

ORIGINAL

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Williamsburg County
Tanya A. Gee, Circuit Court Judge

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Lower Court Case No. 2015-CP-45-0037
Appellate Case No. 2016-000615

S.C. SUPREME COURT

Robert Troy Taylor, #315084,

Respondent-Petitioner,

v.

STATE OF SOUTH CAROLINA,

Petitioner-Respondent.

**AMENDED APPENDIX
VOLUME 2 OF 2**

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WILLIAM EDDIE BROWN - DIRECT BY MS. BLANCHETTE

1 A: Well, we all played with him I mean because he was -- he
2 was little at the time I mean.

3 Q: Okay. And do you recall anything about him sleeping with
4 his dad that night?

5 A: Yes, ma'am.

6 Q: Okay. What do you recall?

7 A: If I'm not mistaken, it was him and Troy in a sleeping
8 bag and Trevor was beside him. I don't really remember who
9 all was there and where everybody slept at. I do recall that
10 the dog ran across everybody in the middle of the night and
11 woke us all up.

12 Q: Now, were you up especially early that next morning?

13 A: Yes, ma'am.

14 Q: And what did you do that next morning?

15 A: As far as I can remember, me and Chad was the only two
16 that got up early and we started the fire.

17 Q: And who is Chad? Do you know Chad's last name?

18 A: Chad -- I believe he is a Wells.

19 Q: Now, when you heard about these allegations, what was
20 your response as far as what you knew about the campsite?

21 A: It's pretty much impossible in my opinion. I mean I'm
22 not saying it is impossible because anything can happen.
23 Nobody was upset that I can recall and, if anything like that
24 would have happened, I would think we would hear hollering or
25 screaming or something. I don't know.

WILLIAM EDDIE BROWN - DIRECT BY MS. BLANCHETTE

1 Like I said, we was always all together for the most -- I
2 mean 99.9 percent of the time and we could see from one end to
3 the other end. So I don't know where anybody could slip off
4 and do anything or anything like that.

5 Q: And were you ever contacted by either a private
6 investigator or Mr. Charles Barr prior to Troy Taylor's trial
7 in Williamsburg in '07?

8 A: No, ma'am. The only person I've been contacted by was
9 Ms. Linda. She wanted to try to get me set up with Mr. Pete
10 to meet with him, but other than that, that's all.

11 Q: And you willingly met with Pete Skidmore in preparation
12 for this PCR case?

13 A: Yes, ma'am.

14 Q: Okay. Now, going back to 2007, if you would have
15 received a subpoena that you needed to come and testify for
16 the defense, would you have been willing to do that?

17 A: Yes, ma'am.

18 MS. BLANCHETTE: Your Honor, if I could just beg the
19 Court's indulgence one moment?

20 BY MS. BLANCHETTE:

21 Q: Eddie, do you remember what the weather conditions were
22 that night?

23 A: It was cold. I mean I say cold, but it was probably 40
24 -- 50 degrees.

25 Q: Were you able to get in a good deep sleep that night or

WILLIAM EDDIE BROWN - DIRECT BY MS. BLANCHETTE

1 what were the sleeping conditions like?

2 A: Well, I slept pretty well. I mean I slept pretty light,
3 which I slept well, but I slept light because it was actually
4 my first time ever being on a camping trip. So I was pretty
5 aware of my surroundings.

6 MS. BLANCHETTE: Your Honor, I have no further questions
7 of this witness.

8 THE COURT: All right. Mr. Gourley?

9 MR. GOURLEY: Thank you, Your Honor. May it please the
10 Court.

11 THE COURT: Yes, sir.

12 CROSS-EXAMINATION

13 BY MR. GOURLEY:

14 Q: Mr. Brown --

15 A: Yes, sir.

16 Q: Where do you currently reside?

17 A: I live in Conway at [REDACTED] [REDACTED] [REDACTED].

18 Q: How long have you lived there?

19 A: We just bought that house May 29th.

20 Q: Okay. Congratulations.

21 A: Thank you.

22 Q: Where did you live prior to that?

23 A: We rented in [REDACTED] [REDACTED] [REDACTED].

24 Q: Okay. And again, I think you already stated this, but
25 you know Mr. Taylor because you attended his church? He was

WILLIAM EDDIE BROWN - DIRECT BY MS. BLANCHETTE

1 pastor of your church?

2 A: Well, I attended his family's church. Well, I say his
3 family. I made it wasn't -- I don't think it is family's
4 church, but we all went to church together as far back as I
5 can remember.

6 Q: Okay. And are you still attending the church?

7 A: No, sir.

8 Q: When did you stop?

9 A: I stopped whenever all these allegations occurred --

10 Q: Was this --

11 A: -- because it detoured me. I was real big into church.
12 I had my own youth group and all --

13 Q: Right.

14 A: -- at the age of 14 -- 15 years old. When it happened,
15 there was part of me that died.

16 Q: I gotcha. So you were aware of the allegations against
17 Mr. Taylor in 2007?

18 A: I was. I was aware of some allegations. I don't know
19 all the details about it. I was -- I mean when he got locked
20 up, it was -- it happened so fast. I mean I didn't find out
21 until after it was already done more or less.

22 Q: Okay. But you knew obviously he wasn't a pastor at the
23 church for a reason; right?

24 A: Well, I found out within that first week I mean.

25 Q: Okay. And you obviously knew that he was charged with

WILLIAM EDDIE BROWN - CROSS BY MR. GOURLEY

- 1 molesting the victim in this case; right?
- 2 A: Yes.
- 3 Q: On a camping trip that you attended?
- 4 A: Well, I didn't know that it was on that camping trip
5 until whenever we started talking with Mr. Pete I mean.
- 6 Q: Okay.
- 7 A: Well, not Mr. Pete. Over the last few years I mean
8 because I think they have been trying to get appeals or
9 something.
- 10 Q: Right.
- 11 A: I mean -- but over the last ten years -- eight years or
12 however long it's been I mean.
- 13 Q: Okay. And you said you were very involved with the
14 church --
- 15 A: Yes, sir.
- 16 Q: -- and the youth group activities?
- 17 A: Yes, sir.
- 18 Q: And you never thought to ask why your pastor was being
19 taken away?
- 20 A: Well, like I said, I didn't know that he was -- I mean
21 when it happened, it happened so fast and within a few --
22 three -- four -- five days, I was told -- we was told that he
23 was being locked up --
- 24 Q: Okay.
- 25 A: -- for molestation. I mean I didn't have no reason to

WILLIAM EDDIE BROWN - CROSS BY MR. GOURLEY

1 question.

2 Q: Okay. And again, you stated you were on this -- on this
3 camping trip?

4 A: Yes, sir.

5 Q: How many camping trips have you -- or let me -- strike
6 that. How many group activities did you participate as a
7 youth with the church?

8 A: All that I could get to.

9 Q: All that you could get to? Okay. And I think you stated
10 previously on direct that this was your first camping trip?

11 A: Yes, sir.

12 Q: Okay. And how old were you when you went on that camping
13 trip?

14 A: If it was in November of '98, I was 15.

15 Q: 15? Okay. And what did y'all do?

16 A: What did we do?

17 Q: Yes.

18 A: Well, we just went out there and had fun more or less.

19 Q: Okay.

20 A: I remember the night we went down we was in a van and we
21 was going down a dirt -- a long dirt road --

22 Q: Right.

23 A: -- going to the campsite and they was telling ghost
24 stories and stuff trying to scare us, and I really remember
25 the food because we had to pack our own beef stew.

WILLIAM EDDIE BROWN - CROSS BY MR. GOURLEY

- 1 Q: Right.
- 2 A: And that was one of the best beef stews I ever had. I
- 3 love my food.
- 4 Q: When did -- when did you all leave for the camping trip?
- 5 A: When did we leave for the --
- 6 Q: What day?
- 7 A: What day?
- 8 Q: Yeah.
- 9 A: I could not tell you that.
- 10 Q: Okay.
- 11 A: It would have to be on a Friday afternoon I would think.
- 12 Q: Okay.
- 13 A: After school.
- 14 Q: I gotcha. Do you recall what time you went to bed?
- 15 A: It would have to be late.
- 16 Q: Late? And you said you did sleep, but you're a light
- 17 sleeper?
- 18 A: Yes, sir.
- 19 Q: Okay. And we certainly can't expect you to know what
- 20 goes on when you're asleep; right?
- 21 A: Yes, sir.
- 22 Q: And you can't say beyond a shadow of a doubt that the
- 23 rapes of this victim did or did not occur; right?
- 24 A: I can't prove anything. No, sir.
- 25 Q: Okay. You can only say what you know or what you did or

WILLIAM EDDIE BROWN - CROSS BY MR. GOURLEY

1 did not see; right?

2 A: Yes, sir.

3 Q: Okay. And can you recall the names of the boys that were
4 on this trip?

5 A: Not all of them.

6 Q: Who was on this trip that you can recall?

7 A: I remember Chad. I remember Zack. I remember Trevor. I
8 remember Griffin. Troy. I don't even remember the dog's
9 name, but I couldn't honestly tell you everybody that was
10 there.

11 Q: Right.

12 A: Honestly, I can't remember everybody that was in the
13 youth class with me.

14 Q: I gotcha. How many boys do you think went on this trip?

15 A: I would say there was probably 15 people.

16 Q: Okay. All right.

17 MR. GOURLEY: I beg the Court's indulgence, Your Honor.

18 THE COURT: Uh-huh.

19 MR. GOURLEY: Your Honor, I don't have any other
20 questions. Thank you.

21 THE COURT: All right.

22 MR. GOURLEY: Thank you, Mr. Brown.

23 THE COURT: Ms. Blanchette?

24 MS. BLANCHETTE: Nothing, Your Honor.

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

CHAD BERNARD - DIRECT BY MS. BLANCHETTE

1 THE WITNESS: Thank you, ma'am.

2 THE COURT: You may step down.

3 MS. BLANCHETTE: And, Your Honor, again, Mr. Brown is
4 here under subpoena. So I'd just ask that he be released if
5 he'd like to be.

