the testimony of all  
13 three witnesses that were brought to the Court's  
14 attention I think exceeds the limitations of time and  
15 place. All of them name the --

16 THE COURT: I've already found that there's a  
17 violation, that you've proven the first prong.

18 MRS. HORLBECK: Well, I think if you look at  
19 Ingle versus State, it says an admission of improper  
20 hearsay testimony that's cumulative to the victim's  
21 testimony is not harmless. And Ingle versus State  
22 also says that trial counsel should object. The  
23 evidence in this case is not overwhelming. I believe  
24 that the child's testimony and I believe there's also  
25 some DNA that Your Honor may want to consider.



1           However, I do think that counsel did do a good job of  
2           watering down that DNA evidence.

3           **THE COURT:** What's the DNA evidence?

4           **MRS. HORLBECK:** They found evidence of -- I  
5           believe they found some stains on a sheet. And they  
6           did the DNA testing, linked it to Mr. Harris.

7           **THE COURT:** What sheets?

8           **MRS. HORLBECK:** The sheets on his bed.

9           **THE COURT:** On his bed?

10          **MRS. HORLBECK:** On his bed. But you've also got  
11          to remember that Mr. Harris and the child's mother  
12          had been in that bed on previous occasions.

13          **THE COURT:** I understand that. The only DNA  
14          evidence is that they found his DNA from his semen on  
15          his bed?

16          **MRS. HORLBECK:** Yes and I believe her DNA as  
17          well.

18          **THE COURT:** The child's?

19          **MRS. HORLBECK:** Yes. Your Honor just needs to  
20          know that. I'm not trying to mislead the Court but  
21          that is something that you may consider in the  
22          record. Our position is that the testimony from  
23          these witnesses just snowballed and snowballed.

24          **THE COURT:** What kind of DNA from the child did  
25          they find? Hair follicles?

1           **MRS. HORLBECK:** No. There's some evidence in  
2           the record that DNA could come from hair. It could  
3           come from nails. It could come from skin.

4           **THE COURT:** How old was the child?

5           **MRS. HORLBECK:** There's also evidence that it  
6           could have come from a stain.

7           **THE COURT:** From a stain?

8           **MRS. HORLBECK:** Yeah, from the child.

9           **THE COURT:** Like from vaginal fluid?

10          **MRS. HORLBECK:** Yes.

11          **THE COURT:** But it could have not come from  
12          vaginal fluid?

13          **MRS. HORLBECK:** Yes, Your Honor. Our position  
14          is that based on the overwhelming evidence --

15          **THE COURT:** Other than the DNA that you just  
16          described, is there anything other than the testimony  
17          of the child that this occurred?

18          **MRS. HORLBECK:** No.

19          **THE COURT:** Is there a confession?

20          **MRS. HORLBECK:** No, sir.

21          **THE COURT:** Any witnesses?

22          **MRS. HORLBECK:** No witnesses.

23          **THE COURT:** All right.

24          **MRS. HORLBECK:** That would be my argument.

25          **THE COURT:** Mr. Ratigan, you read the

1 transcript?

2 MRS. RATIGAN: Yes, Your Honor.

3 THE COURT: Is there any evidence that the State  
4 had to show that a sexual assault had occurred other  
5 than the testimony of the victim?

6 MRS. RATIGAN: Mainly the victim.

7 THE COURT: Did the DNA really show anything?

8 MRS. RATIGAN: I'm rereading this again.

9 THE COURT: How many adult bedrooms of 9-year old  
10 children in the State of South Carolina do you think  
11 you can go into today and not find the semen of the  
12 father and the DNA of the mother on the bed, I mean  
13 the child on the bed?

14 MRS. RATIGAN: I will say that it was testified  
15 to that it was most likely bodily fluids. Again, I  
16 don't have children. I can't testify as to how  
17 common it is for a 9-year old to be in bed with their  
18 parents. I can't tell you that. But it came back  
19 conclusively as the child's DNA on the same bed  
20 sheet. Of course, there's the child's testimony.

21 THE COURT: Any objection to the testimony that  
22 it was most likely the child's bodily fluid?

23 MRS. HORLBECK: It wasn't a normal objection.  
24 But on cross-examination, Mr. Farnsworth did elicit  
25 some testimony that it could be from fingernails, it

1           could be from skin, it could be from hair.

2           **THE COURT:** Okay.

3           **MRS. HORLBECK:** And I haven't read the  
4 transcript in a long while.

5           **THE COURT:** Okay. So Mrs. Ratigan, it was just  
6 the testimony of the child and the circumstance of  
7 the DNA both being on the bed?

8           **MRS. RATIGAN:** Your Honor, Mr. Farnsworth --  
9 there was some photographs of the child's breasts  
10 that had bites. It was testified to as, quote,  
11 "bites or scuff marks on her breast". That would  
12 also go with the DNA.

13           **MRS. HORLBECK:** That slipped my mind but that is  
14 correct.

15           **THE COURT:** There weren't any kind of testimony  
16 that connected the bite marks to this Defendant  
17 though, was it?

18           **MRS. RATIGAN:** Other than the child.

19           **THE COURT:** Other than the child. All right.  
20 I'll have to read the record.

21                           **END OF PROCEEDINGS**

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24

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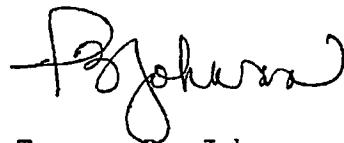
## CERTIFICATE

14

1 I, the undersigned, Teresa B. Johnson, Official Court  
2 Reporter for the Thirteenth Judicial Circuit of the State  
3 of South Carolina, do hereby certify that the foregoing is  
4 a true, accurate and complete Transcript of Record of all  
5 the proceedings had and evidence introduced in the trial  
6 of the captioned case, relative to appeal, in the Court of  
7 Common Pleas for Greenville County, South Carolina, on the  
8 16th day of February, 2005.

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

11  
12 January 5, 2007

13   
14

15 Teresa B. Johnson

16 Official Court Reporter  
17  
18  
19  
20  
21  
22  
23  
24  
25

|                          |   |                              |
|--------------------------|---|------------------------------|
| STATE OF SOUTH CAROLINA  | ) | IN THE COURT OF COMMON PLEAS |
|                          | ) |                              |
| COUNTY OF GREENVILLE     | ) |                              |
|                          | ) | 2004-CP-23-4417              |
| Ronnie Harris,           | ) |                              |
| S.C.D.C. No. 294716,     | ) |                              |
|                          | ) |                              |
| Applicant,               | ) |                              |
|                          | ) | ORDER OF DISMISSAL           |
| v.                       | ) |                              |
|                          | ) |                              |
| State of South Carolina, | ) |                              |
|                          | ) |                              |
| Respondent.              | ) |                              |

FILED-CLERK OF COURT  
GREENVILLE CO. S.C.  
AUG 15 2006  
AUL B. WICKENSHER

2006 AUG 15 P 4:25

This matter comes before the Court by way of an application for post-conviction relief (PCR) filed July 2, 2004. The Respondent made its return on September 27, 2004. An evidentiary hearing into the matter was convened on February 16, 2005 at the Greenville County Courthouse. The Applicant was present at the hearing and represented by Caroline Horlbeck, Esquire. Karen C. Ratigan, Esquire of the South Carolina Office of the Attorney General represented the Respondent. The Applicant's trial counsel, Daniel Farnsworth, Esquire, was also present. The Court had before it a copy of the trial transcript, the records of the Greenville County Clerk of Court, the Applicant's records from the South Carolina Department of Corrections, the application for post-conviction relief, and the Respondent's return.

#### PROCEDURAL HISTORY

The Applicant is presently confined in the Perry Correctional Institution of the South Carolina Department of Corrections pursuant to orders of commitment from the Greenville County Clerk of Court. The Applicant was indicted at the October 2001 term of General Sessions for first-degree criminal sexual conduct (CSC) with a minor (2001-GS-23-7069) and at the April 2003 term of General Sessions for lewd act upon a child (2003-GS-23-2960). Daniel

1 

Farnsworth, Esquire represented the Applicant.

After the State called the case to trial, the Applicant was found guilty. On July 15, 2003, the Applicant was sentenced by the Honorable C. Victor Pyle, Jr. to concurrent terms of twenty (20) years for first-degree CSC with a minor and fifteen (15) years for lewd act upon a child.

A notice of appeal was filed on the Applicant's behalf at the South Carolina Court of Appeals. Aileen P. Clare, Esquire, of the South Carolina Office of Appellate Defense filed an Initial Anders Brief. The Applicant, however, submitted an affidavit indicating he wished to "drop the appeal formerly filed on [his] behalf." The Court dismissed the appeal by Order dated April 15, 2004.

### **ALLEGATIONS**

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

1. Ineffective assistance of counsel:
  - a. Failure to object to several instances of hearsay testimony.

### **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

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

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

#### **Ineffective Assistance of Counsel**

The Applicant alleges he received ineffective assistance of counsel. In a PCR action,

2 

"[t]he burden of proof is on the applicant to prove his allegations by a preponderance of the evidence." Frasier v. State, 351 S.C. 385, 389, 570 S.E.2d 172, 174 (2002) (citing Rule 71.1(e), SCRCPP).

For an applicant to be granted PCR as a result of ineffective assistance of counsel, he must show both: (1) that his counsel failed to render reasonably effective assistance under prevailing professional norms, and (2) that he was prejudiced by his counsel's ineffective performance. See Strickland v. Washington, 466 U.S. 668, 104 S. Ct. 2052, 80 L. Ed. 2d 674 (1984); Sanchez v. State, 351 S.C. 270, 274-75, 569 S.E.2d 363, 365 (2000). In order to prove prejudice, an applicant must show "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry v. State, 300 S.C. 115, 117-18, 386 S.E.2d 624, 625 (1989). "A reasonable probability is a probability sufficient to undermine confidence in the outcome of trial." Johnson v. State, 325 S.C. 182, 186, 480 S.E.2d 733, 735 (1997) (citing Strickland v. Washington, 466 U.S. 668, 104 S. Ct. 2052, 80 L. Ed. 2d 674 (1984)).

The Applicant argued witnesses testified as to statements made by the child-victim about who committed the assault and the details. The Applicant stated trial counsel was ineffective in failing to object to this hearsay testimony.

---

Based on a review of the trial transcript, this Court finds there were three instances of hearsay testimony at the Applicant's trial:

Q: And did she tell you that she had been sexually assaulted?  
A: Well, she said, my daddy did it. That's what she said.  
Q: Okay.  
A: My daddy did that.

(Trial transcript, p.74, lines 19-24).





Q: What did she tell you?

A: She said, I woke up and my dad was sucking on my breasts.

(Trial transcript, p.78, line 25 – p.79, line 2).

Q: Did she tell you when that had happened?

A: Yeah. She said it had happened after her mom had gone to work and she was in the room with her father.

(Trial transcript, p.102, line 25 – p.103, line 2).

This Court finds trial counsel erred in failing to object to this hearsay testimony. Accordingly, the Applicant has proven the first prong of the Strickland test – that trial counsel failed to render reasonably effective assistance under prevailing professional norms.

This Court must determine whether the Applicant has proven a reasonable probability that the outcome of the trial would have been different had trial counsel objected to this testimony. This Court notes the fact that the statements are cumulative to other testimony (including the victim's at trial) does not answer this question. The South Carolina Supreme Court has made it clear the improper admission of prior consistent statements is not harmless error simply because they are cumulative. See State v. Foster, 354 S.C. 614, 582 S.E.2d 426 (2003) ("[o]n the contrary, 'it is precisely this cumulative effect which enhances the devastating impact of improper corroboration.'") (citation omitted).

In this case, however, this Court finds there is strong evidence supporting the convictions from the State's DNA expert, Grayson Douglas Amick of the South Carolina Law Enforcement Division. Amick testified to finding a mixture of DNA from both the victim and the Applicant on the sheets of the bed where the crime occurred. While trial counsel did an effective job in minimizing the impact of Amick's testimony, the impact remained very strong. Amick testified that, as the existence of the Applicant's semen mixed with DNA from the victim most likely

4



came from the victim's bodily fluids. (Trial transcript, pp.120-22). This Court notes Dr. John David Wilson, Jr. also testified at trial that, on the nine-year-old victim's breasts, "she had what appeared to be bruises, suck or bite marks all around." (Trial transcript, p.89, lines 8-9). As such, this Court finds there is not a reasonable probability the outcome of the trial would have been different had trial counsel made hearsay objections.

Accordingly, the Applicant has failed to prove the second prong of Strickland – that he was prejudiced by trial counsel's performance. This Court concludes the Applicant has not met his burden of proving counsel failed to render reasonably effective assistance. See Frasier v. State, 351 S.C. at 389, 570 S.E.2d at 174.

#### All Other Allegations

As to any and all allegations that were raised in the application or at the hearing in this matter and not specifically addressed in this Order, this Court finds the Applicant failed to present any evidence regarding such allegations. Accordingly, this Court finds the Applicant waived such allegations and failed to meet his burden of proof regarding them. Therefore, they are hereby denied and dismissed.

#### CONCLUSION

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

This Court advises the Applicant that he must file a notice of intent to appeal within thirty (30) days from the receipt of this Order if he wants to secure appropriate appellate review. His attention is also directed to Rules 203, 206, and 227 of the South Carolina Appellate Court Rules

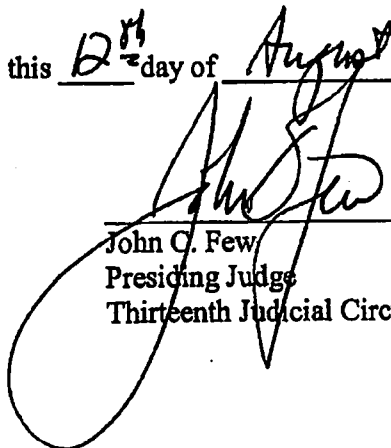


for the appropriate procedures to follow after notice of intent to appeal has been timely filed.

**IT IS THEREFORE ORDERED:**

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

AND IT IS SO ORDERED this 12<sup>th</sup> day of August, 2006.

  
 John C. Few  
 Presiding Judge  
 Thirteenth Judicial Circuit

Greenville, South Carolina.

|                          |   |                              |
|--------------------------|---|------------------------------|
| STATE OF SOUTH CAROLINA  | ) | IN THE COURT OF COMMON PLEAS |
| COUNTY OF GREENVILLE     | ) |                              |
|                          | ) |                              |
|                          | ) |                              |
|                          | ) | 2004-CP-23-4417              |
|                          | ) |                              |
|                          | ) |                              |
| Ronnie Harris            | ) |                              |
| S.C.D.-C. NO: 29416,     | ) | MOTION FOR A 59(E) RULING    |
|                          | ) |                              |
| Applicant,               | ) |                              |
|                          | ) |                              |
| Vs.                      | ) |                              |
|                          | ) |                              |
| State of South Carolina, | ) |                              |
|                          | ) |                              |
| <u>Respondent,</u>       | ) |                              |

FILED CLERK OF COURT  
GREENVILLE CO. S.C.  
DAVID B. WICKENSIMER

2006 AUG 29 P 1:13

This matter comes before this Court by way of an application for Post Conviction relief (PCR) filed July 2, 2004. The Judges ORDER OF DISMISSAL was issued on August 15, 2006, If it pleases this Court, The (PCR) applicant at this time requesting the judge to address all the issues raised in applicants (PCR) application and additional hearing issues. Applicant requesting that a proper order to be issued addressing all the issues raised during hearing.

cc:  
John C. Few  
Clerk of Court, Paul B. Wickensimer  
Def:ATT, KAREN C. RATIGAN  
Appli:ATT,CAROLINA M. HOLEECK

Respectively Submitted

RONNIE HARRIS

Applicant

## CERTIFICATE OF SERVICE

I, Donna Harris, hereby certify that a copy of the foregoing document was this 21 day of August A. D. 2006, served on the following individual(s) by placing a copy of the same in the United States Mail, addressed to: PRATT CORRECTIONAL INSTITUTION, provided for the inmates housed at said location, and applicant has done so by/her last known address as follows:

Applicant's Attorney:

Caroline M. Hordbeck, Esquire Bar No:

Address:

P.O. Box 2164 Greenville SC 29602

Defendants's Attorney

Karen C. Batigan

Address:

PO BOX 11840 COL. SC, 29211-1549

Greenville County Clerk of Court

Paul S. Wickersimer - Clerk of Court

305 EAST NORTH STREET

GREENVILLE, S.C. 29601

Honorable Judge 13 Judicial Cir.

Honorable Judge; John G. New

305 EAST NORTH STREET

GREENVILLE, S.C. 29601

Pelzer, South Carolina  
August 21, 2006

Sign



RONNIE HARRIS  
Q1B-222 4 29416  
Perry Corr. Inst.  
430 oaklawn road  
Pelzer, S.C. 29669

The Honorable John C. Few  
Presiding Judge 13th Circuit  
305 EAST NORTH STREET  
Greenville, S.C. 29601

Ref: File Motion for 59(E) ruling  
2004-CP-23-4417

Dear Judge Few :

Please find enclosed a copy of a Motion FOR A 59(E) RULING . I ask that you in your capacity give a position on all the issues that was presented during my PCR evidentiary hearing. Thanking you in advance for your assistance.

Sincerely,

Ronnie Harris  
Applicant

STATE OF SOUTH CAROLINA  
COUNTY OF GREENVILLE

IN THE COURT OF COMMON PLEAS

Ronnie Harris,

C/A No. 2004-CP-23-4417

Plaintiff,

vs.

State of South Carolina,

Defendant(s).

FILED CLERK OF COURT  
GREENVILLE CO. S.C.  
2006 AUG 29 P 1:13  
ORDER

This Post Conviction Relief case is before the court on the applicant's motion under Rule 59. I have reviewed the motion, and it is denied. Applicant's time for filing of an appeal begins to run no later than receipt of a copy of this Order. There should be no further filings in this Circuit Court.

IT IS SO ORDERED.

John C. Few  
Circuit Court Judge

August 28, 2006

WITNESSES

INV. J. AUSTIN

GCSO

04/23/01

ARREST WARRANT NUMBER

G 453949

ACTION OF GRAND JURY

TRUE BILL

FOREMAN GRAND JURY

Foreperson of Grand Jury

VERDICT

Guilty

Forfeiture Paid 7-16-03  
Date:

DOCKET NO. 2001-GS-23-

SSC 7069  
The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

OCTOBER TERM 2001

2/16/03

THE STATE

GUilty

VS.

RONALD HARRIS

AKA

RONNIE HARRIS

JUL 22 2002

BW

Indictment for

0385

CRIMINAL SEXUAL CONDUCT WITH A MINOR  
FIRST DEGREE

VIOLATION § 16-3-655

ENTERED  
ACCT. 7/16

SCANNED



STATE OF SOUTH CAROLINA )

COUNTY OF GREENVILLE )

INDICTMENT FOR  
CRIMINAL SEXUAL CONDUCT WITH A MINOR  
FIRST DEGREEAt a Court of General Sessions, convened on OCTOBER 30, 2001 the

Grand Jurors of Greenville County present upon their oath:

That RONALD HARRIS AKA RONNIE HARRIS did in Greenville County, on or about the 23rd day of April, 2001, commit a sexual battery on D.D.H., who was less than eleven years of age. This is in violation of §16-3-655(1) of the South Carolina Code of Laws (1976) as amended.

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

*Bryna Stokes Gray*  
SOLICITOR

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

---

Certiorari to Greenville County

John C. Few, Circuit Court Judge

---

RONNIE HARRIS,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

---

PETITION FOR WRIT OF CERTIORARI

---

WANDA H. CARTER  
Deputy Chief Attorney

South Carolina Commission on Indigent Defense  
Division of Appellate Defense  
PO Box 11589  
Columbia, S. C. 29211-1589  
(803) 734-1343

ATTORNEY FOR PETITIONER.

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ISSUE PRESENTED

Trial counsel erred in failing to object to inadmissible hearsay testimony in the case.

STATEMENT

Petitioner Ronnie Harris was convicted per jury trial of first degree criminal sexual conduct with a minor and lewd act upon a child during the July 2003 term of the Greenville County General Sessions Court before the Honorable C. Victor Pyle, Jr., Judge. Petitioner received an aggregate twenty-year prison sentence in the case. Petitioner appealed, but his case was dropped and dismissed.

On July 2, 2004, petitioner filed a PCR application with the Greenville County Office of the Clerk of Court. App. pp. 221 – 228. The respondent filed a return dated September 27, 2004, requesting that a hearing be held in the case. App. pp. 229 – 232.

A hearing was convened on February 16, 2005, at the Greenville County Courthouse before the Honorable John C. Few, Judge. App. pp. 233 – 245. On August 12, 2006, Judge Few issued an order of dismissal in the case. App. pp. 247 – 252.

Petitioner appealed. This petition follows.

### ARGUMENT

#### Trial counsel erred in failing to object to inadmissible hearsay testimony in the case.

In the order of dismissal issued in the case, the PCR judge properly found that counsel erred in failing to object to three instances of inadmissible hearsay testimony, but ruled that since there was strong evidence supporting the allegation of sexual misconduct, then there was no prejudice suffered by trial counsel's deficient performance. However, to the contrary, the DNA evidence was not so strong at all, which meant counsel's error was not harmless and thus prejudicial. This means that but for the error, a reasonable probability exists that the outcome of the trial would have been different.

There were three pieces of evidence which convicted petitioner: Minor (the victim's) testimony, the hearsay testimony of RN Cynthia Sloan, the hearsay testimony of grandmother Catherine Sullivan, and the hearsay testimony of Investigator James Riley Austin, and one flimsy piece of forensic evidence. Minor testified that one night when she was nine years old, she did spend the night (April 23, 2001) with her dad in her dad's room, and during that night her dad stuck his thing in her private part and used his mouth to suck her breast. App. p. 38, line 5 – p. 59, line 2. When Harris' mother saw red spots on Harris' breasts she took Harris to the hospital, but before doing so was asked by her grandmother Catherine Sullivan about the spots. Sullivan testified at trial that Harris said that her daddy did it. App. p. 74, lines 19 – 24. RN Cynthia Sloan testified at trial that Harris said she woke up to find her dad was sucking her breasts and that he put his thing down there, took her underwear off and "haunched [her]." App. p. 78, line 22 – p. 79, line 14. Investigator Austin testified at trial that Harris said this happened after her mom went to work and she was left in the room with her father. App. p. 103, lines 1 – 2. Finally,

forensic DNA expert Grayson Douglas testified that stains from bed sheets revealed a mixture of fluids the donors of which Harris and petitioner could not be excluded. App. p. 120, line 1 – p. 122, line 6.

As a rule, out of court statements offered in court to prove the truth of the matter asserted are prohibited as hearsay evidence. Simpkins v. State, 303 S.C. 364, 401 S.E.2d 142 (1991). Also, as a rule, corroboration in sexual assault cases must be limited to time and place, *res gestae*, or prior statements made by the victim to others regarding the identity of the perpetrator in order to avoid hearsay issues. State v. McFadden, 308 S.C. 414, 458 S.E.2e 61 (1996). See also, Jolly v. State, when the court held counsel was ineffective in failing to object to sexual assault hearsay evidence that fell outside of the time and place parameters.

Here, in the case at bar the PCR judge properly found that counsel should have objected to these three instances of hearsay evidence which were outside the corroboration parameters. However, the PCR court erred in ruling that was strong DNA evidence which supported the jury's guilty verdict made the hearsay violations harmless. App. p. 250. However, to the contrary the stains from the sheets that was a mixture of DNA from the victim and petitioner did not prove the state's case (App. p. 120, line 1 – p. 122, line 6), because this DNA evidence was not found inside the victim's vagina or panties. The presence of Harris' DNA on the sheets and petitioner's DNA on the sheets is not "strong evidence" that a sexual assault occurred. To the contrary, this was strong evidence that the victim slept in the same bed the perpetrator slept in. Note also that the hearsay which in the case constituted impermissible bolstering. See State v. Kelly, 343 S.C. 350, 540 S.E.2d 851 (2001). Trial counsel erred in failing to object to inadmissible hearsay testimony in the case in violation of Strickland v. Washington, 446 U.S. 688 (1984), and the sixth and fourteenth

amendments to the United States Constitution and article 1, §14 of the South Carolina State Constitution.



CONCLUSION

Based on the foregoing argument, petitioner's writ of certiorari should be granted in order to allow full briefing on the issue.

Respectfully submitted,

---

Wanda H. Carter  
Deputy Chief Attorney

ATTORNEY FOR PETITIONER

This 31st day of May, 2007.

## FORM 5

STATE OF SOUTH CAROLINA )

IN THE COURT OF COMMON PLEAS

County of Greenville )

2010-CP-23-

82 73

Ronnie Harris, #294716 )

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

v. )

State of South Carolina )

APPLICATION FOR  
POST-CONVICTION RELIEF2010 OCT 5 A 9:50  
CLERK OF COURT  
JULIE COLEINSTRUCTIONS B READ CAREFULLY

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

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

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

1. Place of detention Perry Correctional Institution;  
430 Oaklawn Road; Pelzer, S.C. 29669
2. Name and location of Court which imposed sentence Greenville County  
General Sessions Court; 305 E. North St.; Rm. 224; Greenville, S.C. 29601-2120
3. Name(s) of co-defendant(s) (if any) None
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:  
2001-GS-23-7069; CSC First Degree W/Minor  
(a) \_\_\_\_\_

- (b) 2003-GS-2960; Lewd Act Upon A Child
- (c) \_\_\_\_\_
5. The date upon which sentence was imposed and the terms of the sentence:
- (a) July 16, 2003.....20 Years
- (b) July 16, 2003.....15 Years
- (c) \_\_\_\_\_
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty \_\_\_\_\_
- (b) after a plea of not guilty Not Guilty (Jury Trial)
- (c) after a plea of nolo contendere \_\_\_\_\_
7. Did you appeal from the judgment of conviction or the imposition of sentence?
- \_\_\_\_\_
8. If you answered Ayes@ to (7), list:
- (a) the name of each Court to which you appealed:
- i. South Carolina Court Of Appeals
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_
- (b) the result in each such Court to which you appealed:
- i. Submitted An Affidavit Requesting the Appeal be Dropped!!!!!!
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_
- (c) the date of each such result:
- i. Appeal Dismissed on April 15, 2004
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. Order Of Dismissal
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_
9. If you answered Ano@ to (7), state your reasons for not so appealing:
- (a) \_\_\_\_\_

- (b) \_\_\_\_\_
- (c) \_\_\_\_\_
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:
- (a) "PLEASE SEE ATTACHED MEMORANDUM OF LAW"
- (b) \_\_\_\_\_
- (c) \_\_\_\_\_
11. State concisely and in the same order the facts which support each of the grounds set out in (10):
- (a) "PLEASE SEE ATTACHED MEMORANDUM OF LAW"
- (b) \_\_\_\_\_
- (c) \_\_\_\_\_
12. Prior to this application have you filed with respect to this conviction:
- (a) any petition in a State Court under South Carolina Law? YES
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? YES
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? NO
- (d) any other petitions, motions or applications in this or any other Court? \_\_\_\_\_
13. If you answered Ayes@ to any part of (12), list with respect to each petition, motion or application:
- (a) the specific nature thereof:
- i. Application For Post Conviction Relief...;Filed July 2, 2004
- ii. Petition Of Writ Of Certiorari To S.C.Supreme Court...Filed Jan.22, 2009
- iii. Writ Of Habeas Corpus Pursuant to 28 USC§ 2254...Filed April 10, 2009
- iv. Appeal To U.S. Court Of Appeals (Fourth Circuit)...Filed February 25, 2010
- (b) the name and location of the Court in which each was filed:
- i. Greenville County General Sessions Court, Greenville, South Carolina
- ii. S.C. Supreme Court Of Appeals, Columbia, South Carolina
- iii. United States District Court, District Of S.C., Columbia, S.C.

