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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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AUG 03 2015

APPEAL FROM WILLIAMSBURG COUNTY
Court of Common Pleas

SC Court of Appeals

The Honorable Maite Murphy, Circuit Court Judge

Case No. 2014-CP-45-377

Lauren Goodman,

Respondent,

v.

Willie Marion Brown,

Appellant.

RECORD ON APPEAL

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STATE OF SOUTH CAROLINA

COUNTY OF WILLIAMSBURG

Lauren Goodman,

Plaintiff,

vs.

Willie Marion Brown,

Defendant.

COURT OF COMMON PLEAS

THIRD JUDICIAL CIRCUIT

Case No.: 2014-CP-45-377

ORDERSHARON W. STAGGERS
CLERK OF COURT
WILLIAMSBURG COUNTY
KINGSTREE, S.C.

2014 DEC 17 AM 11:16

FILED

The Defendant, Willie Marion Brown, was convicted in Williamsburg County General Sessions Court for two counts of Criminal Sexual Conduct with a Minor and one count of Lewd Act with Child Under 16 for the conduct to be described in Plaintiff's Complaint, and was sentenced to thirty-five (35) years in prison, with a start date of May 22, 2014. Plaintiff filed a Motion for Summary Judgment, which was heard in Williamsburg County Common Pleas Court on October 30, 2014.

Rule 56 of the South Carolina Rules of Civil Procedure states the following:

The judgment sought shall be rendered forthwith if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law. A summary judgment, interlocutory in character, may be rendered on the issue of liability alone although there is a genuine issue as to the amount of damages.

SCRCP 56(a), (c). Summary judgment is appropriate where there is no genuine issue of material fact and it is clear the moving party is entitled to a judgment as a matter of law, and in determining whether any triable issues of fact exist, the evidence and all inferences which can be reasonably drawn from the evidence must be viewed in the light most favorable to the nonmoving party. *Moore v. Weinberg*, 383 S.C. 583,

681 S.E.2d 875 (2009). Under the doctrine of collateral estoppel, also known as issue preclusion, when an issue has been actually litigated and determined by a valid and final judgment, the determination is conclusive in a subsequent action whether on the same or a different claim. *S.C. Prop. and Cas. Ins. Guar. Assoc. v. Wal-Mart Stores, Inc.*, 304 S.C. 210, 213, 403 S.E.2d 625, 627 (1991). The doctrine may not be invoked unless the precluded party has had a full and fair opportunity to litigate the issue in the first action. The Supreme Court extended the doctrine of collateral estoppel by adopting the rule that "once a person has been criminally convicted, the person is bound by that adjudication in a subsequent civil proceeding based on the same facts underlying the criminal conviction." *Doe v. Doe*, 346 S.C. 145, 148, 551 S.E.2d 257, 258 (2001).

Defendant's counsel contended that, because Defendant has filed an appeal in relation to his criminal convictions, Defendant has not had a full and fair opportunity to contest the prior determination and the conviction lacks the requisite finality for collateral estoppel. However, the doctrine of collateral estoppel does not require a judgment which ends the litigation and leaves nothing for the court to do but execute the judgment, but includes many dispositions which, though not final in that sense, have nevertheless fully litigated the issue. A final judgment includes any prior adjudication of an issue in another action that is determined to be sufficiently firm to be accorded conclusive effect. The doctrine of collateral estoppel does not require a judgment which ends the litigation and leaves nothing for the court to do but execute the judgment, but includes many dispositions which, though not final in that sense, have nevertheless fully litigated the issue. Consequently, the

mere fact that the damages of the plaintiffs have not yet been assessed may not deprive the ruling of any effect as collateral estoppels it would otherwise have. 47 Am. Jur. 2d Judgments § 522.

In *S.E.C. v. Farkas*, the Fourth Circuit Court of Appeals held that: (1) collateral estoppels barred relitigation of whether defendant committed fraud in connection with securities; (2) findings supporting injunction were capable of meaningful appellate review; and (3) stay of appeal was not warranted pending resolution of motion for post-conviction relief. The Court of Appeals reasoned that, in the event the "[defendant proved] successful in vacating his convictions. . . . he [could have sought] relief from the civil judgment in the district court pursuant to Rule 60(b) of the Federal Rules of Civil Procedure. Accordingly, we deny Farkas' motion for abeyance and affirm the district court's judgment." *S.E.C. v. Farkas*, 557 Fed. Appx. 204 (2014).

Defendant was already afforded the full and fair opportunity to litigate the issues at bar and was convicted beyond a reasonable doubt for the conduct from which the civil matter arises. As there exists no triable issue of material fact, Plaintiff would respectfully ask that this Honorable Court grant summary judgment in Plaintiff's favor on the issue of Defendant's liability.

ORDERED that Plaintiff's Motion for Summary Judgment is **GRANTED**.

AND SO IT IS ORDERED.

Dated: 12/12/14

By

Maite Murphy
The Honorable Maite Murphy

At St. George SC

STATE OF SOUTH CAROLINA
COUNTY OF WILLIAMSBURG
IN THE COURT OF COMMON PLEAS

FORM 4

JUDGMENT IN A CIVIL CASE

005

CASE NO. 2014 CP-45-377

Lauren Goodman

Willie Marion Brown

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:

Attorney for : ☐ Plaintiff ☐ Defendant
or
☐ Self-Represented Litigant

DISPOSITION TYPE (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. ☐ See Page 2 for additional information.
- ☐ **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 (formal order to follow) ☒ Statement of Judgment by the Court: Defendant's Motion for Reconsideration of Grant of Summary Judgment dated January 9, 2015 is hereby denied.

ORDER INFORMATION

This order ☒ ends ☐ does not end the case.
Additional Information for the Clerk :

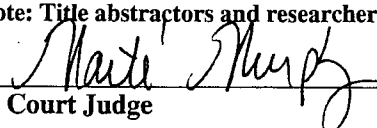
INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
		\$
		\$
		\$

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.


Circuit Court Judge

2166

Judge Code

Date

2/13/15

For Clerk of Court Office Use Only

This judgment was entered on the th 17 day of Feb, 2015 and a copy mailed first class or placed in the appropriate attorney's box on this 19th day of Feb, 2015 to attorneys of record or to parties (when appearing pro se) as follows:

Steven S. McLernie

ATTORNEY(S) FOR THE PLAINTIFF(S)

Lionel S. Lofton

G. Wells Dickson

ATTORNEY(S) FOR THE DEFENDANT(S)

Sharon W. Stagg
CLERK OF COURT

Court Reporter:

ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

STATE OF SOUTH CAROLINA

COUNTY OF WILLIAMSBURG

LAUREN GOODMAN

IN THE COURT OF COMMON PLEAS

CIVIL ACTION COVERSHEET

Plaintiff(s)

vs.

WILLIE MARION BROWN

Defendant(s)

Submitted By: STEVEN S. MCKENZIE

Address: 2 N. BROOKS STREET, MANNING, SC 29102

SC Bar #: 6919

Telephone #: 803-435-8847

Fax #: 803-435-8915

Other:

E-mail: STEVE@CKMLAW.COM

NOTE: The coversheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for the use of the Clerk of Court for the purpose of docketing. It must be filled out completely, signed, and dated. A copy of this coversheet must be served on the defendant(s) along with the Summons and Complaint.

DOCKETING INFORMATION (Check all that apply)

*If Action is Judgment/Settlement do not complete

- ☐ JURY TRIAL demanded in complaint. ☒ NON-JURY TRIAL demanded in complaint.
- ☐ This case is subject to ARBITRATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
- ☐ This case is subject to MEDIATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
- ☐ This case is exempt from ADR. (Proof of ADR/Exemption Attached)

NATURE OF ACTION (Check One Box Below)

- | | | | |
|--|--|---|---|
| Contracts
☐ Constructions (100)
☐ Debt Collection (110)
☐ Employment (120)
☐ General (130)
☐ Breach of Contract (140)
☐ Other (199) | Torts - Professional Malpractice
☐ Dental Malpractice (200)
☐ Legal Malpractice (210)
☐ Medical Malpractice (220)
Previous Notice of Intent Case #
20 -CP-
☐ Notice/ File Med. Mal (230)
☒ Other (299) | Torts - Personal Injury
☐ Assault/Slander/Libel (300)
☐ Conversion (310)
☐ Motor Vehicle Accident (320)
☐ Premises Liability (330)
☐ Products Liability (340)
☐ Personal Injury (350)
☐ Wrongful Death (360)
☒ Other (399) | Real Property
☐ Claim & Delivery (400)
☐ Condemnation (410)
☐ Foreclosure (420)
☐ Mechanic's Lien (430)
☐ Partition (440)
☐ Possession (450)
☐ Building Code Violation (460)
☐ Other (499) |
| Inmate Petitions
☐ PCR (500)
☐ Mandamus (520)
☐ Habeas Corpus (530)
☐ Other (599) | Administrative Law/Relief
☐ Reinstate Drv. License (800)
☐ Judicial Review (810)
☐ Relief (820)
☐ Permanent Injunction (830)
☐ Forfeiture-Petition (840)
☐ Forfeiture-Consent Order (850)
☐ Other (899) | Judgments/Settlements
☐ Death Settlement (700)
☐ Foreign Judgment (710)
☐ Magistrate's Judgment (720)
☐ Minor Settlement (730)
☐ Transcript Judgment (740)
☐ Lis Pendens (750)
☐ Transfer of Structured Settlement Payment Rights Application (760)
☐ Confession of Judgment (770)
☐ Petition for Workers Compensation Settlement Approval (780)
☐ Other (799) | Appeals
☐ Arbitration (900)
☐ Magistrate-Civil (910)
☐ Magistrate-Criminal (920)
☐ Municipal (930)
☐ Probate Court (940)
☐ SCDOT (950)
☐ Worker's Comp (960)
☐ Zoning Board (970)
☐ Public Service Comm. (980)
☐ Employment Security Comm. (991)
☐ Other (999) |
| Special/Complex /Other
☐ Environmental (600)
☐ Automobile Arb. (610)
☐ Medical (620)
☐ Other (699) | | | |
| ☐ Pharmaceuticals (630)
☐ Unfair Trade Practices (640)
☐ Out-of State Depositions (650)
☐ Motion to Quash Subpoena in an Out-of-County Action (660)
☐ Sexual Predator (510) | | | |

Submitting Party Signature: _____

A CERTIFIED TRUE COPY

SHARON W. SLAGGERS

CLERK OF COURT Date: 07/23/14

WILLIAMSBURG COUNTY

Note: Frivolous civil proceedings may be subject to sanctions pursuant to SCRPC, Rule 11, and the South Carolina Frivolous Civil Proceedings Sanctions Act, S.C. Code Ann. §15-36-10 et. seq.