6 THE COURT: All right. Any objection from the State?

7 MR. GOURLEY: No, Your Honor.

8 THE COURT: All right. You can be released if you'd like
9 to or you can stay.

10 THE WITNESS: Thank you.

11 THE COURT: It's up to you.

12 MS. BLANCHETTE: Your Honor, I'd call Chad Bernard to the
13 stand.

14 THE COURT: Okay.

15 THE CLERK: Place your left hand on the Bible and raise
16 your right hand. State your name, please.

17 THE WITNESS: Chad Michael Bernard.

18 THE CLERK: Do you solemnly swear or affirm your
19 testimony to the Court shall be the truth, the whole truth,
20 and nothing but the truth, so help you God?

21 THE WITNESS: I do.

22 THE CLERK: Thank you, sir. Have a seat up here, please.
23 Please state your full name and spell your last name for the
24 record.

25 THE WITNESS: Chad Michael Bernard, B-e-r-n-a-r-d.

CHAD BERNARD - DIRECT BY MS. BLANCHETTE

1 CHAD BERNARD, being first duly
2 sworn, testified as follows:

3 DIRECT EXAMINATION

4 BY MS. BLANCHETTE:

5 Q: Mr. Bernard, how is it that you know Troy Taylor?

6 A: We went to the same church back when I was very young.
7 My mother went to the same church; so that would mean I had to
8 go to the same church. And I remember Troy was in the youth
9 group and then he moved away. I continued going to the same
10 church and then he came back and started revamping the old
11 church and created a new gathering and really was inspiring to
12 everybody in coming together.

13 Q: Were you part of the youth group when he was the youth
14 group pastor or leader back in 1998?

15 A: Yes.

16 Q: Okay. And do you recall a camping trip that was taken
17 over November 6th and 7th, 1998, to the Black River area?

18 A: Yes, I do.

19 Q: Okay. Do you remember what it was like out there that
20 night, what the weather was like and kind of the conditions
21 out there?

22 A: Yeah. It was pretty cool, clear skies. I remember the
23 moon was pretty full. It wasn't pitch black out. It was, you
24 know, just kind of a brisk evening.

25 Q: And do you remember if Troy brought his young son,

CHAD BERNARD - DIRECT BY MS. BLANCHETTE

1 Griffin?

2 A: Yes.

3 Q: Okay. And do you remember how the setup was as far as
4 your sleeping conditions?

5 A: I do. I believe we slept underneath a tarpaulin that was
6 laid on the ground and then rolled up over a tree branch or
7 something like that. We all slept side-by-side in our
8 sleeping bags. It was just on the ground.

9 Q: And have you reviewed the two statements of victim [REDACTED]
10 that were given in this case?

11 A: Yes.

12 Q: And do you -- do you recall if there was a tent ever set
13 up?

14 A: There was no tent.

15 Q: Okay. And you've reviewed the description that he gave
16 of how this occurred. Based upon what you know of the scene
17 and how you all slept, does it seem possible to you that this
18 could have occurred in that way?

19 A: It seems unlikely to me. It would be too -- too close
20 for everybody to wake up.

21 Q: Was there anything particularly out of the ordinary with
22 this trip?

23 A: No. Everybody seemed like they were having fun.

24 Q: Now, that night it's dark, it's cold. You guys are all
25 lined up. Are you a light or a heavy -- do you remember did

CHAD BERNARD - DIRECT BY MS. BLANCHETTE

1 you sleep heavy or light when you are out there under those
2 conditions?

3 A: I don't recall specific, but I would imagine that I
4 wouldn't be sleeping as soundly as in my own bed.

5 Q: Do you remember being jumpy at all or being startled
6 throughout the night?

7 A: Not specifically. Now that Eddie mentioned the dog, I do
8 remember the dog, but other than that, I mean we were all
9 snuggled together pretty much.

10 Q: Based about the description that's given of Troy Taylor
11 taking victim [REDACTED] out of his sleeping bag and bringing him to
12 a tent, do you believe you would have woken up if that had
13 occurred?

14 A: Yeah. I think somebody getting up and rustling around or
15 perhaps dragging somebody off, that would have been, you know,
16 pretty alarming for everybody that was laying there.

17 Q: Were you ever contacted or interviewed by Charles David
18 Barr, who was acting as Mr. Taylor's defense counsel, or
19 anybody working for him prior to the trial in 2007?

20 A: No, I wasn't.

21 Q: If you had been, would you have been willing to talk with
22 them?

23 A: Yes, ma'am.

24 Q: And if they had given you a subpoena to testify at trial
25 for the defense, would you have done that?

CHAD BERNARD - DIRECT BY MS. BLANCHETTE

1 A: Yes.

2 Q: And you were willing to talk with Pete Skidmore as part
3 of the preparation for this case and myself; is that correct?

4 A: Yes.

5 Q: Your Honor, if I could beg the Court's indulgence for
6 just one moment?

7 THE COURT: Sure.

8 MS. BLANCHETTE: Your Honor, I have no further questions
9 of this witness.

10 THE COURT: All right. Mr. Gourley?

11 MR. GOURLEY: Thank you, Your Honor.

12 CROSS-EXAMINATION

13 BY MR. GOURLEY:

14 Q: Is it Mr. Brown?

15 A: Bernard.

16 Q: Bernard? I apologize. Mr. Bernard. Mr. Bernard, where
17 do you currently reside?

18 A: At [REDACTED] in Myrtle Beach.

19 Q: Okay. And how long have you lived there?

20 A: Since June 16th, 2008.

21 Q: Okay. And prior to that, where did you live?

22 A: I was staying at my parents' saving up to buy a house.

23 Q: Okay.

24 A: So in Murrells Inlet.

25 Q: Now, you said you know Mr. Taylor because he was a pastor

CHAD BERNARD - CROSS BY MR. GOURLEY

- 1 at the church?
- 2 A: I knew him prior to that.
- 3 Q: Okay.
- 4 A: He was in the same youth group as my brother and my older
5 cousins at the church that my parents went to.
- 6 Q: Okay. And are you still attending that church today?
- 7 A: No, sir.
- 8 Q: Were you attending that church back in 2007?
- 9 A: No.
- 10 Q: Okay. What church were you attending in 2007?
- 11 A: None.
- 12 Q: None? Okay. How did -- how did it come about that you
13 went on the camping trip?
- 14 A: I always did what was -- what was going on with the --
15 with the youth group. We went on other trips. So I was kind
16 of there for -- to have fun.
- 17 Q: Okay. How many other youth group trips did you
18 participate in roughly with Mr. Taylor?
- 19 A: We went to Fantasy Lake in North Carolina. We went to
20 white water rafting I believe in Tennessee, all with Troy.
- 21 Q: Did you participate in any additional camping trips or
22 anything like that prior to or after?
- 23 A: Not that I recall.
- 24 Q: Okay. And how old were you when you went on this camping
25 trip?

CHAD BERNARD - CROSS BY MR. GOURLEY

1 A: About 14.

2 Q: Okay. And what did y'all do?

3 A: We got there and we were gathering firewood and getting

4 stuff together while we still had a little bit of daylight. I

5 remember cooking on the fire with the foil packs with the meat

6 and potatoes.

7 Q: Okay.

8 A: After that, I remember we walked down the river bank. As

9 I said, the moon was full or fairly full; so we were able to

10 see and we were just kind of out exploring. And we came back

11 to --

12 Q: And what was the weather conditions?

13 A: It was clear.

14 Q: Clear?

15 A: Cool.

16 Q: Okay. What time did y'all go to bed?

17 A: It was well into the evening after we walked around and

18 explored and went down the river bank and came back to the

19 campsite and pretty much got ready.

20 Q: Okay. And y'all all slept under one big tarp?

21 A: Yes.

22 Q: Okay. And how did y'all sleep?

23 A: Side-by-side.

24 Q: Side-by-side? Did everybody have their own individual

25 sleeping bags or blankets?

CHAD BERNARD - CROSS BY MR. GOURLEY

- 1 A: Pretty much, yeah.
- 2 Q: Okay. And what time did you -- or you said you did go to
3 sleep that night?
- 4 A: Right.
- 5 Q: Okay. And you can't recall or know of anything that
6 happened while you were asleep; correct?
- 7 A: Correct.
- 8 Q: So you can't say with any certainty whether or not Mr.
9 Taylor did or did not rape the victim in this case while you
10 were sleeping; right?
- 11 A: Correct.
- 12 Q: Who were the other boys that were on this camping trip?
- 13 A: I remember Eddie. I remember Troy. I remember Scott
14 Stillwell. Griffin and Zack. I don't --
- 15 Q: I mean how many --
- 16 A: I don't recall the others.
- 17 Q: I'm sorry. I didn't mean to cut you off.
- 18 A: No, you're good.
- 19 Q: How many other kids participated in this trip?
- 20 A: I'd say ten to twelve. We all rode in the van; so it's a
21 15-passenger van.
- 22 Q: Yeah.
- 23 A: So less than that. So --
- 24 Q: Okay. Were there any other adults?
- 25 A: Mr. Scott Stillwell.

CHAD BERNARD - CROSS BY MR. GOURLEY

1 Q: Okay.

2 MR. GOURLEY: I beg the Court's indulgence, Your Honor.

3 THE COURT: Okay.

4 MR. GOURLEY: I don't have any other questions, Your
5 Honor. Thank you.

6 THE COURT: All right.

7 MS. BLANCHETTE: Briefly, Your Honor.

8 THE COURT: Sure.

9 REDIRECT EXAMINATION

10 BY MS. BLANCHETTE:

11 Q: Mr. Bernard, I apologize if I made up a different name
12 for you before.

13 A: That's all right.

14 Q: Did you have a watch or were you keeping track of time
15 when you were out there that night?

16 A: Knowing me back then, I probably did have a watch, but as
17 far as keeping a timeline specifically, I don't recall.