- iv. U.S. Fourth Circuit Court Of Appeals, Richmond, Va.
- (c) the disposition thereof:
  - i. Denied Relief "Order" dated August 12, 2006
  - ii. Dismissed As Improvidently Granted....February 9, 2009
  - iii. Dismissed October 21, 2009, by Hon. Henry F. Floyd, U.S. District Judge
  - iv. Dismissed....March 5, 2010
- (d) the date of each such disposition:
  - i. August 12, 2006
  - ii. February 9, 2009
  - iii. October 21, 2009
  - iv. March 5, 2010
- (e) if known, citations of any written opinions or orders entered pursuant to each such disposition:
  - i. See 13 above
  - ii. See 13 above
  - iii. See 13 above
  - iv. See 13 above

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

"NO"

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

- (a) which grounds have been presented:

- i. \_\_\_\_\_
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_

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

- i. \_\_\_\_\_
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_

16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:

(a) SEE ATTACHED MEMORANDUM OF LAW

(b) SEE ATTACHED MEMORANDUM OF LAW

(c) SEE ATTACHED MEMORANDUM OF LAW

17. 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? YES

(e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? YES

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

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

i. AT TRIAL...MR. DANIEL J. FARNSWORTH, SR. ESQ.; ATTN. AT LAW

P.O. BOX 10196; 315 WEST STONE AVE.; GREENVILLE, S.C. 29603

ii. DIRECT APPEAL...MS. Aileen P. Clare, Esq.; Attn. At Law

P.O. Box 11589; Columbia, S.C. 29201; PCR-APPLICATION...Ms. Caroline Horlbeck, Esq.; 101 Whitset St...Greenville, S.C. 29601; PCR-APPEAL

iii. Mrs. Wanda H. Carter, S.C. Appellate Defense, P.O. Box 11589  
Columbia, S.C. 29201

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

i. See 18 Above (A)

See 18 Above (A)

ii. See 18 Above (A)

See 18 Above (A)

iii. See 18 Above (A)

19. State clearly the relief you seek in filing this application:  
NEW TRIAL AND OR VACATE SENTENCE

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

NO

Revised 3/2003

STATE OF SOUTH CAROLINA )

County of GREENVILLE )

VERIFICATION

I, Ronnie Harris, #294716, 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.

*[Signature]*

SWORN to and subscribed before me this 30th  
day of September, 2010.

Shirley T. Mulvaney (L.S.)  
Notary Public

My Commission Expires: November 7, 2016

"Procedural 1

The Applicant is presently confined at Perry Correctional Institution; 430 Oaklawn Road, Pelzer, S.C. 29669, of the South Carolina Department of Corrections, Pursuant to Orders of Commitment, from the Greenville County Clerk of Court. He was indicted at the October 2001 term of General Sessions Court, for First-Degree Criminal Sexual Conduct (CSC) with a Minor "(2001-GS-23-7069)"; and at the April 2003 term of General Sessions Court, for Lewd Act upon a Child "(2003-GS-23-2960)."

Applicant was found guilty at a jury trial, and on July 15, 2003, the Honorable C. Victor Pyle, Jr. presiding judge, sentenced him to concurrent prison terms of Twenty (20) years for First-Degree Criminal Sexual Conduct with a Minor; and Fifteen (15) years for lewd act upon a child. He was represented at trial by retained counsel, Mr. Daniel T. Farnsworth, Esq.

A timely "Notice of Appeal", was filed in the Applicant's behalf to the South Carolina Court of Appeals. Ms. Aileen P. Clare, Esq., of the South Carolina Office of Appellate Defense, was appointed to represent him on Appeal. After Appellate Counsel filed an initial Anders Brief, Applicant submitted an Affidavit to the South Carolina Court of Appeals, requesting the Appeals Court, to terminate his Appeal. The Court dismissed the Appeal, by Order dated April 15, 2004.

Applicant on July 2, 2004, filed an Application for Post-Conviction Relief, and was granted an Evidentiary Hearing, on February 16, 2005, at the Greenville County Court of Common Pleas. He was represented at the PCR Hearing, by Ms. Caroline Horlbeck, Esq.; Ms. Karen C. Ratigan, Esq., of the South Carolina Office of the Attorney General, represented the Respondent. Applicant's trial attorney, Mr. Danilel T. Farnsworth, Esq., was also present at the "alleged" PCR Hearing, on February 16, 2005, but never testified!!!

The Honorable John C. Few, denied Applicant's PCR Relief, in an Order dated August 12, 2006. A timely Rule 59(E) Motion was filed, on August 21, 2006, and judge Few, denied the Rule 59(E) Motion, on August 29, 2006. Applicant filed a Notice of Appeal to the South Carolina Supreme Court, seeking a Writ of Certiorari. Ms. Wanda H. Carter, Esq. of the South Carolina Appellate Defense Office, was appointed to represent him on the Appeal to the South Carolina Supreme Court. The Writ of Certiorari, was filed on January 22, 2009, and the South Carolina Supreme Court, on February 9, 2009, Dismissed as Improvidently Granted, Applicant's Writ of Certiorari, and the Remittitur, was sent to the Lower Court, on February 25, 2009.



Applicant filed a Federal Habeas Corpus pursuant to Title 28 U.S.C. § 2254, in the United States District Court, District of South Carolina on April 10, 2009; "Case No. # 3:09-CV-00948-HFF)". The United States Magistrate Judge, the Honorable Joseph R. McCrorey, issued his Order and Report and Recommendation, on October 7, 2009, Granting Respondent's Motion for Summary Judgement, and Dismissed Applicant's Habeas Corpus without an Evidentiary hearing. The Applicant filed his Objections to the Magistrate Judge's Report, on October 20, 2009, and the Honorable Henry F. Floyd, United States District Judge Dismissed the Objections without an Evidentiary hearing, on October 21, 2009.

Applicant filed a Notice of Appeal, to the United States Court of Appeals, for the Fourth Circuit, on November 10, 2009; "(Case No. # 09-8047)". The United States Court of Appeals, Dismissed Applicant's Appeal, on March 5, 2010, and the Mandate was filed, on March 29, 2010!!!

### "Statement of Case"

The Applicant Asserts, that his PCR Hearing convened on February 16, 2005, at the Greenville County Court of Common Pleas, before the Honorable John C. Few; Presiding Judge. Consisted of so many Due Process and Equal Protection Rights violations, under both the United States Constitution and the State of South Carolina Constitution. Which in the setting, constitutes a denial of fundamental fairness shocking to the Universal Sense of justice. There were also Procedural and Statutorial Violations of the Uniform Post-Conviction Procedure Act. That shows the Applicant's PCR Hearing on February 16, 2005, was a farce and mockery that denied Applicant a proper, just, and Constitutional PCR Hearing. In which clearly affords him the right to file a second PCR Application, because his Ineffective Assistance of Counsel Claim was purposely Inadequately Raised by PCR Counsel; Contested by the State, and Erroneously Ruled on by the PCR Judge, the Honorable John C. Few, in the final Order dated August 12, 2006.

Applicant Asserts that the alleged PCR Hearing, held on February 16, 2005, at the Greenville County Court of Common Pleas;.....was a Miscarriage of Justice, that caused him to suffer due process and Equal Protection Rights violations under the Fifth (5th) and Fourteenth (14th) Amendments of the United States Constitution. As well as the Due Process and Equal Protection Rights Clause of Article I, sec. 3; and Article I, sec. 14 of the South Carolina Constitution.

Applicant's second Post-Conviction Relief Application, herein submitted, has Sufficient Reasons and there Exist an Unique Combination of facts that Entitles him Relief. The alleged PCR-Hearing convened, on February 16, 2005, in which the Honorable John C. Few, presided over. Constituted a Mis-Carriage of Justice, that was unconstitutional, and denied Applicant his One-Bite-At-The-Apple !!!

"Memorandum of Law"

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

(A.) The Applicant Asserts, that his Ineffective Assistance of Counsel Claim was Inadequately Raised at his first PCR-Hearing; and under S.C.Code Ann. Sec. 17-27-90; he should be allowed to file a second PCR-Application.

(B.) Applicant's Alleged PCR-Hearing, that was convened at the Greenville County Court of Common Pleas, on February 16, 2005. As well as the PCR Judge's (the Honorable John C. Few) final Order, was a blatant Mis-Carriage of Justice that denied Applicant his Due Process and Equal Protection Rights.

(C.) Newly Discovered Evidence pursuant to S.C. Code Ann. sec. 17-27-45(c); In which is very material to his guilt, and would change the outcome if a New Trial was granted:

(1.) The Court Order used by the Court that compelled Applicant to give a Blood Sample, etc., violated his fourth (4th) Amendment Rights of the United State's Constitution; Article I, sec. 10; of the South Carolina Constitution; Statutory Requirements of S.C. Code Ann. sec. 17-13-140; and clearly established United States Supreme Court Law, mandated in the case, Schmerber v. California, 384 U.S. 757, 86 S.Ct. 1826, 16 L.Ed. 2d 908 (1966).

(2.) Applicant Asserts trial Court failed to establish a complete Chain of Custody with Blood and DNA evidence used against him, and therefore violated Rule 6, SCR Crim.P., Also, denied him Due Process and Equal Protection Rights;.... which in the setting is a denial of fundamental fairness shocking to the Universal Sense of Justice.

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

(A.) The Applicant Asserts, that his Sixth Amendment Claim of Ineffective Assistance of Counsel, under the United States Constitution. Also under Article I, sec. 14; of the South Carolina Constitution, was Inadequately Raised at his PCR-Hearing, on February 16, 2005.

(1.) Applicant's PCR-Hearing consisted of so many United States and South Carolina Constitution Rights Violations, which in the setting, constitutes a denial of fundamental fairness shocking to the Universal Sense of Justice. See State v. Miller, 16 N.J. Super. 251, 84 A.2d 459 (1951) (Emphasis Added); Also, Uveges v. Commonwealth of Pennsylvania, 335 U.S. 437, 69 S.Ct. 184,

93 L.Ed. 127 (1948); quoting from Butler v. State, 397 S.E.2d 87 (S.C. 1990). Also, there were so many procedural irregularities that denied Applicant his Due Process and Equal Protection Rights; and the Alleged PCR-Hearing on February 16, 2005 violated the statutory requirements of the Uniform Post-Conviction Procedure Act. See S.C. Code Ann. sec. 17-27-90, and Aice v. State, 409 S.E.2d 392 (S.C. 1991).

Applicant Asserts, that his present PCR-Application (herein submitted), has sufficient reasons that warrants a second PCR Application; And there exist an unique combination of facts, that entitles him relief. See Case v. State, 277 S.C. 474, 289 S.E.2d 413 (1982); Washington v. State, 478 S.E.2d 833 (S.C. 1996); and Gamble v. State, 298 S.C. 176, 178, 379 S.E.2d 118, 119 (1989).

In Post-Conviction proceedings, the burden of proof is on the Applicant to prove the allegations in his Application. Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985); and also Bannister v. State, 333 S.C. 298, 309 S.E.2d 807 (1998). The Applicant Asserts, that the PCR-Hearing Transcript, on February 16, 2005, will show that he was in fact denied a Fair, Just, Proper, Constitutional "(under the United States or South Carolina Constitutions)" or statutory PCR-Hearing in regards to the requirements of the Uniform Post-Conviction Act. Please see PCR-Hearing Transcript; Case No. # 2004-CP-23-4417; Ronnie Harris, #294716 v. State, convened February 16, 2005.

The PCR Judge, the Honorable John C. Few; Applicant's PCR Attorney, Ms. Caroline Horlbeck, Esq.; as well as Respondent's Attorney, Ms. Karen C. Ratigan, Assistant Attorney General for South Carolina.....Are all equally responsible for allowing Applicant's Ineffective Assistance of Counsel claim to be Inadequately Raised at the PCR-Hearing. Therefore, denying Applicant his Due Process and Equal Protection Rights in violation of the fifth (5th) and Fourteenth (14th) Amendments of the United States Constitution. Also, the Due Process and Equal Protection clauses of Article I, sec. 3; and Article I, sec. 14; of the South Carolina Constitution. When the Applicant or his trial counsel, Mr Daniel Farnswell, Esq. "(Who was present at the PCR-Hearing, February 16, 2005); but was not called to testify under oath or otherwise at the PCR-Hearing.

The fact, that neither trial counsel or Applicant was called to testify under oath, at the PCR-Hearing. Clearly entitles and affords the Applicant the right to file a successive PCR Application, and shows this Honorable Court that his Ineffective Assistance of Counsel Claim was Inadequately Raised in his original application. Under title 17-27-90 and the facts herein stated, the PCR Court

denied Applicant his "One-Bite-At-The-Apple."

(B.) Applicant's Alleged PCR-Hearing that was convened at the Greenville County Court of Common Pleas, on February 16, 2005. As well as the PCR Judge's "final Order, issued August 12, 2006, by the Honorable John C. Few, was a blatant Mis-Carriage of Justice, which in the setting constitutes a denial of Fundamental Fairness Shocking to the Universal Sense of Justice, and denied Applicant his Due Process and Equal Protection Rights.

(1.) The PCR Court's Order of Dismissal, issued August 12, 2006, by the Honorable John C. Few, violated the South Carolina Supreme Court's requirements in Ingle v. State, 348 S.C. 467, 474, 560 S.E.2d 401, 405 (2002) which states "(Counsel must articulate an objectively reasonable strategy to avoid a finding of Ineffectiveness.)" See Underwood v. State, 309 S.C. 560, 425 S.E.2d 20 (1992) "(Where counsel articulates a valid reason for employing certain strategy such conduct will not be deemed Ineffective.)" Also See Stokes v. State, 308 S.C. 546, 419 S.E.2d 778 (1992); and Roseboro v. State, 317 S.C. 292, 294, 454 S.E.2d 312, 313 (1995). Although, Applicant's trial counsel was present at the PCR Hearing, on February 16, 2005. He was never called or asked to testify under oath or otherwise. The PCR Court's Order of Dismissal, Is Improper, Unconstitutional and violates Applicant's Due Process and Equal Protection Rights under the Fifth (5th) and Fourteenth (14th) Amendments of the United States Constitution. As well as his Due Process and Equal Protection Rights under Article I, sec. 3; and Article I sec. 14; of the South Carolina Constitution.

(2.) The PCR Court's ruling is also erroneous, unconstitutional, and failed to meet both the "Deficient Performance and Prejudice Requirements", of Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 80 L.Ed.2d 674 (1984); and see Judge v. State, 321 S.C. 554, 471 S.E.2d 146 (1996). The fact that Applicant or his trial counsel never testified at the February 16, 2005, PCR-Hearing. The Honorable John C. Few's Order of Dismissal, issued August 12, 2006. Must be vacated and a new PCR Hearing granted, because Applicant was denied the right to properly prove his claim of Ineffective Assistance of Counsel, without trial counsel taking the stand to articulate an objectively reasonable strategy to avoid a finding of Ineffectiveness. See Underwood v. State, 309 S.C. 560, 425 S.E.2d 778 (1992); and Ingle v. State, 348 S.C. 467, 474, 560 S.E.2d 401, 405 (2002).

(3.) The Honorable John C. Few's Order of Dismissal, issued on August 12, 2006, is a Mis-Carriage of Justice and violated the statutory requirements of S.C. Code Ann. sec. 17-27-80. See page "2; "(findings of fact and conclusion of law)" of the Honorable John C. Few's Order of Dismissal.....Whereas it states - quote "(This

Court has had the opportunity to review the record in its entirety and has heard the testimony and arguments presented at the PCR Hearing. This Court has further had the opportunity to observe each witness who testified at the hearing, and to closely pass upon their credibility. This Court has weighed the testimony accordingly.)" unquote.

There were "No" witness testimony, nor did Applicant or trial counsel (Mr. Daniel Farnsworth, Esq.) testify, at the February 16, 2005, PCR-Hearing. See Applicant's PCR-Hearing Transcript; Case No. #2004-CP-23-4417; Ronnie Harris #294716 v. State. Since there was no testimony at all from Applicant's trial counsel, witnesses, etc., the PCR Court's Order of Dismissal consists of lies, fabrications and distorted views. In which clearly violates S.C. Code Ann. sec. 17-27-80 (2003); and is an Inadequate Order, that entitle Applicant the right to another PCR-Hearing or enables him the right to file a successive PCR Application under S.C. Code Ann. sec 17-27-90.

The Applicant Asserts, that his PCR-Hearing, on February 16, 2005, had so many Procedural Irregularities which denied Applicant his Due Process and Equal Protection Rights; the hearing was fundamentally unfair; his PCR Application has sufficient reasons that warrants a second PCR Application; and there exist an unique combination of facts, that entitles him relief. See e.g. Case v. State, 277 S.C. 474, 289 S.E.2d 413 (1982); Washington v. State, 478 S.E.2d 833 (S.C.1996); and Gamble v. State, 298 S.C. 176, 178, 379 S.E.2d 118, 119 (1989). The Order of Dismissal, is Erroneous and Unconstitutional and violated the Due Process and Equal Protection Clauses of Article I, sec. 3; of the South Carolina Constitution. Also, violated Applicant's rights under the fifth (5th) and Fourteenth (14th) Amendments of the United States Constitution; and constitutes a Mis-Carriage of Justice.

(C.) Newly Discovered Evidence pursuant to S.C. Code Ann. sec. 17-27-45(c); In which is very material to his guilt, and would change the outcome if a New Trial was granted:

S.C. Code Ann. sec. 17-27-45(c) provides: If the Applicant contends that there is evidence of material facts not previously presented and heard that requires vacation of the conviction or sentence, the Application must be filed under this chapter within one year after the date of actual discovery of the facts by the Applicant or after the date when the facts could have been ascertained by the exercise of reasonable diligence.

The Applicant's Newly Discovered Evidence Claim, is based on the South Carolina Supreme Court's ruling in State v. Baccus, 367 S.C. 41, 625 S.E.2d 216; and the South Carolina Court of Appeal's ruling in State v. Hatcher, Opinion No. #4604, heard May 27, 2009 - filed August 5,

2009. At the time those cases were ruled on Applicant's PCR "(Case No #2004-CP-23-4417)" was still being litigated and Appealed to South Carolina Supreme Court on Writ of Certiorari, that was Dismissed As Improvidently Granted, on February 9, (2009) and the Remittitur was sent to the Lower Court, on February 25, 2009.

The Applicant filed a federal Writ of Habeas Corpus, pursuant to Title 28 U.S.C. sec. 2254, in the United States District Court, District of South Carolina, on April 10, 2009. "(Case No. #3:09-CV-00948-HFF)" The United States Court of Appeals, Fourth Circuit, Dismissed Applicant's Appeal March 5, 2010, the Mandate was filed on March 29, 2010. "(Case No. #09-8047)". See Applicant's herein submitted Procedural History.

Therefore, in accordance with the Newly Discovered Evidence Claim and requirements of S.C. Code Ann. sec. 17-27-45(c); In regards to State v. Baccus, Supra; and State v. Hatcher, Supra, the Applicant shows the following:

(1.) The Applicant Asserts, that the Court Order "(G453949)" signed on the date of August 6, 2001, by the Judge, Assistant Solicitor, Bryna Stokes Seay and Trial Counsel, Mr. Daniel Farnsworth, Esq., ordering Applicant to submit to a sampling of blood, pubic hair, other body hair, and saliva. Violated Applicant's Fourth (4th) Amendment Rights of the United States Constitution; and clearly established United States Supreme Court Law, mandated in Schmerber v. California, 384 U.S. 757, 86 S.Ct. 1826, 16 L.Ed.2d 908 (1966). Also, Article I, sec. 10; of the South Carolina Constitution; and the Statutory Requirements of S.C. Code Ann. sec. 17-13-140.

In State v. Baccus, 367 S.C. 41, 625 S.E.2d 216, Certiorari denied, Dec. 8, 2008. The Supreme Court stated, - the Fourth Amendment to the United States Constitution prohibits unreasonable searches and seizures. An order issued pursuant to S.C. Code Ann. sec. 17-13-140 that allows the government to procure evidence from a person's body constitutes a search and seizure under the Fourth Amendment. Schmerber v. California, 384 U.S. at 767-70, 86 S.Ct. at 1834-35; State v. Register, 308 S.C. 534, 419 S.E.2d 771 (1992). The Fourth Amendment protects against intrusions into the human body for the taking of evidence absent a warrant unless there are exigent circumstances, such as the imminent destruction of evidence. Schmerber, 384 U.S. at 770, 86 S.Ct. at 1835; See also State v. Dupree, 319 S.C. 454, 462 S.E.2d 279 (1995) (applying Schmerber analysis to search of suspect's mouth). Where blood is needed only to determine blood type to match existing evidence, a warrant must be obtained though there has been a lawful arrest. Gantt v. State, 354 S.C. 183, 580 S.E.2d 133 (2003). The Applicant argues the Court Order do not meet Constitutional or Statutory Requirements because there

Was no sworn testimony, warrant, or affidavit showing probable cause that a search of Applicant's body would produce Admissible Evidence. See herein attached a copy of the Court Order, issued on August 6, 2001, marked as Exhibit No. #1; !!!

A Court Order issued pursuant to S.C. Code Ann. sec. 17-13-140 that allows the government to Procure Evidence from a person's body must comply with Constitutional and Statutory guidelines. Schmerber, 384 U.S. at 769-70, 86 S.Ct. at 1835; In Re Snyder, 308 S.C. 192, 417 S.E.2d 572 (1992); Register, 308 S.C. at 537, 419 S.E.2d at 772. In Snyder, the South Carolina Supreme Court stated: Section 17-13-140 covers "the Issuance, Execution and Return of Search Warrants for property connected with the Commission of Crime...." Subsection (4) provides for the issuance of a search warrant for "property constituting evidence of crime or tending to show that a particular person committed a criminal offense." Under this Court's Construction, "Property" as used in Section 17-13-140, Encompasses Nontestimonial Identification Evidence.

Under both the United States and South Carolina Constitutions, search warrants may not be issued except "upon probable cause, supported by Oath or Affirmation". United States Constitution Fourth Amendment; and South Carolina Constitution Article I, sec. 10. Following these Constitutional Requirements, S.C. Code Ann. sec. 17-13-140 requires a Sworn Affidavit for a search warrant to be issued. A Court order issued pursuant to 17-13-140, which stands in place of a search warrant, should only be issued upon a finding of probable cause, which is supported by Oath or Affirmation. See State v. Khingratsaiphon, 352 S.C. 62, 69, 572 S.E.2d 456, 459 (2002) ("Evidence seized in violation of the Fourth Amendment must be excluded from trial.") See Gantt v. State, 354 S.C. at 187, 580 S.E.2d at 135 ("A lawful arrest does not in itself justify a warrantless search that requires bodily intrusion.") Therefore, a Court Order allowing the State to procure evidence from an arrested and indicted suspect must meet statutory and constitutional guidelines.

The Applicant further states, the Court Order, issued on August 6, 2001, with the signatures of the Judge, Asst. Solicitor, Ms. Bryna Stokes Seay, and Applicant's trial counsel, Mr. Daniel Farnsworth, Esq., constitutes a Mis-Carriage of Justice, because there is no signature of the Applicant on the Court Order, authorizing the state to draw his blood. See herein submitted, marked as exhibit No. #1, the Court Order.

Applicant Asserts his rights to be free from unreasonable search and seizure, under the Fourth (4th) Amendment of the United States Constitution; Article I, section 10, of the South Carolina Constitution; and the requirements of S.C. Code Ann. sec. 17-13-140, has been

flagrantly violated by the August 6, 2001, Court Order, that failed to meet Constitutional and Statutory requirements. See Schmerber v. California, Supra, and S.C. Code Ann. sec. 17-13-140.

(2.) The Applicant Asserts the Trial Court violated his Due Process and Equal Protection Rights, as well as erred in admitting blood and DNA Evidence when the State failed to establish a complete chain of custody, in violation of Rule 6, S.C.R.Crim.P !!!

Applicant's Trial Court on July 15, 2003, did commit an abuse of discretion by allowing evidence to be admitted that was in violation of law. See State v. Pagan, 369 S.C. 201, 208, 631 S.E.2d 262, 265, (2006); State v. Stanley, 365 S.C. 24, 33, 615 S.E.2d 455, 460 (2005). "An abuse of discretion occurs when the conclusions of the trial court either lack evidentiary support or are controlled by an error of law." The South Carolina Supreme Court, has long held that a party offering into evidence fungible items such as drugs or blood samples must establish a complete chain of custody as far as practicable. See Benton v. Pellum, 232 S.C. 26, 33, 100 S.E.2d 534, 537 (1957).

Under Rule 6 S.C.R.Crim.P.; 6(b) Certified or Sworn Statement - Clearly States....."for the purpose of establishing a chain of physical custody or control of evidence entered under Part A of this Rule, a Certified or sworn statement signed by each successive person having custody of the evidence that he or she delivered it to the person stated is evidence that the person had custody and made delivery as stated without the necessity of the person who signed the statement being present in Court provided: (1) the Statement contains a sufficient description of the substance or its container to distinguish it; and (2) the Statement says the substance was delivered in substantially the same condition as when received." Custodial signatures on an evidence bag failed to establish an adequate chain of custody where the custodians do not provide testimony under oath or produce sworn statements. See State v. Chisolm, (S.C. App. 2003) 355 S.C. 175, 584 S.E.2d 401, Rehearing denied, Certiorari denied. Criminal Law 404.30.

In State v. Sweet, 374 S.C. 1, 6, 647 S.E.2d 202, 205 (2007) - The South Carolina Supreme Court state, "A party offering into evidence fungible items such as drugs or blood samples must establish a complete chain of custody as far as practicable." Also, evidence is inadmissible under this rule when the offering party omitted a link in the chain of possession by failing to establish the identity of each custodian at least as far as practicable. State v. Governor, 362 S.C. 609, 612, 608 S.E.2d 474, 475 (Ct. App. 2005).