FOR MANDATED ADR COUNTIES ONLY

Aiken, Allendale, Anderson, Bamberg, Barnwell, Beaufort, Berkeley, Calhoun, Charleston, Cherokee, Clarendon, Colleton, Darlington, Dorchester, Florence, Georgetown, Greenville, Hampton, Horry, Jasper, Kershaw, Lee, Lexington, Marion, Oconee, Orangeburg, Pickens, Richland, Spartanburg, Sumter, Union, Williamsburg, and York

SUPREME COURT RULES REQUIRE THE SUBMISSION OF ALL CIVIL CASES TO AN ALTERNATIVE DISPUTE RESOLUTION PROCESS, UNLESS OTHERWISE EXEMPT.

You are required to take the following action(s):

1. The parties shall select a neutral and file a "Proof of ADR" form on or by the 210th day of the filing of this action. If the parties have not selected a neutral within 210 days, the Clerk of Court shall then appoint a primary and secondary mediator from the current roster on a rotating basis from among those mediators agreeing to accept cases in the county in which the action has been filed.
2. The initial ADR conference must be held within 300 days after the filing of the action.
3. Pre-suit medical malpractice mediations required by S.C. Code §15-79-125 shall be held not later than 120 days after all defendants are served with the "Notice of Intent to File Suit" or as the court directs. (Medical malpractice mediation is mandatory statewide.)
4. Cases are exempt from ADR only upon the following grounds:
 - a. Special proceeding, or actions seeking extraordinary relief such as mandamus, habeas corpus, or prohibition;
 - b. Requests for temporary relief;
 - c. Appeals
 - d. Post Conviction relief matters;
 - e. Contempt of Court proceedings;
 - f. Forfeiture proceedings brought by governmental entities;
 - g. Mortgage foreclosures; and
 - h. Cases that have been previously subjected to an ADR conference, unless otherwise required by Rule 3 or by statute.
5. In cases not subject to ADR, the Chief Judge for Administrative Purposes, upon the motion of the court or of any party, may order a case to mediation.
6. Motion of a party to be exempt from payment of neutral fees due to indigency should be filed with the Court within ten (10) days after the ADR conference has been concluded.

Please Note: You must comply with the Supreme Court Rules regarding ADR.
Failure to do so may affect your case or may result in sanctions.

STATE OF SOUTH CAROLINA
COUNTY OF WILLIAMSBURG

COURT OF COMMON PLEAS
THIRD JUDICIAL CIRCUIT

14 CP46 378

Lauren Goodman,

Plaintiff,

vs.

Willie Marion Brown,

Defendant.

SUMMONS

TO THE DEFENDANT ABOVE NAMED:

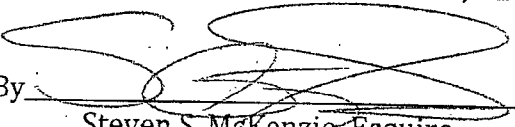
YOU ARE HEREBY SUMMONED and required to answer the Complaint in this action, a copy of which is herewith served upon you, and to serve a copy of your Answer on Coffey, Chandler & McKenzie, P.A., at their offices, 2 North Brooks Street, Manning, SC 29102, within thirty (30) days after the service hereof, and if you fail to answer the Complaint within the time aforesaid, the Defendant will apply to the Court for judgment by default against you for the relief demanded in the Complaint.

Respectfully Submitted,

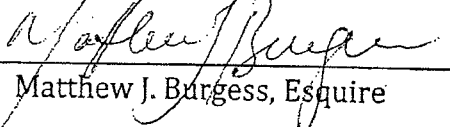
COFFEY, CHANDLER & MCKENZIE, P.A.

July 28, 2014

By


Steven S. McKenzie, Esquire

By


Matthew J. Burgess, Esquire

Attorneys for the Defendant
Post Office Box 1292
Manning, South Carolina 29102
(803) 435-8847

STATE OF SOUTH CAROLINA
COUNTY OF WILLIAMSBURG

COURT OF COMMON PLEAS
THIRD JUDICIAL CIRCUIT

14 CP45 378

Lauren Goodman,

Plaintiff,

vs.

Willie Marion Brown,

Defendant.

COMPLAINT

The Plaintiff above named, complaining of the Defendant, would respectfully show unto this Honorable Court as follows:

PARTIES AND JURIDICITION

1. That the Plaintiff, Ms. Lauren Goodman (hereinafter, "Plaintiff"), is a citizen and resident of the County of Williamsburg, State of South Carolina.
2. That the Defendant, Willie Marion Brown ("Defendant"), incarcerated, is a citizen and resident of the County of Williamsburg, State of South Carolina.
3. That the incidents from which this action arises occurred in the County of Williamsburg, State of South Carolina.
4. That this Court has jurisdiction over the parties and the subject matter set forth herein.

PROCEDURAL HISTORY

5. Each allegation contained in Paragraphs 1-4 is re-alleged and incorporated by reference.

6. That Defendant was convicted in Williamsburg County General Sessions Court for two counts of Criminal Sexual Conduct with a Minor and one count of Lewd Act with Child Under 16 for the conduct to be described herein, and was sentenced to thirty-five (35) years in prison, with a start date of May 22, 2014.

FACTS

7. Each allegation contained in Paragraphs 1-6 is re-alleged and incorporated by reference.

8. That on, about or between April 20, 2002 and January 26, 2006, Defendant did engage, on more than one occasion, in acts of digital penetration of the genitals of his stepdaughter, the Plaintiff in this action.

9. That on, about or between April 20, 2002 and January 26, 2006, Defendant did, on more than one occasion, commit cunnilingus upon the Plaintiff.

10. That, at all times relevant to this Complaint, Plaintiff was a minor child, on, about, or between the ages seven (7) and ten (10).

FOR A FIRST CAUSE OF ACTION (Battery)

11. Each allegation contained in Paragraphs 1-10 is re-alleged and incorporated by reference.

12. The Defendant committed the tort of battery against Plaintiff. Defendant inflicted forcible, intentional conduct on the Plaintiff's person without her consent.

13. That the conduct described herein constitutes unlawful and unconsensual touching done with the intention of bringing about harmful or offensive contact.

14. The Plaintiff did not consent to the touching, nor was she legally capable of doing so.

15. As a direct and proximate result of Defendant's battery, Plaintiff has suffered actual damages and is entitled to punitive damages for the unlawful conduct willfully inflicted upon the Plaintiff.

FOR A SECOND CAUSE OF ACTION

(Assault)

16. Each allegation contained in Paragraphs 1-15 is re-alleged and incorporated by reference.

17. The Defendant, by and through the actions described herein, committed the tort of assault against the Plaintiff. Defendant's conduct placed the Plaintiff in reasonable fear of bodily harm.

18. The conduct placed the Plaintiff in reasonable fear of bodily harm as the Plaintiff was subjected to constant battery and offensive touching.

19. As a direct and proximate result of Defendant's battery, Plaintiff has suffered actual damages and is entitled to punitive damages for the unlawful conduct willfully inflicted upon the Plaintiff.

FOR A THIRD CAUSE OF ACTION

(Outrage)

20. Each allegation contained in Paragraphs 1-19 is re-alleged and incorporated by reference.

21. The Defendant intentionally and recklessly inflicted severe emotional distress upon Plaintiff, or was certain or substantially certain that such distress would result from the conduct being complained of.

22. The acts and omissions of the Defendant were extreme and outrageous so as to exceed all possible bounds of decency, and were atrocious and utterly intolerable in a civilized society. The acts and omissions of the Defendant caused the Plaintiff severe and extreme emotional distress. The distress suffered by the Plaintiff is so severe no woman or man should be expected to endure the torture. The Plaintiff's life is forever changed. She cannot have a normal relationship and it constantly lies heavily on her mind. She has severe panic attacks and deals with excessive stress.

23. As a direct and proximate result of the Defendant's battery, the Plaintiff has suffered actual damages and is entitled to punitive damages for the unlawful conduct willfully inflicted upon the Plaintiff.

FOR A FOURTH CAUSE OF ACTION
(Intrusion, Invasion of Privacy)

24. Each allegation contained in Paragraphs 1-23 is re-alleged and incorporated by reference.

25. The acts of the Defendant violated Plaintiff's right to privacy and the conduct set forth herein is such as to amount to wrongful intrusion into the Plaintiff's life.

26. The actions of the Defendant, which invaded the privacy of the Plaintiff and her body, constitute an unwarranted intrusion into the psychological solitude or seclusion of the Plaintiff.

27. In addition to public disclosure of private matters involving the Plaintiff, the conduct of the Defendant against the Plaintiff, as described herein,

constitutes a blatant, shocking disregard of Plaintiff's rights, and serious mental injuries, physical injuries, humiliation and other injuries resulted therefrom.

28. As a direct and proximate result of the Defendant's intrusion and invasion of privacy against Plaintiff, the Plaintiff has suffered actual damages and is entitled to punitive damages for the unlawful conduct, willfully inflicted upon Plaintiff.