18 MS. BLANCHETTE: Your Honor, may I approach the witness?

19 THE COURT: You may.

20 BY MS. BLANCHETTE:

21 Q: You've indicated that you reviewed the two statements of
22 the victim, **victim** [REDACTED], in this case, one out of Georgetown
23 County and one out of Williamsburg County; is that correct?

24 A: Yes.

25 Q: Okay. I'm going to hand you what's been previously

CHAD BERNARD - REDIRECT BY MS. BLANCHETTE

1 marked as Applicant's Number 8. Can you identify what that
2 appears to be?

3 A: It looks like a statement to the police.

4 Q: Okay. And what's the county at the top there? Can you
5 see?

6 A: Georgetown County.

7 Q: Okay. And who's the name of the person at the top?

8 A: victim [REDACTED].

9 MS. BLANCHETTE: Your Honor, this was introduced as
10 Defendant's Number 1 at trial. At this time, I'd move it in
11 as Applicant's Number 8.

12 THE COURT: All right. Any objection?

13 MR. GOURLEY: No, Your Honor.

14 THE COURT: All right. It is so moved.

15 (WHEREUPON, Applicant's Exhibit Number 8, statement of
16 victim [REDACTED], was admitted into evidence.)

17 BY MS. BLANCHETTE:

18 Q: And could you just review that briefly for me?

19 A: Yeah.

20 Q: And just let me know when you're finished.

21 (WHEREUPON, there was a pause in the proceedings.)

22 A: Okay.

23 Q: And do you see on there where it says that Mr. Taylor
24 took victim [REDACTED] to a separate tent?

25 A: Yes.

CHAD BERNARD - REDIRECT BY MS. BLANCHETTE

1 Q: Was there a separate tent at this -- at the campsite that
2 you were at?

3 A: No, there wasn't.

4 Q: And I'm going to hand you what's been previously marked
5 as Applicant's Number 9. Can you identify what that appears
6 to be for the record?

7 A: It's another handwritten statement.

8 Q: Okay. And who was the person that gave the statement?

9 A: victim [REDACTED].

10 MS. BLANCHETTE: Your Honor, at this time, I would move
11 Applicant's Number 9, which was actually introduced at trial
12 as Defendant's Number 2, the Williamsburg County voluntary
13 statement of victim [REDACTED].

14 MR. GOURLEY: I don't have any objection to that.

15 THE COURT: All right. It is so entered. Thank you.

16 (WHEREUPON, Applicant's Exhibit Number 9, statement of
17 victim [REDACTED], was admitted into evidence.)

18 BY MS. BLANCHETTE:

19 Q: And if you could just take a minute to review that and
20 let me know when you're done with that, please?

21 (WHEREUPON, there was a pause in the proceedings.)

22 A: Okay.

23 Q: In this statement, it describes that Mr. Taylor had his
24 own tent where these allegations took place. Do you recall
25 Mr. Taylor having his own tent?

CHAD BERNARD - REDIRECT BY MS. BLANCHETTE

1 A: No. He slept with us under the tarp.

2 Q: And based upon the information contained in these two
3 statements, do you recall any of these events occurring while
4 you were on the camping trip?

5 A: No, I do not.

6 MS. BLANCHETTE: Your Honor, I have no further questions
7 of this witness.

8 THE COURT: All right.

9 MR. GOURLEY: Your Honor, if I may just very briefly?

10 THE COURT: Sure.

11 RE CROSS-EXAMINATION

12 BY MR. GOURLEY:

13 Q: Mr. Bernard, were you around in 2007 or around the church
14 in 2007 when these allegations occurred?

15 A: I didn't go to the church, no.

16 Q: Okay.

17 A: But I was -- I'm in the area. I lived in the area.

18 Q: Did you hear about the allegations against Mr. Taylor?

19 MS. BLANCHETTE: Your Honor, I would object. I don't
20 think this is responsive to my redirect.

21 MR. GOURLEY: She --

22 MS. BLANCHETTE: I don't know if he's limited in that
23 capacity.

24 MR. GOURLEY: She brought out what his statement is
25 talking about and asked Mr. Bernard specifically whether these

CHAD BERNARD - RECROSS BY MR. GOURLEY

1 allegations were true or not regarding the statement. I'm
2 just simply asking whether or not he knew about the
3 allegations at the time in 2007.

4 THE COURT: I'll go ahead and let you ask that question.
5 BY MR. GOURLEY:

6 A: I -- I heard some things just through the grapevine. As
7 I said, I didn't go to the church; so there wasn't anything
8 specific. I just heard that he was -- had gotten arrested. I
9 didn't really know the details. Other than that, it was --
10 you know, I didn't really go to that church and it wasn't
11 something that I really sought out the information for.

12 Q: You didn't want to get involved?

13 A: Not that, but it just wasn't something that -- I didn't
14 know anything about it other than just what I'd heard and I'm
15 not a big gossiper. So --

16 Q: But you knew he had been arrested?

17 A: I had heard that he had been arrested.

18 Q: For molestation?

19 A: I didn't really know exactly, but I'd heard later on
20 that, yes, it was.

21 Q: Okay.

22 MR. GOURLEY: No further questions, Your Honor.

23 THE COURT: All right.

24 MS. BLANCHETTE: Nothing further, Your Honor.

25 THE COURT: Okay.

NICK EVERETT - DIRECT BY MS. BLANCHETTE

1 MS. BLANCHETTE: May this witness be excused?

2 THE COURT: He may be. You may step down and you may --
3 you're allowed to stay in the courtroom if you'd like --

4 THE WITNESS: All right.

5 THE COURT: -- but you're free to go if you choose.

6 MS. BLANCHETTE: Your Honor, I'd call Nick Everett to the
7 stand.

8 THE CLERK: Place your left hand on the Bible and raise
9 your right hand. State your name, please.

10 THE WITNESS: Nicholas Scott Everett.

11 THE CLERK: Do you solemnly swear or affirm your
12 testimony to the Court will be the truth, the whole truth, and
13 nothing but the truth, so help you God?

14 THE WITNESS: Yes, sir.

15 THE CLERK: Thank you, sir. Have a seat up here, please.
16 Please state your full name and spell your last name for the
17 record.

18 THE WITNESS: Nicholas Scott Everett, E-v-e-r-e-t-t.

19 NICK EVERETT, being first duly
20 sworn, testified as follows:

21 DIRECT EXAMINATION

22 BY MS. BLANCHETTE:

23 Q: And, Mr. Everett, how are you currently employed?

24 A: I am a high school English teacher and football coach at
25 Lamar High school.

NICK EVERETT - DIRECT BY MS. BLANCHETTE

1 Q: Okay. And how is it that you know Troy Taylor?

2 A: I attended church with Troy from I guess probably middle
3 school on until I went to college.

4 Q: And were you part of the youth group when Troy was the
5 leader or the pastor of that youth group?

6 A: Yes.

7 Q: And do you recall going on a camping trip on November 6th
8 through 7th, 1998, with that youth group?

9 A: Yes, ma'am, I do.

10 MS. BLANCHETTE: And, Your Honor, may I approach the
11 witness?

12 THE COURT: You may.

13 BY MS. BLANCHETTE:

14 Q: Mr. Everett, I'm going to show you what has been admitted
15 as Applicant's Number 8 and 9.

16 A: Okay.

17 Q: Have you previously had the opportunity in preparation
18 for this PCR case to review the statements of victim [REDACTED]?

19 A: Yes, ma'am, I have.

20 Q: Okay. Is there anything else that you've reviewed?

21 A: I also reviewed the testimony in the case.

22 Q: Okay. Do you recall if there was a tent set up?

23 A: There was not.

24 Q: Okay. And you've read both the statements and his
25 testimony. Do you agree with the accusations? Did you see

NICK EVERETT - DIRECT BY MS. BLANCHETTE

1 occur what he said occurred that night?

2 A: No, ma'am, I did not.

3 Q: Do you think if what he said occurred happened would you
4 have woken up that night?

5 A: Yes, ma'am. We were all sleeping pretty close together.
6 Troy is not a small guy. If he had got up -- I'm a pretty
7 light sleeper. I'm pretty sure I would have woken up.

8 MR. GOURLEY: Judge, I'm going to object to this line of
9 questioning. It's speculation, you know, whether or not he
10 was going to wake up when Mr. Taylor allegedly took the victim
11 and raped him.

12 THE COURT: All right. I think we're here to see what
13 Mr. Everett may have testified to if he had been called by
14 defense counsel and so I'm standing in the shoes of a trial
15 judge to determine whether that testimony would be appropriate
16 before a jury and I'll overrule your objection.

17 MR. GOURLEY: Thank you, Judge.

18 MS. BLANCHETTE: Thank you, Your Honor.

19 BY MS. BLANCHETTE:

20 Q: Were you finished with your answer, sir?

21 A: Yes, ma'am.

22 Q: Okay. Did you witness anything out of the ordinary on
23 this trip?

24 A: No, ma'am.

25 Q: And you said you were all sleeping closely together.

NICK EVERETT - DIRECT BY MS. BLANCHETTE

1 Could you describe that a little bit more for us?

2 A: Yeah. All I really recall is there was a -- there was a
3 tarp. We all were in our sleeping bags all kind of side-by-
4 side, you know. I mean, obviously, the tarp was big enough
5 for all of us, but it's not -- you know, it's not like there
6 was a whole bunch of extra room.

7 Q: And do you ever recall being contacted by Charles David
8 Barr, Mr. Taylor's attorney, or any investigator working for
9 him back in 2007 before Mr. Taylor went to trial?

10 A: No, ma'am. I was never contacted.

11 Q: And where were you located back in 2007?

12 A: In Greenville.

13 Q: Okay. And what were you doing in Greenville?

14 A: I had finished college not too -- not too recently -- or
15 recently, excuse me, and I was just working in Greenville at
16 the time.