The Applicant's Due Process and Equal Protection Rights under the Fifth (5th) and Fourteenth (14th) Amendments of the United States Constitution; Article I, sec. 3; of the South Carolina Constitution were violated. As well as Rule 6 S.C.R.Crim.P.; when the State allowed both Mr. James Riley Austin, Investigator Greenville County Sheriff's Office, Sex Crimes Unit; and Mr. Grayson Douglas Amick, DNA Department, Forensic DNA Analysis, South Carolina Law Enforcement Division "(SLED)"; to testify and offer into evidence fungible items such as Blood Sample, bed sheet, 2 pillow cases, Victim's Sexual Assault Kit, Suspect Collection Kit, and DNA profile evidence. Without establishing a complete chain of custody as far as practicable, State v. Sweet, 374 S.C. 1, 6, 647 S.E.2d 202, 205 (2007); State v. Williams, 297 S.C. 290, 293, 376 S.E.2d 773 (1989); and State v. Williams, 392 S.E.2d 181 (S.C. 1990). Neither Mr. Austin or Mr. Amick, had certified or sworn statement's that is required by Rule 6 (B) S.C.R.Crim.P., of each successive person having custody of the evidence that he or she delivered it to the person stated is evidence that the person had custody and made delivery as stated without the necessity of the person who signed the statement being present in Court provided: (1) the statement contains a sufficient description of the substance or its container to distinguish it; and (2) the statement says the substance was delivered in substantially the same condition as when received.

Investigator James Riley Austin's testimony at the Applicant's jury trial, on July 15, 2003, under oath that:

(1) On April 23, 2001, he took a sheet and two pillow cases from the bed, where Ronnie Harris, was renting a room. Also, they were taken back to the LEC and placed in property and evidence. "(See Trial Transcript P. 107; lines 11-thru-16.)"

(2) On September 5, 2001, he did accompany Ronnie Harris to Greenville Memorial Hospital, so that a blood sample to be collected. To be sent with the potential evidence to SLED for any examination and testing they could do. ("See Trial Transcript P.107; lines 17-thru-25; P.108; lines 1 and 2.")

Also, SLED Forensic DNA Analysis, Mr. Grayson Douglas Amick, under oath, at Applicant's trial, on July 15, 2003 that:

(1) That he received evidence concerning Minor and Ronnie Harris, from the Greenville County Sheriff's Office for examination.

(2) That he received a Sexual Assault Evidence Collection Kit from Minor

(3) Also, a Suspect Collection Kit from Ronnie Harris ("See Trial Transcript P.116; lines 6-thru-25; and P.117; lines 1-thru-25.")

Please note, however, that the evidence both witnesses "(Mr. Austin & Mr. Amic)" received and testified about at the Applicant's trial and was used as evidence to establish his guilt. Did violate the Statutory Requirement of Rule 6 (B) S.C.R.Crim.P., These breakdowns, cumulatively, render the chain of custody fatally defective. State v. Williams, 392 S.E.2d 181 (S.C. 1990); "Proof of Chain of Custody need not negate all possibility of tampering but must establish a complete chain of evidence as far as practicable." State v. Williams, 297 S.C. 290, 293, 376 S.E.2d 773, 774 (1989). Neither of these two witnesses testifies who they received the evidence from, who they signed it out from, the date and people it was signed two, the signatures of secure location it was kept, etc.;....."When the substance analyzed has passed through several hands the evidence must not leave it to conjecture as to who had it and what was done with it between the taking and the analysis." See Benton v. Pellum, 232 S.C. 26, 33-34, 100 S.E.2d 534, 537 (1957); Rogers v. Commonwealth, 90 S.E.2d 257, 260 (Va. 1955); and State v. Hatcher, Opinion No. #4604, Heard May 27, 2009 - filed August 5, 2009. Nevertheless, evidence is inadmissible under Rule 6 S.C.R.Crim.P. when the offering party omitted a link in the chain of possession by failing to establish the identity of each custodian at least as far as practicable. State v. Governor, 362 S.C. 609, 612, 608 S.E.2d 474, 475 (Ct. App. 2005).

The Applicant's Due Process and Equal Protection Rights under the Fifth (5th) and Fourteenth (14th) Amendments of the United States Constitution were grossly violated by these Chain of Custody violations. As well as his Due Process and Equal Protection Rights under Article I, sec. 3; of the South Carolina Constitution, and the Statutory Requirements of Rule 6 S.C.R.Crim.P. !!!

Applicant's trial Attorney Mr. Daniel Farnsworth, Esq., was retained, and very highly skilled, and has tried a number of drug cases. At the July 15, 2003, Jury Trial he never raised any objection in regards to the evidence being admitted that failed to establish a complete Chain of Custody. Nor did he (Mr. Farnsworth, Esq.) ever testify or articulate at Applicant's PCR-Hearing an objectively reasonable strategy to avoid a finding of ineffectiveness. See Ingle v. State, 348 S.C. 467, 474, 560 S.E.2d 401, 405 (2002); Underwood v. State, Supra; Stokes v. State, Supra; and Roseboro v. State, Supra.

"(Conclusion)"

Wherefore, the Applicant states the grounds raised in the PCR Application herein submitted entitles him to file a successive PCR Application because he has shown that his Ineffective Assistance of Counsel Claim was Inadequately Raised at his PCR-Hearing, on February 16, 2005. He has suffered so many Federal and State Constitutional Rights violations, and Statutory Law violations which in the setting constitutes a denial of fundamental fairness shocking to the Universal Sense of Justice; there were so many Procedural Irregularities which denied him Due Process and Equal Protection; the hearing was fundamentally unfair; His PCR Application has sufficient reasons that warrants a second PCR Application; and there exist an unique combination of facts, that entitles him relief. See S.C. Code Ann. Sec. 17-27-90.

The Applicant further alleges that both his trial and PCR Hearing, constitutes the very rarest of exceptions, when the system has simply failed a defendant and where to continue the defendant's imprisonment without review would amount to a gross Miscarriage of Justice. At a PCR Hearing, to prove a claim of Ineffective Assistance of Counsel. The Applicant has a right to testify, see State v. Orr, 304 S.C. 185, 403 S.E.2d 623 (1991). When neither the trial counsel or the Applicant, is called to take the stand at a PCR-Hearing. Such Procedural Error denies the Applicant his One-Bite-At-The-Apple. The PCR Hearing denied him Due Process and Equal Protection Rights and is Unconstitutional!!!

Respectfully Submitted,



Ronnie Harris, #294716

cc:

STATE OF SOUTH CAROLINA )  
COUNTY OF GREENVILLE )  
VS. )  
Ronald Harris aka )  
Ronnie Harris, )  
Defendant. )

IN THE COURT OF GENERAL SESSIONS

ORDER

G 453949

2009 AUG -7 AM 10:07  
FILED  
CLERK OF COURT  
GREENVILLE COUNTY  
SOUTH CAROLINA

This matter is before the Court pursuant to consent of the parties. The Defendant is represented by Dan Farnsworth, Sr., of the Greenville County Bar. The State is represented by Bryna Stokes Seay of the Thirteenth Circuit Solicitor's Office. The Defendant is currently charged with Criminal Sexual Conduct with a Minor First Degree pursuant to the above-referenced warrant. During the criminal investigation of this matter, investigating officers seized samples of latent body fluids, blood, pubic hair, other body hair, and saliva which were preserved for later analysis and comparison.

It appears from the record that in order to complete its investigation into this case, law enforcement requires known samples of the Defendant's blood, pubic hair, other body hair, and saliva for comparison purposes. It further appears from the record that the samples requested by the State are material and reasonable under the circumstances.

THEREFORE, IT IS HEREBY ORDERED that the above-named Defendant submit to a sampling of blood, pubic hair, other body hair, and saliva.

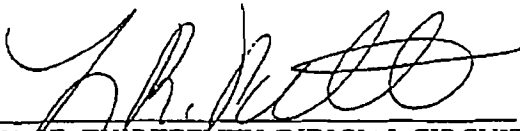
*[Handwritten signature]*

A Certified Copy

*Paul B. Wickens*  
Clerk of Court C.P. & G.S.  
Ex-Officio Clerk County Court  
Greenville County, S.C.

Dated 8-7-01

IT IS FURTHER ORDERED that these samples be preserved and transported by law enforcement to the South Carolina Law Enforcement Division Laboratory immediately.

  
JUDGE, THIRTEENTH JUDICIAL CIRCUIT

GREENVILLE, SOUTH CAROLINA

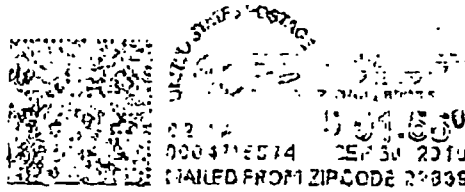
DATED: August 6, 2001

I SO MOVE:

  
Bryna Stokes Seay  
Assistant Solicitor

I CONSENT:

  
Dan Farnsworth, Sr.  
Attorney for Defendant



Paul B. WICKENSIMMER, Clerk  
County Clerk of Court  
North Street

S. C.

29601

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|--------------------------|---|-------------------------------------|
| STATE OF SOUTH CAROLINA  | ) | IN THE COURT OF COMMON PLEAS        |
|                          | ) | 2010-CP-23-8273                     |
| COUNTY OF GREENVILLE     | ) |                                     |
|                          | ) |                                     |
| Ronnie Harris,           | ) |                                     |
| S.C.D.C. No. 294716,     | ) |                                     |
|                          | ) |                                     |
| Applicant,               | ) |                                     |
|                          | ) | <b>RETURN AND MOTION TO DISMISS</b> |
| v.                       | ) |                                     |
|                          | ) |                                     |
| State of South Carolina, | ) |                                     |
|                          | ) |                                     |
| Respondent.              | ) |                                     |
|                          | ) |                                     |

In response to the post-conviction relief (PCR) application filed October 5, 2010, the Respondent would show this Court:

I.

The Applicant is confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Clerk of Court for Greenville County. The Applicant was indicted at the October 2001 term of the Greenville County Grand Jury for first-degree criminal sexual conduct (CSC) with a minor (2001-GS-23-7069) and at the April 2003 term of General Sessions for lewd act upon a child (2003-GS-23-2960). He was represented by Daniel J. Farnsworth, Esquire.

After the State called the case to trial, the Applicant was found guilty. On July 15, 2003, the Applicant was sentenced by the Honorable C. Victor Pyle, Jr. to concurrent terms of twenty (20) years for first-degree CSC with a minor and fifteen (15) years for lewd act upon a child.

A notice of appeal was filed at the South Carolina Court of Appeals. Aileen P. Clare, Esquire, of the South Carolina Office of Appellate Defense filed an Initial Brief pursuant to

Anders v. California.<sup>1</sup> The Applicant, however, submitted an affidavit indicating he wished to “drop the appeal formerly filed on [his] behalf.” The Court dismissed the appeal by order dated April 15, 2004.

**2004-CP-23-4417**

The Applicant filed a PCR application on July 2, 2004 (2004-CP-23-4417). The Applicant raised the following issue:

- I. Ineffective assistance of counsel:
  - a. Failure to object to several instances of hearsay testimony

An evidentiary hearing was convened on February 16, 2005 at the Greenville County Courthouse. Caroline Horlbeck, Esquire represented the Applicant. The Honorable John C. Few denied and dismissed the PCR application by order dated August 12, 2006.

The Applicant filed a notice of appeal. Wanda H. Carter, Esquire of the South Carolina Office of Appellate Defense perfected the appeal. The South Carolina Supreme Court granted the Applicant’s petition for writ of certiorari and both parties submitted briefs. On February 9, 2009, the Supreme Court dismissed the writ of certiorari as improperly granted.

**Federal Habeas Corpus**

The Applicant filed a petition for writ of habeas corpus in the United States District Court for the District of South Carolina (3:09-948-HFF-JRM). The Respondent submitted a motion for summary judgment on July 6, 2009. The Honorable Joseph R. McCrorey, United States Magistrate Judge, issued a report and recommendation to grant the motion for summary judgment dated October 7, 2009. On October 21, 2009, the Honorable Henry F. Floyd, United

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<sup>1</sup> 386 U.S. 738, 87 S. Ct. 1396, 18 L. Ed. 2d 493 (1967).



States District Judge, issued an order granting the motion for summary judgment and dismissing the petition with prejudice.

The Applicant filed a notice of appeal at the United States Court of Appeals for the Fourth Circuit. In an opinion filed March 5, 2010, the Court of Appeals denied a certificate of appealability and dismissed the appeal.

## II.

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

1. The claim of ineffective assistance of counsel was inadequately raised at the first PCR hearing.
2. The first PCR hearing (and final order from that hearing) were a blatant miscarriage of justice that denied the Applicant his due process and equal protection rights.
3. Newly-discovered evidence:
  - a. The court order compelling the Applicant to give fluid samples violated the United States Constitution, the South Carolina Constitution, the South Carolina statutes, and United States Supreme Court precedent.
  - b. Trial counsel failed to establish a complete chain of custody regarding the blood and DNA evidence.

For the purpose of this Return, the Respondent incorporates the Greenville County Clerk of Court records, the South Carolina Department of Corrections' records, and the prior PCR records by reference. The Respondent reserves the right to amend this Return upon receipt of any relevant materials.

## III.

The Respondent submits that this Application for Post-Conviction Relief should be summarily dismissed for failure to comply with the filing procedures of the Uniform Post-Conviction Procedure Act. S.C. Code Ann. §§ 17-27-10, et. seq. (2003). South Carolina Code

Ann. § 17-27-45(a) reads as follows:

An application for relief filed pursuant to this chapter must be filed within one year after the entry of a judgment of conviction or within one year after the sending of the remittitur to the lower court from an appeal or the filing of the final decision upon an appeal, whichever is later.

The South Carolina Supreme Court has held that the statute of limitations shall apply to all applications filed after July 1, 1996. See Peloquin v. State, 321 S.C. 468, 469 S.E.2d 606 (1996). The Applicant was convicted of the offenses he challenges in this application on July 15, 2003 and the South Carolina Supreme Court granted his wish to voluntarily dismiss his appeal on April 15, 2004. The Applicant was therefore required to file his application before April 15, 2005. This application was filed on October 5, 2010, which was over five (5) years beyond the time the statutory filing period had expired.

A motion for summary judgment may properly be used to raise the defense of statute of limitations. See McDonnell v. Consolidated Sch. Dist. of Aiken, 315 S.C. 487, 489, 445 S.E.2d 638, 639 (1994). In addition, S.C. Code Ann. § 17-27-70(c) (2003) authorizes the Court to “grant a motion by either party for summary disposition of [an] application when it appears from the pleadings . . . that there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law.” Therefore, the Respondent requests that this Court summarily dismiss the application for post-conviction relief for failure to file within the time mandated by the Uniform Post-Conviction Procedure Act.

#### IV.

The Court should also summarily dismiss the current Application because it is successive to the previous application for post-conviction relief. Successive applications for post-conviction relief are disfavored. See Land v. State, 274 S.C. 243, 246, 262 S.E.2d 735, 737 (1980). South

Carolina Code Ann. § 17-27-90 (2003) states:

All grounds for relief available to an applicant under this chapter must be raised in his original, supplemental or amended application. Any ground finally adjudicated or not so raised, or knowingly, voluntarily and intelligently waived in the proceeding that resulted in the conviction or sentence or in any other proceeding the applicant has taken to secure relief, may not be the basis for a subsequent application, unless the court finds a ground for relief asserted which for sufficient reason was not asserted or was inadequately raised in the original, supplemental or amended application.

Under this statute, successive post-conviction relief applications are forbidden unless an applicant can point to a "sufficient reason" why new grounds for relief were not raised or were not properly raised in previous applications. Aice v. State, 305 S.C. 448, 450, 409 S.E.2d 392, 394 (1991). Any new ground raised in a subsequent application is limited to those grounds that "could not have been raised . . . in the previous application." Id. (emphasis in original). If the Applicant could have raised these allegations in a previous application, then the Applicant may not raise those grounds in successive applications. Id. The Applicant bears the burden of showing that the allegations could not have been raised previously. Id.

As the Applicant has failed to present any reasons why he could not have raised the current allegations in his previous post-conviction relief application, the Respondent moves for a summary dismissal of the application because it is successive.

#### V.

The Respondent submits the Applicant's claim of newly- or after-discovered evidence is without merit. For an applicant to be granted a new trial based on after-discovered evidence, he must show the evidence: (1) is such that it would probably change the result if a new trial were granted; (2) has been discovered since the trial; (3) could not in the exercise of due diligence

have been discovered prior to the trial; (4) is material; and (5) is not merely cumulative or impeaching. State v. Mercer, 381 S.C. 149, 166, 672 S.E.2d 556, 565 (2009) (citation omitted).

The Applicant has not shown that the alleged evidence meets any of the requirements for after-discovered evidence. Most importantly, the “new evidence” offered by the Applicant is not material to the issue of guilt or innocence, and probably would not change the result if a new trial was had. See id. The Respondent submits the Court should summarily dismiss this allegation.

VI.

The Respondent denies each allegation not expressly admitted, qualified or explained.

VII.

WHEREFORE, the Respondent moves to summarily dismiss the application because it is successive to the Applicant’s prior PCR action and filed after the statute of limitations expired.

Respectfully submitted,

ALAN WILSON  
Attorney General

JOHN W. McINTOSH  
Chief Deputy Attorney General

SALLEY W. ELLIOTT  
Assistant Deputy Attorney General

KAREN C. RATIGAN  
Assistant Attorney General

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

By:

  
Attorneys for Respondent

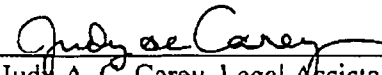
February 16, 2011

|                          |   |                              |
|--------------------------|---|------------------------------|
| STATE OF SOUTH CAROLINA  | ) |                              |
|                          | ) | IN THE COURT OF COMMON PLEAS |
| COUNTY OF GREENVILLE     | ) |                              |
|                          | ) | 2010-CP-23-8273              |
|                          | ) |                              |
| RONNIE HARRIS, 294716    | ) |                              |
|                          | ) |                              |
| 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 and Motion to Dismiss** in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

**Ronnie Harris, 294716  
Kershaw Correctional Institution  
4848 Goldmine Highway  
Kershaw SC 29067**

DATED this 16th day of February, 2011.

  
Judy A. C. Carey, Legal Assistant  
For Respondent

STATE OF SOUTH CAROLINA )

IN THE COURT OF COMMON PLEAS  
2010-CP-23-8273

COUNTY OF GREENVILLE )

Ronnie Harris,  
S.C.D.C. No. 294716,

Applicant,

v.

State of South Carolina,

Respondent.

**CONDITIONAL ORDER OF DISMISSAL**FILED-CLERK OF COURT  
FEB 23 11 10 12  
CLERK OF COURT  
GREENVILLE CO. SC

This matter comes before the Court by way of an application for post-conviction relief (PCR) filed October 5, 2010. The Respondent made its Return, requesting the application be summarily dismissed.

I.

The Applicant is confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Clerk of Court for Greenville County. The Applicant was indicted at the October 2001 term of the Greenville County Grand Jury for first-degree criminal sexual conduct (CSC) with a minor (2001-GS-23-7069) and at the April 2003 term of General Sessions for lewd act upon a child (2003-GS-23-2960). He was represented by Daniel J. Farnsworth, Esquire.

After the State called the case to trial, the Applicant was found guilty. On July 15, 2003, the Applicant was sentenced by the Honorable C. Victor Pyle, Jr. to concurrent terms of twenty (20) years for first-degree CSC with a minor and fifteen (15) years for lewd act upon a child.

A notice of appeal was filed at the South Carolina Court of Appeals. Aileen P. Clare,

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Esquire, of the South Carolina Office of Appellate Defense filed an Initial Brief pursuant to Anders v. California.<sup>1</sup> The Applicant, however, submitted an affidavit indicating he wished to “drop the appeal formerly filed on [his] behalf.” The Court dismissed the appeal by order dated April 15, 2004.

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1. Ineffective assistance of counsel:
  - a. Failure to object to several instances of hearsay testimony

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<sup>1</sup> 386 U.S. 738, 87 S. Ct. 1396, 18 L. Ed. 2d 493 (1967).

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judgment dated October 7, 2009. On October 21, 2009, the Honorable Henry F. Floyd, United States District Judge, issued an order granting the motion for summary judgment and dismissing the petition with prejudice.

The Applicant filed a notice of appeal at the United States Court of Appeals for the Fourth Circuit. In an opinion filed March 5, 2010, the Court of Appeals denied a certificate of appealability and dismissed the appeal.

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2. The first PCR hearing (and final order from that hearing) were a blatant miscarriage of justice that denied the Applicant his due process and equal protection rights.
3. Newly-discovered evidence:
  - a. The court order compelling the Applicant to give fluid samples violated the United States Constitution, the South Carolina Constitution, the South Carolina statutes, and United States Supreme Court precedent.
  - b. Trial counsel failed to establish a complete chain of custody regarding the blood and DNA evidence.

## III.

This Court finds this matter should be summarily dismissed because the Applicant has failed to comply with the filing procedures of the Uniform Post-Conviction Procedure Act. S.C. Code Ann. §§ 17-27-10, et. seq. (2003). Specifically, South Carolina Code Ann. § 17-27-45(a) reads as follows:

An application for relief filed pursuant to this chapter must be filed within one year after the entry of a judgment of conviction or within one year after the sending of the remittitur to the lower court from an appeal or the filing of the final



decision upon an appeal, whichever is later.

The South Carolina Supreme Court has held that the statute of limitations shall apply to all applications filed after July 1, 1996. See Pcloquin v. State, 321 S.C. 468, 469 S.E.2d 606 (1996). The Applicant was convicted of the offenses he challenges in this application on July 15, 2003 and the South Carolina Supreme Court granted his wish to voluntarily dismiss his appeal on April 15, 2004. The Applicant was therefore required to file his application before April 15, 2005. This application was filed on October 5, 2010, which was more than five (5) years and five (5) months after the statutory filing period had expired.

A motion for summary judgment may properly be used to raise the defense of statute of limitations. See McDonnell v. Consolidated Sch. Dist. Of Aiken, 315 S.C. 487, 489, 445 S.E.2d 638, 639 (1994). In addition, S.C. Code Ann. § 17-27-70(c) (2003) authorizes the Court to “grant a motion by either party for summary disposition of [an] application when it appears from the pleadings . . . that there is no genuine issue of material fact and that the moving party is entitled to judgment as a matter of law.”

#### IV.

This Court further finds the current application should also be dismissed because it is successive to the previous application for post-conviction relief. Successive applications for post-conviction relief are disfavored. See Land v. State, 274 S.C. 243, 246, 262 S.E.2d 735, 737 (1980). South Carolina Code Ann. § 17-27-90 (2003) states:

All grounds for relief available to an applicant under this chapter must be raised in his original, supplemental or amended application. Any ground finally adjudicated or not so raised, or knowingly, voluntarily and intelligently waived in the proceeding that resulted in the conviction or sentence or in any other proceeding the applicant has taken to secure relief, may not be the basis for a subsequent application, unless the court finds a ground for relief asserted which

for sufficient reason was not asserted or was inadequately raised in the original, supplemental or amended application.

Under this statute, successive post-conviction relief applications are forbidden unless an applicant can point to a "sufficient reason" why new grounds for relief were not raised or were not properly raised in previous applications. Aice v. State, 305 S.C. 448, 450, 409 S.E.2d 392, 394 (1991). Any new ground raised in a subsequent application is limited to those grounds that "could not have been raised . . . in the previous application." Id. (emphasis in original). If the Applicant could have raised these allegations in a previous application, then the Applicant may not raise those grounds in successive applications. Id. The Applicant bears the burden of showing that the allegations could not have been raised previously. Id.

As the Applicant has failed to present any reasons why he could not have raised the current allegations in his previous post-conviction relief application, the application is dismissed.

#### V.

This Court finds the Applicant's claim of newly- or after-discovered evidence is without merit. For an applicant to be granted a new trial based on after-discovered evidence, he must show the evidence: (1) is such that it would probably change the result if a new trial were granted; (2) has been discovered since the trial; (3) could not in the exercise of due diligence have been discovered prior to the trial; (4) is material; and (5) is not merely cumulative or impeaching. State v. Mercer, 381 S.C. 149, 166, 672 S.E.2d 556, 565 (2009) (citation omitted).

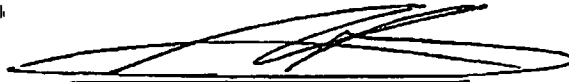
This Court finds the Applicant has not shown that the alleged evidence meets any of the requirements for after-discovered evidence. Most importantly, the "new evidence" offered by the Applicant is not material to the issue of guilt or innocence, and probably would not change the result if a new trial was had. See id.

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LB 5

## VI.

Based upon its review of the pleadings in this matter, this Court expresses its intent to summarily dismiss this matter unless the Applicant advises this Court with specific reasons, factual or legal, why it should not dismiss the matter in its entirety. The Applicant is granted twenty (20) days from the date of service of this Order upon him to show why this Order should not become final by filing any reasons he may have with the Clerk of Court for Greenville County, South Carolina, and also by filing a copy of his reasons with the Office of the Attorney General, Attn: Karen C. Ratigan, Post Office Box 11549, Columbia, South Carolina, 29211.

AND IT IS SO ORDERED this 22 day of FEB 2011.



Robin B. Stilwell  
Chief Administrative Judge  
Thirteenth Judicial Circuit

GILBE, South Carolina.

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

IN THE COURT OF COMMON PLEAS

## JUDGMENT IN A CIVIL CASE

CASE NO: 2010CP2308273

Ronnie Harris vs. South Carolina State Of

CHECK ONE:

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☐ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ☐ **ACTION DISMISSED (CHECK REASON):** ☐ Rule 12(b), SCRPC; ☐ Rule 41(a), SCRPC (Vol. Nonsuit); ☐ Rule 43(k), SCRPC (Settled); ☐ Other: \_\_\_\_\_
- ☐ **ACTION STRICKEN (CHECK REASON):** ☐ Rule 40(j) SCRPC; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other: \_\_\_\_\_
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):** ☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other: \_\_\_\_\_

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order; ☐ Statement of Judgment by the Court:

Dated at Greenville, South Carolina, this \_\_\_\_\_

Court Reporter: \_\_\_\_\_

PRESIDING JUDGE \_\_\_\_\_

This judgment was entered on the 28th day of Feb, 2011, and a copy mailed first class this 28th day of Feb, 2011, to attorneys of record or to parties (when appearing pro se) as follows:

Ronnie Harris Perry Corr Instit 430 Oaklawn Rd  
Pelzer, SC 29669

Karen Ratigan

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

STATE OF SOUTH CAROLINA )  
COUNTY OF GREENVILLE )  
Ronnie Harris, )  
S.C.D.C. No. 294716, )  
Applicant, )  
v. )  
State of South Carolina, )  
Respondent. )

IN THE COURT OF COMMON PLEAS  
2010-CP-23-8273

FILED  
APR 29 2011  
CLERK OF COURT  
GREENVILLE CO. SC

**FINAL ORDER OF DISMISSAL**

This matter comes before the Court by way of an application for post-conviction relief (PCR) filed October 5, 2010. The Respondent made its return on February 16, 2011, requesting the application be summarily dismissed based upon the expiration of the statute of limitations and the presumption against successive PCR applications.