FOR A FIFTH CAUSE OF ACTION
(False Imprisonment)

29. Each allegation contained in Paragraphs 1-28 is re-alleged and incorporated by reference.

30. The Defendant intentionally and unlawfully restrained the Plaintiff in holding Plaintiff against her will while Defendant engaged in the conduct described herein.

31. As a direct and proximate result of the false imprisonment of the Plaintiff, Plaintiff has suffered actual damages and is entitled to punitive damages, for the unlawful conducted willfully inflicted upon Plaintiff.

DAMAGES

32. Each allegation contained in Paragraphs 1-31 is re-alleged and incorporated by reference.

33. As a direct and proximate result of the acts and omission of the Defendant, as set forth herein, and in each cause of action, the Plaintiff has been made to undergo physical pain and suffering, mental pain and anguish, anger and disappointment, worry, shock, humiliation, wounded feelings, shame, loss of reputation, pecuniary loss, doctor bills, pharmacology bills, loss of enjoyment of life,

loss of earning and loss of earning capacity and damage to the Plaintiff's previously good mental health, which are all permanent in nature.

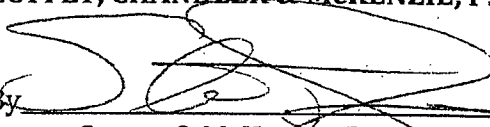
WHEREFORE, The Plaintiff prays for judgment against the Defendant for actual, consequential, and punitive damages in an amount to be determined by the trier of fact, for costs and disbursements of this action, reasonable attorney's fees, and for such other and further relief as this Court may deem just and proper.

Respectfully Submitted,

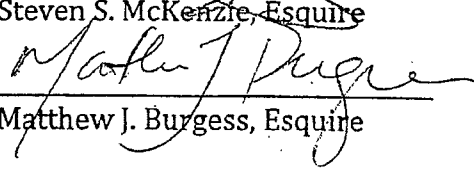
COFFEY, CHANDLER & McKENZIE, P.A.

July 28, 2014

By


Steven S. McKenzie, Esquire

By


Matthew J. Burgess, Esquire

Attorneys for the Defendant
Post Office Box 1292
Manning, South Carolina 29102
(803)435-8847

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF WILLIAMSBURG) CASE NO. 2014-CP-45-377
)

LAUREN GOODMAN,

Plaintiff,

v.

WILLIE MARION BROWN,

Defendant.

ANSWER

2014 SEP 26 AM 11:10
SHARON W STANGERS
CLERK OF COURT
KINGSTREE, S.C.

FILED

The defendant, through his undersigned attorneys, responds to the allegations in the Complaint as follows:

1. Any allegation not specifically responded to is denied, and strict proof demanded thereof.

FOR A FIRST DEFENSE

2. The allegations of Paragraph 1 are denied, and the defendant alleges that, on information and belief, the plaintiff is currently a resident of Horry County, State of South Carolina.

3. The allegations of Paragraph 2 are admitted.

4. As to Paragraph 3, the defendant admits that the incidents are alleged to have occurred in Williamsburg County, but denies that the alleged incidents took place.

5. As to Paragraph 4, the defendant admits that this court has jurisdiction over the parties and subject matter, but denies that any incidents, as alleged hereinafter, occurred.

6. Paragraph 5 requires no response.

7. Denies that any conduct to be described herein occurred, but admits the convictions alleged in Paragraph 6.
8. Paragraph 7 requires no response.
9. Denies the allegations of Paragraphs 8 and 9, and demands strict proof thereof.
10. Admits the allegations of Paragraph 10.
11. Paragraph 11 requires no response.
12. Denies the allegations of Paragraphs 12, 13, 14, and 15, and demands strict proof thereof.
13. Paragraph 16 requires no response.
14. Denies the allegations of Paragraphs 17, 18, and 19, and demands strict proof thereof.
15. Paragraph 20 requires no response.
16. Denies the allegations of Paragraphs 21, 22, and 23, and demands strict proof thereof.
17. Paragraph 24 requires no response.
18. Denies the allegations of Paragraphs 25, 26, 27, and 28, and demands strict proof thereof.
19. Paragraph 29 requires no response.
20. Denies the allegations of Paragraphs 30 and 31, and demands strict proof thereof.
21. Paragraph 32 requires no response.

22. Denies the allegations of Paragraph 33, and demands strict proof thereof.

FOR A SECOND DEFENSE

23. The Complaint fails to state a claim upon which relief can be based; accordingly, this defendant is entitled to judgment as a matter of law pursuant to Rule 12(b)(6) of the South Carolina Rules of Civil Procedure.

FOR A THIRD DEFENSE

24. The defendant would assert that the plaintiff has failed to properly serve the defendant and that this matter should be dismissed for lack of personal jurisdiction, insufficiency of process and insufficiency of service of process in accordance with Rule 12(b)(2), Rule 12(b)(4), and Rule 12(b)(5) of the South Carolina Rules of Civil Procedure.

FOR A FOURTH DEFENSE

25. The defendant would show that the plaintiff's claims against the defendant are barred by the applicable Statute of Limitations in that plaintiff failed to commence this action within three years and, therefore, the case is barred by the Statute of Limitations.

FOR A FIFTH DEFENSE

26. The defendant would herein show that this action has not timely been commenced under South Carolina Code of Law 15-3-20 as there has been no actual service upon this defendant within the statutorily required time period and accordingly the defendant would show that the plaintiff's Complaint must be dismissed.

FOR A SIXTH DEFENSE

27. The defendant would show, upon information and belief, that the plaintiff's claim for punitive damages violates the Fifth, Sixth, Seventh, Eighth, and Fourteenth Amendments to the Constitution of the United States of America; it violates the double jeopardy clause and the defendant could be subjected to multiple awards of punitive damages for the same set of facts; the self-incrimination clause is being violated because the defendant can be compelled to give testimony against himself in a penalty situation such as punitive damages; the assessment of punitive damages by a burden of proof less than beyond a reasonable doubt is in violation of the Sixth and Fourteenth Amendments in that punitive damages are a fine or penalty and are, therefore, quasi-criminal in nature; plaintiff's claim for punitive damages violates the defendant's right to access the courts as guaranteed by the Seventh and Fourteenth Amendments because the threat of an award of punitive damages chills this defendant's exercise of that right; the plaintiff's claim for punitive damages violates the Eighth Amendment's guarantee that excessive fines shall not be imposed, the plaintiff's claim for punitive damages violates both the due process and equal protection clauses of the Fourteenth Amendment in that the standard for awarding either punitive damages is unduly vague and, therefore, violates both procedural and substantive due process safeguards; therefore, the plaintiff's claim for punitive damages should be dismissed.

FOR A SEVENTH DEFENSE

28. Pursuant to S.C. Code Ann. § 15-32-520, and proceeding to determine

punitive damages should be bifurcated from any trial to determine liability and compensatory damages.

FOR AN EIGHTH DEFENSE

29. Any award of punitive damages should not exceed the greater of three (3) times the amount of compensatory damages as provided for in S.C. Code Ann. § 15-32-530.

FOR A NINTH DEFENSE

30. The defendant would show that the plaintiff has failed to state a claim for which punitive damages are recoverable under any applicable law as there is no reckless, willful, wanton, or grossly negligent conduct on the part of the defendant; therefore, plaintiff's claims for punitive damages should be dismissed.

FOR A TENTH DEFENSE

31. The defendant will show, upon information and belief, that the initiation of this action, by the plaintiff, was after an unreasonable delay. The defendant pleads the doctrine of *laches* as a complete defense to this action.

FOR AN ELEVENTH DEFENSE

32. The defendant specifically reserves the right to assert any further defenses as may be revealed by additional information acquired during discovery or otherwise from any other party herein. The defendant further reserves the right to amend this Answer to the Complaint, to assert any other applicable defenses, to assert any applicable cross and/or counterclaims, and to add any other applicable parties.

WHEREFORE, having fully answered the Complaint of the plaintiff, the defendant prays that the same be dismissed, awarding the defendant the costs and disbursements of this action, reasonable attorneys' fees, and such other and further relief as this Court may deem just and proper.



G. Wells Dickson, Jr.
WELLS DICKSON, P.A.
P. O. Box 819
124 S. Academy Street
Kingstree, SC 29556
Phone: 843-354-5519
Fax: 843-354-3206
Email: ktree@wellsdickson.com
Attorney for Willie Marion Brown

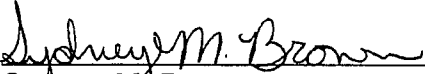


LIONEL S. LOFTON
LOFTON AND LOFTON, P.C.
225 Seven Farms Drive, Suite 109
Charleston, SC 29492
Phone: 843-722-6319
Email: lofton@loftonandlofton.com
Attorney for Willie Marion Brown

September 26, 2014
Kingstree, South Carolina

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the foregoing pleading has been served upon opposing counsel by mailing a copy properly addressed with sufficient postage affixed thereto this 26th day of September, 2014.


Sydney M. Brown
Legal Assistant to G. Wells Dickson, Jr.

Steven S. McKenzie, Esquire
Matthew J. Burgess, Esquire
P. O. Box 1292
Manning, SC 29102

FILED
2014 SEP 26 AM 11:10
SHARON W. STAGGERS
CLERK OF COURT
KINGSTREE, S.C.

STATE OF SOUTH CAROLINA)
COUNTY OF WILLIAMSBURG)

INDICTMENT FOR

Criminal Sexual Conduct with Minor, Victim Under 11
Years of Age - First Degree (x2); Lewd Act on a Minor

At a Court of General Sessions, convened on October 25, 2012 the Grand Jurors of WILLIAMSBURG County present upon their oath:

COUNT ONE - CRIMINAL SEXUAL CONDUCT WITH A MINOR - FIRST DEGREE

That in Williamsburg County, South Carolina, between the dates of 2004 and 2006, the Defendant, Willie Marion Brown, date of birth [REDACTED], 1956, did commit a sexual battery upon a minor who was less than eleven years of age, to wit: [REDACTED], date of birth, [REDACTED], 1995, defendant engaged in a sexual battery by performing oral sex on victim, in violation of Section 16-3-655, Code of Laws of South Carolina, 1976, as amended.