17 Q: Okay. And if someone had -- did you still have
18 connections back to the Myrtle Beach area?

19 A: Oh, yes, ma'am.

20 Q: Okay. So if someone would have notified you that either
21 the defense attorney or his private investigator needed to
22 speak with you, would you have made arrangements to do that?

23 A: Yes, ma'am. Absolutely.

24 Q: And if you would have received a subpoena to testify for
25 the defense, would you have been willing to do that?

NICK EVERETT - DIRECT BY MS. BLANCHETTE

1 A: Yes, ma'am.

2 MS. BLANCHETTE: Your Honor, if I could beg the Court's
3 indulgence for just one moment?

4 THE COURT: Sure.

5 BY MS. BLANCHETTE:

6 Q: Mr. Everett, do you remember the weather conditions and
7 kind of what it was like out there that night?

8 A: I remember it was cold. I don't like cold weather; so I
9 tend to remember that kind of stuff. But other than that, I
10 don't recall.

11 Q: And you were willing in this case to talk to Investigator
12 Pete Skidmore and myself; is that correct?

13 A: Yes, ma'am.

14 MS. BLANCHETTE: Your Honor, I have no further questions
15 of this witness.

16 THE COURT: All right. Mr. Gourley?

17 MR. GOURLEY: Thank you, Judge.

18 CROSS-EXAMINATION

19 BY MR. GOURLEY:

20 Q: Mr. Everett, how are you doing?

21 A: I'm doing well. Thank you. How are you?

22 Q: I'm doing well. Thank you. How many youth group
23 activities did you go on as a child?

24 A: A lot. As many as I could.

25 Q: Okay. And how many of those were camping trips?

NICK EVERETT - CROSS BY MR. GOURLEY

- 1 A: Three or four probably.
- 2 Q: Okay. And those were all with Mr. Taylor?
- 3 A: Yes, sir, I believe so.
- 4 Q: Okay. And how old were you when you went on this
- 5 specific camping trip?
- 6 A: I was about 14.
- 7 Q: Fourteen? And what did y'all do?
- 8 A: I don't really recall much. You know, just typical, you
- 9 know, guy stuff, just hanging out and I'm sure there was some
- 10 horse play involved, but I don't -- it's been a long time.
- 11 Q: I gotcha. How many boys were on the trip?
- 12 A: I'd say probably ten to twelve, somewhere in that
- 13 neighborhood.
- 14 Q: And do you recall their names?
- 15 A: Not everybody. I remember Zack being there.
- 16 Q: Okay.
- 17 A: He's actually the one that invited me on the trip. And I
- 18 remember Trevor being there. Troy. That's about it.
- 19 Q: Okay. And y'all all slept under one big tarp?
- 20 A: Yes, sir.
- 21 Q: Okay. And you said there wasn't a tent there?
- 22 A: No, sir.
- 23 Q: Where did y'all store y'all's equipment?
- 24 A: I don't recall.
- 25 Q: You don't recall where you did that?

NICK EVERETT - CROSS BY MR. GOURLEY

- 1 A: No, sir.
- 2 Q: Okay. And you did state that you eventually went to
3 sleep that night?
- 4 A: Yes, sir.
- 5 Q: So you don't know what happened when you were asleep;
6 right?
- 7 A: No, sir.
- 8 Q: Okay. And you were still somewhat connected to the
9 church around 2007?
- 10 A: I still knew people that, you know, I'd gone to church
11 with while I was a member of the church there. I'd been
12 living in Greenville since 2003, but I was still and still am
13 connected to a lot of people that went to church there.
- 14 Q: When did you learn of the allegations against Mr. Taylor?
- 15 A: I don't remember specifically. I was in college at the
16 time. My mom let me know. She was still I guess connected at
17 that point before she moved to Charleston. So she's the one
18 that originally told me.
- 19 Q: So she told you that Mr. Taylor was accused of raping Mr.
20 victim on the camping trip?
- 21 A: She -- she told me that there was some -- some
22 allegations. She didn't really get into the specifics. I
23 didn't find out that until a little bit later down the line.
- 24 Q: Okay. When did you find out?
- 25 A: I'd say several weeks after my mom first told me. I kind

NICK EVERETT - CROSS BY MR. GOURLEY

1 of started asking around and I just wanted to know.

2 Q: Okay. And you didn't feel like it was important to come
3 forward with this information?

4 A: I didn't even know who to begin to contact.

5 Q: Okay. Fair enough. Thank you, Mr. Everett. I don't
6 have any other questions.

7 A: All right. Thank you.

8 MS. BLANCHETTE: Nothing further, Your Honor.

9 THE COURT: All right. You may step down. And like the
10 others, you are free to leave if you wish and you're welcome
11 to stay.

12 MS. BLANCHETTE: Thank you, Your Honor. Your Honor, I'd
13 call Linda Taylor to the stand.

14 THE COURT: Yes. Let's go ahead and take a break. We're
15 right about eleven o'clock. I'm sure some people need a
16 little comfort break. Let's take about five or ten minutes
17 and we'll come back into the courtroom when everybody is
18 ready.

19 MS. BLANCHETTE: Thank you, Your Honor.

20 MR. GOURLEY: Thank you, Judge.

21 (WHEREUPON, there was a break in the proceedings from
22 10:55 a.m. until 11:06 a.m.)

23 THE COURT: Go ahead, Ms. Blanchette.

24 MS. BLANCHETTE: Your Honor, I have had a request from
25 the people in the audience. I didn't know if there was any

LINDA TAYLOR - DIRECT BY MS. BLANCHETTE

1 way that more volume can go back there or if it just naturally
2 has to travel back there. I didn't know how this courtroom is
3 set up.

4 THE COURT: Well, you know, this is my first time in this
5 courtroom. I hail from Richland County. So as far as I know,
6 we just need to talk more loudly or is there something we can
7 do?

8 THE CLERK: I'll check the volume right here, Judge.

9 THE COURT: Okay.

10 THE CLERK: And it would help if they'd talk into the mic
11 and speak a little louder.

12 THE COURT: All right.

13 MS. BLANCHETTE: We can do that. Your Honor, would you
14 like me to proceed with my next witness?

15 THE COURT: Yes, please.

16 MS. BLANCHETTE: That would be Linda Taylor.

17 THE CLERK: Place your left hand on the Bible and raise
18 your right hand and state your name, please.

19 THE WITNESS: Linda Taylor.

20 THE CLERK: Do you solemnly swear or affirm your
21 testimony to the Court shall be the truth, the whole truth,
22 and nothing but the truth, so help you God?

23 THE WITNESS: I do, sir.

24 THE CLERK: Thank you, ma'am. Have a seat up here,
25 please. Please state your full name and spell your last name

LINDA TAYLOR - DIRECT BY MS. BLANCHETTE

1 for the record.

2 THE WITNESS: Linda Boyles Taylor, T-a-y-l-o-r.

3 LINDA TAYLOR, being first duly
4 sworn, testified as follows:

5 DIRECT EXAMINATION

6 BY MS. BLANCHETTE:

7 Q: And, Ms. Taylor, let's start with the slightly obvious.
8 How is it that you know Troy Taylor?

9 A: Well, I gave birth to him.

10 Q: And being that you're his mother, you understand you're
11 here today to tell only the truth; is that correct?

12 A: That is correct.

13 Q: Okay. Now, I want to take you back to the time when your
14 son had received these charges. Did you assist him in
15 retaining Mr. Charles Barr?

16 A: We did.

17 Q: Okay. And do you recall -- I know it's been a while
18 since 2007. Do you recall approximately how many times you
19 got to meet with Mr. Barr?

20 A: My husband and I traveled over there a minimum of four
21 times.

22 Q: And when you say traveled, where were you coming from?

23 A: Murrells Inlet.

24 Q: Okay. And where is Mr. Barr's office?

25 A: In Kingstree.

LINDA TAYLOR - DIRECT BY MS. BLANCHETTE

1 Q: Okay. Were those lengthy meetings where you discussed
2 your son's case or what was the content of those meetings?

3 A: The only thing that ever happened at those meetings were
4 us taking a witness list and Mr. Barr saying he was going to
5 win this case on venue. He didn't -- he was not going to use
6 the witnesses.

7 Q: And did you feel like Mr. Barr was giving you adequate
8 time to discuss the case or were the meetings in any way
9 rushed or hurried?

10 A: They were extremely short.

11 Q: At one of those meetings, did you bring some family and
12 friends with you?

13 A: Yes. At one meeting, our friends, John and Arlene
14 Pezzullo, were with us and I -- there was -- one of our
15 daughters at one time I think was with us.

16 Q: And you said you brought him a list of witnesses. Would
17 those have been witnesses that were on the actual camping
18 trip?

19 A: Yes, ma'am.

20 Q: And we've heard from William Brown, Chad Bernard, and
21 Nick Everett today. Are those people that you brought to his
22 attention?

23 A: Yes, ma'am.

24 Q: And as far as you know, did he ever contact the people
25 that you gave him on your witness list?

LINDA TAYLOR - DIRECT BY MS. BLANCHETTE

1 A: Not to our knowledge. Not to my knowledge.

2 Q: I'm going to fast-forward to the date of trial. The
3 trial took place July 10th through 12th of 2007. At some point
4 during the trial, was it ever indicated to you that you needed
5 to get witnesses together?

6 A: Yes, ma'am. About noontime and Mr. Barr turned -- we
7 were so we could hear because we were the first row back off
8 our son, Troy, and Mr. Barr. And he turned to Troy and said
9 where are your witnesses?

10 Q: And at that time, what happened?

11 A: At that time, we -- they took a break. The Court took a
12 break and we hurried and called all the ones that you've heard
13 from today. And it's in the summertime in Myrtle Beach, South
14 Carolina, and every young person that is of age works. We
15 were finally able to get a hold of Trevor Morton and we rushed
16 like crazy to get him from Myrtle Beach to Kingstree within a
17 two-hour limit timeframe.