Pursuant to this request, and after reviewing the pleadings in this matter and all of the records attached thereto, this Court issued a Conditional Order of Dismissal signed February 22, 2011 and filed February 28, 2011, provisionally denying and dismissing this action, while giving the Applicant twenty (20) days from the date of service of said Order in which to show why the dismissal should not become final. Attached to this Final Order and incorporated herein by reference is an Affidavit of Service dated March 10, 2011, serving the above-mentioned Conditional Order of Dismissal on the Applicant.

In a document captioned "Reason for Granting the Motion" and dated March 15, 2011, the Applicant argues he needs additional time to respond to the Conditional Order of Dismissal. This Court notes several weeks have elapsed since the Applicant's response was due to be filed.

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*RB*

The Applicant, however, has still not provided a response to the Order.

This Court has reviewed the Applicant's response to the Conditional Order of Dismissal in its entirety, in conjunction with the original pleadings, and finds a sufficient reason has not been shown why the Conditional Order of Dismissal should not become final.

This Court notes the Applicant was convicted and sentenced on July 15, 2003 and the South Carolina Court of Appeals granted his request to voluntarily dismiss his appeal on April 15, 2004. As this action was filed on October 5, 2010, it was clearly filed outside the expiration of the statute of limitations. See S.C. Code Ann. § 17-27-45(a) (Supp. 2003). This is the Applicant's second application for post-conviction relief. This Court notes that successive PCR applications are disfavored. See Land v. State, 274 S.C. 243, 246, 262 S.E.2d 735, 737 (1980). This Court finds the Applicant had the opportunity to litigate all issues related to his case at the evidentiary hearing for his first PCR application on February 16, 2005. See Odom v. State, 337 S.C. 256, 261, 523 S.E.2d 753, 755 (1999) ("[A]n applicant is entitled to a full adjudication on the merits of the original petition, or 'one bite at the apple.'").

**IT IS THEREFORE ORDERED** that, for the reasons set forth in this Court's Conditional Order of Dismissal, the PCR Application is denied and dismissed with prejudice.

**AND IT IS SO ORDERED** this 20 day of April, 2011.



Robin B. Stilwell  
Chief Administrative Judge  
Thirteenth Judicial Circuit

GREENVILLE, South Carolina.

# The Supreme Court of South Carolina

Ronnie Harris,

Petitioner,

v.

State of South Carolina,

Respondent.

The Honorable Robin B. Stilwell  
Greenville County  
Trial Court Case No. 2010-CP-23-08273

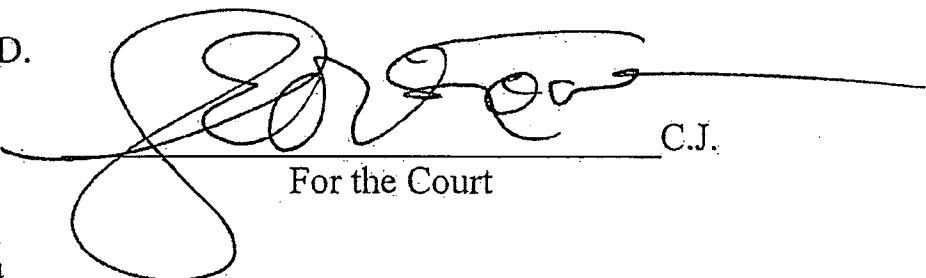
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## ORDER of DISMISSAL

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In the explanation required by Rule 243(c), SCACR, petitioner has failed to show that there is an arguable basis for asserting that the determination by the lower court was improper. Accordingly, this matter is dismissed. The remittitur will be sent as provided by Rule 221(b), SCACR.

IT IS SO ORDERED.

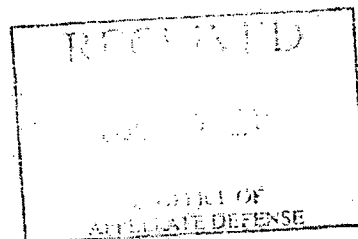
  
For the Court

C.J.

Columbia, South Carolina

July 5, 2011

cc: Appellate Defense  
Ronnie Harris #294716  
Assistant Attorney General Karen Ratigan



## FORM 5

STATE OF SOUTH CAROLINA )

) IN THE COURT OF COMMON PLEAS

COUNTY OF )

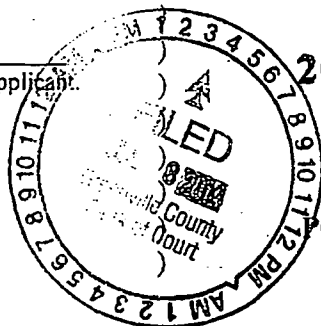
GREENVILLE )

Ronnie Harris, SCD#294716  
Full name and prison number (if any) of Applicant.

2014-CP-23- 03751

v.

State of South Carolina



APPLICATION FOR

POST-CONVICTION RELIEF

INSTRUCTIONS - READ CAREFULLY

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

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

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

1. Place of detention x Kershaw Correctional Institution, 4848 Goldmine Highway  
Kershaw, South Carolina 29067 .
2. Name and location of Court which imposed sentence \_\_\_\_\_  
Greenville County General Sessions Court.
3. Name(s) of co-defendant(s) (if any) \_\_\_\_\_ N No codefendants.
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
  - (a) #01-GS-23-7069, CSC 1st Degree W/Minor
  - (b) #03-GS-23-2960; Lewd Act Upon a Child
  - (c) \_\_\_\_\_
5. The date upon which sentence was imposed and the terms of the sentence:
  - (a) 7-16-2003, 20 years of incarceration,
  - (b) 7-16-2003, 15 years of incarceration, concurrent with all sentences

Revised 3/2003



- (c) \_\_\_\_\_
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty \_\_\_\_\_
- (b) after a plea of not guilty Yes. I plead not guilty
- (c) after a plea of nolo contendere \_\_\_\_\_
7. Did you appeal from the judgment of conviction or the imposition of sentence?  
Yes
8. If you answered "yes" to (7), list:
- (a) the name of each Court to which you appealed:
- i. S.C. Court of Appeals
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_
- (b) the result in each such Court to which you appealed:
- i. Dismissed
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_
- (c) the date of each such result:
- i. 4-15-2004
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. Order of Dismissal
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_
9. If you answered "no" to (7), state your reasons for not so appealing:
- (a) \_\_\_\_\_
- (b) \_\_\_\_\_
- (c) \_\_\_\_\_
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully: See attached page marked EXHIBIT-A

- (a) \_\_\_\_\_
- (b) \_\_\_\_\_
- (c) \_\_\_\_\_
11. State concisely and in the same order the facts which support each of the grounds set out in (10):
- (a) See attached page marked EXHIBIT -A
- (b) \_\_\_\_\_
- (c) \_\_\_\_\_
12. Prior to this application have you filed with respect to this conviction:
- (a) any petition in a State Court under South Carolina Law? Yes
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? Yes
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? No
- (d) any other petitions, motions or applications in this or any other Court? Yes
13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:
- (a) the specific nature thereof:
- Direct appeal**
- ii. Application for Post-Conviction Relief
- iii. Application For Forensic DNA Testing
- iv. \_\_\_\_\_
- (b) the name and location of the Court in which each was filed:
- i. S.C. Court of Appeals
- ii. Greenville County Court of Common Pleas
- iii. Greenville County Court of General Sessions
- iv. \_\_\_\_\_
- (c) the disposition thereof:
- i. Dismissed
- ii. Dismissed
- iii. Pending

- iv. \_\_\_\_\_
- (d) the date of each such disposition:
- i. 4-15-2004
- ii. Unknown
- iii. Pending
- iv. \_\_\_\_\_
- (e) if known, citations of any written opinions or orders entered pursuant to each such disposition: Order of dismissal
- i. \_\_\_\_\_
- ii. \_\_\_\_\_
- iii. Solicitor claims requested evidence for DNA testing destroyed
- iv. \_\_\_\_\_
14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?
- No
15. If you answered "yes" to (14) identify:
- (a) which grounds have been presented:
- i. \_\_\_\_\_
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_
- (b) the proceedings in which each ground was raised:
- i. \_\_\_\_\_
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_
16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:
- (a) Request For Forensic DNA Testing
- (b) \_\_\_\_\_
- (c) \_\_\_\_\_
17. Were you represented by an attorney at any time during the course of:

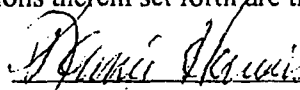
- (a) your arraignment and plea? \_\_\_\_\_
- (b) your trial, if any? Yes
- (c) your sentencing? Yes
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? Yes
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? Yes
18. If you answered "yes" to one or more parts of (17), list:
- (a) the name and address of each attorney who represented you:
- i. Daniel J. Farnsworth-
- ii. Aileen P. Claire
- iii. Christopher Scalto, Greenville County Public Defender
- (b) the proceedings at which each such attorney represented you:
- i. Trial and sentencing
- ii. Direct Appeal
- iii. DNA Testing Hearing
19. State clearly the relief you seek in filing this application:
- VACATION OF CONVICTION AND SENTENCE
20. Are you now under sentence from any other court that you have not challenged?
- No

STATE OF SOUTH CAROLINA )

County of KERSHAW )

VERIFICATION

I, Ronnie Harris, 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.



Ronnie Harris, #294716  
Applicant, Pro-se

SWORN to and subscribed before me this 4  
day of June, 2014.

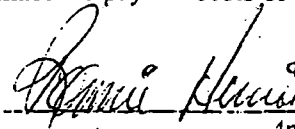
Catharine A. Amerson (L.S.)  
Notary Public

My Commission Expires: My Commission Expires 2-1-15

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

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

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



Applicant

Ronnie Harris, SCDC# 294715

SWORN or affirmed to and subscribed before me this

4 day of June, 2014.



Notary Public

My Commission Expires: My Commission Expires

EXHIBIT-A

cont.'d from p.p. 2-3 of PCR Application.

Ground#1.Applicant contends there is evidence of material facts not previously presented and heard that requires vacation of the conviction and sentence pursuant to S.C. Code Ann.§17-27-45(C).

Facts:Applicant contends that the DNA Test Results in his case are inaccurate and Inconclusive as to the alleged "DNA Mixture," that was found on two cut pieces of bedsheets, because the State Law Enforcement Division(SLED), never identified what the alleged discharge or bodily fluids was in accordance with SLED policies and procedures.

1.SLED Agent Grayson D. Amick stated on p.118 lines 1-25, that he developed DNA known profiles of the Applicant and the alleged victim from their blood and saliva samples, and then "Unknown DNA Profiles," from the evidence submitted in this case, and he further stated on p.119 lines 1-9, that he did find semen on two cut pieces of bedsheets," he further states on p.119 lines 13-19 that he then conducts an analysis and confirmation test on the sheet stains through "Forensic Serology" to identify the stain," but he never identified the stain from the alleged victim.

On page 119 lines 20-25 and page 120 lines 1-10 that he is basically looking for semen to obtain a DNA profile from the cut pieces of sheets, once he identifies the body fluid which he never did identify the alleged body fluid from the victim that was supposed to be a mixture of the Applicant and the victim he would then try to get a DNA profile from it, page 120 lines 11-25 and page 121 lines 1-8, whereby Serologist Amick has never identified what the alleeged body fluid from the victim was, and the Applicant contends that there was not a mixture of his sample with the alleged victim because the alleged body fluid of the victim was not identified in accordance with SLED Forensic Serology Procedures as stated by Agent Amick.

2.On page 121 lines 9-25 Solicitor Seay continues her direct examination of Agent Amick, and in fact has Serologist to further state to the jury that there was a DNA mixture of the Applicant and the victim and in fact how that mixture could have occurrec during the alleged sexual assault, and on page 122 lines 1-18

Solicitor Seay has Serologist state that the mixture could have most likely come from a bodily fluid, but again as stated before that alleged bodily fluid has never been identified as to what type of body fluid it in fact was and thereby producing an inaccurate and inconclusive DNA analysis of the alleged mixture on the bedsheet of item 3.1 in this case. On page 193 lines 4-25 Solicitor Seay does her summation to the jury and she tells the jury that the Applicant committed the sexual assault because he penetrated the alleged victim based on the alleged stain mixture on item 3.1 also see, pages 194-195 and 196 where Solicitor Seay tells the jury that the Applicant penetrated the victim because he got her DNA on him when he tried to penetrate her and that her body fluid has never been identified through the required procedures of the State Law Enforcement Division.

WHEREFORE, the Applicant contends that the findings of the court on the DNA alleged mixture are inaccurate and inconclusive as to the Applicant and the alleged victim. Applicant further states that if there was any kind of mixture that it would have only been of him and the alleged victim's mother or someone else, but not the alleged victim because he has never sexually assaulted anyone, certainly not his own biological daughter, also that he has daughters by other relations who will testify to the same and that based upon all of the issues and facts presented in this matter that the Applicant's convictions AND SENTENCES SHOULD BE VACATED AND HE BE RELEASED FROM CUSTODY IMMEDIATELY, OR IN THE ALTERNATIVE Applicant be granted a new trial.

Respectfully submitted,



\_\_\_\_\_  
 Ronnie Harris, #294716  
 Applicant, Pro se  
 Kershaw Correctional Institution  
 4848 Goldmine Highway  
 Kershaw, South Carolina 29067

Date: June 5, 2014.



State of South Carolina ) IN THE COURT OF COMMON-PLEAS  
 County of: Greenville. ) Case No.: \_\_\_\_\_  
Ronnie Harris, #294716, )  
 Applicant, )  
 ) MOTION FOR APPOINTMENT OF COUNSEL  
 v. )  
 )  
 State of South Carolina,  
 Respondent. )

Pursuant to S.C. Code Ann. §17-27-60(2014), Applicant Ronnie Harris, #294716 before this court by and through pro se moves this court for an order appointing counsel to represent him in this case. In support of this motion, Applicant states:

1. Applicant is unable to afford counsel. He has requested leave to proceed in forma pauperis.
2. Applicant's imprisonment will greatly limit his ability to litigate. The issues involved in this case are complex, and will require significant research and investigation. Applicant has limited access to the law library and limited knowledge of the law.
3. Applicant reads on a fifth grade reading level and did not complete grammar school.
4. An evidentiary hearing and/or trial in this case will likely involve conflicting testimony, and counsel would better enable Applicant to present evidence and cross examine witnesses.
5. Applicant has made repeated efforts to obtain a lawyer.

WHEREFORE, Applicant request that the court appoint John H. Blume, Esquire a member of the South Carolina Bar, as counsel in this case.

Dated: 6/5/14.

Respectfully submitted,

  
 \_\_\_\_\_  
 Ronnie Harris, #294716  
 Applicant, Pro se  
 Kershaw Correctional Institution  
 4848 Goldmine Highway  
 Kershaw, South Carolina 29067

Date: June 5, 2014

Paul B. Wickensimer, Clerk of Court  
Greenville County  
Greenville County Courthouse  
305 East North Street  
Greenville, South Carolina 29601

Ronnie Harris, #294716  
Kershaw Correctional Institution  
4848 Goldmine Highway  
Kershaw, South Carolina 29067

June 5, 2014

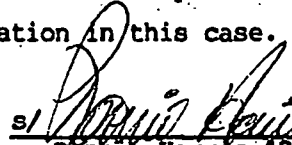
Re: Application For Post Conviction Relief  
Ronnie Harris v. State of South Carolina

Dear Mr. Wickensimer:

Please find enclosed an Application For Post Conviction Relief and a Motion For Appoint of Counsel. please file the enclosed and return a ccertified true and correct copy of same to me. I make this request for authenticated copies pursuant to Rule 901, SCRE. I intend to introduce the authenticated copies into evidence at the trial and/or evidentiary hearing of this case.

Thank you for your continued cooperation in this case.

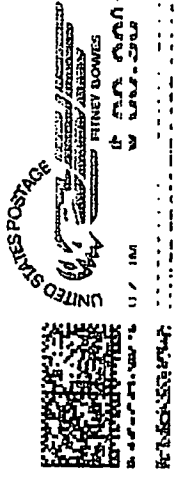
Sincerely,

  
\_\_\_\_\_  
Ronnie Harris, #294716  
Applicant, Pro se  
Kershaw Correctional Institution  
4848 Goldmine Highway  
Kershaw, South Carolina 29067

Date: June 5, 2014.

Paula Harris, #294716  
Kershaw Correctional Inst., S. Centre-R, Rm. #4  
4048 Colquhoun Highway  
Kershaw, SOUTH Carolina 29067

316

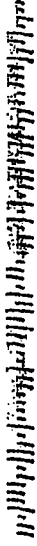


2014-CP-23-0379

To: Paul B. Wickersinner, Clerk of Court  
Greenville County  
Greenville, County Courthouse  
305 East North Street  
Greenville, South Carolina 29601

LEGAL

2960132121



|                          |   |                                     |
|--------------------------|---|-------------------------------------|
| STATE OF SOUTH CAROLINA  | ) | IN THE COURT OF COMMON PLEAS        |
|                          | ) | 2014-CP-23-3759                     |
| COUNTY OF GREENVILLE     | ) |                                     |
|                          | ) |                                     |
| Ronnie Harris,           | ) |                                     |
| S.C.D.C. No. 294716,     | ) |                                     |
|                          | ) |                                     |
| Applicant,               | ) |                                     |
|                          | ) | <b>RETURN AND MOTION TO DISMISS</b> |
| v.                       | ) |                                     |
|                          | ) |                                     |
| State of South Carolina, | ) |                                     |
|                          | ) |                                     |
| Respondent.              | ) |                                     |
|                          | ) |                                     |

In response to the post-conviction relief (PCR) application filed July 8, 2014, the Respondent would show this Court:

I.

The Applicant is confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Clerk of Court for Greenville County. The Applicant was indicted at the October 2001 term of the Greenville County Grand Jury for first-degree criminal sexual conduct (CSC) with a minor (2001-GS-23-7069) and at the April 2003 term of General Sessions for lewd act upon a child (2003-GS-23-2960). He was represented by Daniel J. Farnsworth, Esquire.

After the State called the case to trial, the Applicant was found guilty. On July 15, 2003, the Applicant was sentenced by the Honorable C. Victor Pyle, Jr. to concurrent terms of 20 years for first-degree CSC with a minor and 15 years for lewd act upon a child.

A notice of appeal was filed at the South Carolina Court of Appeals. Aileen P. Clare, Esquire, of the South Carolina Commission on Indigent Defense, Division of Appellate Defense

filed an Initial Brief pursuant to Anders v. California.<sup>1</sup> The Applicant, however, submitted an affidavit indicating he wished to “drop the appeal formerly filed on [his] behalf.” The Court dismissed the appeal by order dated April 15, 2004.

**2004-CP-23-4417**

The Applicant filed a PCR application on July 2, 2004 (2004-CP-23-4417). The Applicant raised the following issue:

1. Ineffective assistance of counsel:
  - a. Failure to object to several instances of hearsay testimony

An evidentiary hearing was convened on February 16, 2005 at the Greenville County Courthouse. Caroline Horlbeck, Esquire represented the Applicant. The Honorable John C. Few denied and dismissed the PCR application by order dated August 12, 2006.

The Applicant filed a notice of appeal. Wanda H. Carter, Esquire of the South Carolina Commission on Indigent Defense, Division of Appellate Defense perfected the appeal. The South Carolina Supreme Court granted the Applicant’s petition for writ of certiorari and both parties submitted briefs. On February 9, 2009, the Supreme Court dismissed the writ of certiorari as improperly granted. The remittitur was issued on February 25, 2009.

**Federal Habeas Corpus**

The Applicant filed a petition for writ of habeas corpus in the United States District Court for the District of South Carolina (3:09-948-HFF-JRM). The Respondent submitted a motion for summary judgment on July 6, 2009. The Honorable Joseph R. McCrorey, United States Magistrate Judge, issued a report and recommendation to grant the motion for summary

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<sup>1</sup> 386 U.S. 738, 87 S. Ct. 1396, 18 L. Ed. 2d 493 (1967).

judgment dated October 7, 2009. On October 21, 2009, the Honorable Henry F. Floyd, United States District Judge, issued an order granting the motion for summary judgment and dismissing the petition with prejudice.

The Applicant filed a notice of appeal at the United States Court of Appeals for the Fourth Circuit. In an opinion filed March 5, 2010, the Court of Appeals denied a certificate of appealability and dismissed the appeal.

**2010-CP-23-8273**

The Applicant filed a PCR application on October 5, 2010 (2010-CP-23-8273). The Applicant raised the following issues:

1. The claim of ineffective assistance of counsel was inadequately raised at the first PCR hearing.
2. The first PCR hearing (and final order from that hearing) were a blatant miscarriage of justice that denied the Applicant his due process and equal protection rights.
3. Newly-discovered evidence:
  - a. The court order compelling the Applicant to give fluid samples violated the United States Constitution, the South Carolina Constitution, the South Carolina statutes, and United States Supreme Court precedent.
  - b. Trial counsel failed to establish a complete chain of custody regarding the blood and DNA evidence.

The Respondent filed a return and motion to dismiss. The Honorable Robin B. Stilwell issued a conditional order of dismissal – filed February 28, 2011 – that provided the Applicant 20 days to show why the order should not become final. Though the Applicant submitted a response to the Court, Judge Stilwell issued a final order of dismissal filed on April 29, 2011.

The Applicant filed a timely notice of appeal. The South Carolina Supreme Court required the Applicant – pursuant to Rule 243(c), SCACR – to show an arguable reason why the denial of his application was improper. In an order of dismissal dated July 5, 2011, the Supreme

Court found the Applicant failed to meet his burden in this regard. The remittitur was sent on July 21, 2011.

## II.

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

1. “[T]he DNA Test Results in his case are inaccurate and Inconclusive as to the alleged ‘DNA Mixture,’ that was found on two cut pieces of bedsheets, because the State Law Enforcement Division (SLED), never identified what the alleged discharge or bodily fluids was in accordance with SLED policies and procedures.”

For the purpose of this Return, the Respondent incorporates the Greenville County Clerk of Court records, the South Carolina Department of Corrections’ records, and the prior PCR records by reference. The Respondent reserves the right to amend this Return upon receipt of any relevant materials.

## III.

The Respondent submits that this Application for Post-Conviction Relief should be summarily dismissed for failure to comply with the filing procedures of the Uniform Post-Conviction Procedure Act. S.C. Code Ann. §§ 17-27-10, et. seq. (2003). South Carolina Code Ann. § 17-27-45(a) reads as follows:

An application for relief filed pursuant to this chapter must be filed within one year after the entry of a judgment of conviction or within one year after the sending of the remittitur to the lower court from an appeal or the filing of the final decision upon an appeal, whichever is later.

The Applicant was convicted of the offenses he challenges in this application on July 15, 2003 and the South Carolina Supreme Court granted his wish to voluntarily dismiss his appeal

on April 15, 2004. The Applicant was therefore required to file his application before April 15, 2005. This application was filed on July 8, 2014, which was more than 9 years after the statutory filing period had expired.

A motion for summary judgment may properly be used to raise the defense of statute of limitations. See McDonnell v. Consolidated Sch. Dist. of Aiken, 315 S.C. 487, 489, 445 S.E.2d 638, 639 (1994). In addition, S.C. Code Ann. § 17-27-70(c) (2003) authorizes the Court to “grant a motion by either party for summary disposition of [an] application when it appears from the pleadings . . . that there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law.” Therefore, the Respondent requests that this Court summarily dismiss the application for post-conviction relief for failure to file within the time mandated by the Uniform Post-Conviction Procedure Act.

#### IV.

The Court should also summarily dismiss the current Application because it is successive to the previous applications for post-conviction relief. Successive applications for post-conviction relief are disfavored. See Land v. State, 274 S.C. 243, 246, 262 S.E.2d 735, 737 (1980). South Carolina Code Ann. § 17-27-90 (2003) states:

All grounds for relief available to an applicant under this chapter must be raised in his original, supplemental or amended application. Any ground finally adjudicated or not so raised, or knowingly, voluntarily and intelligently waived in the proceeding that resulted in the conviction or sentence or in any other proceeding the applicant has taken to secure relief, may not be the basis for a subsequent application, unless the court finds a ground for relief asserted which for sufficient reason was not asserted or was inadequately raised in the original, supplemental or amended application.

Under this statute, successive post-conviction relief applications are forbidden unless an applicant can point to a “sufficient reason” why new grounds for relief were not raised or were



not properly raised in previous applications. Aice v. State, 305 S.C. 448, 450, 409 S.E.2d 392, 394 (1991). Any new ground raised in a subsequent application is limited to those grounds that “could not have been raised . . . in the previous application.” Id. (emphasis in original). If the Applicant could have raised these allegations in a previous application, then the Applicant may not raise those grounds in successive applications. Id. The Applicant bears the burden of showing that the allegations could not have been raised previously. Id.

As the Applicant has failed to present any reasons why he could not have raised the current allegations in his previous post-conviction relief applications, the Respondent moves for a summary dismissal of the application because it is successive.

#### V.

As the Applicant argues his issue is pursuant to S.C. Code Ann. § 17-27-45(c), the Respondent interprets it to be one of newly-discovered evidence. The South Carolina Supreme Court has held that, for an applicant to be granted post-conviction relief based on after-discovered evidence, he must show the alleged evidence:

(1) Is such as would probably change the result if a new trial was had; (2) Has been discovered since the trial; (3) Could not by the exercise of due diligence have been discovered before the trial; (4) Is material to the issue of guilt or innocence; and, (5) Is not merely cumulative or impeaching.

Hayden v. State, 278 S.C. 610, 611-12, 299 S.E.2d 854, 855 (1983) (citation omitted) (emphasis added). The Applicant has not shown that the alleged evidence meets any of the requirements for after-discovered evidence. Most importantly, the “new evidence” offered by the Applicant is not material to the issue of guilt or innocence, and probably would not change the result if a new trial was had. See id. The Respondent submits the Court should summarily dismiss this allegation.

VI.

The Respondent denies each allegation not expressly admitted, qualified or explained.

VII.

WHEREFORE, the Respondent moves to summarily dismiss the application because it is successive to the Applicant's prior PCR actions and was filed after the statute of limitations had expired.

Respectfully submitted,

ALAN WILSON  
Attorney General

JOHN W. MCINTOSH  
Deputy Attorney General

KAREN C. RATIGAN  
Senior Assistant Deputy Attorney General

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

By:

  
Attorneys for Respondent

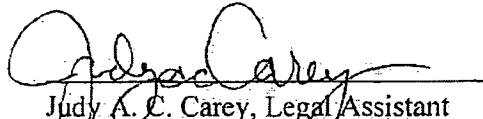
December 5, 2014

|                          |   |                              |
|--------------------------|---|------------------------------|
| STATE OF SOUTH CAROLINA  | ) |                              |
|                          | ) | IN THE COURT OF COMMON PLEAS |
| COUNTY OF GREENVILLE     | ) |                              |
|                          | ) |                              |
|                          | ) | 2014-CP-23-3759              |
|                          | ) |                              |
| RONNIE HARRIS, 294716    | ) |                              |
|                          | ) |                              |
| 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 and Motion to Dismiss** in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

**Ronnie Harris, 294716**  
**Kershaw Correctional Institution**  
**4848 Goldmine Highway**  
**Kershaw SC 29067**

DATED this 5th day of December, 2014.