COUNT TWO - CRIMINAL SEXUAL CONDUCT WITH A MINOR - FIRST DEGREE

That in Williamsburg County, South Carolina, between the dates of January 2005 and January 2006, the Defendant, Willie Marion Brown, date of birth [REDACTED] 1956, did commit a sexual battery upon a minor who was less than eleven years of age, to wit: [REDACTED], date of birth, [REDACTED] 1995, defendant engaged in a sexual battery by digitally penetrating the victim, in violation of Section 16-3-655, Code of Laws of South Carolina, 1976, as amended.

COUNT TWO - LEWD ACT ON A MINOR CHILD

That Willie Marion Brown, his date of birth being [REDACTED] 1956, did in Williamsburg County between the dates of January of 2005 and January of 2007, willfully and lewdly commit a lewd or lascivious act upon or with the body of a child, less than sixteen (16) years of age, to wit: [REDACTED], date of birth, [REDACTED], 1995, with the intent of arousing, appealing to, or gratifying the lust or passions or sexual desires of said defendant or of the victim, including but not limited to: fondled the victim's breasts, in violation of Section 16-15-0140, S. C. Code of Laws, 1976, as amended.

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

Solicitor

CLERK OF COURT
WILLIAMSBURG COUNTY
12 OCT 25 PM 12:55
FILED

Ernest A. Fin

A CERTIFIED TRUE COPY

Sharon W. Staggers

SHARON W. STAGGERS
CLERK OF COURT
WILLIAMSBURG COUNTY

CSCMR1

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

024

COUNTY OF
STATE

Williamsburg

VS.

Willie Marion Brown

AKA:

Race: Sex: Age:

DOB: SS#:

Address:

City, State, Zip:

DL#: SID#:

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

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

TO: Criminal Sexual Conduct With a Minor- 1st Degreein violation of § 16-3-655(A) of the S.C. Code of Laws, bearing CDR Code # 0385☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSCw/minor 1st or Lewd Act) ☐ §17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTORNEY

Kimberly V. Barr

SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
 for a determinate term of 35 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
 and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
 of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

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

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:

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

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

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal
 Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

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

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:

§ 14-1-206 (Assessments 107.5 %)		\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114(BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCCJA Surcharge)	\$5	\$
3% to County (if paid in installments)		\$
TOTAL		\$

PTUP

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other:

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

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (03/2011)

Presiding Judge

Judge Code:

Sentence Date:

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

025

COUNTY OF Williamsburg
 STATE VS.
Willie Marion Brown
 AKA: _____
 Race: _____ Sex: Male Age: 33
 DOB: 01/15/1979 SS#: 123456789
 Address: 2000 1st St
 City, State, Zip: Williamsburg, SC 29405
 DL#: 000000000 SID#: _____

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

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

TO: Criminal Sexual Conduct with a Minor - 1st Degree Ct # 2

in violation of § 16-3-655(A) of the S.C. Code of Laws, bearing CDR Code # 0385

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

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

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

ATTEST Kimberly V Barr 8443
 Barr, Kimberly V SC Bar# _____ Defendant Attorney for Defendant SC Bar# _____

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
 for a determinate term of 35 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: All other convictions today
☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.

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

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP

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

Payment Terms: _____

☐ Set by SCDPPPS _____

Recipient: _____

*Fine:

§ 14-1-206 (Assessments 107.5 %)		\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
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Proviso 47.9 (Public Def/Prob)	\$500	\$
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§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114(BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCCJA Surcharge)	\$5	\$
3% to County (if paid in installments)		\$
TOTAL		\$

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐

Random Drug/Alcohol testing ☐

Fine may be pd. in equal, consecutive weekly/monthly
 pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: Sex & Abuse Registry

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

Clerk of Court/ Deputy Clerk

Court Reporter: Frances Dana-Ray

SCCA/2 17 (03/2011)

Presiding Judge

Judge Code: 2143

Sentence Date: 5/22/14

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF
STATE

Williamsburg

VS.

Willie Marion Brown

AKA:

Race:

Sex: ☒Age: ☒DOB: ☒SS#: ☒Address: ☒City, State, Zip: ☒DL#: ☒SID#: ☒*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

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

TO: Sex / Lewd Act, committing or attempting lewd act upon child under 16 (June 4, 1996)

INDICTMENT/CASE#: 2012-GS-45-0285

A/W#: ~~4686000~~ DIRECT PRESENTMENT

Date of Offense: 4/20/2002

S.C. Code § : 16-15-0140

CDR Code #: 2468

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS

C1.3

in violation of § 16-15-0140

of the S.C. Code of Laws, bearing CDR Code #

2468

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

ATTORNEY:

Barr, Kimberly V

SC Bar#

Defendant.

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the

☒ State Department of Corrections,☐ County Detention Center,

for a determinate term of 15 days/months/years or

☐ under the

Youthful Offender Act

not to exceed

years

and/or to pay a fine of \$; provided that upon the service of

days/months/years and/or payment

of \$; plus costs and assessments as applicable*; the balance is suspended with

probation

for

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

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code by the State Department of Corrections.☒ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code

§17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION:☐ Deferred☐ Def. Waives Hearing☐ Ordered

PTUP

Total: \$ plus 20% fee: \$

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:

§ 14-1-206 (Assessments 107.5 %)

§ 14-1-211(A)(1) (Conv. Surcharge)

§ 14-1-211(A)(2) (DUI Surcharge)

§ 56-5-2995 (DUI Assessment)

§ 56-1-286 (DUI Breath Test)

Proviso 47.9 (Public Def/Prob)

§ 14-1-212 (Law Enforce. Funding)

§ 14-1-213 (Drug Court Surcharge)

§ 50-21-114 (BUI Breath Test Fee)

§ 56-5-2942(J) (Vehicle Assessment)

Proviso 90.5 (SCCJA Surcharge)

3% to County (if paid in installments)

TOTAL

\$

\$

\$100

\$

\$100

\$

\$12

\$

\$25

\$

\$500

\$

\$25

\$

\$150

\$

\$50

\$

\$40/ea

\$

\$5

\$

\$

\$

days/hours Public Service Employment

Obtain GED ☐Attend Voc. Rehab. or Job Corp. ☐

May serve W/E beginning

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ beginning

\$ paid to Public Defender Fund

Other:

Sex Offender Reg-ry

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

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (03/2011)

Presiding Judge-

Judge Code:

Sentence Date:

2143

5/22/14

STATE OF SOUTH CAROLINA

COUNTY OF Williamsburg

Lauren Goodman

Plaintiff,

vs.

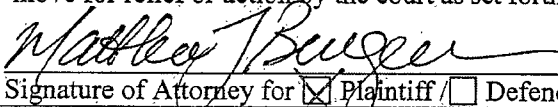
Willie Marion Brown

Defendant.

IN THE COURT OF COMMON PLEAS
Third JUDICIAL CIRCUIT

CASE NO.: 2014-CP-45-377

**MOTION AND ORDER INFORMATION
FORM AND COVERSHEET**

Plaintiff's Attorney: Matt Burgess, Bar No. 100911 Address: <u>PO Box 1292 / Manning, SC 29102</u> Phone: 8034608013 Fax _____ E-mail: _____ Other: <u>CAF: (803) 435-8915</u>	Defendant's Attorney: Wells Dickson, Bar No. _____ Address: _____ Phone: _____ Fax _____ E-mail: _____ Other: _____																
☒ MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III) ☐ FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III) ☐ PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)																	
SECTION I: Hearing Information																	
Nature of Motion: Motion for Summary Judgment Estimated Time Needed: 30 min Court Reporter Needed: ☐ YES / ☐ NO																	
SECTION II: Motion/Order Type																	
☒ Written motion attached ☐ Form Motion/Order I hereby move for relief or action by the court as set forth in the attached proposed order.																	
 Signature of Attorney for ☒ Plaintiff / ☐ Defendant Date submitted <u>10/8/2014</u>																	
SECTION III: Motion Fee																	
☐ PAID - AMOUNT: \$ _____ ☐ EXEMPT: (check reason) <table style="width: 100%; border: none;"> <tr> <td>☐ Rule to Show Cause in Child or Spousal Support.</td> <td>☐ State Agency v. Indigent Party</td> </tr> <tr> <td>☐ Domestic Abuse or Abuse and Neglect</td> <td>☐ Post-Conviction Relief</td> </tr> <tr> <td>☐ Indigent Status</td> <td>☐ Motion for Stay in Bankruptcy</td> </tr> <tr> <td>☐ Sexually Violent Predator Act</td> <td>☐ Motion for Execution (Rule 69, SCRCP)</td> </tr> <tr> <td>☐ Motion for Publication</td> <td>☐ Proposed order submitted at request of the court; or,</td> </tr> <tr> <td colspan="2">reduced to writing from motion made in open court per judge's instructions</td> </tr> <tr> <td colspan="2">Name of Court Reporter: _____</td> </tr> <tr> <td colspan="2">☐ Other: _____</td> </tr> </table>		☐ Rule to Show Cause in Child or Spousal Support.	☐ State Agency v. Indigent Party	☐ Domestic Abuse or Abuse and Neglect	☐ Post-Conviction Relief	☐ Indigent Status	☐ Motion for Stay in Bankruptcy	☐ Sexually Violent Predator Act	☐ Motion for Execution (Rule 69, SCRCP)	☐ Motion for Publication	☐ Proposed order submitted at request of the court; or,	reduced to writing from motion made in open court per judge's instructions		Name of Court Reporter: _____		☐ Other: _____	
☐ Rule to Show Cause in Child or Spousal Support.	☐ State Agency v. Indigent Party																
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☐ Indigent Status	☐ Motion for Stay in Bankruptcy																
☐ Sexually Violent Predator Act	☐ Motion for Execution (Rule 69, SCRCP)																
☐ Motion for Publication	☐ Proposed order submitted at request of the court; or,																
reduced to writing from motion made in open court per judge's instructions																	
Name of Court Reporter: _____																	
☐ Other: _____																	
JUDGE'S SECTION																	
☐ Motion Fee to be paid upon filing of the attached order. ☐ Other: _____	JUDGE CODE _____ Date: _____																
CLERK'S VERIFICATION																	
Collected by: _____ Date Filed: _____ ☐ MOTION FEE COLLECTED: \$ _____ ☐ CONTESTED - AMOUNT DUE: \$ _____																	

STATE OF SOUTH CAROLINA

COURT OF COMMON PLEAS

COUNTY OF WILLIAMSBURG

THIRD JUDICIAL CIRCUIT

2014-CP-45-377

Lauren Goodman,

Plaintiff,

vs.