18 Q: And how is it you know Trevor Morton?

19 A: He's my grandson and he was on the camping trip.

20 Q: And the fact that he's related to you and Troy, that was
21 extensively addressed at trial, wasn't it?

22 A: Yes.

23 Q: And do you also recall him testifying that Mr. Barr had
24 never talked to him before that day?

25 A: That is correct.

LINDA TAYLOR - DIRECT BY MS. BLANCHETTE

1 Q: What was Trevor's demeanor like that day when he was on
2 the stand?

3 A: He was extremely anxious, nervous, because he'd never
4 been in a courtroom and never been a witness and had never
5 been spoken to, had no idea what to expect.

6 Q: And in that afternoon when you were scurrying trying to
7 get witnesses, you mentioned you had tried to contact each
8 witness that was here today. Do you remember actually
9 speaking with them or were you just trying to gather everybody
10 together?

11 A: We were trying, but Trevor was the only one that we could
12 reach.

13 Q: Okay.

14 MS. BLANCHETTE: Your Honor, can I beg the Court's
15 indulgence one moment? Your Honor, I have no further
16 questions of this witness.

17 THE COURT: All right. Mr. Gourley?

18 CROSS-EXAMINATION

19 BY MR. GOURLEY:

20 Q: Very briefly, Ms. Taylor. Ms. Taylor, you obviously love
21 your son; right?

22 A: Of course.

23 Q: You don't want to see him in jail?

24 A: Of course.

25 Q: Okay.

LINDA TAYLOR - REDIRECT BY MS. BLANCHETTE

1 MR. GOURLEY: That's all I've got. Thank you, Ms.
2 Taylor.

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

4 MS. BLANCHETTE: Your Honor, if I could just very
5 briefly?

6 THE COURT: Sure. Absolutely. I'm sorry. I jumped the
7 gun, not you. It was my fault. Go ahead, Ms. Blanchette.

8 REDIRECT EXAMINATION

9 BY MS. BLANCHETTE:

10 Q: Ms. Taylor, that question essentially was also asked of
11 Trevor when he was the only defense witness in this case; is
12 that correct?

13 A: That is correct.

14 MS. BLANCHETTE: Your Honor, I have no further questions.

15 THE COURT: All right. Thank you. You may step down.

16 MS. BLANCHETTE: Your Honor, I would call John Pezzullo
17 to the stand.

18 THE CLERK: Place your left hand on the Bible and raise
19 your right hand. State your name, please.

20 THE WITNESS: John Pezzullo.

21 THE CLERK: Do you solemnly swear or affirm your
22 testimony to the Court shall be the truth, the whole truth,
23 and nothing but the truth, so help you God?

24 THE WITNESS: I do.

25 THE CLERK: Thank you, sir. Have a seat up here, please.

JOHN PEZZULLO - DIRECT BY MS. BLANCHETTE

1 Please state your full name and spell your last name for the
2 record.

3 THE WITNESS: John Pezzullo, P-e-z-z-u-l-l-o.

4 DIRECT EXAMINATION

5 BY MS. BLANCHETTE:

6 Q: And, Mr. Pezzullo, do you recall traveling to Charles
7 Barr's office with the Taylor family regarding their son, Troy
8 Taylor's case?

9 A: I do.

10 Q: And what was the purpose in you going to Mr. Barr's
11 office?

12 A: Well, before was Linda and Tony drove up together and
13 they were kind of nervous and somewhat upset and they wanted
14 to have us in the room. So they thought four ears were better
15 than two.

16 Q: And do you specifically recall being in Mr. Barr's
17 office?

18 A: Yes, I do.

19 Q: And what triggered your memory? Was there something that
20 you discussed with him or that he showed you?

21 A: Well, I don't remember word for word, but the feeling I
22 had leaving there was that everything -- I mean this was
23 basically a slam dunk. They had to prove venue and they
24 couldn't and that was -- that was basically the end of it.

25 Linda brought up the fact -- I think it was Linda or Tony

JOHN PEZZULLO - DIRECT BY MS. BLANCHETTE

1 about witnesses and that's when the statement was, well, we
2 don't need the witnesses. We're going to use this on the
3 venue.

4 Q: And as far as being in his office, because you have a
5 specific memory of being there, did Mr. Barr show you anything
6 or comment about his actual office?

7 A: Yes. He -- he was quite proud of some of the carpentry
8 work he did and I don't recall details. I remember at the
9 time being very impressed with -- I guess it was, like, a
10 counter sort of a thing that he had and it was some very good-
11 looking work.

12 Q: So that -- that allows you to specifically recall being
13 present at his office?

14 A: Yes.

15 Q: Is that correct?

16 A: Uh-huh.

17 MS. BLANCHETTE: Your Honor, if I could beg the Court's
18 indulgence one moment?

19 THE COURT: Uh-huh.

20 MS. BLANCHETTE: Your Honor, I have no further questions
21 of this witness.

22 THE COURT: All right. Mr. Gourley?

23 MR. GOURLEY: I don't have any questions for this
24 witness.

25 THE COURT: All right. Thank you, sir.

MICHELLE GALLAGHER - DIRECT BY MS. BLANCHETTE

1 THE WITNESS: Thank you.

2 THE COURT: You may step down.

3 MS. BLANCHETTE: Your Honor, I would call Michelle
4 Gallagher to the stand.

5 THE CLERK: Place your left hand on the Bible and raise
6 your right hand. State your name, please.

7 THE WITNESS: Michelle Taylor Gallagher.

8 THE CLERK: Do you solemnly swear or affirm your
9 testimony to the Court shall be the truth, the whole truth,
10 and nothing but the truth, so help you God?

11 THE WITNESS: Yes, I do.

12 THE CLERK: Thank you very much. Have a seat up here,
13 please.

14 THE WITNESS: May I have some water?

15 THE CLERK: Yeah. If I've got any left. Please state
16 your full name and spell your last name for the record.

17 THE WITNESS: Michelle Taylor Gallagher, G-a-l-l-a-g-h-e-
18 r.

19 MICHELLE GALLAGHER, being first
20 duly sworn, testified as follows:

21 DIRECT EXAMINATION

22 BY MS. BLANCHETTE:

23 Q: And how is it that you know Troy Taylor?

24 A: He is my brother.

25 Q: And even though he's a brother, you're here and you

MICHELLE GALLAGHER - DIRECT BY MS. BLANCHETTE

1 understand today that you're only to tell the truth; is that
2 right?

3 A: That's right.

4 Q: Okay. Let me take you back to the time before your
5 brother's trial at which Mr. Barr represented him. Were you
6 aware that your parents were trying to bring witnesses to his
7 attention?

8 A: Yes, I was.

9 Q: And were you aware of what was being done regarding those
10 witnesses?

11 A: Yes. It was -- it was frustrating for us because we kept
12 hearing the venue and we felt like this was a lot at stake for
13 him not to be more, you know, adamant about using these
14 witnesses.

15 Q: Now, let's fast-forward to the actual trial itself.
16 During a recess, do you remember being given the
17 responsibility, you and your family, to get witnesses
18 together?

19 A: Yes.

20 Q: Take us through what happened.

21 A: It was -- it was very chaotic. It seemed at that point
22 he consistently -- over and over in the court, Mr. Barr was
23 venue, venue, venue. Sitting there in the courtroom, my
24 thoughts at that time were what about -- I can't believe this
25 is all were going on is venue when we have all these witnesses

MICHELLE GALLAGHER - DIRECT BY MS. BLANCHETTE

1 that you -- that if you had already spoken to that we didn't
2 try to get; so now we're rushing suddenly to try to find a
3 witness at the last minute.

4 Q: And who were you all able to come up with?

5 A: The only one that we were able to come up with was my
6 nephew, Trevor Morton.

7 Q: And was that a -- do you feel like Trevor was properly
8 prepared? What was the situation like in getting Trevor
9 there?

10 A: Hectic. He'd never been prepped. He'd never even spoken
11 to Mr. Barr. So he was very nervous and our situation we're
12 thinking of all of the witnesses on this list, this is the one
13 we wanted to use the least because he's related. So we didn't
14 feel very good about that.

15 MS. BLANCHETTE: Your Honor, if I could beg the Court's
16 indulgence one moment? Your Honor, I have no further
17 questions of this witness.

18 MR. GOURLEY: I don't have any questions, Judge.

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

20 THE WITNESS: Thank you.

21 THE COURT: You may step down.

22 THE WITNESS: Thank you.

23 MS. BLANCHETTE: Your Honor, I'd call Tonja Morton to the
24 stand.

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

TONJA MORTON - DIRECT BY MS. BLANCHETTE

1 your right hand. State your name, please.

2 THE WITNESS: Tonja Elaine Morton.

3 THE CLERK: Do you solemnly swear or affirm your
4 testimony to the Court shall be the truth, the whole truth,
5 and nothing but the truth, so help you God?

6 THE WITNESS: I do.

7 THE CLERK: Thank you, ma'am. Have a seat up here,
8 please. Please state your full name and spell your last name
9 for the record.

10 THE WITNESS: Tonja Elaine Morton, M-o-r-t-o-n.

11 TONJA MORTON, being first duly
12 sworn, testified as follows:

13 DIRECT EXAMINATION

14 BY MS. BLANCHETTE:

15 Q: And, Ms. Morton, how is it that you know Troy Taylor?

16 A: He's my little brother.

17 Q: Okay. And how is it that you know Trevor Morton that
18 we've been talking about today?

19 A: He's my son.

20 Q: Okay. Let me take you back to the time of Troy's trial.
21 Do you recall at some point in the trial when you were asked
22 to get your son there?

23 A: Yes.

24 Q: Can you take us through what happened?

25 A: When -- when we left for the -- for the trial that

TONJA MORTON - DIRECT BY MS. BLANCHETTE

1 morning, I made sure Trevor knew to be able to be contacted
2 because I just -- I was hoping that they would call him. So
3 when I called him, I had to find a friend to go and get him
4 because he didn't have a car. His car was broken down.