  
 Judy A. C. Carey, Legal Assistant  
 For Respondent

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF GREENVILLE )  
 )  
 Ronnie Harris, )  
 S.C.D.C. No. 294716, )  
 )  
 Applicant, )  
 )  
 v. )  
 )  
 State of South Carolina, )  
 )  
 Respondent. )

IN THE COURT OF COMMON PLEAS  
 2014-CP-23-3759

**CONDITIONAL ORDER OF DISMISSAL**

FILED-CLERK OF COURT  
 GREENVILLE CO. S.C.  
 PAUL S. WENIGER  
 2014 SEP 23 AM 10 42

This matter comes before the Court by way of an application for post-conviction relief (PCR) filed July 8, 2014. The Respondent made its Return, requesting the application be summarily dismissed.

I.

The Applicant is confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Clerk of Court for Greenville County. The Applicant was indicted at the October 2001 term of the Greenville County Grand Jury for first-degree criminal sexual conduct (CSC) with a minor (2001-GS-23-7069) and at the April 2003 term of General Sessions for lewd act upon a child (2003-GS-23-2960). He was represented by Daniel J. Farnsworth, Esquire.

After the State called the case to trial, the Applicant was found guilty. On July 15, 2003, the Applicant was sentenced by the Honorable C. Victor Pyle, Jr. to concurrent terms of 20 years for first-degree CSC with a minor and 15 years for lewd act upon a child.

A notice of appeal was filed at the South Carolina Court of Appeals. Aileen P. Clare,

*Yr 1*

Esquire, of the South Carolina Commission on Indigent Defense, Division of Appellate Defense filed an Initial Brief pursuant to Anders v. California.<sup>1</sup> The Applicant, however, submitted an affidavit indicating he wished to "drop the appeal formerly filed on [his] behalf." The Court dismissed the appeal by order dated April 15, 2004.

**2004-CP-23-4417**

The Applicant filed a PCR application on July 2, 2004 (2004-CP-23-4417). The Applicant raised the following issue:

- I. Ineffective assistance of counsel:
  - a. Failure to object to several instances of hearsay testimony

An evidentiary hearing was convened on February 16, 2005 at the Greenville County Courthouse. Caroline Horlbeck, Esquire represented the Applicant. The Honorable John C. Few denied and dismissed the PCR application by order dated August 12, 2006.

The Applicant filed a notice of appeal. Wanda H. Carter, Esquire of the South Carolina Commission on Indigent Defense, Division of Appellate Defense perfected the appeal. The South Carolina Supreme Court granted the Applicant's petition for writ of certiorari and both parties submitted briefs. On February 9, 2009, the Supreme Court dismissed the writ of certiorari as improperly granted. The remittitur was issued on February 25, 2009.

**Federal Habeas Corpus**

The Applicant filed a petition for writ of habeas corpus in the United States District Court for the District of South Carolina (3:09-948-HFF-JRM). The Respondent submitted a motion for summary judgment on July 6, 2009. The Honorable Joseph R. McCrorey, United States

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<sup>1</sup> 386 U.S. 738, 87 S. Ct. 1396, 18 L. Ed. 2d 493 (1967).



Magistrate Judge, issued a report and recommendation to grant the motion for summary judgment dated October 7, 2009. On October 21, 2009, the Honorable Henry F. Floyd, United States District Judge, issued an order granting the motion for summary judgment and dismissing the petition with prejudice.

The Applicant filed a notice of appeal at the United States Court of Appeals for the Fourth Circuit. In an opinion filed March 5, 2010, the Court of Appeals denied a certificate of appealability and dismissed the appeal.

**2010-CP-23-8273**

The Applicant filed a PCR application on October 5, 2010 (2010-CP-23-8273). The Applicant raised the following issues:

1. The claim of ineffective assistance of counsel was inadequately raised at the first PCR hearing.
2. The first PCR hearing (and final order from that hearing) were a blatant miscarriage of justice that denied the Applicant his due process and equal protection rights.
3. Newly-discovered evidence:
  - a. The court order compelling the Applicant to give fluid samples violated the United States Constitution, the South Carolina Constitution, the South Carolina statutes, and United States Supreme Court precedent.
  - b. Trial counsel failed to establish a complete chain of custody regarding the blood and DNA evidence.

The Respondent filed a return and motion to dismiss. The Honorable Robin B. Stilwell issued a conditional order of dismissal – filed February 28, 2011 – that provided the Applicant 20 days to show why the order should not become final. Though the Applicant submitted a response to the Court, Judge Stilwell issued a final order of dismissal filed on April 29, 2011.

The Applicant filed a timely notice of appeal. The South Carolina Supreme Court required the Applicant – pursuant to Rule 243(c), SCACR – to show an arguable reason why the



denial of his application was improper. In an order of dismissal dated July 5, 2011, the Supreme Court found the Applicant failed to meet his burden in this regard. The remittitur was sent on July 21, 2011.

II.

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

- I. "[T]he DNA Test Results in his case are inaccurate and Inconclusive as to the alleged 'DNA Mixture,' that was found on two cut pieces of bedsheets, because the State Law Enforcement Division (SLED), never identified what the alleged discharge or bodily fluids was in accordance with SLED policies and procedures."

III.

This Court finds this matter should be summarily dismissed because the Applicant has failed to comply with the filing procedures of the Uniform Post-Conviction Procedure Act. S.C. Code Ann. §§ 17-27-10, et. seq. (2003). Specifically, South Carolina Code Ann. § 17-27-45(a) reads as follows:

An application for relief filed pursuant to this chapter must be filed within one year after the entry of a judgment of conviction or within one year after the sending of the remittitur to the lower court from an appeal or the filing of the final decision upon an appeal, whichever is later.

The Applicant was convicted of the offenses he challenges in this application on July 15, 2003 and the South Carolina Supreme Court granted his wish to voluntarily dismiss his appeal on April 15, 2004. The Applicant was therefore required to file his application before April 15, 2005. This application was filed on July 8, 2014, which was more than 9 years after the statutory filing period had expired.

A motion for summary judgment may properly be used to raise the defense of statute of



limitations. See McDonnell v. Consolidated Sch. Dist. Of Aiken, 315 S.C. 487, 489, 445 S.E.2d 638, 639 (1994). In addition, S.C. Code Ann. § 17-27-70(c) (2003) authorizes the Court to "grant a motion by either party for summary disposition of [an] application when it appears from the pleadings . . . that there is no genuine issue of material fact and that the moving party is entitled to judgment as a matter of law."

#### IV.

This Court further finds the current application should also be dismissed because it is successive to the previous applications for post-conviction relief. Successive applications for post-conviction relief are disfavored. See Land v. State, 274 S.C. 243, 246, 262 S.E.2d 735, 737 (1980). South Carolina Code Ann. § 17-27-90 (2003) states:

All grounds for relief available to an applicant under this chapter must be raised in his original, supplemental or amended application. Any ground finally adjudicated or not so raised, or knowingly, voluntarily and intelligently waived in the proceeding that resulted in the conviction or sentence or in any other proceeding the applicant has taken to secure relief, may not be the basis for a subsequent application, unless the court finds a ground for relief asserted which for sufficient reason was not asserted or was inadequately raised in the original, supplemental or amended application.

Under this statute, successive post-conviction relief applications are forbidden unless an applicant can point to a "sufficient reason" why new grounds for relief were not raised or were not properly raised in previous applications. Aice v. State, 305 S.C. 448, 450, 409 S.E.2d 392, 394 (1991). Any new ground raised in a subsequent application is limited to those grounds that "could not have been raised . . . in the previous application." Id. (emphasis in original). If the Applicant could have raised these allegations in a previous application, then the Applicant may not raise those grounds in successive applications. Id. The Applicant bears the burden of showing that the allegations could not have been raised previously. Id.





As the Applicant has failed to present any reasons why he could not have raised the current allegations in his previous post-conviction relief applications, the application is dismissed.

V.

As the Applicant argues his issue is pursuant to S.C. Code Ann. § 17-27-45(c), this Court clarifies that he is alleging newly- or after-discovered evidence. The South Carolina Supreme Court has held that, for an applicant to be granted post-conviction relief based on after-discovered evidence, he must show the alleged evidence:

- (1) Is such as would probably change the result if a new trial was had; (2) Has been discovered since the trial; (3) Could not by the exercise of due diligence have been discovered before the trial; (4) Is material to the issue of guilt or innocence; and, (5) Is not merely cumulative or impeaching.

Hayden v. State, 278 S.C. 610, 611-12, 299 S.E.2d 854, 855 (1983) (citation omitted) (emphasis added). This Court finds the Applicant has not shown that the alleged evidence meets any of the requirements for after-discovered evidence. Most importantly, the "new evidence" offered by the Applicant is not material to the issue of guilt or innocence, and probably would not change the result if a new trial was had. See id. This Court finds this issues must be dismissed.

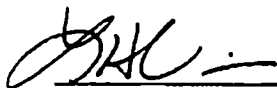
VI.

Based upon its review of the pleadings in this matter, this Court expresses its intent to summarily dismiss this matter unless the Applicant advises this Court with specific reasons, factual or legal, why it should not dismiss the matter in its entirety. The Applicant is granted twenty (20) days from the date of service of this Order upon him to show why this Order should not become final by filing any reasons he may have with the Clerk of Court for Greenville County, South Carolina, and also by filing a copy of his reasons with the Office of the Attorney

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General, Attn: Karen C. Ratigan, Post Office Box 11549, Columbia, South Carolina, 29211.

AND IT IS SO ORDERED this 10 day of Dec, 2014.



Letitia H. Verdin  
Chief Administrative Judge  
Thirteenth Judicial Circuit

Greenville, South Carolina.



STATE OF SOUTH CAROLINA )  
COUNTY OF GREENVILLE )

Ronnie Harris, #294716  
Applicant

IN THE COURT OF COMMON PLEAS  
2014-CP-23-3759

V

State of South Carolina  
Respondent

APPLICANT'S RESPONSE TO  
CONDITIONAL ORDER OF  
DISMISSAL

FILED IN THE COURT  
OF COMMON PLEAS  
GREENVILLE, S.C.  
PAUL W. WILSON, CLERK  
2014 FEB 26 PM 4:30

In response to the Court's Conditional Order of Dismissal of the Applicant's Post-Conviction Relief application filed July 8, 2014, the Applicant respectfully submits the following:

I

The Applicant seeks this Court's consideration in the interest of justice and due process; and ask that it not dismiss the application for Post-Conviction Relief but instead grant the Applicant leave as to proceed and have his issues of recent discovery brought forth and heard before a Post-Conviction evidentiary hearing.

II

The Applicant is now aware of information that through and by his determined research bears substantial meaning and merit. Since his trial and sentencing of July 15, 2003, his Post-Conviction efforts of July 2003 by Direct Appeal, Post-Conviction Relief Applications of July 2, 2004 and October 5, 2010 and his petition

for writ of habeas Corpus in the United States District Court for the District of South Carolina, the Applicant is now aware of information that is required to be documented, recorded and reported by and contained within forensic analyses and determinations. Specifically that the lab data and forensics reported by SLED, Serology and DNA Analysis Department's analyst are to include all and as much specific, definitive identifying information that can be determined, reported and recorded, and all elements found (ie: fluids, stains, bodily fluids) be identified and defined as to it's source, including mixture, when determination can be made.

In addition, the Applicant became aware of the 2008 Access To Justice Post-Conviction DNA Testing Act in August 2012 available to him under S.C. Code Ann. § 17-28-10. The Applicant filed his application for such, petitioning, the Court of General Sessions, Thirteenth Judicial Circuit, County of Greenville, September 11, 2012.

The Honorable Letitia H. Verdin issued an Order Granting the Applicant's application for testing on March 4, 2013.

The Applicant appeared in Court (General Sessions) on November 18, 2013 with regard to his application, represented by Mr. Christopher Scalto of the Greenville County Public Defender's Office.

At this appearance of November 18, 2013 the Applicant was informed that the physical evidence and biological material pertaining to and directly relevant to his trial, conviction, sentencing and Post-Conviction efforts had been destroyed and

and disposed of on March 30, 2005, authorized by investigator James Austin, who was the primary investigating officer as well as the collector of the physical evidence (sheet and pillow cases), in the Applicant's case in 2001.

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This March 30, 2005 disposal and destruction of the Applicant's physical evidence and biological material took place eight (8) months twenty-eight (28) days after the Applicant's initial Post-Conviction Relief filing of July 2, 2004, which was still under consideration from the February 16, 2005 evidentiary hearing, and forty-two (42) days after the evidentiary hearing, and one (1) year five (5) months prior to the final Order of dismissal dated August 12, 2006, issued by the Honorable John C. Few. This destruction and disposal of relevant exculpatory evidence critical to the Applicant's case has denied the Applicant access to the Court as well as his guaranteed and Constitutionally protected Right to Due Process under the Fifth and Fourteenth Amendments.

The DNA testing authorized by the Court's March 4, 2013 Order would have produced definitive and conclusive analysis of the "bodily fluid" stains in question; tested and positively identifying the elements or source of such, as well as whom they matched. This would have ensured all evidentiary conclusions to be reached with minimal doubt, a minimal margin of error or question, and no inconclusiveness.

As there was absolute certainty of fluid stains, (bodily), existing/created by the alleged victim's mother, Agedran, Sullivan, and my other female Companion who have shared my bed with me.

Built profiles could and would have established the basis and grounds for vacating the Applicant's sentence, or mandated a strong certainty of his being remanded to trial.

Therefore, the Applicant contends that this is not a successive application, but an application of merit based on the Applicant being denied access to the Courts by the evidence destruction, and denial of Due Process, rights assured and guaranteed him by the United States Constitution and its Fifth and Fourteenth Amendments.

### III

The Court expresses its opinion that this matter should be summarily dismissed because of the Applicant's failure to comply with the filing procedures of the Uniform Post-Conviction Procedure Act S.C. Code Ann. § 17-27-45(a), which in short reads: "... one year after the entry of a judgement of conviction or within one year after the sending of the remittitur... or the filing of the final decision upon an appeal whichever is later." (emph. added).

The clear unambiguous defined intent of this statute exist in the last few words, "... or the filing of the final decision upon an appeal..."

The Court also presents its opinion that more than nine (9) years have passed since the Applicant's voluntary request for dismissal of his direct appeal on April 15, 2004, stating the Applicant was required to file this application for Post-Conviction Relief before April 15 2005.

Yet prior to this, the Court summarizes and

makes mention of numerous, continual ongoing actions and appeals filed as well as the Court's decisions and remittiturs within the South Carolina State and Federal Courts over and throughout this nine (9) year period beyond the April 15, 2005 date it claims as the statutory expiration filing date. These filings, and submittals, in essence and fact, stopped the tolling of the clock, (please refer to the Court's Conditional Order of Dismissal Section I, pages 2 - 4).

Therefore, with this in mind, it would appear that the Applicant's statutory one year filing period was indeed ~~not~~ April 15, 2005 as the Court's Conditional Order of Dismissal and the Respondent's Motion to Dismiss has implied.

The Court and Respondent both assess these actions, appeals, final decisions and remittiturs inclusively toward the Applicant's filing period, yet fail to bring forth the Applicant's application filed with the General Sessions Court, Thirteenth Judicial Circuit, Greenville County, pursuant to S.C. Code Ann. § 17-28-10 et. seq. (2009), "Application For Forensic DNA Testing" pursuant to the procedures set forth in the "Access To Justice Post-Conviction DNA Testing Act -

This application dated and filed September 11, 2012. The Honorable Letitia H. Verdin issued an Order granting the Applicant's application for DNA testing dated March 4, 2013; and the Court of General Sessions convened, and held a hearing with oral argument on November 18, 2013, informing the applicant of the failure of the

State to preserve the evidence pertaining to and relevant to his case and of the disposal and destruction of the necessary physical evidence and biological material. The Court dismissed the application.

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This decision of the General Sessions Court of November 18, 2013 being the filing of the final decision upon an appeal, (S.C. Code Ann. 17-27-45(a)).

The Applicant now brings forth attention to S.C. Code Ann. § 17-27-45(c) of the Uniform Post-Conviction Procedure Act that reads as follows:

"If the applicant contends that there is evidence of material facts not previously presented and heard that requires vacation of the conviction or sentence, the application must be filed within one year after the date of actual discovery of the facts by the applicant or after the date when the facts could have been ascertained by the exercise of reasonable diligence."

(emph. added).

The Applicant also points out S.C. Code Ann. § 17-28-10(B) of the Access To Justice Post-Conviction DNA Testing Act reads as follows:

"Nothing in this Article prohibits a person from filing an application for Post-Conviction Relief pursuant to Chapter 27, Title 17."

Upon the Court's convening and decision of November 18, 2013, this action has opened the door allowing this application for Post-Conviction Relief to be filed.



IV

This destruction of crucial evidence on March 30, 2005 taking place eight (8) months twenty-eight (28) days after the initial Post-Conviction Relief application filing of July 2, 2004, forty-two (42) days after the Convened evidentiary hearing on February 16, 2005 and with the final decision and order still pending; One (1) year five (5) months prior to the August 12 2006 final Order and disposition, has impaired the Applicant's ability to bring forth a potential re-trial and re-hearing as well as inhibited the effective efforts of the Applicant's attempt to Prove his innocence.

This physical evidence and biological material to be tested consisted of a Child's sexual assault kit (CSCKit) collected from the alleged victim by specially trained medical personnel at the hospital, one (1) bed sheet and two (2) pillow cases collected by Investigating Officer James Austin, tangible objects necessary and requiring mandatory preservation and maintenance until all appellate and Post-Conviction Relief processes are exhausted as well as requirements to be preserved and maintained until the convicted or adjudicated person is released from incarceration, dies while incarcerated or is executed for the offense.

In State v Singleton 319 SC 312, 460 SE 2d 573 (1995) it's been determined "If evidence possesses exculpatory value that is apparent before it's destruction, it's disposal constitutes denial of due process...". Also, "Due process requires that a criminal defendant be afforded

meaningful opportunity to present a complete defense which includes defendant's privilege to request and obtain evidence..." State v Mabe 306 SC 355, 412 SE 2d 386 (1991)

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The evidence pertinent and relevant to the Applicant's defense in any petition or action before any Court would have not been, nor is now, available to afford the Applicant a fair opportunity of defense due to the State's neglect, and possibly intentional, destruction of this physical evidence and biological material.

In State v Hutton 358 SC 622, 595 SE 2d 876 (2004) the Court makes clear "Whatever duty the Federal Constitution imposes on the State's under the Due Process Clause to preserve evidence, that duty must be limited to evidence that might be expected to play a significant role in the suspects defense."

## V

In summary, the Applicant contends that his application filed July 8, 2014 for Post-Conviction Relief, was filed within one (1) year of the latter Court's finding and disposition of November 18, 2013.

This finding of November 18, 2013 not only opened the door to file an application for Post-Conviction Relief, but also revealed to the Applicant newly acquired facts and information of the disposal and destruction of all relevant physical evidence and biological material required and Ordered for testing by the Court of General Sessions.

Such testing would have been absolutely

material and of enormous magnitude to the issue of the Applicant's innocence, and would have held extremely high probabilities and possibilities to change the results of the Applicant's conviction in the event of a new trial ordered. Testing

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and positive identification of all stains and all profiles built and contained within any mixtures of any cuttings would have a high percentage of not being the alleged victim and possess exculpatory value to obtain a decision of the Applicant's innocence -

In light of the post 2003 trial discovery of this destruction of evidence, the Applicant seeks that this application should not be considered successive as this information was not made available or disclosed to the Applicant until November 18, 2013.

The argument and issue put forth in the Applicant's Post-Conviction Relief application can only be determined unambiguously by the direct and specific identification of the alleged discharge or bodily fluid(s) and to whom it would match.

Although that is no longer possible, in the interest of justice the Applicant seeks an evidentiary hearing based on the inconclusiveness and certain inaccuracy of the results described as mixture, and seeks the opportunity to present the available evidence of Dr. Grayson D. Amick's November 30, 2001 forensic analysis, lab reports and data which indicates completely negative results in all testing and results of the evidence available of any Criminal Sexual Conduct ever occurring. With this, the Applicant seeks the vacating

-9-

of his conviction and sentence, or to be remanded to trial.

## VI

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The Applicant respectfully moves and request an evidentiary hearing be held based on the one year filing statutory being met as this application was filed July 8 2014, seven months (7) and twenty days (20) after the "filing of the final decision upon an appeal..." which was the Court's finding and disposition of November 18, 2013. In addition, the application should not be considered successive as the grounds and circumstances discovered by the Applicant were unknown and could not have been raised previous to this application, as they were not revealed to him until that November 18, 2013 Court hearing and appearance.

Finally in the interest of justice to the Applicant, an evidentiary hearing should be ordered and granted to afford the Applicant his right to Due Process available to him in the South Carolina Judicial System

Respectfully submitted,



Ronnie Harris, #294716

Jan 26, 2015

STATE OF SOUTH CAROLINA  
COUNTY OF GREENVILLE

Ronnie Harris, SCDC #294716  
Applicant

v

State of South Carolina  
Respondent

IN THE COURT OF COMMON PLEAS  
2014CP-23-3759

RESPONSE TO PROPOSED FINAL  
ORDER OF DISMISSAL

This matter is respectfully presented before the Court, the Honorable Letitia H. Verdin, within her capacity as Chief Administrative Judge, seeking review and consideration as to not dismiss the Applicant's application for Post-Conviction Relief, but instead allow the issues at hand be heard by evidentiary hearing, or at the Court's discretion, remand to trial based on the arguments and evidence presented herein.

The Respondent has failed to properly address the facts asserted by the Applicant as required by Fed. Rules of Civil Procedure 56(e) regarding the DNA Evidence from his 2003 trial. The Respondent addresses this fact in the document captioned "FINAL ORDER OF DISMISSAL" as being destroyed "after" his first PCR hearing in 2005. The actual documented fact is that all of the evidence was destroyed in the midst of his pending, unadjudicated, undecided PCR application appellate process that was awaiting a decision and final order from Judge John L. Few. The first PCR was filed July 2, 2004, evidentiary hearing on February 16, 2005, the evidence destroyed March 30, 2005 (six (6) weeks forty-two (42) days after the evidentiary hearing), Final Order of Denial/Dismissal issued by Judge Few August 12, 2006 (One (1) year five (5) months after the destruction).

This clearly violates South Carolina State laws as well as Federal law, as South Carolina statutes alone require evidence preservation, S.C. Code Ann. §17-28-320(A)(B)(C).

§17-28-320(A) "A custodian of evidence must preserve all evidence physical evidence and biological material related to the conviction or adjudication of a person for at least one of the following offenses: ... (10) Criminal Sexual Conduct ... (13) Criminal Sexual Conduct w/minor (§16-3-655) ..."

§17-28-320(B) "The physical evidence and biological material must be preserved (1) Subject to a chain of custody..."

§17-28-320(C) "The physical evidence and biological material

MUST be preserved until the person is released from incarceration, dies while incarcerated or is executed for the offense enumerated in subsection (A). However if the person is convicted or adjudicated on a guilty plea or nolo contendere plea for

for the offense enumerated in Subsection (A) ... must be preserved for seven years from the date of sentencing or until the person is released from incarceration ...

S.C. Code Ann. § 17-28-340(A)(2) clearly mandates the Custodian of evidence may petition the Court for the destruction of such evidence: "DNA evidence was previously introduced at trial and found to be inculpatory and all appeals and post conviction procedures have been exhausted" (emph. added). Clearly the Applicants post-Conviction procedures were not exhausted. Thus, the destruction has clearly violated South Carolina Statute of law.

SCACR 606(CRB) clearly stipulates "the Clerk (of Court) shall retain exhibits ... if an appeal is taken for eighteen (18) months after remittitur is sent by the appellate Court ...". Although the Applicant withdrew his direct appeal, he did file for Post-Conviction Relief, an action recognized by South Carolina Statute, and the Courts as a liberty seeking appellate relief action. Please note, the Applicant's evidence was considered exculpatory. The Respondent has failed to refute or concede this fact in the Proposed Order of Dismissal concerning the violation of law, the Applicant's assertion of destroying critical relevant evidence while appellate processes were pending, thereby demonstrating evasiveness of the issue. The enclosed documentation fully substantiates the asserted factual claims as to the Applicant's evidence being destroyed unlawfully on March 30, 2005 while awaiting Judge Few's final decision and order issued August 12, 2006.

The Applicant hereby makes motion, requesting the Respondent properly address this fact of the evidence being destroyed during pending relief effort and processes with a more definitive specific statement(s) in addressing this fact, either concededly or rebutting with fact and truth.

#### TIMELINESS

The Applicant again asserts his position concerning the matter of timeliness as first set forth in his February 16, 2015 response. The Applicant recognizes SC Code Ann. § 17-27-45(a). However, as the Respondent implies that the limitation of one (1) year should have expired in April 2005 by its mention of the South Carolina Court of Appeals dismissal (honoring the Applicant's request to withdraw) on April 15, 2004. Yet the Courts (South Carolina Supreme Court, Common Pleas of ~~Horry County~~ and General Sessions of ~~Horry County~~ <sup>Greenville County</sup> continued to allow filings and proceedings since the August 2006 PCR final Order, thereby proving the argument presented by the Respondent is moot being without merit, deprived of practical significance.

SUCCESSIVENESS

The Applicant contends very simply with this question - How could he put forth this issue - the facts and basis of putting "all issues" in the initial PCR application and to litigate such is literally impossible when the Applicant has no indication or information pertinent to the claims presented. The fact of evidence destruction was not made known until the Applicant is appearing in General Sessions Court November 18, 2013; and the Access To Justice Post Conviction DNA Testing Act wasn't in existence in 2004 when the Applicant filed his initial application for Post-Conviction Relief which is what led the Applicant to the discovery of his evidence being destroyed. Had it not been for those proceedings of November 18, 2013, the Applicant would have never known his evidence had been destroyed, as the State nor the Clerk of Court notified him of their desire or intent to seek destruction as mandated in S.C. Code Ann. § 17-28-340(A)(C)(D)(E)(I)(F) and allow him opportunity to respond as mandated.

This has created the situation of the newly discovered evidence and information. The Applicant's recourse to attempt resolution and prove his actual innocence by the filing of application for Post-Conviction Relief. S.C. Code Ann. § 17-27-45(c) clearly states "If the applicant contends that there is evidence of material facts not previously presented and heard... the application must be filed within one (1) year after the date of actual discovery of the facts by the applicant..." Thus the Applicant has done so, as he discovered these facts November 18, 2013, and filed his application July 8, 2014, eight (8) months after his ascertainment of such.