Willie Marion Brown,

Defendant.

**MOTION FOR
SUMMARY JUDGMENT
WITH INCORPORATED
MEMORANDUM OF LAW**

The Plaintiff in this matter, Ms. Lauren Goodman, by and through counsel, would hereby move this Honorable Court to grant the Plaintiff summary judgment against the Defendant, pursuant to the rules of law set forth herein.

I. PROCEDURAL HISTORY.

The Defendant, Willie Marion Brown, was convicted in Williamsburg County General Sessions Court for two counts of Criminal Sexual Conduct with a Minor and one count of Lewd Act with Child Under 16 for the conduct to be described in Plaintiff's Complaint, and was sentenced to thirty-five (35) years in prison, with a start date of May 22, 2014.

II. SUMMARY JUDGMENT, SCRPC 56.

Rule 56 of the South Carolina Rules of Civil Procedure states the following:

A party seeking to recover upon a claim, counterclaim, or cross-claim or to obtain a declaratory judgment may, at any time after the expiration of 30 days from the commencement of the action or after service of a motion for summary judgment by the adverse party, move with or without supporting affidavits for a summary judgment in his favor upon all or any part thereof. . . The motion shall be served at least 10 days before the time fixed for the hearing. The adverse party may serve opposing affidavits not later than two days before the

hearing. The judgment sought shall be rendered forthwith if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law. A summary judgment, interlocutory in character, may be rendered on the issue of liability alone although there is a genuine issue as to the amount of damages.

SCRCP 56(a), (c).

Summary judgment is appropriate where there is no genuine issue of material fact and it is clear the moving party is entitled to a judgment as a matter of law, and in determining whether any triable issues of fact exist, the evidence and all inferences which can be reasonably drawn from the evidence must be viewed in the light most favorable to the nonmoving party. *Moore v. Weinberg*, 383 S.C. 583, 681 S.E.2d 875 (2009).

Under the doctrine of collateral estoppel, also known as issue preclusion, when an issue has been actually litigated and determined by a valid and final judgment, the determination is conclusive in a subsequent action whether on the same or a different claim. *S.C. Prop. and Cas. Ins. Guar. Assoc. v. Wal-Mart Stores, Inc.*, 304 S.C. 210, 213, 403 S.E.2d 625, 627 (1991). The doctrine may not be invoked unless the precluded party has had a full and fair opportunity to litigate the issue in the first action. The Supreme Court extended the doctrine of collateral estoppel by adopting the rule that "once a person has been criminally convicted, the person is bound by that adjudication in a subsequent civil proceeding based on the same facts underlying the criminal conviction." *Doe v. Doe*, 346 S.C. 145, 148, 551 S.E.2d 257, 258 (2001).

III. CONCLUSION.

In this case, the Defendant was already afforded the full and fair opportunity to litigate the issues at bar and was convicted beyond a reasonable doubt for the conduct from which the civil matter arises. As there exists no triable issue of material fact, Plaintiff would respectfully ask that this Honorable Court grant summary judgment in Plaintiff's favor on the issue of Defendant's liability.

Respectfully Submitted,

OCTOBER 8 2014
~~August 2014~~

COFFEY, CHANDLER & MCKENZIE, P.A.

By Steven S. McKenzie
Steven S. McKenzie, Esquire

By Matthew J. Burgess
Matthew J. Burgess, Esquire

Attorneys for the Defendant
Post Office Box 1292
Manning, South Carolina 29102
(803)435-8847

CERTIFICATE OF SERVICE

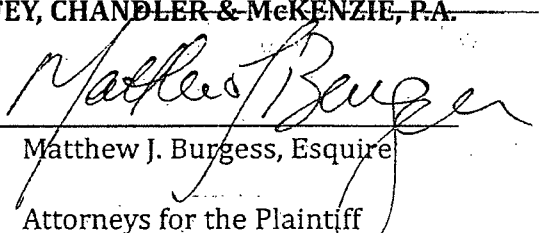
I, the undersigned employee of Coffey, Chandler & McKenzie, P.A., do hereby certify that the foregoing **MOTION FOR SUMMARY JUDGMENT**, has this day been served by mailing a copy thereof, postage prepaid, to the following person(s), this 9 day of October , 2014:

Sharon W. Stagers
Clerk of Court
125 West Main Street
Kingtree, SC 29556

G. Wells Dickson, Jr.
Attorney for the Defendant
Post Office Box 819
124 S. Academy Street
Kingtree, South Carolina 29556

COFFEY, CHANDLER & MCKENZIE, P.A.

By


Matthew J. Burgess, Esquire

Attorneys for the Plaintiff
Post Office Box 1292
Manning, South Carolina 29102
(803)435-8847

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE THIRD JUDICIAL CIRCUIT
COUNTY OF WILLIAMSBURG	)	
	)	CIVIL ACTION NO.: 2014-CP-45-377
LAUREN GOODMAN,	)	
	)	
Plaintiff,	)	Defendant's Response in Opposition to
	)	Plaintiff's Motion for Damages-Only
v.	)	Hearing and Motion for Summary
	)	Judgment
WILLIE MARION BROWN,	)	
	)	
Defendant.	)	
	)	
	)	

FILED
OCT 23 PM 12:06
CLERK OF COURT
WILLIAMSBURG, S.C.

The Defendant, by and through his undersigned counsel, hereby responds in opposition to Plaintiff's Motion for Damages-Only Hearing and Motion for Summary Judgment.

On July 23, 2014 and October 8, 2014, Plaintiff filed motions for a damages-only hearing and for summary judgment, respectively, in the above-referenced matter. The Plaintiff argues in these motions that pursuant to the doctrine of collateral estoppel, the Defendant's convictions in a related criminal matter are conclusive in the present civil action because the underlying facts and issues of both matters are the same, the issues were actually litigated and determined by a valid and final judgment, and the Defendant has had a full and fair opportunity to litigate these issues in the criminal matter. Accordingly, the Plaintiff concludes that summary judgment should be granted on the issue of liability and the Court should proceed with a hearing on damages only.

The Defendant submits that the issues raised in Plaintiff's motions are not ripe for consideration because the judgment in the Defendant's criminal matter is not "final", as an appeal of the criminal convictions is pending in the South Carolina Court of Appeals.¹ After an exhaustive

¹ The Defendant's criminal appeal was filed on August 1, 2014.

review of the case law in South Carolina, it appears that none of the appellate courts in our state have decided this issue. Moreover, Doe v. Doe, 346 S.C. 145, 551 S.E.2d 257 (2001), which the Plaintiff cites in support of her motions, provides no guidance on this issue because the Doe case was decided following the appellate court's denial of the defendant Doe's appeal of his criminal convictions.

Despite the lack of South Carolina judicial precedent regarding the issue of whether a judgment that is on appeal is not "final" for purposes of applying the doctrine of collateral estoppel, persuasive authority may provide this Court with guidance. The Restatement (Second) of Judgments states in part:

The pendency of a motion for new trial or to set aside a judgment, or of an appeal from a judgment, is relevant in deciding whether the question of preclusion should be presently decided in the second action. It may be appropriate to postpone decision of that question until the proceedings addressed to the judgment are concluded.

Restatement (Second) of Judgments §13, cmt. f (1982).² Additionally, state courts in other jurisdictions have held that a pending appeal prevents a prior judgment from constituting a final judgment for purposes of issue preclusion (collateral estoppel). See Manco Contracting Co. (W.W.L.) v. Bezdikian, 195 P.3d 604, 611 (Cal. 2008) ("[A] judgment is not final and conclusive between the parties when it is on appeal."); Rantz v. Kaufman, 109 P.3d 132, 141 (Col. 2005) (citing Colorado law that a pending appeal prevents a prior judgment from constituting a final judgment for purposes of issue preclusion); Grider v. USX Corp., 847 P.2d 779, 784 (Okl. 1993) ("[A] final

² In S.C. Prop. and Cas. Ins. Guar. Assoc. v. Wal-Mart Stores, Inc., 304 S.C. 210, 403 S.E.2d 625 (1991), the South Carolina Court of Appeals adopted the doctrine of collateral estoppel formulated by the American Law Institute in the Restatement (Second) of Judgments. It logically follows that comment f of section 13 of the Restatement (Second) of Judgments would provide guidance on the issue as to whether a pending appeal of a judgment precludes the use of collateral estoppel in a subsequent proceeding.

adjudication is either one in which no appeal has been taken and the time for appeal has run or one in which an appeal has been filed and acted upon by the appellate court.”); Arkansas Best Freight System, Inc. v. H.H. Moore, Jr. Trucking Co., Inc., 421 S.E.2d 197, 199 (Va. 1992) (“[A] judgment, to be relied upon for the application of the doctrine of *res judicata*, must be final, and a judgment which is being appealed is not final for *res judicata* purposes.”) (citations omitted); Cups Coal Co., Inc. v. Tennessee River Pulp & Paper Co., 519 So.2d 932, 934 (Ala. 1988) (“Although a prior criminal conviction can be used in a subsequent civil suit arising out of the same transaction as substantive, though not conclusive, evidence that the acts underlying the crime were committed, such a conviction is inadmissible as substantive evidence if an appeal of the conviction is pending.”) (citations omitted); CS-Lakeview at Gwinnett, Inc. v. Retail Dev. Partners, et al., 602 S.E.2d 140, 142 (Ct. App. Ga. 2004) (“Under Georgia law, the fact that a prior court judgment has been appealed suspends the operation of any preclusive effect pending appeal.”).