5 So my friend went and got him and brought him up and I
6 mean I had -- he turned around and told us we needed some
7 people. We'd been asking him all morning. Every time they
8 had a break, like a bathroom break that we just took, we asked
9 if we needed to get anybody there and he always said no. And
10 then all of a sudden we needed to get him there. So --

11 Q: So when you left your son that morning, you didn't know
12 that he was going to be needed that afternoon?

13 A: No. I was -- I was hoping and praying that maybe he
14 would be, but he was never -- he was never called by Mr. Barr.
15 He was never talked to by Mr. Barr, asked to witness or
16 anything.

17 Q: And when your son came to court, had he ever testified in
18 a courtroom before?

19 A: No.

20 Q: Did he have any experience with lawyers and anything of
21 that nature?

22 A: No.

23 Q: And what was his demeanor like to you as his mother?

24 A: He was scared to death. He didn't -- he'd never -- he'd
25 never done anything like that. He didn't -- he'd never even

TONJA MORTON - DIRECT BY MS. BLANCHETTE

1 met Mr. Barr and -- and he was scared. He -- he was shaking.

2 Q: And what is Trevor's current occupation?

3 A: He is a first mate on a yacht, a privately-owned yacht.

4 Q: And is he currently in the State of South Carolina?

5 A: No.

6 Q: Okay.

7 MS. BLANCHETTE: Your Honor, if I could beg the Court's
8 indulgence one moment? Your Honor, I have no further
9 questions of this witness.

10 THE COURT: All right. Mr. Gourley?

11 MR. GOURLEY: Thank you, Your Honor.

12 CROSS-EXAMINATION

13 BY MR. GOURLEY:

14 Q: Ms. Morton, you said you had to -- you were present at
15 your brother's trial?

16 A: Yes.

17 Q: Was your son present at your brother's trial?

18 A: No.

19 Q: Okay.

20 A: But --

21 Q: And you eventually had to go get him?

22 A: Uh-huh.

23 Q: At the request of Mr. Barr?

24 A: Yes. I think it was a lunchtime break --

25 Q: Okay.

TONJA MORTON - CROSS BY MR. GOURLEY

1 A: -- that he asked us to go do that.

2 Q: At the lunchtime break?

3 A: I believe that's when he asked us to start calling
4 people.

5 Q: Okay. And where was your son located at that time?

6 A: Murrells Inlet.

7 Q: Murrells Inlet?

8 A: Uh-huh.

9 Q: Okay. How far is Murrells Inlet from Williamsburg?

10 A: I think it was about probably an hour's drive.

11 Q: Okay. And you said you went down to go get your son to
12 bring him back up?

13 A: No.

14 Q: Okay.

15 A: I called a friend and asked could she please go and get
16 him. He was supposed to work; so he had to call into work and
17 all that and she went and got him --

18 Q: Okay.

19 A: -- and brought him to me.

20 Q: Okay. Thank you, Ms. Morton.

21 A: You're welcome.

22 MR. GOURLEY: Thank you, Judge.

23 MS. BLANCHETTE: Your Honor, I have no further questions.

24 THE COURT: All right. Thank you very much. You may
25 step down.

GARY WELLS - DIRECT BY MS. BLANCHETTE

1 MS. BLANCHETTE: Your Honor, I'd call Gary Wells to the
2 stand.

3 THE COURT: Okay.

4 THE CLERK: Place your left hand on the Bible and raise
5 your right hand. State your name, please.

6 THE WITNESS: Joseph Gary Wells.

7 THE CLERK: Do you solemnly swear or affirm your
8 testimony to the Court shall be the truth, the whole truth,
9 and nothing but the truth, so help you God?

10 THE WITNESS: I do.

11 THE CLERK: Thank you. Have a seat up there, please.
12 Please state your full name and spell your last name for the
13 record.

14 THE WITNESS: Joseph Gary Wells, W-e-l-l-s.

15 GARY WELLS, being first duly
16 sworn, testified as follows:

17 DIRECT EXAMINATION

18 BY MS. BLANCHETTE:

19 Q: And, Mr. Wells, how is it that you know Troy Taylor?

20 A: He's my nephew.

21 Q: And were you present at his trial in Williamsburg on July
22 10th through 12th, 2007?

23 A: I was.

24 Q: And were you present when it was communicated to the
25 family that they needed to get witnesses together?

GARY WELLS - DIRECT BY MS. BLANCHETTE

1 A: Yes.

2 Q: And what do you recall from that?

3 A: I recall that at some point in time during the trial Mr.
4 Barr stood, turned, and said we need to get the witnesses in,
5 and then from there it was sort of chaotic at that point
6 because people began to scatter to see what we could do.

7 MS. BLANCHETTE: Your Honor, if I could beg the Court's
8 indulgence one moment?

9 THE COURT: Sure.

10 MS. BLANCHETTE: Your Honor, I have no further questions
11 of this witness.

12 MR. GOURLEY: No questions, Judge.

13 THE COURT: All right. Thank you. Step down.

14 MS. BLANCHETTE: Your Honor, I'd call Pete Skidmore to
15 the stand.

16 THE COURT: All right.

17 THE CLERK: Place your left hand on the Bible. State
18 your name, please.

19 THE WITNESS: Peter Skidmore.

20 THE CLERK: Do you solemnly swear or affirm your
21 testimony to the Court shall be the truth, the whole truth,
22 and nothing but the truth, so help you God?

23 THE WITNESS: Yes, sir.

24 THE CLERK: Thank you. Have a seat up here, sir. Please
25 state your full name and spell your last name for the record.

PETE SKIDMORE - DIRECT BY MS. BLANCHETTE

1 THE WITNESS: Peter G. Skidmore, S-k-i-d-m-o-r-e.

2 PETE SKIDMORE, being first duly
3 sworn, testified as follows:

4 DIRECT EXAMINATION

5 BY MS. BLANCHETTE:

6 Q: And, Mr. Skidmore, how is it that you became involved in
7 assisting with the PCR application of Troy Taylor?

8 A: You contacted me and asked me to look over the case and
9 see if I'd be willing to take on the case.

10 Q: And what was your reaction?

11 A: Yes.

12 Q: Okay. And in taking on the case, did you have any
13 interaction with Gaye Allen-Cook that's testified here today?

14 A: I did.

15 Q: And what was that interaction with her?

16 A: I can't remember if it was she or I, but the people that
17 we were interviewing -- I thought it would be helpful and I
18 think she did too that we communicate with one another because
19 of what we were finding out through the witnesses.

20 Q: Okay. And did she aid you in your investigation of this
21 case?

22 A: I think so.

23 Q: Now, as part of your investigation in this case, did you
24 try to locate the owner of the property where this campout
25 took place?

PETE SKIDMORE - DIRECT BY MS. BLANCHETTE

1 A: I did.

2 Q: Okay. And were you able to speak with him?

3 A: Yes. I spoke to him over the telephone.

4 Q: Were you able to confirm through him and through your own
5 knowledge whether or not this campsite was located in
6 Williamsburg County?

7 A: It was in Williamsburg County.

8 Q: And how hard was that to figure out?

9 A: Not hard.

10 Q: And how many years have you been investigating cases, Mr.
11 Skidmore?

12 A: Approximately 22.

13 Q: Okay. And what type of cases do you investigate?

14 A: Usually violent crime, murder investigation, death
15 penalty cases, CSC cases, divorce cases, child custody cases.

16 Q: And how would you categorize the -- I guess for lack of
17 better words -- ease of this investigation in locating the
18 witnesses and in locating the scene?

19 A: It wasn't that difficult. Anytime you've had this much
20 time between the actual event and going back and trying to
21 locate witnesses, it presents somewhat of a task versus if it
22 had happened six months or even two or three years after the
23 event.

24 Q: And despite that passage of time though, you were able to
25 locate each of the witnesses that testified here today

PETE SKIDMORE - DIRECT BY MS. BLANCHETTE

1 regarding the camping trip?

2 A: Yes.

3 Q: And were each of those witnesses willing to speak with
4 you?

5 A: Yes. I had no problem whatsoever and they were very
6 willing to come forward.

7 Q: And today we've also submitted affidavits from a Charles
8 Harrison and a Zack Webster. Were you also able to speak with
9 those two witnesses?

10 A: Yes.

11 Q: Is there any particular takeaways from your investigation
12 that you would have shared with defense counsel and you shared
13 with myself in preparing this PCR case?

14 A: I'm sorry. Say that again?

15 Q: Are there any specific takeaways or any, you know, things
16 that you discovered in speaking with all the witnesses that if
17 you were working at the time of trial you would have told the
18 defense counsel or that you told to me in preparing this case
19 regarding the witnesses?

20 A: Absolutely. They had the same story and it was very
21 apparent to me that the weather conditions were very
22 important. It was very important the layout of the campsite
23 and how people were laying and the fact that no one
24 corroborated the tent story.

25 Q: Did you have any -- did you convey any reason to me as to

PETE SKIDMORE - DIRECT BY MS. BLANCHETTE

1 why these witnesses should not be utilized?

2 A: No. The -- the -- no, not at all.

3 Q: In speaking to the witnesses, did any of them ever recall
4 being spoken to by a private investigator or Mr. Barr prior to
5 the trial?

6 A: No, they did not.

7 Q: Did each witness that you subpoenaed willingly accept
8 their subpoena?

9 A: Absolutely.

10 MS. BLANCHETTE: Your Honor, if I could beg the Court's
11 indulgence one moment?

12 BY MS. BLANCHETTE:

13 Q: Mr. Skidmore, I know that you've worked on this case for
14 nearly as long as I have. Is there anything else regarding
15 your investigation work in this case that you would like to
16 testify to today?

17 A: Just that -- just to acknowledge that I did speak to
18 Trevor as well and he was very solid in my opinion. He's much
19 older now and he was going to be out of the country and wasn't
20 going to be available. He's on a yacht.