S.C. Code Ann. 17-28-110(B) allows for the filing of Post-Conviction Relief. "Nothing in this Article prohibits a person from filing an application for Post-Conviction Relief pursuant to Chapter 27 Title 17."

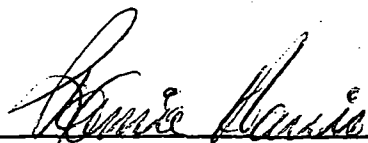
SC Code Ann 17-27-90 establishes that "any new ground raised in subsequent application could not have been raised by him (applicant) in previous application."

It is impossible to put forth information/grounds before the knowing of it's existence. The Applicant could NOT have known any of this in the filing of his initial application of July 2, 2004 therefore it would have been and was, impossible to litigate this issue at that "one bite at the apple".

The Applicant respectfully request the Respondent to submit a properly prepared finding of fact and law with regard to the assertion put forth stating that DNA evidence had been destroyed after the Applicant's first PCR hearing rather than during the relief process.

The Applicant also request that the Court would allow this application to go forth without dismissal prior to hearing allowing the Applicant an opportunity to Due Process, Fairness and Justice.

Respectfully submitted,



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Ronnie Harris # 294716  
Applicant

March 18<sup>th</sup> 2015

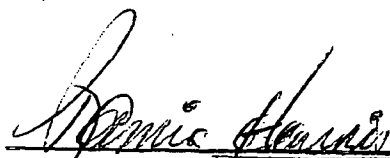
Encl.: 4



## EXHIBIT C-1 (5)

CERTIFICATE OF SERVICE

I hereby certify that I, Ronnie Harris, on the 18<sup>th</sup> day of March 2015, have served a copy of Foregoing RESPONSE TO PROPOSED FINAL ORDER OF DISMISSAL, by the United States Postal Service, First-Class Mail, postage pre-paid on the following: Karen C. Ratigan, Senior Assistant Deputy Attorney General, P.O. Box 11549, Columbia South Carolina, 29211, by depositing in the mail room of the undersigned's institution as listed and shown below my signature; This service includes all attachments and enclosures associated with the said document.



Ronnie Harris # 294716  
Pro se Applicant

Kershaw Correctional Inst, MB-32  
4848 Goldmine Hiway  
Kershaw SC 29067

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

Ronnie Harris,  
S.C.D.C. No. 294716,

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS  
2014-CP-23-3759

FILED - CLERK OF COURT  
GREENVILLE CO. S.C.  
PAUL B. WICKENSIMER  
2015 FEB 16 PM 4 44

**FINAL ORDER OF DISMISSAL**

This matter comes before the Court by way of an application for post-conviction relief (PCR) filed July 8, 2014. The Respondent made its return on December 5, 2014, requesting the application be summarily dismissed based upon the expiration of the statute of limitations and the presumption against successive PCR applications.

Pursuant to this request, and after reviewing the pleadings in this matter and all of the records attached thereto, the Honorable Letitia H. Verdin – acting in her capacity as Chief Administrative Judge – issued a Conditional Order of Dismissal filed December 23, 2014, provisionally denying and dismissing this action, while giving the Applicant twenty (20) days from the date of service of said Order in which to show why the dismissal should not become final. Attached to this Final Order and incorporated herein by reference is an Affidavit of Service dated January 15, 2015, serving the above-mentioned Conditional Order of Dismissal on the Applicant.

In a document captioned “Applicant’s Response to Conditional Order of Dismissal” and filed February 16, 2015, the Applicant argues he filed an application under the Access to Justice

III  
DNA evidence was  
destroyed during  
Pending action  
of his PCR  
Rec 4/23/15

Post-Conviction DNA Testing Act and learned at a court hearing on the matter on November 18, 2013 that the DNA evidence from his 2003 trial had been destroyed <sup>de</sup> after his first PCR hearing in 2005. The Applicant argues his PCR application is timely because his two prior PCR applications, petition for writ of habeas corpus in federal court, and action under the DNA Testing Act tolled the statute of limitations. The Applicant argues this is newly-discovered evidence and that the decision in his DNA Testing Act case "opened the door allowing this application for post-conviction relief to be filed."

This Court has reviewed the Applicant's response to the Conditional Order of Dismissal in its entirety, in conjunction with the original pleadings, and finds a sufficient reason has not been shown why the Conditional Order of Dismissal should not become final.

This Court notes the Applicant was convicted and sentenced on July 15, 2003 and the South Carolina Court of Appeals dismissed the subsequent appeal (at the Applicant's request) on April 15, 2004. As this action was filed on July 8, 2014, it was clearly filed outside the expiration of the statute of limitations. See S.C. Code Ann. § 17-27-45(a) (Supp. 2003). This is the Applicant's third application for post-conviction relief. This Court notes successive PCR applications are disfavored. See Land v. State, 274 S.C. 243, 246, 262 S.E.2d 735, 737 (1980). This Court finds the Applicant had the opportunity to litigate all issues related to his case at the evidentiary hearing for his first PCR application on February 16, 2005. See Odom v. State, 337 S.C. 256, 261, 523 S.E.2d 753, 755 (1999) ("[A]n applicant is entitled to a full adjudication on the merits of the original petition, or 'one bite at the apple.'"). The Applicant's numerous collateral attacks of his conviction did not serve to toll the one-year statute of limitations.

This Court finds the Applicant's allegation of newly-discovered evidence is without

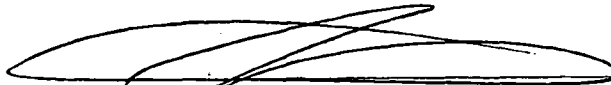
REC 1/23/15 III

merit. This Court finds the Applicant's alleged evidence has failed to prove any of the five (5) required elements of newly-discovered evidence. See Hayden v. State, 278 S.C. 610, 611-12, 299 S.E.2d 854, 855 (1983).

**IT IS THEREFORE ORDERED** that, for the reasons set forth in this Court's Conditional Order of Dismissal, the PCR application is hereby denied and dismissed with prejudice.

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

**AND IT IS SO ORDERED** this 13 day of APR, 2015.



Robin B. Stilwell  
Chief Administrative Judge  
Thirteenth Judicial Circuit

G. VILLE, South Carolina.

Ronnie Harris #294716  
MB-32, Kershaw Corr. Inst.  
4848 Goldmine Hiway  
Kershaw SC 29067

May 1 2015

Honorable Paul B. Wickensimer  
Clerk of Court, Greenville County  
305 East North St  
Greenville South Carolina 29601

Re: Ronnie Harris v State, 2014-CP-23-3759

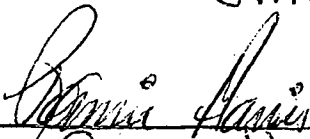
Dear Honorable Clerk:

Enclosed please find MOTION TO ALTER OR AMEND JUDGEMENT UNDER 59(e) SCRPC, with regard to the above referenced and Final Order of Dismissal of April 13, 2015.

Please file this action and return a certified, true and correct copy, all inclusive, of same to me. This request for certified authenticated copies is made Pursuant to RULE 901 SCRE, as I intend to introduce the authenticated copies into evidence at any Court proceedings which may be forthcoming regarding this matter.

Thank you for your assistance in this matter.

Sincerely,

  
\_\_\_\_\_  
Ronnie Harris #294716

STATE OF SOUTH CAROLINA  
COUNTY OF GREENVILLE

Ronnie Harris #294716

Applicant

v

STATE OF SOUTH CAROLINA

Respondent

IN THE COURT OF COMMON PLEAS  
2014-CP-23-3759

MOTION TO ALTER OR AMEND  
JUDGEMENT UNDER 59(e) SCRPC

MOTION TO ALTER OR AMEND JUDGMENT  
PURSUANT TO SCRPC 59(e)

The Applicant respectfully now comes before this Court to move upon the Court to Alter and Amend it's Final Order of Dismissal, dated April 13, 2015, and received by the Applicant April 23, 2015, at Kershaw Correctional Institution. The Applicant is exercising this avenue as the proper procedure for correcting factual errors as put forth by and within the Court's Order.

The Applicant respectfully seeks that this Court properly and correctly address it's finding and assertion of fact(s) in regard to the destruction of the Applicant's DNA evidence, based on the following information and exhibits of documentation.

PROCEDURAL HISTORY

1. The Applicant received on December 9, 2014 from the Office of the South Carolina Attorney General via U.S. Mail documents dated December 5, 2014 entitled "Conditional Order of Dismissal". See EXHIBITS A-1 - A-2.
2. On January 15, 2015 the Applicant was personally served with same documents, Conditional Order of Dismissal, signed by the Honorable Letitia H. Verdin, Chief Administrative Judge, on December 16, 2014. See EXHIBITS A-3(1) - A-3(8).
3. The Applicant responded with his submission entitled "Applicant's Response To Conditional Order of Dismissal" dated February 16, 2015.
4. On March 10, 2015 the Applicant received from the South Carolina Office of The Attorney General's Office, via

U.S. Mail documents dated March 6, 2015, referenced to by the Attorney General as Proposed original Final Order of Dismissal, without Certificate of Service, but attaching the same January 15, 2015 Affidavit of Personal Service as received previously, as discussed in Item 2 of this document. SEE EXHIBITS B-1 - B-2(1) - B-2(5)

5. On March 18, 2015 the Applicant responded to this proposed Original Final Order of Dismissal with his submission of his Instrument entitled "Response To Proposed Final Order of Dismissal", containing four (4) exhibits of official documentation from the Greenville Sheriff's Department clearly verifying and supporting the Applicant's assertion of fact of: (A) The destruction of the Applicant's DNA evidence during the pendency of his on going legal action, specifically his appellate process seeking Post-Conviction Relief, and (B) supporting documentation, in support of the Applicant's claim of newly discovered evidence.

In this Instrument of March 18, 2015 (Response to Proposed Final Order of Dismissal), the Applicant specifically requested by Motion within that Instrument that the Court have the Respondent properly and correctly address the fact of the DNA Evidence being destroyed during pending relief efforts and processes; by rebutting with fact and truth and law, or concede. SEE EXHIBIT C-1(1) - C-1(4)

The Court nor the Respondent have acknowledged or responded to this Instrument and request for proper addressment.

6. The Applicant again MOVES that the Court and the Respondent properly and correctly address the fact of the DNA destruction occurring while relief and appellate processes were pending, not after his first PCR hearing in 2005 "as the Court and state have addressed inaccurately.

7. The Applicant also MOVES that the Court and Respondent correctly and properly address their assertion of how the Applicant could possibly have "had the opportunity to litigate all issues related to his case at the evidentiary hearing for his first PCR application on February 16, 2005".

It is literally impossible to present, litigate and argue any "facts and occurrence" that have not yet taken place.

The Applicant posed the question in his March 18, 2015 Instrument of how could it be possible for him to present such a claim if the facts were not made known until over nine (9) years of (later) the filing of the PCR application, and over eight years (8) after the hearing. There is absolutely no way the Applicant could have presented this claim of DNA and it's destruction at his February 2005 hearing.

By exhibit G-1, the Applicant presents a timeline of events regarding his pursuit of appellate processes to include and show the destruction of his DNA evidence while/during the pendency of his PCR appellate process, not after, as the Respondent and Court have addressed. This as well is supported by the official documentation verifying its destruction, including one (1) particular and crucial article of evidence admitted into evidence as "Exhibit 10" by the state and Court during the Applicant's trial. This Exhibit 10 once admitted by the Court at trial, was required to be in the custodial care of the Clerk of Court as prescribed and mandated by SCACR 606 (C) (1) (B), Retention And Disposition of Exhibits In The Circuit And Family Courts, (C) Retention Period by Clerk. The Applicant presents documentation from the Clerk of Court, Greenville County as well, to show their declaration of never having the exhibit and no record of such maintenance. All of the aforementioned constitutes and creates violations of Applicant's USCA 14 rights. The Applicant request the Court to review the attached exhibits and documentation, and amend and alter its Order of Dismissal appropriately, correcting all factual errors brought forth within this Instrument.

SEE EXHIBITS D-1 through F-2 inclusively.

### CONCLUSION

The Applicant seeks that this Court will amend and alter its decision and findings, allowing this application to go forth in the interest of Due Process, Fairness, and Justice, and alleviate the violations of the Petitioner's Constitutional Rights under USCA 14 - Due Process.

Respectfully Submitted,

  
 Ronnie Harris #294716  
 Applicant

Encl./Attachments: \_\_\_\_\_



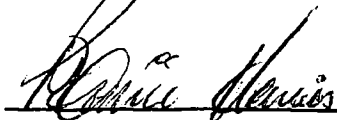
## CERTIFICATE OF SERVICE

I, Ronnie Harris, hereby certify and affirm by my signature below on the 1 day of MAY 2015, have served a true copy of the foregoing "MOTION TO ALTER OR AMEND JUDGEMENT UNDER SCRP 59(e)

on the following party to this matter by Interdepartmental mail service provided by the South Carolina Department of Corrections, by depositing the same in the mail receptacle provided at Kershaw Correctional Facility, 4848 Goldmine Hiway, Kershaw South Carolina.

The party served: Karen C. Ratigan, Senior Assistant Deputy Attorney General, P.O. Box 11549, Columbia S.C. 29211-1549.

The matter of Ronnie Harris v State of South Carolina, 2014-CP-23-3759, is the concern and matter being served.



Ronnie Harris #294716  
Applicant

Kershaw Corr. Inst., MB-32  
4848 Goldmine Hiway  
Kershaw SC 29067

May 1, 2015

|                          |   |                                     |
|--------------------------|---|-------------------------------------|
| STATE OF SOUTH CAROLINA  | ) | IN THE COURT OF COMMON PLEAS        |
|                          | ) | 2014-CP-23-3759                     |
| COUNTY OF GREENVILLE     | ) |                                     |
|                          | ) |                                     |
| Ronnie Harris,           | ) |                                     |
| S.C.D.C. No. 294716,     | ) |                                     |
|                          | ) |                                     |
| Applicant,               | ) |                                     |
|                          | ) |                                     |
| v.                       | ) | <b>RETURN TO MOTION TO ALTER</b>    |
|                          | ) | <b>AMEND THE ORDER OF DISMISSAL</b> |
| State of South Carolina, | ) |                                     |
|                          | ) |                                     |
| Respondent.              | ) |                                     |

FILED-CLERK OF COURT  
GREENVILLE CO. S.C.  
PAUL B. WICKENSIMER  
2015 MAY 21 PM 2 10

Respondent, by and through undersigned counsel, making its Return to Applicant's "Motion to Alter or Amend Judgement Under 59(e), SCRCP" filed March 7, 2015, would respectfully show unto this Court:

1. The matter is before the Court by way of a post-conviction relief (PCR) application that was filed on July 8, 2014.

2. Respondent submitted a return on December 5, 2014, requesting the application be summarily dismissed based upon the expiration of the statute of limitations and the presumption against successive PCR applications.

3. Respondent also submitted a conditional order of dismissal for review by the Chief Administrative Judge for the Thirteenth Circuit.

4. The conditional order of dismissal was thereafter signed by the Honorable Letitia H. Verdin and filed December 23, 2014. The conditional order of dismissal was personally served upon Applicant on January 15, 2015.

5. After Applicant filed a document captioned "Applicant's Response to Conditional Order of Dismissal," Respondent submitted a proposed final order to this Court on March 6,

2015. The Applicant filed a "Response to Proposed Final Order of Dismissal" on March 27, 2015. The final order was signed by this Court on April 13, 2015 and filed on April 16, 2015.

6. Applicant moves this Court to alter or amend the final order of dismissal, stating the Court should "address the fact of the DNA destruction occurring while relief and appellate processes were pending, not "after his first PCR hearing in 2005." Applicant argues he could not have litigated this issue at his first PCR hearing.

7. Respondent submits this motion should be denied and dismissed.

8. The Applicant's current PCR application was untimely because the statute of limitations expired on April 15, 2005.

9. This is the Applicant's third PCR application and thus is a successive PCR application. Respondent submits the Applicant could have challenged any issues related to DNA (and could have filed a motion for funds in order to perform a DNA analysis on any evidence) prior to the hearing on his first PCR application on February 16, 2005.

10. The Applicant failed to successfully demonstrate the existence of newly-discovered evidence that satisfied the five-part test set forth in Hayden v. State, 278 S.C. 610, 299 S.E.2d 854 (1983).

11. Respondent submits this Court need not address the arguments addressed in the Motion to Alter or Amend, as they are not germane to any PCR action and do not fall within the grounds for relief provided for in the Uniform Post-Conviction Procedure Act (S.C. Code Ann. § 17-27-20(a) (2003)).

12. Respondent submits the final order incorporated all of the specific findings set forth in the conditional order of dismissal.

13. Respondent submits this Court fully reviewed and properly ruled upon all issues

raised in the PCR application and "Applicant's Response to Conditional Order of Dismissal" and that the Motion to Alter or Amend should be denied.

Respectfully submitted,

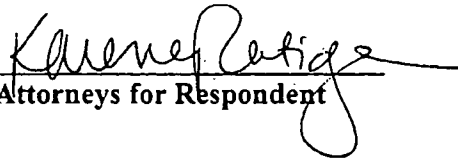
ALAN WILSON  
Attorney General

JOHN W. McINTOSH  
Chief Deputy Attorney General

KAREN C. RATIGAN  
Senior Assistant Deputy Attorney General

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

By:

  
Attorneys for Respondent

May 18, 2015

COUNTY OF GREENVILLE

Applicant,

**VS**

Respondent.

2014-CP-23-3759

AFFIDAVIT OF SERVICE BY M

FILED-CLERK OF COURT  
GREENVILLE CO. S.C.  
PAUL R. WICKENSIMMER  
MAY 21 2015  
MAY 2 2015

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 each of the **Return to Motion to Alter or Amend the Order of Dismissal** in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

**Ronnie Harris, 294716  
Kershaw Correctional Institution  
4848 Goldmine Highway  
Kershaw SC 29067**

DATED this 18th day of May, 2015.

Judy A. Carey  
Judy A. Carey, Legal Assistant  
For Respondent

STATE OF SOUTH CAROLINA  
COUNTY OF GREENVILLE

Ronnie Harris # 294716  
Applicant

v

State of South Carolina  
Respondent

IN THE COURT OF COMMON PLEAS  
2014-CP-23-3759

APPLICANT'S RESPONSE TO  
RESPONDENT'S RETURN TO  
MOTION TO ALTER OR AMEND  
THE ORDER OF DISMISSAL

Applicant in making his response to the Respondent's Return as captioned/referenced above, respectfully submits/presents to this Court this response to justifiably show cause by/with argument as to the reasonableness why the Applicant has filed for this Post-Conviction Relief action.

1. First and foremost, the Respondent has not conceded to nor addressed the unambiguously proven actual fact of the destruction of the Applicant's evidence taking place while pending litigation and Post-Conviction Relief efforts were in process, thus denying the Applicant opportunity to, as well as his rights protected and guaranteed under USCA 14 - due process. This shows and demonstrates deliberate avoidance of substantiated fact of the Laws of South Carolina, violated and broken by those in place to ensure the laws of this State.

Within the judicial system there is a standard of integrity which must be maintained and upheld to ensure fairness, protection of the rights guaranteed under both the United States Constitution and State of South Carolina Constitution as well as all that they represent in rights, liberty and law. The Respondent's representative has the responsibility of a minister of justice, not simply that of an adversary or advocate of such adverse actions when error has been shown, or proven and demonstrated. This responsibility carries with it specific obligations to see that those entitled to the protection under law and constitution are accorded procedural justice and that guilt is decided upon the basis of sufficient evidence.

The Applicant hereby seeks direct, concise factual addressment, either denying or conceding this fact by the Respondent (the State of South Carolina), and its Counsel

representative within the South Carolina Attorney General's Office. Anything less should be considered as extrinsic fraud by the Court.

2. This matter was filed before the Court as allowed by the Access To Justice Post-Conviction DNA Testing Act, pursuant to S.C. Code Ann. § 17-28-110(B) which allows for the filing of Post-Conviction Relief. "...Nothing in this Article prohibits a person from filing an application for Post Conviction Relief pursuant to Chapter 27 Title 17. In this Chapter 27 Title 17, it clearly sets forth and establishes in S.C. Code Ann. § 17-27-90 "...any new ground raised in subsequent application could not have been raised by him (applicant) in previous application." The Applicant did not know and could not have known of this breach of the law and injustice in 2004/2005. The issue was clearly put forth in the Applicant's March 27 2015 Response To Proposed Final Order of Dismissal. It is virtually as well as literally impossible to litigate situation and circumstance unknown to a party. How can the Applicant present what he does not know to exist? Yet once discovered and made aware of by the judicial system that is in place by the State of South Carolina, the Applicant has taken the avenues of action made available to him. Thus the application filed is not successive as the Respondent attempts to assert before the Court, but in fact filed this application for Post-Conviction Relief based on "...material facts not previously presented or heard within one (1) year after the date of actual discovery of the facts by the applicant..."

3. The Respondent puts forth "...the Applicant could have challenged any issues related to DNA (and could have filed a motion for funds in order to perform a DNA analysis on any evidence) prior to the hearing on his first PCR application on February 16, 2005.

The Applicant submits that as a pro se litigant, he should not be held to the same high standards as members of the bar as he is not trained in the art of law, therefore such option(s) were unknown at that time to the Applicant, and should not be expected. See Erickson v Pardus 551 US 89, 94 (2007) and Gordon v Lee 574 F.2d 1147, 1151 (4th Cir 1978). "The pro se litigant is not held to the same high standard as a member of the bar. But he must never the less meet certain standards including any good faith attempt to comply with rules."

The Respondent has "suggested" "...the Applicant could have filed a motion for funding..." The suggestion of such is considered by the Applicant as moot, as a motion

submitted to the Court in 2005, three (3) years prior to the DNA Post-Conviction Act even being presented or introduced to the State legislature for approval of funding, is abstract thinking. The Post-Conviction DNA Testing Act was presented in 2008, and passed and enacted in 2009, remained without State appropriation and funding for three (3) years after its passing into law until early 2012 when funding was finally made available by the State for applicants to seek such relief. The suggestion by/of the Respondent that seeking funding to perform DNA analysis in 2005 is impractical, and borderline "boot stamping", to present such scenario of meritless value.

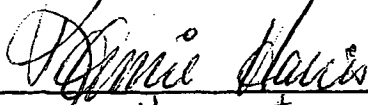
4. The Applicant submits that the standards and five-part test set forth in Hayden v State, 278 SC 610, 299 SE 2d 854 (1983) concerning newly discovered evidence should not be applied, but that the applicability of SC Code Ann. §17-27-90 should apply.
5. The Respondent has submitted that the Court need not address the arguments put forth in the Motion to Alter or Amend, suggesting, they are not germane. ... "The Applicant strongly disagrees and brings forth that ALL grounds/issues/and arguments brought forth in the Motion to Alter or Amend are relevant, appropriate and have significant bearing on the matter before the Court. Most importantly the Respondent's and Court's proper addressing of its concise denial or conceding of the fact of the destruction of the Applicant's evidence during the ongoing, pending appellate processes of Post-Conviction Relief efforts of his first initial filing.
6. This is presented and submitted based on comity to allow the State to consider this federal claim at issue, the denial of due process under USCA 14 as guaranteed; alerting the State Court to the federal nature of the claim. See Picard v Conner, 404 US 270 275, 92 S Ct 509 (1971), and Baldwin v Reese, 541 US 27, 29, 124 S Ct 1347 (2004). See also Baker v Lorchoran, 220 F3d 276, 289 (4th Cir 2000) quoting Mathews v Evatt, 105 F3d 907 911 (4th Cir 1997), "...fair presentation mandates that federal claim be presented face up and squarely."



CONCLUSION

The Applicant respectfully request with all sincerity towards the interest of justice and fairness that this Court review ALL documentation and exhibits submitted within the Motion to Alter or Amend as well as this submittal, and reconsider it's decision ordering dismissal; evaluate and concisely address by either denying or conceding the fact of evidence destruction during ongoing and pending appellate processes, and in the interest of justice and fairness allow the Applicant to proceed forth with Post-Conviction Relief efforts, or set forth and order for a new trial.

Respectfully submitted,



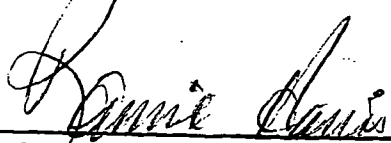
---

Ronnie Harris #294716  
Applicant

May 28 2015

## CERTIFICATE OF SERVICE

I hereby certify and affirm by my signature below, that I, Ronnie Harris, ~~on the 28~~ day of May, 2015, served a true copy of the foregoing APPLICANT'S RESPONSE TO RESPONDENT'S RETURN TO MOTION TO ALTER OR AMEND THE ORDER OF DISMISSAL on Karen C. Ratigan, Senior Assistant Deputy Attorney General, South Carolina Attorney General's Office, P.O. Box 11549, Columbia SC 29211-1549, by depositing the same in the United States Mail, First-Class postage pre-paid, in/bv the mail receptacle provided at Kershaw Correctional Institution, 4848 Goldmine Hiway, Kershaw S.C. 29067.



Ronnie Harris #294716  
MB-32, Kershaw Corr. Inst.  
4848 Goldmine Hiway  
Kershaw SC 29067  
Applicant

May 28, 2015

STATE OF SOUTH CAROLINA )

COUNTY OF GREENVILLE )

Ronnie Harris,  
SCDC# 294716 )

Applicant, )

vs. )

State of South Carolina, )

Respondent. )

IN THE COURT OF COMMON PLEAS

THIRTEENTH JUDICIAL CIRCUIT

**ORDER DENYING APPLICANT'S  
MOTION TO ALTER OR AMEND**

Case No.: 2014-CP-23-3759

FILED-CLERK OF COURT  
GREENVILLE CO. S.C.  
PAUL B. WICKENSIMER  
2015 MAR 6 PM 10 43

This matter comes before the Court pursuant to the Applicant's Motion to Alter or Amend filed May 7, 2015. After having carefully considered the same, this Court hereby respectfully denies the Motion.

**AND IT IS SO ORDERED.**


ROBIN B. STILWELL  
THIRTEENTH JUDICIAL CIRCUIT

May 26, 2015  
Greenville, South Carolina

Received 6/2/15 @ KGT  
RH.