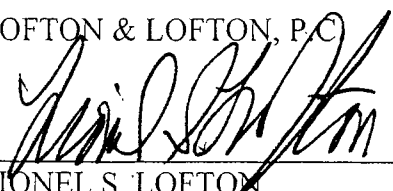
Based upon persuasive authority, the Defendant posits that until his pending appeal has been decided, there is no final judgment for which collateral estoppel would apply in this civil action. Therefore, the Defendant respectfully requests that this Court deny Plaintiff’s Motion for Damages–Only Hearing and Motion for Summary Judgment, or in the alternative, hold these motions in abeyance until the appeal of the Defendant’s criminal convictions has been finally decided.

Respectfully submitted,

G. WELLS DICKSON, JR.
 124 S. Academy Street
 Post Office Box 819
 Kingstree, SC 29556
 Telephone: 843-354-5519

LOFTON & LOFTON, P.C.

BY:


LIONEL S. LOFTON

225 Seven Farms Drive, Suite 109

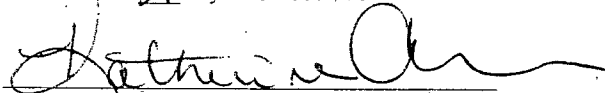
Charleston, SC 29492

Telephone: (843) 722-6319

Charleston, South Carolina
October 21, 2014

Certificate of Service

The undersigned hereby certifies that a true copy of the foregoing pleading has been served upon opposing counsel by mailing a copy properly addressed with sufficient postage affixed thereto this 21 day of October, 2014.



Katherine E. Aiken, Paralegal
Lofton & Lofton, P.C.

FILED
2014 OCT 23 PM 12:06
SHARON W. JOHNS
CLERK OF COURT
KINGSTREE, S.C.

STATE OF SOUTH CAROLINA)
)
 COUNTY OF WILLIAMSBURG)

IN THE COURT OF COMMON PLEAS
 THIRD JUDICIAL CIRCUIT

CASE NO.: 2014-CP-45-377

LAUREN GOODMAN)

Plaintiff,)

vs.)

WILLIE MARION BROWN)

Defendant.)

**MOTION AND ORDER INFORMATION
 FORM AND COVERSHEET**

Plaintiff's Attorney:
 _____, Bar No. _____
 Address: _____

Phone: _____ Fax _____

E-mail: _____ Other: _____

Defendant's Attorney:
 Lionel S. Lofton, Bar No. 003383
 Address:
 Lofton & Lofton, P.C.
 225 Seven Farms Drive, Suite 109
 Charleston, SC 29492
 Phone: (843) 722-6319 Fax (843) 722-6372
 E-mail: lofton@loftonandlofton.com Other: _____

- ☒ **MOTION HEARING REQUESTED** (attach written motion and complete **SECTIONS I and III**)
☐ **FORM MOTION, NO HEARING REQUESTED** (complete **SECTIONS II and III**)
☐ **PROPOSED ORDER/CONSENT ORDER** (complete **SECTIONS II and III**)

SECTION I: Hearing Information

Nature of Motion: Motion for Reconsideration

Estimated Time Needed: 15 minutes

Court Reporter Needed: ☒ YES / ☐ NO

SECTION II: Motion/Order Type

- ☐ Written motion attached
☐ Form Motion/Order

I hereby move for relief or action by the court as set forth in the attached proposed order.

Signature of Attorney for ☐ Plaintiff / ☐ Defendant

Date submitted

SECTION III: Motion Fee

☒ PAID - AMOUNT: \$ 25.00

☐ EXEMPT:

(check reason)

- ☐ Rule to Show Cause in Child or Spousal Support
☐ Domestic Abuse or Abuse and Neglect
☐ Indigent Status ☐ State Agency v. Indigent Party
☐ Sexually Violent Predator Act ☐ Post-Conviction Relief
☐ Motion for Stay in Bankruptcy
☐ Motion for Publication ☐ Motion for Execution (Rule 69, SCRCP)
☐ Proposed order submitted at request of the court; or,
 reduced to writing from motion made in open court per judge's instructions
 Name of Court Reporter: _____
☐ Other: _____

JUDGE'S SECTION

☐ Motion Fee to be paid upon filing of the attached order.

☐ Other: _____

JUDGE CODE _____

Date: _____

CLERK'S VERIFICATION

Collected by: _____ Date Filed: _____

☐ MOTION FEE COLLECTED: \$ _____

☐ CONTESTED - AMOUNT DUE: \$ _____

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE THIRD JUDICIAL CIRCUIT
COUNTY OF WILLIAMSBURG	)	
	)	CIVIL ACTION NO.: 2014-CP-45-377
LAUREN GOODMAN,	)	
	)	
Plaintiff,	)	DEFENDANT'S MOTION FOR
	)	RECONSIDERATION OF GRANT
v.	)	OF SUMMARY JUDGMENT AND
	)	MEMORANDUM IN SUPPORT
WILLIE MARION BROWN,	)	THEREOF
	)	
Defendant.	)	
	)	
	)	
	)	

The Defendant, Willie Marion Brown, by and through his undersigned counsel, hereby moves, pursuant to Rule 59(e), SCRCP, for this Court to reconsider its grant of summary judgment in the above-referenced matter. The grounds for this motion are that the issue raised in Plaintiff's motion for partial summary judgment is not ripe for consideration, the issue raised in Plaintiff's motion for summary judgment has not been decided in South Carolina and persuasive authority supports denial of summary judgment, and the denial of summary judgment will not be prejudicial to the parties.

BACKGROUND INFORMATION

On October 25, 2012, Defendant was indicted on two counts of first degree criminal sexual conduct with Plaintiff and one count of committing a lewd act on the Plaintiff. Defendant pleaded not guilty, and a jury trial was held in the Williamsburg County Court of General Sessions beginning May 20, 2014. On May 23, 2014, the jury returned a verdict finding Defendant guilty on each charge. Defendant filed a notice of appeal of his conviction on August 1, 2014.

On July 28, 2014, Plaintiff filed a civil action against Defendant arising out of the same

allegations of sexual assault that were presented in the criminal trial. Subsequently, on October 8, 2014, Plaintiff filed a motion for summary judgment in the civil matter, arguing that pursuant to the doctrine of collateral estoppel, the Defendant's convictions in the related criminal matter were conclusive in the pending civil action because the underlying facts and issues of both matters were the same, the issues were actually litigated and determined by a valid and final judgment, and the Defendant had a full and fair opportunity to litigate these issues in the criminal matter. This Court held a hearing on the motion on October 30, 2014 at the Williamsburg County Courthouse in Kingstree, South Carolina. Thereafter, on December 12, 2014, this Court issued an Order granting Plaintiff's motion for summary judgment. The Order was filed on December 17, 2014 and entered on December 23, 2014. Defendant's counsel received written notice of entry of this Order on January 5, 2015.

BRIEF ARGUMENT

The Defendant submits that the Court granted summary judgment on an issue that is not ripe for consideration. The issue is whether, under the doctrine of collateral estoppel, the jury's determination of Defendant's guilt in the criminal proceeding is conclusive in the pending civil proceeding. As noted in the Court's order, "[u]nder the doctrine of collateral estoppel, also known as issue preclusion, when an issue has been actually litigated and determined by a valid and final judgment, the determination is conclusive in a subsequent action whether on the same or different claim." This issue is not ripe for consideration because the judgment in the Defendant's criminal matter is not "final", as an appeal of the criminal convictions is pending in the South Carolina Court of Appeals. After an exhaustive review of the case law in South Carolina, it appears that none of the appellate courts in our state have decided the precise issue of whether collateral estoppel applies

in a subsequent civil proceeding when a criminal conviction is under review. Moreover, Doe v. Doe, 346 S.C. 145, 551 S.E.2d 257 (2001), which the Plaintiff cites in support of her motion for summary judgment, provides no guidance on this issue because the Doe case was decided following the appellate court's denial of the defendant Doe's appeal of his criminal convictions.

Defendant also submits that the issue of whether collateral estoppel applies in a subsequent civil proceeding when a criminal conviction is under appellate review is a novel issue in South Carolina; nevertheless, persuasive authority from the Restatement (Second) of Judgments and other jurisdictions support denial of summary judgment. The Restatement (Second) of Judgments, upon which the appellate courts of this state have historically relied, states in part:

The pendency of a motion for new trial or to set aside a judgment, or of an appeal from a judgment, is relevant in deciding whether the question of preclusion should be presently decided in the second action. It may be appropriate to postpone decision of that question until the proceedings addressed to the judgment are concluded.