21 The other thing -- I spoke to the gentleman that actually
22 set up and got in touch and got permission with the landowner
23 to allow Troy to go there. He spent the night in his truck;
24 so he didn't have any other knowledge other than setting up
25 that and that's how I actually came in contact with the owner

PETE SKIDMORE - CROSS BY MR. GOURLEY

1 and he also confirmed that it was in Williamsburg.

2 MS. BLANCHETTE: Your Honor, I have no further questions
3 of this witness.

4 THE COURT: All right. Mr. Gourley?

5 MR. GOURLEY: Thank you, Judge.

6 CROSS-EXAMINATION

7 BY MR. GOURLEY:

8 Q: Mr. Skidmore, have you got a copy of the transcript?

9 A: I have not read the transcript.

10 Q: Okay. Well, let's go -- I'm going to turn to page 295.
11 You mentioned that no one corroborated that there was a tent.

12 A: No. I said no one that I spoke to corroborated that.

13 Q: But you spoke with Trevor; right?

14 A: I did.

15 Q: Okay. Let's read page 295, lines 10 -- well, you can see
16 where I'm talking about. Lines 10 through 16 or so.

17 A: I believe there was another tent. That doesn't sound
18 very convincing to me. Okay. I've read that..

19 Q: Okay. So Trevor Morton does testify that his
20 recollection was that there was another tent; right?

21 A: That's his testimony, but it's also been testified by
22 other witnesses today that he was very nervous and he was very
23 young at the time.

24 Q: So you're saying he perjured himself?

25 A: No, I'm not.

PETE SKIDMORE - CROSS BY MR. GOURLEY

1 Q: Okay.

2 MR. GOURLEY: Thank you, Mr. Skidmore.

3 MS. BLANCHETTE: Nothing, Your Honor.

4 THE COURT: All right. You may step down. Thank you.

5 THE WITNESS: Thank you.

6 MS. BLANCHETTE: Your Honor, my next witness is the
7 applicant. He will be my longest witness. I just wanted to
8 make the Court aware of that before I started his testimony.

9 THE COURT: Okay. It's 11:30 right now. I am willing to
10 take an early lunch break. Usually I take lunch about one
11 o'clock, but I don't care from a personal perspective. Ms.
12 Blanchette, would you prefer to start now and take a break or
13 would you prefer his testimony to continue on once we start?

14 MS. BLANCHETTE: Your Honor, I'm perfectly fine with
15 breaking in the middle.

16 THE COURT: Okay.

17 MS. BLANCHETTE: So it's a more appropriate lunch hour.
18 That's perfect with me.

19 THE COURT: All right. And again, I don't want you to
20 think that because I say I normally take lunch at one. I also
21 have children at home; so I eat lunch whenever I can eat
22 lunch. So that doesn't bother me, but let's go ahead.

23 I think from the witness' perspective being on the stand
24 for hours upon hours can get difficult and I think a break
25 would be helpful to him as well. Of course, while he's on the

ROBERT TROY TAYLOR - DIRECT BY MS. BLANCHETTE

1 break, he won't be able to talk to you about his testimony
2 and, of course, that probably won't be an issue in this
3 particular case, but we'll go ahead and get him started and
4 we'll probably stop around one o'clock.

5 MS. BLANCHETTE: All right. Thank you, Your Honor.

6 THE COURT: Thank you.

7 MS. BLANCHETTE: I'd call Robert Troy Taylor to the
8 stand.

9 THE CLERK: Raise your right hand. State your name,
10 please.

11 THE APPLICANT: Robert Troy Taylor.

12 THE CLERK: Do you solemnly swear or affirm your
13 testimony to the Court shall be the truth, the whole truth,
14 and nothing but the truth, so help you God?

15 THE APPLICANT: Yes, sir.

16 THE CLERK: Thank you. Have a seat up here, please.
17 Please state your full name and spell your last name for the
18 record.

19 THE APPLICANT: Robert Troy Taylor, T-a-y-l-o-r.

20 MS. BLANCHETTE: And, Mr. Taylor, do you have water up
21 there or do you --

22 THE APPLICANT: I do not. As you can tell, my voice is
23 -- (Coughs.)

24 THE COURT: Here you go. I don't need that.

25 THE APPLICANT: Thank you.

ROBERT TROY TAYLOR - DIRECT BY MS. BLANCHETTE

1 THE COURT: Yeah. Absolutely.

2 ROBERT TROY TAYLOR, being first
3 duly sworn, testified as follows:

4 DIRECT EXAMINATION

5 BY MS. BLANCHETTE:

6 Q: Mr. Taylor, do you recall your trial back in July 10th
7 through 12th of 2007?

8 A: Yes, ma'am.

9 Q: And who represented you at that trial?

10 A: Charles David Barr.

11 Q: Okay. And you were being called to trial on Indictment
12 2007-GS-45-0176 for CSC with a minor in the second degree and
13 kidnapping?

14 A: Yes, ma'am.

15 Q: And as a result of the jury's guilty verdict, what were
16 you sentenced to?

17 A: To two life sentences, no possibility of parole.

18 Q: And after being convicted, did you seek a direct appeal?

19 A: Yes, ma'am.

20 Q: And who represented you on that?

21 A: Jeremy -- Jeremy Thompson.

22 Q: Okay. And do you recall that cert was ultimately denied
23 on that in April of 2014?

24 A: Yes.

25 Q: And as a result, did you file the application that we're

ROBERT TROY TAYLOR - DIRECT BY MS. BLANCHETTE

1 here about today?

2 A: Yes, ma'am.

3 Q: Now, Troy, I understand that you have a life sentence,
4 but I must ask. We had discussed the fact that by pursuing
5 your PCR application the only relief you can get is a new
6 trial?

7 A: Yes, ma'am.

8 Q: Knowing that, do you still want to go forward today?

9 A: Absolutely.

10 Q: And what is the relief that you're asking this Court for?

11 A: Oh, I want a new trial.

12 Q: Now, Troy, just briefly, I have provided the judge a copy
13 of the appendix from your Georgetown case. What is the
14 current status of that case?

15 A: It's -- we have a PCR that's pending right now.

16 Q: Okay. And is that a successive PCR that you have filed?

17 A: Yes, ma'am.

18 Q: Okay. Now, Troy, what I'm going to do is -- in working
19 with you on this case, we put together this amendment
20 together, and I'm going to take you through just each
21 allegation one by one so that the judge can easily follow us,
22 and we're going to take them one at a time. Please let me
23 know at any point if there's anything else that you would like
24 to tell the Court. Okay?

25 A: Sure.

ROBERT TROY TAYLOR - DIRECT BY MS. BLANCHETTE

1 Q: Now, the first claim is kind of an overarching claim of
2 ineffective assistance of trial counsel for failure to prepare
3 and investigate prior to trial, which resulted in a failure to
4 present a reasonable defense. Who originally represented you
5 on your Williamsburg charges?

6 A: Scott Joye.

7 Q: And when and how was Mr. Barr retained? Do you recall?

8 A: I do. Scott came to me. I was at -- well, I was housed
9 at Evans at the time and was brought to Williamsburg County --
10 Evans Correctional by the way, SCDC. And I was taken to -- to
11 Williamsburg County and Scott came up. He had told me that he
12 was going to try to work out a deal. He wanted me to plead
13 guilty and I told him I was not going to plead guilty. I did
14 not do this. I didn't do any of it and I was going to fight.

15 He continued to say he wanted me to; so I basically -- I
16 fired Scott and we sought in the area to see who there was
17 available. There is a gentleman that I was told -- but he --
18 mom and dad talked to him. I think he said he had too many
19 cases going on and he told us about Charles David Barr.

20 Q: After Mr. Barr was retained, do you remember
21 approximately how many times you met with him?

22 A: Well, I met with him that time when I was already there
23 after mom and dad I think -- I'm almost positive I think I'm
24 right there, and then one other time when I was brought there
25 to Williamsburg County.

ROBERT TROY TAYLOR - DIRECT BY MS. BLANCHETTE

1 Q: And when you say there, that was Williamsburg?

2 A: Yeah. Williamsburg County. Yes. I'm sorry.

3 Q: Okay. Did he ever go to Evans as far as you recall to
4 meet with you?

5 A: He did not. And just to let you know, I also was
6 transferred to McDougall, which is a little bit closer I
7 believe, and he didn't visit me there either.

8 Q: One of your sub-claims is that Mr. Barr was ineffective
9 for failing to investigate the scene and being aware of notice
10 from the State regarding the time and the place of the alleged
11 incident. Can you turn to page 239? You have your transcript
12 there in front of you; correct?

13 A: Yes, ma'am. 239?

14 Q: Yes.

15 A: Okay.

16 Q: Do you recall Mr. Barr making an objection or a motion
17 that actually carries through page 251 about the State failing
18 to give him -- at points he says notice of the time but mostly
19 the place where this took place?

20 A: Yes, ma'am.

21 Q: And at the conclusion of the Court hearing argument on
22 that, the State points out that Mr. Barr never asked for any
23 oral statements of the victim. Do you recall that?

24 A: Can you tell me what page you're on so I could read it?

25 Q: Just one second here.

ROBERT TROY TAYLOR - DIRECT BY MS. BLANCHETTE

1 A: Actually, I think I found it on 251, if I'm not mistaken.
2 They start talking about Rule 5. Is that what you're talking
3 about?

4 Q: Yes.

5 A: Yep.

6 Q: Where the State points out that he didn't specifically
7 request any Rule 5. And at that time, the State marked his
8 Rule 5 request as an exhibit in your trial?

9 A: Yes. Exhibit Number 3 I believe. Yep. And it was
10 requested by Scott Joye is what -- if that's what you're
11 referring to.

12 Q: And, Mr. Taylor, I'm going to hand you this.

13 MS. BLANCHETTE: Your Honor, may I approach the witness?

14 THE COURT: You may.

15 MS. BLANCHETTE: I forgot.

16 BY MS. BLANCHETTE:

17 Q: Can you look through that and identify what that appears
18 to be?

19 A: Yes. It's the Rule 5 discovery -- request for disclosure
20 pursuant to Rule 5 to Williamsburg County by Scott Joye.