Ronnie Harris #294716  
 MB-32 Kershaw Corr. Inst  
 4848 Goldmine Hiway  
 Kershaw SC 29067

June 23, 2015

RECEIVED

The Honorable Daniel Shearouse  
 Clerk, South Carolina Supreme Court  
 P.O. Box 11330  
 Columbia SC 29211

JUL 01 2015

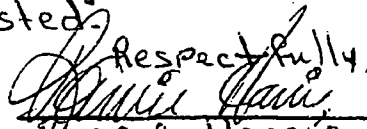
S.C. SUPREME COURT

Re: Notice of Appeal, Ronnie Harris, 294716  
 Case No.: 2014-CP-23-3759

Dear Mr Shearouse:

Enclosed for filing is a Notice of Appeal in the above case. Also enclosed are the following:

1. Proof of service of the Notice of Appeal in the above served upon the Respondent, the Clerk of Court, Greenville County, and Office of Appellate Defense.
2. A Copy of the Order(s) of judgement dated April 13, 2015 to be challenged on appeal.
3. A copy of the Order denying Motion To Alter or Amend dated May 26 2015.
4. Written explanation as Pursuant to Rule 243(c) SCACR with exhibits.
5. This appeal is being Filed with the Supreme Court because of the principal issue of constitutionality, both State and Federal, and the Failure of adherence to State laws and Statutes by parties empowered to embrace and administer justice and due process in fairness. This failure to adhere to State and Federal statute of law has taken place by destroying the critical, relevant evidence during the Pendency of appellate relief actions, prior to a final order of judgement by the Court. This destruction was done by those who had responsibility to preserve and maintain this evidence; the County/State employees and representatives of the Clerks office of the County of Greenville. Those who did not actually partake in destruction, did not maintain or ensure the destruction would or could not take place during pending litigation and appellate process ongoing and not exhausted.

Respectfully,  


Ronnie Harris #294716  
 Appellant

Other Counsel of Record:  
 Karen L. Kattigan Esq.  
 Office of Attorney General  
 P.O. Box 11549  
 Columbia SC 29211

THE STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

APPEAL FROM GREENVILLE COUNTY  
COURT OF COMMON PLEAS

RECEIVED

Robin B. Stillwell  
Chief Administrative Judge

JUL 01 2015

S.C. SUPREME COURT

Case No.: 2014-CP-23-3759

Ronnie Harris #294716 . . . . . Applicant

v

The State of South Carolina . . . . . Respondent

NOTICE OF APPEAL

Ronnie Harris appeals the Order of Dismissal of the Honorable Robin B. Stillwell dated April 13, 2015 received, April 23, 2015, by the Appellant, and the denying Applicants Motion To Alter or Amend, dated May 26 2015, and received by the Appellant June 2, 2015.



Ronnie Harris #294716  
Pro se Appellant  
MB-32 Kershaw Corr. Inst  
4848 Goldmine Hiway  
Kershaw SC 29067

Other Counsel of Record

Karen L. Ratigan, Esq  
Office of Attorney General  
P.O. Box 11549  
Columbia SC 29211

June 23, 2015

STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT **RECEIVED**

APPEAL FROM THE HONORABLE ROBIN B. STILLWELL JUL 01 2015

S.C. SUPREME COURT

Case No: 2014-CP-23-3759

Ronnie Harris #294716 . . . . . Applicant

V

THE STATE OF SOUTH CAROLINA . . . . . Respondent

CERTIFICATE OF SERVICE

I, Ronnie Harris, certify and affirm by my signature below the following parties I have served a copy of Applicant's Notice of Appeal by U.S. Mail First Class Postage Pre Paid; The Honorable Paul B. Wickensimer, Clerk of Court Greenville County, 305 East North Street, Greenville South Carolina 29601, on June 23, 2015.

The parties listed below I have served a copy of the foregoing Applicant's Notice of Appeal by Interdepartmental/ Inter-Agency Mail Service provided by the South Carolina Dept. of Corrections, by depositing in the receptacle provided at Kershaw Correctional Institution, 4848 Goldmine Hiway, Kershaw SC 29067, :

Karen C. Ratigan, Esq.  
Office of Attorney General  
P.O. Box 11549  
Columbia SC 29211

Office of Appellate Defense  
1330 Ladv Street, Ste 401  
Columbia SC 29201

This I certify and affirm by my signature below.



Ronnie Harris #294716  
Appellant  
MB-32, Kershaw Corr. Inst.  
4848 Goldmine Hiway  
Kershaw SC 29067

June 23, 2015

The Honorable Daniel Shearouse  
Clerk, South Carolina Supreme Court  
P.O. Box 11330  
Columbia SC 29211

Nonnie Harris 844116  
MB-32 Kershaw Corr. Inst.  
4848 Goldmine Hwy  
Kershaw SC 29067

Ans

EXplanation as Pursuant to  
Rule 243(c) SCACR



On November 18, 2013 the Appellant appeared before General Sessions Court, Greenville County for a DNA Post-Conviction Relief Testing hearing. The Appellant filed a PCR action challenging the hearing results of his DNA Post-Conviction Relief Testing hearing, whereas he was made aware of the destruction and disposal of his evidence he wished to have tested. The evidence was destroyed while and during appellate relief action was pending, as a final order and disposition had NOT been concluded and/or issued by the PCR Judge, the Honorable John C. Few, of the Appellant's first PCR of 2005.

This action (Appeal) is being submitted as a direct result of the destruction of crucial relevant evidence prior to all relief options and actions being exhausted that were available to the Appellant. This appeal has directly resulted from the denial of the Appellant's right to due process created by this destruction of the evidence from his trial proceedings.

This willful destruction and disposal took place during the Appellant's pending/ongoing appellate process of his initial PCR Filed July 2, 2004. The evidentiary hearing was convened on February 16, 2005. While awaiting the final Order of Judge Few, the Appellant's evidence presented at his trial was destroyed March 30, 2005 - forty-two (42) days, six (6) weeks - after the evidentiary hearing, while the PCR appellate action was awaiting Judge Few's Order. The failure to preserve and properly maintain this evidence by the State's representatives has created a denial of access to justice for the retesting and evaluation, to pursue his liberty interest and relief from conviction; processes made available to him by and through the Statute of Laws of South Carolina.

The failure to properly preserve and maintain this evidence by the State's representatives as required by State Statutes of law has created a situation not allowing the Appellant to further pursue the appellate relief processes available and raises the question of South Carolina law broken being properly sanctioned against those responsible, and accountability; as well as justice and fairness to be demonstrated toward the Appellant.

No one is above the law, nor should any entity be as well. Statutes of law are in place as by the State Legislature to guide the public as well as public servants, officials and offices; in and by the laws of the State of South Carolina.

The cardinal rule of statutory construction is to ascertain and effectuate the intent of the Legislature

However the Respondent and lower Court are attempting to expound the statutory operation to include something the Legislature never intended. It would be fundamentally unfair to provide the Appellant with a remedy to correct the unjust but then use that procedure as a bar by deeming it successive. The idea of "one bite at the apple" encompasses the procedural right and concept of one pull/bite at the apple.

To insinuate that the Appellant would have been able to raise and present this issue of the destruction of evidence presented and admitted at trial as grounds in his initial PCR application of July 2 2004 is an abstract finding, marked by an obvious lack of reason or logic. Judge Stillwell as well as the Respondent have concluded that the Appellant "had the opportunity to litigate all issues related to his case at the evidentiary hearing for his first PCR application on February 16 2005" (Pg 2 Final Order). This is impossible as the destruction had not occurred at that time, but took place forty-two (42) days after the evidentiary hearing on March 30 2005.

In addition, the DNA Post-Conviction Testing Act was passed into law in 2008 (Act 413 of 2008) enacted into law January 1 2009, and was not funded for implementation and actual use by prisoners/incarcerated individuals until three (3) years later in 2012, to finally allow applicants the opportunity to seek such action and relief. Therefore, how could the Appellant ever have possibly sought or attempted such relief efforts in his prior filing of 2004.

The Appellant filed his application for DNA Post Conviction testing August 2012 and hearing application was granted March 4 2013 by Judge Letitia H. Verdin. The Appellant appeared for this DNA Post-Conviction hearing November 18 2013. At this appearance the Appellant discovered and was made aware of, by and with documentation of this destruction of the physical evidence and biological material. The Appellant in turn within one (1) year of this court appearance and discovery, filed his PCR action. When the Court

convened and held proceedings, this action opened the door, initiating a separate proceeding, which allows the Appellant to initiate a separate action in response to the final disposition of it's convening. See S.C. Code Ann. § 17-28-110(B) "Nothing in this Article prohibits a person from filing an application for post-conviction relief pursuant to Chapter 27 Title 17"; not as a "successive filing of issues that could have been previously raised. Such as a scenario could be considered undeniably, the "invited reply doctrine" theory; is applicable in principle.

Based on the factual documented unambiguous proof given to the Respondent by copies of official documents of this illegal destruction, it is literally impossible to litigate an event or occurrence: ① Prior to it's taking place and/or ② Prior to having knowledge or being made aware of such occurrence or situation. An application can only be successive if the issue was raised or could have been raised in a previous filing.

The S.C. Code Ann. § 17-28-340(A) "Petition For Destruction of Evidence Prior To Expiration of Required Time Period mandates "The Custodian must Petition the General Sessions Court ... in which the person was convicted ... For an order allowing for disposition of the physical evidence or biological material prior to the time prescribed ... " S.C. Code Ann § 17-28-340(c) mandates "the Clerk shall file the Petition upon it's receipt and promptly bring to the attention of the Court and deliver a copy to the convicted or adjudicated person..." S.C. Code Ann. § 17-28-340(D) allows the convicted person 180 days to respond to the petition. The Appellant never had this opportunity as the Statutes of Law were not adhered to by those in place and position of Custodian of evidence.

Had the Appellant been notified of the State's intent to dispose and destroy his evidence as mandated by the Statutes of Law, the position of this issue and ground being litigated prior to the Appellant's July 8 2014 PCR application could have bearing as it truly could have been presented not at his first evidentiary hearing, but certainly afterward - Again the Appellant submits it was not

feasible for him to present this without knowledge of its existence or having taken place...

S.C. Code Ann. § 17-28-320 embraces and outlines the mandated laws of evidence, preserved conditions and duration of preservation. S.C. Code Ann. § 17-28-320(B) specifically outlines the physical evidence and biological material must be preserved 1) subject to a chain of custody as required by South Carolina law, 2) with sufficient documentation; and (C) until the person is released from incarceration, dies while incarcerated or is released from incarceration or is executed for the offense. It is well established that evidence presented at trial and evidence admitted as exhibits during the trial proceedings, made a matter of the trial record before the Court must be preserved as mentioned, as well as until the exhaustion of all possible and existing relief efforts have gone forth or time limitations and restraints surpassed. Clearly this was not observed nor adhered to in the Applicant's case at hand.

This destruction and disposal of the Appellant's evidence has impaired the Appellant's ability to bring forth the opportunity to convey his innocence by positive identification of all contributors of all the DNA evidence.

This destruction of evidence during the pending appellate process can, and should be considered as an act of obstruction of justice. "Under common law obstruction of justice is an offense to do any act which prevents, obstructs, impedes or hinders administration of justice." See State v. Lyles-Gray 492 SE2d 802 (SC App 1997), and State v. Cogdell 257 SE2d 748 (1979).

Spoilation is the destruction or material alteration of evidence... because a party is always under a duty to preserve relevant evidence when litigation is pending... adverse inference charge would adequately sanction the improper conduct." See Nucor Corp v Bell 2008 WL 9894350

The Appellant has made numerous requests to the Clerk of Court Greenville County, the Greenville Sheriff's Office and South Carolina Department of Corrections Division of Operations seeking documentation regarding the custodianship, maintenance and preservation of the

of the evidence, and most importantly the Chain of custody that is required to be kept. See S.C. Code Ann § 17-28-320(B)(1) (a) as stated previously. The third request to the Clerk of Court was made formally as a Freedom Of Information Act (FOIA) request under S.C. Code Ann § 30-4-10 et seq to which they finally responded.

The most recent request to SCDC Division of Operations and the Greenville County Sheriff's Department, Property and Evidence Division. Both request were made formally as FOIA Request under SC Code Ann § 30-4-10 et seq requesting their responses within fifteen (15) days as neither party has responded as required and mandated under S.C. Code Ann § 30-4-30(d)

Rule 606(c)(1)(B) SCACR requires the Clerk of Court to maintain evidence admitted during trial. During the Appellant's trial state's Exhibit Number 10, identified as a "Child's Sexual Assault Kit" (CSAC Kit) was admitted described as to it's contents, was admitted by the Without objection by the trial judge, confirmed as accounted for by the court's reporter/clerk when asked by the trial judge if all the Exhibits and Evidence (where as the proceedings had concluded) were accounted for and the Court reporter/clerk affirmed all exhibits and evidence was.

The Clerk of Court Greenville County, in his response to the Appellant's Freedom Of Information Act request indicates in his response, "The Clerk of Court records do not include the above referenced exhibit for the above referenced cases." (This is in reference to Exhibit 10 admitted into evidence) This clearly indicates that the Clerk's Office has not conformed or complied with Rule 606(c)(1)(B) SCACR.

The Appellant has repeatedly and consistently refuted the argument of the Respondent and Court in their claim of this evidence destruction taking place after the PCR hearing and still refutes their assertion as determined by Judge Robin B. Stillwell's order of dismissal.

The Appellant has sought to have his conviction overturned by the available processes of DNA Post Conviction Relief Act as the application was filed seeking such. In light of these events the Appellant's seeking of relief is now subject to the obstruction of justice and resulting unfairness from such, denying him due process under USCA 14.

This issue is presented squarely to this Court as it has been to the lower Courts based on Comity to allow the State to review and consider the federal nature of the claim.

The Appellant would seek relief based on the remaining available evidence, the Forensic Reports of test and conclusions determined by SLED and documented. This is sought under and pursuant to Rule 1004(1) SCRE.

The Appellant would also seek that the appropriate action(s) and sanction(s) be taken against those who have infringed upon the statutes of South Carolina Law in their official capacities acting under Color of State, as the law prescribes and allows.

Respectfully submitted,



Ronnie Harris

#294716

Appellant

Kershaw Corr. Inst, MB32

4848 Goldmine Hiway

Kershaw SC 29067

June 23, 2015

THE STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

APPEAL FROM GREENVILLE COUNTY  
COURT OF COMMON PLEAS

Robin B. Stillwell

Chief Administrative Judge

RECEIVED

JUL 01 2015

S.C. SUPREME COURT

Case No: 2014-CP-23-3759

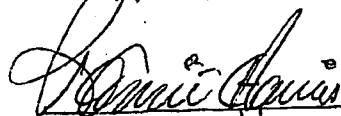
Ronnie Harris #294716 ..... Applicant

The State of South Carolina <sup>v</sup> ..... Respondent

Request For Appointment of Counsel

The above Applicant respectfully request that  
the State of South Carolina, The Supreme Court  
appoint appellate defense Counsel to  
represent him on this appeal.

Respectfully submitted,



Ronnie Harris #294716

June 23, 2015

TIME LINE FLOW CHART

1. 7/15-16/2003 TRIAL
2. 7/18/03 - 4/15/04 Direct Appeal, (Voluntarily withdrawn)
3. 7/2/04 - PCR Filed
4. 2/16/05 PCR Evidentiary Hearing HELD  
     ↑ 42 DAYS ↓ PCR PENDING
5. 3/30/05 - DNA EVIDENCE DESTROYED/DISPOSED OF  
     EIGHT MONTHS (8) TWENTY EIGHT DAYS (28)  
     INTO PENDING PCR APPELLATE PROCESS  
     6 weeks / 42 days after evidentiary hearing
6. 8/12/06 - Final Order denying PCR Application -  
     PCR Appellate Process for first (1<sup>st</sup>) PCR  
     Complete - 1 YEAR 5 MONTHS 13 DAYS  
     AFTER DNA DESTRUCTION.

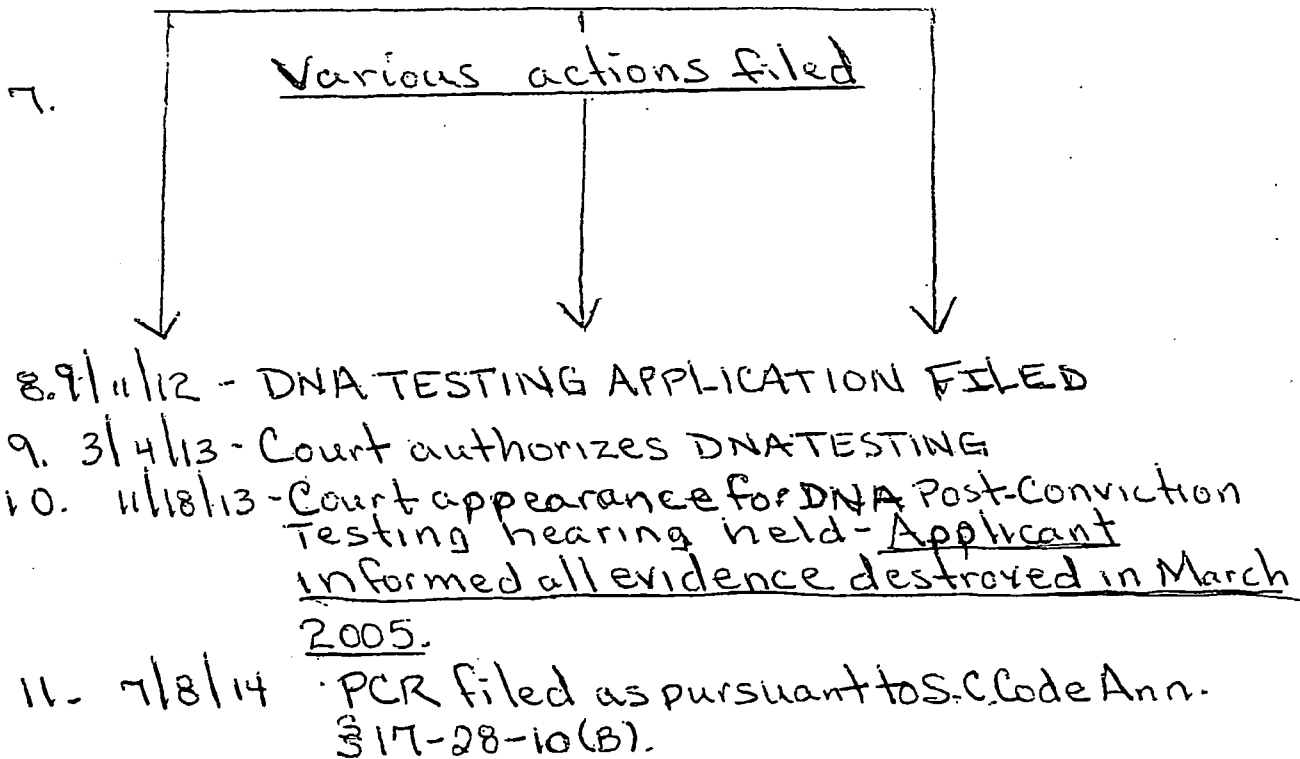




EXHIBIT 3-1 (b)

☒ 1 - Greenville SO  
☐ 2 - Greenville PD  
☐ Other: \_\_\_\_\_

**DEPARTMENT OF COMMUNITY SERVICES**  
**CRIMINAL JUSTICE SUPPORT**

[illegible]

EXHIBIT 3-1(G)IN PROGRESS  
03/07/2003Investigating Office: 00011 AUSTIN, JM  
Date & Time Impounded: 04/21/2001 16:00  
Impounded At: COURT RMProperty and Evidence Disposition Report  
For the Period of 01/01/1980 to 03/30/2005

Case Number: 01-2001-061972 Report No: 01

Page 1

No: 8 Unit: SC Case Type: 061. SEXUAL CRIMES  
City: GREENVILLE, SC Prop Status: EVIDENCE-GS COURT

Name

Ty Description Name List

DE

01 HARRIS, RONNIE

04 SUSPECT

00

Item 34 Qty Item Type

Make/Model/Color Property List

Description

Disp

01 A 01 0003 LINEN-SHEETS/COMFORT  
Storage: 10-4 VAL

Out

BED SHEET / PILLOWCASES

Warrant#

Name

Warrant/Court Information  
DOB R S Offense

G453949

HARRIS, RONALD

04/12/1957 B M

CRIMINAL SEXUAL CONDUCT W/MINR 1ST DEGREE

Court: CLERK

Harris, Ronald

Status:

Judge: Reid

Sentence: 20 YR

Trial/Guilty/Clerk Criminal

Date: 07/16/2003

Trial/Guilty/Clerk Criminal

## AUTHORIZATION FOR DISPOSITION

Disposition Type:  
(Circle one)DISPOSE OF

HOLD

DEPOSIT

Items  
A

Authorized By:

Please Print Name

Signature

Star No.

Date

\*\*\*\*\* NOTE: PLEASE REPORT TO P&amp;E TO SIGN ALL AUTHORIZATIONS FOR RELEASE TO OWNER. \*\*\*\*\*

EXHIBIT 3-1(8)

dt

UCPM003

Property Disposition Maintenance

(GCCJS)

Case No 01-2001-061972

Investigating Officer 00011 AUSTIN JM

Report Number 01

Control Number 000002664

Type of Disposition 002 DESTROYED

Released To: R#

Name L

Addr

C

Date/Time

Ty

F

Ty

S

Dir

Z

No

M

Unit

S

Value

\$0.00

Authorizing By:

Name 00011 AUSTIN JM

Date/Time 03/30/2006

Comment

Comment

4=Delete 7=Link Item 9=Link Rpt 10=Comment 11=Disconnect Item

Command ==&gt;

F1=Ext. Help

F9=Find

F2=Desc

F3=Exit

F10=Modify

F5=Refresh

F11=Entry

F6=Update Stay

F12=Popup

F7=Backwards

CSC Kit

Where is chain of custody  
paper w/ for CSC?

This one marked and admitted as evidence  
exhibit 10 at trial. Required to be  
maintained and kept by Clerk of  
Court under Rule 606(c)(1)(B)

Ellen M. Clark

DISPOSAL

SEP 25 2012

EXHIBIT 3-1(9)UCPR0037  
03/30/2005Property and Evidence Disposition Report  
for the Period of 01/01/1980 to 03/30/2005

Page 2

Investigating Officer: 00011 AUSTIN JM  
Date & Time Impounded: 04/23/2001 14:45  
Impounded Addr: GRAY RDNo: 701 Unit:  
City: GREENVILLE, SCCase Number: D1-2001-061972 Report No: 02  
Case Type: 061 SEXUAL CRIMES  
Prop Status: EVIDENCE-GS COURT

| No   | Name                         | Property List | Item Description | Make/Model/Color | Description     | Disp |
|------|------------------------------|---------------|------------------|------------------|-----------------|------|
| 02   | <del>XXXXXXXXXX</del>        | 03 VICTIM     |                  |                  |                 | 00   |
| 02 A | 01 0001 SEXUAL ASSAULT COLLE | Storage: REF  | Val              | Out              | CHILD'S CSC KIT |      |

## AUTHORIZATION FOR DISPOSITION

Disposition Type:  
(Circle one)

DISPOSE OF

HOLD

DEPOSIT

Items

Authorized By:

Please Print Name

Signature

Date No.

Date

\*\*\*\*\*  
 NOTE: PLEASE REPORT TO P&E TO SIGN ALL AUTHORIZATIONS FOR RELEASE TO OWNER.  
 \*\*\*\*\*

where is chain of custody  
 for CSC kit

Ronnie Harris #294716  
Kershaw Corr Inst. MB-32  
4848 Goldmine Hiway  
Kershaw SC 29067

March 16 2015  
File No 201RH001-031615-C

Third request

Honorable Paul B. Wickensimer  
Clerk of Court, Greenville County  
305 East North St., Ste. 224  
Greenville SC 29601

Re: 2001-GS-23-7069, 2003-GS-23-2960

Dear Honorable Clerk:

Your letter dated 3/5/15, postmarked 3/10/15 was received by me 3/13/15.

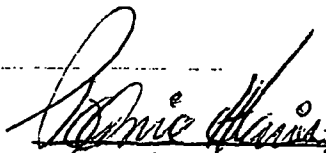
Pursuant to the provisions set forth in S.C. Code Ann. § 30-4-10 et seq. I am formally requesting the following public information with regard to the above referenced:

- 1) All documentation as it pertains to and relates to State's Exhibit No. 10 described as a "Child Assault Evidence Kit" admitted into evidence at trial on July 15-16 2003 and so recorded, and noted as retained by the Clerk of Court for Greenville County within the index of the trial transcript for the above referenced.
- 2) All Chain of Custody documentation for the evidence Exhibit, retained or previously retained by your office as it relates and pertains to State's Exhibit No. 10.

This Exhibit, once it was admitted and accepted into evidence as it was at trial, became the direct responsibility of the Office of the Clerk to preserve, maintain and be accountable for regarding any action taken regarding it's disposition of being/existence, it's handling and movement, as outlined and prescribed in SCACR 606 (C)(B).

Pursuant to SC Code Ann. § 30-4-30 (c), please respond to this request for public information within fifteen (15) days. Your assistance will be appreciated. Thank you.

Sincerely,



Ronnie Harris #294716  
Kershaw Corr Inst. MB-32  
4848 Goldmine Hiway  
Kershaw SC 29067

2



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

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

March 26, 2015

Ronnie Harris #294716  
Kershaw Correctional Inst.  
4848 Goldmine Hwy  
Kershaw, SC 29067

Re: Freedom of Information Act Request – State's Exhibit 10 "Child Assault  
Evidence Kit"; 2001-GS-23-7069, 2003-GS-23-2960

Dear Mr. Harris:

Your letter postmarked 3/20/2015 was received 3/25/2015. You have requested documentation on the above referenced exhibit. The Clerk of Court records do not include the above referenced exhibit for the above referenced cases.

Sincerely,  
Clerk of Court  
Greenville County General Sessions

who has Ex 10?

Mar 18, 2015

Ronnie Harris #294716  
 MB-32 Kershaw Corr. Inst  
 4848 Goldmine Hiway  
 Kershaw SC 29067

mailed US postal  
SVC  
 5/19/15 to HQ

South Carolina Dept. of Corrections  
 Division of Operations  
 4444 Broad River Rd  
 Columbia SC 29210

Re: Ronnie Harris, SCD# 294716  
 Docket / Case No's.. 2001-GS-23-7069, 2003-GS-23-2960  
 Freedom Of Information Act Request

To whom it may concern:

This is a formal request for public information under the Freedom Of Information Act.

Pursuant to the provisions set forth in S.C. Code Ann §30-4-10 et. seq., I am formally requesting the following public information:

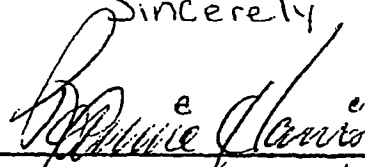
- 1) Copies of all documentation pertaining to and showing the appointment of and registration of the "Custodian" of evidence as required pursuant to S.C. Code Ann. §17-28-330(A) "Registration As Custodian of Evidence", by the definition of the "Custodian of Evidence" as set forth in S.C. Code Ann. §17-28-310(2)
- 2) Copies of all documentation pertaining to the Chain of Custody of the physical evidence and biological material while in the Registered Custodian's Care, pursuant to S.C. Code Ann. §17-28-320(B)(1), all documentation used and maintained to locate the physical evidence and biological material, S.C. Code Ann §17-28-320(B)(2) and copies of, or a complete detailed information outline as to how, where and the conditions maintained to preserve the forensic integrity of the physical evidence and biological material, S.C. Code Ann §17-28-320(B)(3).
- 3) Copies of any and all petitions for (and seeking) an "Order to Dispose" and any accompanying attachments submitted to the Court seeking the destruction of physical evidence and biological material S.C. Code Ann. §17-28-340(A), copies of any and all "Certificates of Service" of those served S.C. Code Ann §17-28-340(C) copies of any and all responses which may have been received with regard to such petitions, S.C. Code Ann. §17-28-340(D), which may have been submitted to your office by the registered Custodian.