Restatement (Second) of Judgments §13, cmt. f (1982).¹ Additionally, state courts in other jurisdictions have held that a pending appeal prevents a prior judgment from constituting a final judgment for purposes of issue preclusion (collateral estoppel). See Manco Contracting Co. (W.W.L.) v. Bezdikian, 195 P.3d 604, 611 (Cal. 2008) (“[A] judgment is not final and conclusive between the parties when it is on appeal.”); Rantz v. Kaufman, 109 P.3d 132, 141 (Col. 2005) (citing Colorado law that a pending appeal prevents a prior judgment from constituting a final judgment for

¹ In S.C. Prop. and Cas. Ins. Guar. Assoc. v. Wal-Mart Stores, Inc., 304 S.C. 210, 403 S.E.2d 625 (1991), the South Carolina Court of Appeals adopted the doctrine of collateral estoppel formulated by the American Law Institute in the Restatement (Second) of Judgments. It logically follows that comment f of section 13 of the Restatement (Second) of Judgments would provide guidance on the issue as to whether a pending appeal of a judgment precludes the use of collateral estoppel in a subsequent proceeding.

purposes of issue preclusion); Grider v. USX Corp., 847 P.2d 779, 784 (Okla. 1993) (“[A] final adjudication is either one in which no appeal has been taken and the time for appeal has run or one in which an appeal has been filed and acted upon by the appellate court.”); Arkansas Best Freight System, Inc. v. H.H. Moore, Jr. Trucking Co., Inc., 421 S.E.2d 197, 199 (Va. 1992) (“[A] judgment, to be relied upon for the application of the doctrine of *res judicata*, must be final, and a judgment which is being appealed is not final for *res judicata* purposes.”) (citations omitted); Cups Coal Co., Inc. v. Tennessee River Pulp & Paper Co., 519 So.2d 932, 934 (Ala. 1988) (“Although a prior criminal conviction can be used in a subsequent civil suit arising out of the same transaction as substantive, though not conclusive, evidence that the acts underlying the crime were committed, such a conviction is inadmissible as substantive evidence if an appeal of the conviction is pending.”) (citations omitted); CS-Lakeview at Gwinnett, Inc. v. Retail Dev. Partners, et al., 602 S.E.2d 140, 142 (Ct. App. Ga. 2004) (“Under Georgia law, the fact that a prior court judgment has been appealed suspends the operation of any preclusive effect pending appeal.”). Based upon persuasive authority, the Defendant posits that until his pending appeal has been decided, there is no final judgment for which collateral estoppel would apply in this civil action.

Finally, Defendant submits that the granting of summary judgment is unduly prejudicial to Defendant, whereas the denial of summary judgment will not prejudice either of the parties. If this Court’s ruling granting summary judgment stands, and the appellate courts subsequently grant Defendant’s criminal appeal and his convictions are overturned, he would have already been required to pay a considerable amount of monetary damages to the Plaintiff in the civil case. In that scenario, the Defendant is prejudiced because he would have already paid a judgment on the civil claims before a final determination was made as to his guilt in the criminal proceeding. Furthermore, the

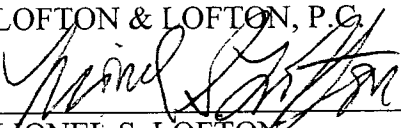
time and resources of the Court would be wasted in having to go back and relitigate the issue of liability in the civil case. For all intents and purposes, it may even be too late at that point to “unring the bell.” On the other hand, if the Court denies summary judgment, there is no harm to either of the parties. As to the Defendant, he would be able to respond to the allegations regarding civil liability for sexual abuse while his criminal appeal is pending, and as to the Plaintiff, she could proceed with discovery to provide support for her civil allegations, and in the event the appellate courts deny Defendant’s criminal appeal, Plaintiff could revisit the issue of collateral estoppel with this Court.

CONCLUSION

Based on the foregoing, the Defendant respectfully requests that this Court reconsider its Order granting Plaintiff’s motion for summary judgment and to deny the same. Alternatively, the Defendant requests that this Court withdraw its Order, and hold the Plaintiff’s motion for summary judgment in abeyance until the appeal of the Defendant’s criminal convictions has been finally decided.

Respectfully submitted,

G. WELLS DICKSON, JR.
124 S. Academy Street
Post Office Box 819
Kingtree, SC 29556
Telephone: 843-354-5519

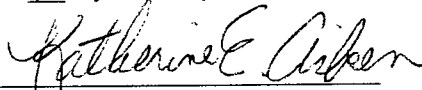
LOFTON & LOFTON, P.C.
BY: 
LIONEL S. LOFTON
WILLIAM H. WARING, III
225 Seven Farms Drive, Suite 109

Charleston, SC 29492
Telephone: (843) 722-6319

Charleston, South Carolina
January 9, 2015

Certificate of Service

The undersigned hereby certifies that a true
copy of the foregoing Motion for Reconsideration has been served
upon opposing counsel by mailing a copy properly
addressed with sufficient postage affixed thereto
this 9th day of January, 2015.



Katherine E. Aiken, Paralegal
Lofton & Lofton, P.C.

FILED
2015 JAN 12 AM 11:27
CLERK OF COURT
KINGS TREE, S.C.

State of South Carolina) In the Court of Common Pleas
) Third Judicial Circuit
County of Williamsburg) 2014-CP-45-00377

Lauren Goodman,
Plaintiff,
Vs.
Willie Marion Brown,
Defendant.

October 30, 2014
Kingstree, South Carolina

B e f o r e:

The Honorable Maite Murphy, Judge

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

Steven S. McKenzie, Esquire
Attorney for the Plaintiff

William H. Waring, III, Esquire
Lionel S. Lofton, Esquire
Attorneys for the Defendant

Bonnie H. Kelly, CVR
Circuit Court Reporter

I N D E X

<u>WITNESS/DESCRIPTION</u>	<u>PAGE NO.</u>
Motion/Mr. McKenzie	4
Response/Mr. Lofton	8
Reply/Mr. McKenzie	10
Decision by the Court	12
Certificate Page	13

E X H I B I T S

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

THE COURT: If y'all would just, please, identify yourselves for the record.

MR. MCKENZIE: Your Honor, Steven McKenzie here for Lauren Goodman.

MR. LOFTON: Lionel Lofton and Will Waring for Willie Brown.

THE COURT: All right. And whose motion is this?

MR. MCKENZIE: This would be the plaintiff's motion, Your Honor, for summary judgment. And we also filed a motion for damages hearing, Your Honor, which I believe both parties agree that the damages hearing motion cannot proceed until after summary judgment motion is heard.

And also damages hearing probably would take about a half a day. So we've agreed to continue that until Your Honor makes a decision on the summary judgment motion.

THE COURT: All right.

MR. MCKENZIE: Thank you, Your Honor. We're ready to proceed on the summary judgment motion.

THE COURT: I'll be happy to hear from you.

MR. MCKENZIE: Thank you, Your Honor. Your Honor, we filed this motion based on the fact that the defendant, Willie Brown, was convicted, in Williamsburg County Court of General Sessions, of criminal sexual conduct with a minor, and one count of lewd act with a child under the age of 16.

Subsequent to him being convicted in the Court of General Sessions, on May 22, 2014, Lauren Goodman was -- the victim for Mr. -- in Mr. Brown's crime -- filed a summons and complaint on July 28, 2014. In her summons and complaint she alleges assault and battery, outrage, intrusion, invasion of privacy, false imprisonment; and then, of course, she -- she alleges damages.

Pursuant to our memorandum -- our motion, we are asking for judgment in regards to the -- the issues of the assault and battery. Obviously, he has been found guilty by a jury of his peers and was sentenced to 35 years in prison by the Honorable George C. James.

That's procedural history of where we are in regards to the -- Court's indulgence, Your Honor. I'm looking for my outline.

(Brief pause.)

MR. MCKENZIE: Your Honor, under Rule 56(c) and under the *Doe vs. Doe* case, South Carolina case, this -- this is a South Carolina case where a very similar set of circumstances happened in that case -- had a criminal sexual conduct case in regards to a minor. Exact same kind of pleading: assault and battery. *Doe vs. Doe* is cited at 346 SC 145, 2001 case.

The Supreme Court, in that case, adopted the rule that once a person's been criminally convicted, he is bound by

that adjudication for purposes of collateral estoppel, which is the issue here in this case.

The issue is that we have a situation where Mr. Brown was found guilty of a crime in General Sessions Court beyond a reasonable doubt. As we know, the burden in civil court or -- in -- in this matter would be by the preponderance of the evidence that a jury would be looking at.

And the exact same situation in the *Doe* case happened in this case. And in that case, the Supreme Court adopted the rule that once a person has been criminally convicted and exhausted all appellate remedies or means of post-conviction relief, he is bound.

Now, the -- opposing counsel's going to come in here and state that the restatement of *Forbes* contends that once that has happened -- that once they file an appeal -- which they have filed an appeal in this case -- that that concludes it.

But then the Fourth Circuit Court of -- U.S. Fourth Circuit Court of Appeals, in SC -- *SEC vs. Farkas* stated that -- and this was a Security Exchange Commission's case -- they reasoned that in the event that the defendant successfully vacated his conviction, he could seek relief from the civil judgement in district court, pursuant to Rule 60(b) of the Federal Civil Rules of Civil Procedure,

which would apply in the same case which we have adopted those -- those rules of civil procedure in -- in civil court.

So Your Honor, basically what we have is South Carolina has not ruled on the issue in regards to whether or not once a defendant files an appeal, whether collateral estoppel goes forth. And the Fourth Circuit U.S. Court of Appeals in that -- that case -- that site -- the *SEC vs. Farkas*, 557 204 2014; it's actually a 2014 case.

So it's our position, Your Honor, that collateral estoppel bars the defendant from now coming before the Court and saying, hey, we -- you cannot -- our position is you -- at -- at this point in time, the defendant is precluded from denying the fact that the assault and battery -- at least the assault and battery portion of the complaint did not occur.

And so it's our position that that's issue preclusion. They can't come in here and -- and stand on the facts and say that a jury of his peers has convicted Willie Brown of sexually molesting a minor. We represent the -- the now minor who's now an adult. And so it's our position to the Court that they cannot come back in here -- into the court and say, hey, we didn't do this. And that's exactly what they're saying in their answer.

So we'd ask for summary judgement in regards to the

issue of the -- the issue of at least the assault and battery portion of our complaint. Thank you, Your Honor.

THE COURT: Mr. McKenzie, did you happen to file a memorandum or affidavits or anything? I don't believe that's contained in the file.

MR. MCKENZIE: We -- we -- we did, Your Honor. But may not have made it to the file. We can certainly hand one up to you.

THE COURT: Sure. If you have an extra copy, that would be helpful.

MR. MCKENZIE: Thank you.

(Mr. McKenzie hands a document to the Court.)

MR. LOFTON: Judge, did you get a copy of ours also?

THE COURT: No, sir.

MR. LOFTON: I'll hand that up, too, if I may.

(Mr. Lofton hands a document to the Court.)

MR. LOFTON: I'm sorry. I don't know what happened to it --

THE COURT: Thank you.

MR. LOFTON: -- but I don't trust the mail.

THE COURT: Mr. Lofton?

MR. LOFTON: Thank you, Your Honor. Your Honor, procedurally, I -- I agree with everything that Mr. McKenzie has said. There's absolutely no question that Mr. Brown was tried in this court, Mr. Brown was convicted, and

Mr. Brown was sentenced in this court; and his case is currently on appeal.

And as Mr. McKenzie has candidly told Your Honor, there -- there is no South Carolina case dealing on this specific issue. There are cases -- and we cite them in our -- in our memo -- from different states, with different -- going both ways.

So what we propose is that since the case is on appeal -- and we can distinguish this case from *Doe* because in the *Doe* case, which Mr. McKenzie relies on -- in *Doe*, all of the appeals and everything had been concluded in that case.

Our case -- our case, as he rightly indicated, is on appeal. The appeal has not been heard. As a matter of fact, the court reporter just got an extension to file the transcript. So we haven't even filed briefs yet.

So we're confident and we believe that there are substantial issues in the appeal. So what -- what we believe the prudent thing to do at this stage would be either hold the motion in abeyance or stay the civil case until the criminal case, appellate part of it, has been resolved.

And Judge, there are two reasons for that: One -- one would be the -- the argument of judicial economy, because if we were to prevail in the criminal case, then we're going to have to come back here, if Your Honor ruled

against us, and unring the bell.

But I think more importantly than that, Judge, is we respectfully submit that there's not going to be any prejudice to anyone in staying, holding in abeyance, or -- or whatever Your Honor decides to do. And the reason for that, Judge, is that the -- the plaintiff waited some 10 to 15 years before ever filing this law suit.

So it's -- it's not like it needs some immediate attention. These -- these allegations occurred many, many years ago, when the plaintiff was 8 or 9 years old. She's now in her 20s. The -- the civil case wasn't filed until the criminal case was heard. So I -- I don't see -- and I -- I respectfully submit there's not going to be any prejudice to anyone if this case is delayed. And that would be our position.

THE COURT: All right. Anything further in reply?

MR. MCKENZIE: Your Honor, just -- just to note in -- in *Doe*, the Supreme Court -- and -- and -- and -- and Mr. Lofton is correct, the Supreme Court did not go -- go so far as to say that.

But the Supreme Court did adopt the rule in regards to collateral estoppel, in regards that once that conviction is -- is done, then -- then -- then we are bound -- then the Courts are bound by that adjudication.

So I agree that -- that -- that the Supreme Court

didn't go further and say -- and -- and Mr. Lofton's correct, the jurisdictions are all over the place in regards to this -- this law.

But the Fourth Circuit U.S. Court of Appeals, which is -- obviously, you understand we are a member of that circuit -- has stated that that's not the case -- that's not the law, in Federal Court at least.

I think that would be binding upon us or -- or at least some guidance for us in regards to what South Carolina would do in that matter.

I think the Supreme -- South Carolina Supreme Court has stated that collateral estoppel, once -- that once a conviction has -- has occurred, we are bound by that conviction. I -- I agree they did not go a step further and say that the appeal -- the appellate process stays it. But the Fourth Circuit Court of Appeals has spoken on that issue.

So Your Honor, we would ask the Court to -- to grant summary judgement motion. And I believe that, yes, to say that -- that -- you know, that my client waited til 18 years after this happened, as the Court well knows, criminal sexual conduct matters are very personal in nature. She was eight years old when all this occurred. She did not come out with it -- with what had occurred until she was 14 or 15 years old.

So it took some time for all of this to come out, and then, of course, we had to run through the -- the criminal justice system in regards to Mr. Brown's due process rights. And he was found guilty of all the counts in regards to what happened in this case.

So -- and then after that, we immediately filed the law suit after the conviction.

THE COURT: Thank you.

MR. MCKENZIE: Thank you, Judge.

THE COURT: Thank you, gentleman. I'll take this matter under advisement to review the case law, and notify you of a ruling.

MR. LOFTON: Thank you, Your Honor.

MR. MCKENZIE: Thank you.

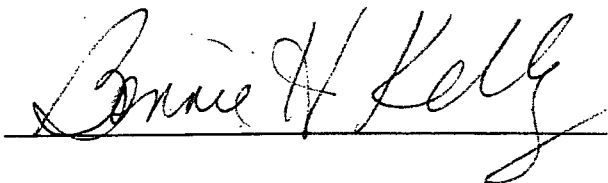
THE COURT: Thank you.

-- END OF TRANSCRIPT RECORD --

CERTIFICATE

I, the undersigned Bonnie H. Kelly, Official Court Reporter for the Fifth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of all the proceedings had and evidence introduced in the hearing of the captioned cause, relative to appeal, in the Third Circuit Court for Williamsburg County, South Carolina, on the 30th day of October, 2014.

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

A handwritten signature in cursive script, reading "Bonnie H. Kelly", is written over a horizontal line.

Bonnie H. Kelly, CVR

Official Court Reporter

Columbia, South Carolina

April 13, 2015

STATE OF SOUTH CAROLINA))
COUNTY OF WILLIAMSBURG) GENERAL SESSIONS COURT

STATE OF SOUTH CAROLINA)

STATE,)

TRANSCRIPT OF RECORD
12-GS-45-0285

v.)

WILLIE MARION BROWN,)

DEFENDANT.)

May 19, 2014
Kingstree, South Carolina

BEFORE :

THE HONORABLE GEORGE C. JAMES, JR., JUDGE;
AND JURY

APPEARANCES:

KIMBERLY V. BARR, ESQ.
Assistant Solicitor

G. WELLS DICKSON, JR., ESQ.
LIONEL S. LOFTON, ESQ.
WILLIAM H. WARING, III, ESQ.
Attorneys for Defendant

FRANCES BAKIS-RAY, RPR
Circuit Court Reporter

1 THE COURT: All right, you can bring in
2 the jury.

3 (WHEREUPON, the jury was returned to the
4 courtroom at approximately 2:12 p.m., and
5 the following proceedings commenced in
6 open court.)

7 THE COURT: All right, Mr. Foreman, has
8 the jury reached a verdict on all three counts?

9 THE FOREMAN: We have, Your Honor.

10 THE COURT: Are all those verdicts
11 unanimous?

12 THE FOREMAN: Yes, sir.

13 THE COURT: You can hand the verdict form
14 to the bailiff and she'll hand it to me. Thank you,
15 sir.

16 (Verdict form was tendered to the Court.)

17 THE COURT: All right. Mr. Brown, please
18 stand and face the jury.

19 Ms. Staggars, you can publish the verdict.

20 THE CLERK: This is case number
21 2012-GS-45-285, the State of South Carolina versus
22 Willie Marion Brown. On count 1 as to the charge of
23 criminal sexual conduct with a minor in the first
24 degree: We, the jury, unanimously find the
25 defendant guilty. As to count 2, the charge of

1 criminal sexual conduct with a minor in the first
2 degree: We, the jury, unanimously find the
3 defendant guilty. As to count 3, as to the charge
4 of lewd act on a minor: We, the jury, unanimously
5 find the defendant guilty. It is certified on
6 May 22nd, 2014, by foreman Mr. James Tanner.

7 Ladies and gentlemen of the jury, is this
8 your verdict and is it still your verdict? Please
9 respond by raising your right hand.

10 (All jurors complied by raising their hand.)

11 THE COURT: Let the record show that all
12 jurors did raise their right hand. You can have a
13 seat.

14 Anything, Ms. Barr, before the jury is
15 released?

16 MS. BARR: None on behalf of the State.

17 MR. LOFTON: If we can poll the jury.

18 THE COURT: All right, Ms. Staggers.

19 THE CLERK: Juror number 35, Rosela
20 Cooper. Is this your verdict? Please let it be
21 known by raising your right hand. Is this still
22 your verdict?

23 (Juror raised her right hand.)

24 THE CLERK: Okay. Juror number 122,
25 Abigail McKnight, is this your verdict, is it still

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM WILLIAMSBURG COUNTY
Court of Common Pleas

The Honorable Maite Murphy, Circuit Court Judge

Case No. 2014-CP-45-377

RECEIVED

MAR 13 2015

SC Court of Appeals

Willie Marion Brown,

Appellant,

v.

Lauren Goodman,

Respondent.

NOTICE OF APPEAL

Willie Marion Brown appeals the Order of the Honorable Maite Murphy, dated February 13, 2015 and entered February 17, 2015, denying Appellant's Motion for Reconsideration. Appellant received written notice of entry of this order on or about February 19, 2015.

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Attorneys for Appellant

Charleston, South Carolina
March 5, 2015

Other Counsel of Record:

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AUG 03 2015

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Respondent,

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Appellant.

CERTIFICATE OF COUNSEL

The undersigned certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

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Attorneys for Appellant

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM WILLIAMSBURG COUNTY
Court of Common Pleas

The Honorable Maite Murphy, Circuit Court Judge

Case No. 2014-CP-45-377

Lauren Goodman,

Respondent,

v.

Willie Marion Brown,

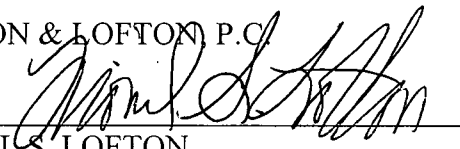
Appellant.

PROOF OF SERVICE

I certify that I have served the Record on Appeal on Respondent by depositing a copy of it in the United States Mail, postage prepaid, on July 30, 2015, addressed to her attorney of record, Steven S. McKenzie, Coffee, Chandler & McKenzie, P.A., P.O. Box 1292, Manning, South Carolina 29102.

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SC Court of Appeals