Under the "Access To Justice Post Conviction DNA Testing Act", § 17-28-330 (A) mandates "After a person is convicted or adjudicated for at least one of the offenses enumerated in Section § 17-28-320, a Custodian of evidence shall register with the South Carolina Dept. of Corrections, or the Dept. of Juvenile Justice, as applicable, as a custodian of evidence for physical evidence or biological material related to the person's conviction or adjudication.

This request for information is being made to your office as the Clerk of Court Greenville County has informed me of your office's involvement with the registration of Custodianship (see enclosed correspondence).

Pursuant to S.C. Code Ann. § 30-4-30, please respond within fifteen (15) days to this request. Your assistance will be appreciated.

Sincerely,



Ronnie Harris # 294716  
MB-32 Kershaw Corr. Inst  
4848 Goldmine Hwy  
Kershaw SC 29067

Encl.: \_\_\_\_\_





**Greenville  
County**

# Office of the Clerk of Court

## Greenville, South Carolina

**Paul B. Wickensimer  
Clerk of Court**

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

March 5, 2015

Ronnie Harris #294716  
Kershaw Correctional Inst.  
4848 Goldmine Hwy  
Kershaw, SC 29067

Re: 2001-GS-23-7069, 2003-GS-23-2960

Dear Mr. Harris:

Your letter postmarked 2/20/2015 was received 2/27/2015. Below please find the contact information you requested for SCDC custodial registration.

Division of Operations  
4444 Broad River Rd.  
Columbia, SC 29210

Regarding the other issues addressed in your letter please be advised that the Clerk of Court cannot provide legal counsel, investigation, instruction, or advice. Please contact your attorney regarding these matters.

Sincerely,  
Clerk of Court  
Greenville County General Sessions

TIME LINE FLOW CHART

1. 7/15-16/2003 TRIAL
2. 7/18/03 - 4/15/04 Direct Appeal, (Voluntarily withdrawn)
3. 7/2/04 - PCR Filed
4. ~~2/16/05 PCR Evidentiary Hearing HELD~~  
~~↑ 42 DYS ↑ PCR PENDING~~
5. ~~3/30/05 DNA EVIDENCE DESTROYED/DISPOSED OF~~  
~~EIGHT MONTHS (8) TWENTY EIGHT DAYS (28)~~  
~~INTO PENDING PCR APPELLATE PROCESS~~  
~~6 weeks 3/42 days after evidentiary hearing~~
6. ~~8/12/06 Final Order denying PCR Application -~~  
~~PCR Appellate Process for first (1<sup>st</sup>) PCR~~  
~~Complete - 1 YEAR 5 MONTHS 13 DAYS~~  
~~AFTER DNA DESTRUCTION.~~
7. Various actions filed
8. 9/11/12 - DNA TESTING APPLICATION FILED
9. 3/4/13 - Court authorizes DNA TESTING
10. ~~11/18/13 - Court appearance for DNA Post-Conviction~~  
~~Testing hearing held - Applicant~~  
~~informed all evidence destroyed in March~~  
~~2005.~~
11. 7/8/14 - PCR filed as pursuant to S.C. Code Ann.  
 § 17-28-10(B).

EXHIBIT 3-1 (6)

**DEPARTMENT OF COMMUNITY SERVICES**  
**CRIMINAL JUSTICE SUPPORT**

Form No A-91

**ORIGINAL**



390

26/09/2013 11:20

864-467-5338

EVIDENCE SECTION

PAGE 30/35

EXHIBIT 3-1(8)

dt

UCPM008

Property Disposition Maintenance

(GCCJS)

Case No 01-2001-061972

Investigating Officer 00011 AUSTIN JM

Report Number 01

Control Number 000002664

Type of Disposition 002 DESTROYED

Released To: R#

Name L

Addr

C

Date/Time

Ty

F

Ty

S

Dir

Z

No

Value

M

Unit

S

\$0.00

Authorizing By:

Name 00011 AUSTIN JM

Date/Time 03/30/2005

Comment

Comment

4=Delete 7=Link Item 9=Link Rpt 10=Comment 11=Disconnect Item

Command ==&gt;

F1=Ext. Help

F2=Desc

F3=Exit

F5=Refresh

F6=Update Stay

F7=Backwards

F9=Find

F10=Modify

F11=Entry

F12=Popup

~~CSC Kit~~

where is chain of custody  
paper wk for CSC

This one marked and admitted as  
evidence exhibit 10 at trial. Required to  
be maintained and kept by clerk of  
court under Rule 606(c)(1)(B).

Ellen M. Clark

**DISPOSAL**

SEP 25 2012

S/NCL 01/12/2012

EXHIBIT 3-1(a)UCPR003T  
03/30/2005Property and Evidence Disposition Report  
for the Period of 01/01/1980 to 03/30/2005

Page 2

Investigating Officer: 00011 AUSTIN, JM  
Date & Time Impounded: 04/23/2001 14:45  
Impounded Addr: GROVE RDNo: 701 Unit:  
City: GREENVILLE, SCCase Number: 01-2001-061972 Report No: 02  
Case Type: 061-SEXUAL CRIMES  
Prop Status: EVIDENCE-GS COURT

| N# | Name                     | Ty Description | Name List | D# |
|----|--------------------------|----------------|-----------|----|
| 02 | <del>ARMED ROBBERY</del> | 03 VICTIM      |           | 00 |

| R# | Item S# | Qty | Item Type                | Make/Model/Color | Property List | Description     | Disp |
|----|---------|-----|--------------------------|------------------|---------------|-----------------|------|
| 02 | A       | 01  | 0001 SEXUAL ASSAULT COME |                  |               | CHILD'S CSC KIT |      |
|    |         |     | Storage: RET             | Val              | Out           |                 |      |

## AUTHORIZATION FOR DISPOSITION

Disposition Type: DISPOSE OF  
(Circle one)

HOLD

DEPOSIT

Item#

Authorized By:

Please Print Name

Signature

Star No.

Date

\*\*\*\*\*  
\* NOTE: PLEASE REPORT TO P&E TO SIGN ALL AUTHORIZATIONS FOR RELEASE TO OWNER. \*  
\*\*\*\*\**where is chain of custody  
for CSC kit*

Ronnie Harris #294716  
Kershaw Corr Inst. MB-32  
4848 Goldmine Hiway  
Kershaw SC 29067

March 16 2015  
File No 201RH001-031615-C

This is request

Honorable Paul B. Wickensimer  
Clerk of Court, Greenville County  
305 East North St., Ste-224  
Greenville SC 29601

Re: 2001-GS-23-7069, 2003-GS-23-2960

Dear Honorable Clerk:

Your letter dated 3/5/15, postmarked 3/10/15 was received by me 3/13/15.

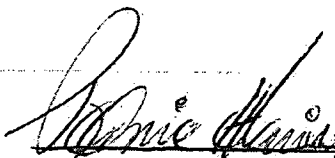
Pursuant to the provisions set forth in S.C. Code Ann. § 30-4-10 et seq. I am formally requesting the following public information with regard to the above referenced:

- 1) All documentation as it pertains to and relates to State's Exhibit No. 10 described as a "Child Assault Evidence Kit" admitted into evidence at trial on July 15-16 2003 and so recorded, and noted as retained by the Clerk of Court for Greenville County within the index of the trial transcript for the above referenced.
- 2) All Chain of Custody documentation for the evidence Exhibit, retained or previously retained by your office as it relates and pertains to State's Exhibit No. 10.

This Exhibit, once it was admitted and accepted into evidence as it was at trial, became the direct responsibility of the Office of the Clerk to preserve, maintain and be accountable for regarding any action taken regarding it's disposition of being/existence, it's handling and movement, as outlined and prescribed in SCAER 606 (C)(B) 606 (c)(1)(B)

Pursuant to SC Code Ann. § 30-4-30 (c), please respond to this request for public information within fifteen (15) days. Your assistance will be appreciated. Thank you.

Sincerely,



Ronnie Harris #294716  
Kershaw Corr Inst. MB-32  
4848 Goldmine Hiway  
Kershaw SC 29067



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

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

March 26, 2015

Ronnie Harris #294716  
Kershaw Correctional Inst.  
4848 Goldmine Hwy  
Kershaw, SC 29067

Re: ~~Freedom of Information Act~~ Request – State's Exhibit 10 "Child Assault  
Evidence Kit"; 2001-GS-23-7069, 2003-GS-23-2960

Dear Mr. Harris:

Your letter postmarked 3/20/2015 was received 3/25/2015. You have requested  
documentation on the above referenced exhibit. ~~The Clerk of Court records do not include~~  
~~the above referenced exhibit for the above referenced cases.~~

Sincerely,  
Clerk of Court  
Greenville County General Sessions

has  
who had Ex 10?



3942 Ronnie Harris # 294716  
M.B-32 Kershaw Corr Inst  
4848 Goldmine Hwy  
Kershaw SC 29067

Save For Court

May 18, 2015

Greenville County Sheriff's Dept.  
Property & Evidence Dept./Div.  
4 McGee St  
Greenville SC 29601

Re: Freedom Of Information Act Request  
Your Case No.: 01-61972

To whom it may concern:

This is a formal request for public information under the Freedom of Information Act.

On February 19 2015 by my correspondence to your Department I requested information regarding evidence collected in the above referenced case by Investigator James Riley Austin on April 23 2001, seeking documentation, records and information pertaining to such evidence collected, requesting your response within thirty (30) days. As of this correspondence, no response or reply has come forth. (copy enclosed for your reference).

Pursuant to the provisions set forth in S.C. Code Ann. § 30-4-10 et seq., I am formally requesting the following public information under the Freedom of Information Act:

- 1) All documentation as it pertains to and relates to all the evidence collected in the above referenced case; specifically but not limited to the bedding items (the bed sheet(s) and two (2) pillow cases that were collected at the alleged crime scene and residence of the defendant by Investigator James Riley Austin on April 23 2001. "packaged and placed in a secure location at property and evidence... they were taken back to the LEC and placed in property and evidence..." as testified to by Investigator Austin at trial July 15-16, 2003.
- 2) Any and all documentation and records and information concerning all of the physical evidence and biological material collected, it's physical location (whereabouts), care, storage, preservation, any and all movements (chain of custody) and dispositions (decisions) of storage and/or maintenance (disposal)

3). The information as requested in my February 19, 2015<sup>395</sup> correspondence to your office, referring to the ~~January~~ January 12, 2015 request submitted to the Clerk of General Sessions Court, Greenville County that your office as well provide the same information as requested of the Clerk's Office, all inclusive, again is now made of your Office/Department to be forwarded to me -

4). Any and all other documents records and information as it is relevant and applies to the referenced case, pertaining to evidence.

Pursuant to S.C. Code Ann § 30-4-30(c), please respond to this request for public information within fifteen (15) days. Your assistance will be appreciated.

Thank you.

Sincerely

---

Ronnie Harris #294716  
MB-32 Kershaw Corr. Inst.  
4848 Goldmine Hiway  
Kershaw SC 29067

Encl.: \_\_\_\_\_



# Office of the Clerk of Court

## Greenville, South Carolina

**Paul B. Wickensimer**  
Clerk of Court

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

January 23, 2015

Ronnie Harris #294716  
Kershaw Correctional Inst.  
4848 Goldmine Hwy  
Kershaw, SC 29067

Dear Mr. Harris:

Your letter postmarked 1/12/2015 was received 1/15/2015. Please be advised that the Clerk of Court is custodian of evidence only for exhibits admitted during at trial. While we do register with the South Carolina Department of Corrections as exhibit custodians, you will have to request documentation of them as we are not provided with any type of documentation to show we have registered.

Please address your request for chain of custody documentation to the Greenville County Property & Evidence department.

No petitions have been filed with the Clerk of Court regarding disposing of evidence in your cases, nor has any information regarding hearings of that nature been provided to our office.

Enclosed please find a copy of your clocked letter as you requested.

Sincerely,  
Clerk of Court  
Greenville County General Sessions

Ronnie Harris #294716  
MB-32 Kershaw Corr. Inst  
4848 Goldmine Hiway  
Kershaw SC 29067

Mar 18 2015

397

South Carolina Dept. of Corrections  
Division of Operations  
4444 Broad River Rd  
Columbia SC 29210

Re: Ronnie Harris, SCDC #294716  
Docket/Case Nos.: 2001-GS-23-7069, 2003-GS-23-2960  
Freedom of Information Act Request

To whom it may concern:

This is a formal request for public information under the Freedom of Information Act.

Pursuant to the provisions set forth in S.C. Code Ann. §30-4-10 et. seq., I am formally requesting the following public information:

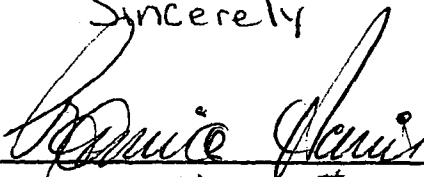
- 1) Copies of all documentation pertaining to and showing the appointment of and registration of the "Custodian" of evidence as required pursuant to S.C. Code Ann. §17-28-330(A) "Registration As Custodian of Evidence", by the definition of the "Custodian of Evidence" as set forth in S.C. Code Ann. §17-28-310(2).
- 2) Copies of all documentation pertaining to the Chain of Custody of the physical evidence and biological material while in the Registered Custodian's Care, pursuant to S.C. Code Ann. §17-28-320(B)(1), all documentation used and maintained to locate the physical evidence and biological material, S.C. Code Ann. §17-28-320(B)(2) and copies of, or a complete detailed information outline as to how, where and the conditions maintained to preserve the forensic integrity of the physical evidence and biological material, S.C. Code Ann. §17-28-320(B)(3).
- 3) Copies of any and all petitions for (and seeking) an "Order to Dispose" and any accompanying attachments submitted to the Court seeking the destruction of physical evidence and biological material S.C. Code Ann. §17-28-340(A), copies of any and all "Certificates of Service" of those served. Copies of such petition(s) S.C. Code Ann. §17-28-340(C) copies of any and all responses which may have been received with regard to such petitions S.C. Code Ann. §17-28-340(D), which may have been submitted to your office by the registered Custodian.

398 Under the "Access To Justice Post Conviction DNA Testing Act", § 17-28-330 (A) mandates "After a person is convicted or adjudicated for at least one of the offenses enumerated in Section § 17-28-320, a Custodian of evidence shall register with the South Carolina Dept. of Corrections, or the Dept. of Juvenile Justice, as applicable, as a custodian of evidence for physical evidence or biological material related to the person's conviction or adjudication.

This request for information is being made to your office as the Clerk of Court Greenville County has informed me of your office's involvement with the registration of Custodianship (See enclosed correspondence).

Pursuant to S.C. Code Ann. § 30-4-30, please respond within Fifteen (15) days to this request. Your assistance will be appreciated.

Sincerely



Ronnie Harris # 294716  
MB-32 Kershaw Corr. Inst  
4848 Goldmine Hiway  
Kershaw SC 29067

Encl.: \_\_\_\_\_



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

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

File No KH-001-02 15-B  
399

March 5, 2015

Ronnie Harris #294716  
Kershaw Correctional Inst.  
4848 Goldmine Hwy  
Kershaw, SC 29067

Re: 2001-GS-23-7069, 2003-GS-23-2960

Dear Mr. Harris:

Your letter postmarked 2/20/2015 was received 2/27/2015. Below please find the contact information you requested for SCDC custodial registration.

Division of Operations  
4444 Broad River Rd  
Columbia, SC 29210

Regarding the other issues addressed in your letter please be advised that the Clerk of Court cannot provide legal counsel, investigation, instruction, or advice. Please contact your attorney regarding these matters.

Sincerely,  
Clerk of Court  
Greenville County General Sessions

WITNESSES

INV. J. AUSTIN

GCSO

04/23/01

*For. Bill*

ARREST WARRANT NUMBER

G 453949

ACTION OF GRAND JURY

TRUE BILL

*For. Bill*

FOREMAN GRAND JURY

Foreperson of Grand Jury

VERDICT

*Guilty*

*Guilty*  
Foreperson of Petit Jury

Date:

*7-18-03*

DOCKET NO. 2001-GS-23-  
BSS 7069  
The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

OCTOBER TERM 2001

*7/16/03*

THE STATE

**GUILTY**

VS.

RONALD HARRIS

AKA

RONNIE HARRIS

**JUL 22 2003**

**BW**

Indictment for

0385

CRIMINAL SEXUAL CONDUCT WITH A MINOR  
FIRST DEGREE

VIOLATION § 16-3-655

*291*

**STATE OF SOUTH CAROLINA       )**  
**)**  
**COUNTY OF GREENVILLE       )**

**INDICTMENT FOR  
CRIMINAL SEXUAL CONDUCT WITH A MINOR  
FIRST DEGREE**

At a Court of General Sessions, convened on OCTOBER 30, 2001 the  
Grand Jurors of Greenville County present upon their oath:  
That RONALD HARRIS AKA RONNIE HARRIS did in Greenville County, on or about the 23rd day of  
April, 2001, commit a sexual battery on D.D.H., who was less than eleven years of age. This is in  
violation of §16-3-655(1) of the South Carolina Code of Laws (1976) as amended.

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

*Bryna Stokes Jay*  
SOLICITOR



## STATE OF SOUTH CAROLINA

COUNTY OF Greenville

STATE

VS.

HARRIS, RONALD

AKA:

Race: B Sex: M Age: 46

DOB: [REDACTED]-1957 SS#: [REDACTED]

Address: [REDACTED]  
PIEDMONT, SC 29617

DL#: [REDACTED] SID#: [REDACTED]

## IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#:

2001GS2307069

A/W#: G453949

Date of Offense: 04-23-2001

S.C. Code § : 16-03-0655(1)

CDR Code #: 0385

☐ CASE RESTORED  
SENTENCE☐ PLEA ☒ TRIALIn disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADSTO: Criminal Sexual Conduct with a Minor 1st Degreein violation of § 16-3-655(1) of the S.C. Code of Laws, bearing CDR Code # 0385☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ 17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury.The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Byrna S. Gray  
Solicitor:

Defendant

Attorney for Defendant

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

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is given credit for time served pursuant to S.C. Code § 24-23-40 to be calculated and applied by the State Department of Corrections.

## SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Heard, ☐ Waived, ☐ Ordered

PTUP

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

\_\_\_\_\_ days/hours Public Service Employment

Payment Terms:

☐ set by SCDPPPS

Obtain GED

Attend Voc. Rehab. or Job Corp.

May serve W/E beginning

Substance Abuse Counseling

Random Drug/Alcohol testing

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ \_\_\_\_\_ beginning \_\_\_\_\_

\$ \_\_\_\_\_ paid to Public Defender Fund

Other:

Recipient:

\*Fine: \$ \_\_\_\_\_

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

§ 14-1-211(A)(1) (Surcharge) \$ 100

§ 14-1-211(A)(2) (Surcharge) \$ \_\_\_\_\_

§ 56-5-2995 (DUI Assessment) \$ \_\_\_\_\_

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

§ 73.3, 1B TP (Law Enforce. Funding) \$ \_\_\_\_\_

§ 33.7, 1B TP (Drug Court Surcharge) \$ \_\_\_\_\_

TOTAL \$ \_\_\_\_\_

Paul B. J. ...  
Clerk of Court/Deputy ClerkCourt Reporter: H. Jenkins☐ Appointed PD or appointed other counsel, § 35.13 TP  
Requires \$500 be paid to Clerk during probation.

PRESIDING JUDGE

Judge Code:

Sentence Date: 7/16/03

## ARREST WARRANT

833

G-453949 5-30-1

## STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of Greenville

THE STATE 01-61972

against

Ronald Harris AKA Ronnie Harris

Address: [REDACTED] Piedmont, SC 29617

 Phone: [REDACTED] B Height: [REDACTED] Weight: 175 lbs  
 Sex: [REDACTED] Race: [REDACTED] SSN: [REDACTED]

 DL State: SC DL #: [REDACTED] Agency ORI #: 230000  
 DOB: [REDACTED]

Prosecuting Agency: GCSO Inv. J. Austin

Prosecuting Officer: [REDACTED]

Offense: CSC w/Minor 1st Degree

Code/Ordinance Sec. 16-3-655

Offense Code: [REDACTED]

This warrant is CERTIFIED FOR SERVICE in the

☐ County/ ☐ Municipality of [REDACTED]

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

Signature of Judge [REDACTED] (L.S.)

Date: [REDACTED]

## RETURN

A copy of this arrest warrant was delivered to defendant Ronnie Harris on 4-23-01

Signature of Constable/Law Enforcement Officer [REDACTED] 630/146

RETURN WARRANT TO:

RETD

## STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of Greenville

Personally appeared before me the affiant

being duly sworn deposes and says that defendant

did within this county and state on or about April 23, 2001

State of South Carolina (or ordinance of ☐ County/ ☐ Municipality of [REDACTED])

in the following particulars:

DESCRIPTION OF OFFENSE: Criminal Sexual Conduct With A Minor First Degree

16-3-655

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: The affiant has a verbal state-

ment from a nine year old female implicating the defendant in the above listed

offense. The victim states that while she was in the custodial care of the defendant

the defendant did suck on her breast. That the defendant did put his finger inside

her vagina. That the defendant did put his penis inside her vagina. The victim

was spending the night with the defendant while her mother was at work. See case

# 01-61972. The residence of the defendant is located in the County of Greenville.

APR 24 2001

Sworn to and subscribed before me on April 23, 2001 in the County of Greenville

Signature of Affiant [REDACTED]

Affiant's Address # 4 McGee Street Greenville, SC 29601

Affiant's Telephone 467-5135

## STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of Greenville

## 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 April 23, 2001 defendant Ronald Harris AKA Ronnie Harris

did violate the criminal laws of the State of South Carolina (or ordinance of ☐ County/ ☐ Municipality of [REDACTED]) as set forth below:

DESCRIPTION OF OFFENSE: Criminal Sexual Conduct With A Minor First Degree

16-3-655

Now, therefore, 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.

Judge's Address # 4 McGee Street Greenville, SC 29601

Judge's Telephone 467-5302

Issuing Court: ☒ Magistrate ☐ Municipal ☐ Circuit

ORIGINAL

## AFFIDAVIT

Investigator Jim Austin

who

being duly sworn deposes and says that defendant Ronald Harris AKA Ronnie Harris

did within this county and state on or about April 23, 2001 violate the criminal laws of the

State of South Carolina (or ordinance of ☐ County/ ☐ Municipality of [REDACTED])

in the following particulars:

DESCRIPTION OF OFFENSE: Criminal Sexual Conduct With A Minor First Degree

16-3-655

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: The affiant has a verbal state-

ment from a nine year old female implicating the defendant in the above listed

offense. The victim states that while she was in the custodial care of the defendant

the defendant did suck on her breast. That the defendant did put his finger inside

her vagina. That the defendant did put his penis inside her vagina. The victim

was spending the night with the defendant while her mother was at work. See case

# 01-61972. The residence of the defendant is located in the County of Greenville.

WITNESSES

INV. J. AUSTIN

*[Signature]*

GCSO

04/23/01

ARREST WARRANT NUMBER  
DIRECT PRESENTMENT

ACTION OF GRAND JURY  
TRUE BILL.

*[Signature]*  
FOREMAN GRAND JURY  
Foreperson of Grand Jury

VERDICT

*Guilty*

*[Signature]* 7-16-03  
Foreperson of Petit Jury Date:

DOCKET NO. 2003-GS-23-  
BSS 002960  
The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

APRIL TERM 2003

7/16/03

THE STATE  
vs.  
**GUILTY**

RONALD HARRIS  
AKA  
RONNIE HARRIS

Indictment for

✓  
2468

LEWD ACT UPON A CHILD

VIOLATION § 16-15-140

523

STATE OF SOUTH CAROLINA     )  
                                          )  
COUNTY OF GREENVILLE        )

INDICTMENT FOR  
LEWD ACT UPON A CHILD

At a Court of General Sessions, convened on       APRIL 22, 2003       the  
Grand Jurors of Greenville County present upon their oath:

That RONALD HARRIS AKA RONNIE HARRIS did in Greenville County, on or about the 23rd day of April, 2001, being over the age of fourteen years, willfully and lewdly commit or attempt a lewd and lascivious act upon or with the body, or its parts, of D.D.H., a child under the age of sixteen years, with the intent of arousing, appealing to, or gratifying the lust, passions, or sexual desires of himself or such child. This is in violation of §16-15-140 of the South Carolina Code of Laws (1976) as amended.

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

*Bryna S. Seay*  
SOLICITOR

## STATE OF SOUTH CAROLINA

COUNTY OF Greenville  
STATE VS.

HARRIS, RONALD

AKA:

Race: B Sex: M Age: 46

DOB: [REDACTED]-1957 SS#: [REDACTED]

Address: [REDACTED]  
PIEDMONT, SC 29617

DL#: [REDACTED] SID#: [REDACTED]

## IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#:

2003-GS-23- 2960

A/W#: DIRECT PRESENTMENT

Date of Offense: 04-23-2001

S.C. Code § : 16-15-140

CDR Code #: 2468

☐ CASE RESTORED

SENTENCE

☐ PLEA ☒ TRIALIn disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADS  
TO: LEWD ACT UPON A CHILD

in violation of § 16-15-140

of the S.C. Code of Laws, bearing CDR Code # 2468

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ 17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury.The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

*Bryna J. Seay*  
Solicitor.

Defendant

Attorney for Defendant

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 given credit for time served pursuant to S.C. Code § 24-23-40 to be calculated and applied by the  
State Department of Corrections.

## SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Heard, ☐ Waived, ☐ Ordered

PTUP

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

Payment Terms:

☐ set by SCDPPPS \_\_\_\_\_

\_\_\_\_\_ days/hours Public Service Employment

Recipient:

\*Fine:

§ 14-1-206 (Assessments 107.5 %)

§ 14-1-211(A)(1) (Surcharge)

§ 14-1-211(A)(2) (Surcharge)

§ 56-5-2995 (DUI Assessment)

3% to County (if paid in installments)

§ 73.3, 1B TP (Law Enforce. Funding)

§ 33.7, 1B TP (Drug Court Surcharge)

TOTAL

\$  
\$  
\$ 100  
\$  
\$  
\$

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: \_\_\_\_\_

☐ Appointed PD or appointed other counsel, § 35.13 TP..  
Requires \$500 be paid to Clerk during probation.PRESIDING JUDGE *Clark*Judge Code: *7100*Sentence Date: *7/16/03**Paul B. Wick*  
Clerk of Court/Deputy ClerkCourt Reporter: *H. Jackson*