21 Q: Okay. And do you see at the top where it has a sticker
22 that says Court 3 there?

23 A: Yes.

24 MS. BLANCHETTE: Your Honor, at this time, I would move
25 Applicant's Number 4, the request for disclosure filed by

ROBERT TROY TAYLOR - DIRECT BY MS. BLANCHETTE

1 Scott Joye that was marked as Court's 3 at trial, into
2 evidence.

3 THE COURT: Any objection?

4 MR. GOURLEY: No, Your Honor.

5 THE COURT: All right. It is so entered.

6 (WHEREUPON, Applicant's Exhibit Number 4, Rule 5 request,
7 was admitted into evidence.)

8 BY MS. BLANCHETTE:

9 Q: Mr. Taylor, have you fully reviewed what was provided to
10 us in discovery in this PCR case, the solicitor's file, and
11 Mr. Barr's file?

12 A: Yes, ma'am.

13 Q: And prior to that, did you have a majority of your file
14 that you are maintaining at SCDC yourself?

15 A: Yes. The stuff from Mr. Barr particularly, yes,
16 absolutely.

17 Q: Okay. I'm going to hand you -- I'm going to hand you
18 what's been previously marked as Applicant's Number 5. Could
19 you identify it and explain if it's something that you're
20 familiar with from your files?

21 A: Yes.

22 Q: And what does this appear to be?

23 A: This is a response to Mr. Barr. He must have actually
24 asked Ms. Kimberly Barr -- it's a little confusing because
25 their last name is the same, but she was the solicitor or

ROBERT TROY TAYLOR - DIRECT BY MS. BLANCHETTE

1 assistant solicitor. But Ms. Barr was responding to Mr. Barr
2 and telling him that the Rule 5 had already been responded to
3 on August the 23rd, and the date of this paper is January 19th,
4 2007.

5 Q: And this is a document that you've reviewed as part --

6 A: Yes, ma'am.

7 Q: -- of your file; is that correct?

8 A: Yes, ma'am.

9 MS. BLANCHETTE: Your Honor, at this time, I'd move this
10 in as Applicant's Number 5.

11 THE COURT: Any objection?

12 MR. GOURLEY: No objection, Your Honor.

13 THE COURT: All right. It is so entered.

14 (WHEREUPON, Applicant's Exhibit Number 5, a letter, was
15 admitted into evidence.)

16 BY MS. BLANCHETTE:

17 Q: And so in January of 2007 it appears that the State is
18 writing a letter back to Mr. Barr saying we've turned over the
19 discovery?

20 A: Yep.

21 Q: Okay. And, Mr. Taylor, I am going to show you another
22 document. If you could, please identify that for the record.

23 A: Yes. This is the response to my former lawyer, Scott
24 Joye, with the -- saying that they were seeking to do the
25 trial on the 9th of October, 2006.

ROBERT TROY TAYLOR - DIRECT BY MS. BLANCHETTE

1 Q: And does it also discuss discovery?

2 A: Yes, ma'am.

3 Q: Is this something you had in your personal files with
4 you?

5 A: Yes, ma'am.

6 Q: Okay.

7 MS. BLANCHETTE: Your Honor, at this time, I would move
8 this letter dated September 7th, 2006, between Scott Joye and
9 it appears Kimberly Barr as Applicant's Number 6.

10 THE COURT: Any objection?

11 MR. GOURLEY: Judge, I don't have any objection.

12 THE COURT: All right. It is so entered.

13 (WHEREUPON, Applicant's Exhibit Number 6, a letter, was
14 admitted into evidence.)

15 BY MS. BLANCHETTE:

16 Q: And, Mr. Taylor, the copy that you have there is
17 highlighted and what is highlighted at the bottom?

18 A: Yeah. Just -- do you mind my reading it? It says the
19 State maintains that the crime occurred between November the
20 6th, 1998, and November the 7th, 1998, during the nighttime at
21 a campsite on or near the Black River/Andrews area of
22 Williamsburg County.

23 Q: And what's the date on this letter?

24 A: The date is September the 7th, 2006.

25 Q: Mr. Taylor, I'm going to hand you another document. Can

ROBERT TROY TAYLOR - DIRECT BY MS. BLANCHETTE

1 you identify this for the record, please?

2 A: Sure. This is a letter from again Mrs. -- yeah, from
3 Mrs. Barr's office to Scott Joye on August the 23rd, 2006, and
4 it says now comes the State of South Carolina and produces the
5 following material pursuant to Rule 5, South Carolina Rule of
6 Criminal Procedure, and *Brady v. Maryland*.

7 Q: And it lists the items that were turned over?

8 A: Yes, ma'am.

9 Q: Is that correct?

10 A: Yes, ma'am.

11 MS. BLANCHETTE: Your Honor, at this time, I would move
12 the State's listing of the Rule 5/*Brady* disclosure in as
13 Applicant's Number 7.

14 MR. GOURLEY: Judge, I don't have any objection.

15 THE COURT: All right. It is so moved. Thank you. It
16 is so entered.

17 (WHEREUPON, Applicant's Exhibit Number 7, production list
18 of Rule 5/*Brady*, was admitted into evidence.)

19 BY MS. BLANCHETTE:

20 Q: And what are the items listed there on that, please?

21 Q: It's number one through six. Number one, Williamsburg
22 County incident report consisting of two pages. Number two,
23 voluntary statement of victim [REDACTED], two pages. Number
24 three, arrest warrant K085100. Number four, indictment.

25 Number five, criminal history of defendant Robert Troy Taylor.

ROBERT TROY TAYLOR - DIRECT BY MS. BLANCHETTE

1 And number six, bond paper.

2 Q: Thank you, Mr. Taylor.

3 A: You're welcome.

4 Q: I'm going to hand you what's been previously marked as
5 Applicant's Number 10. Can you identify what that appears to
6 be for the record?

7 A: This is an incident report from the Williamsburg County
8 Sheriff's Office.

9 Q: And is this one of the items that was turned over as part
10 of the discovery in your case?

11 A: Yes, ma'am.

12 Q: And you've reviewed this; is that correct?

13 A: Yes, ma'am.

14 MS. BLANCHETTE: Your Honor, at this time, I would move
15 the report in as Applicant's Number 10.

16 THE COURT: Any objection?

17 MR. GOURLEY: No, Your Honor.

18 THE COURT: So entered. Thank you.

19 (WHEREUPON, Applicant's Exhibit Number 10, incident
20 report, was entered into evidence.)

21 BY MS. BLANCHETTE:

22 Q: Mr. Taylor, if you could, look on there. Is there a date
23 and a place given in this incident report?

24 A: The sentence -- the third sentence down says it was
25 discovered that one of the incidents did take place in

ROBERT TROY TAYLOR - DIRECT BY MS. BLANCHETTE

1 Williamsburg County. The victim did state that on November
2 the -- and it's a little blurry for my eyes, but November the
3 6th, 1998, the youth group from his church, Low Country
4 Community Church, did go on a camping trip and returned on
5 November the 7th, 1998, and they arrived at a campsite which is
6 located near the Black River in the Andrews area of
7 Williamsburg County.

8 Q: And finally, Mr. Taylor, I'm going to hand you what's
9 been pre-marked as Applicant's Number 11. Can you identify
10 what that appears to be for the record?

11 A: Yes. This is a bulletin from Low Country, from the
12 church.

13 Q: And was that actually introduced in your trial in
14 Williamsburg County?

15 A: Yes.

16 Q: Okay.

17 MS. BLANCHETTE: Your Honor, at this time, I would move
18 the bulletin in that I believe was State's Exhibit 3 at trial
19 in as Applicant's Number 11.

20 MR. GOURLEY: No objection, Judge.

21 THE COURT: All right. It is so entered. Thank you.

22 (WHEREUPON, Applicant's Exhibit Number 11, a church
23 bulletin, was admitted into evidence.)

24 BY MS. BLANCHETTE:

25 Q: And, Mr. Taylor, can you explain the significance of this

ROBERT TROY TAYLOR - DIRECT BY MS. BLANCHETTE

1 bulletin?

2 A: Yeah. First of all, for me, it was the date, which is
3 November the 1st, 1998, and that's on the outside. If you turn
4 to the inside, you'll see -- and there's something -- it's a
5 section and it's sort of broken up into little sections, but
6 it says "A Look Ahead" and the third item on the look ahead
7 section says that on November the 6th and 7th a youth group is
8 having a camping excursion.

9 Q: Now, based upon these documents and the knowledge you had
10 leading into trial, did you have any question regarding the
11 time and place of where this allegedly occurred?

12 A: No, ma'am.

13 Q: Were you very confused when your attorney raised that as
14 an objection at trial?

15 A: I was.

16 Q: And what had you told him about where this occurred?

17 A: Well, I'm from Murrells Inlet and I didn't spend a whole
18 lot of time in that section of the state, but I'd been through
19 Andrews quite a few times. I used to sing gospel music and we
20 had been up there. So I wasn't really aware of where the
21 county line was, but when I was told that the line was -- and
22 forgive me for using this phrase -- the backside of Andrews
23 away from Murrells Inlet. I was told that was the line and so
24 I'd shared, you know, if that's the line, we clearly went past
25 the line when we went to camp. I mean the line as in the --

ROBERT TROY TAYLOR - DIRECT BY MS. BLANCHETTE

1 that sounds a little strange, but not cross the line, but went
2 past the border of the two counties. And so I knew that if,
3 in fact, that was the line, then we clearly went to
4 Williamsburg County.

5 Q: Did you and Mr. Barr ever sit down and go over maps and
6 you show him where you recall this taking place?

7 A: No.

8 Q: As far as you know, did he ever send an investigator out
9 to follow the directions that you gave him as to where this
10 took place?

11 A: No, ma'am. No, ma'am.

12 Q: The first time that you did that, was that with Pete
13 Skidmore in preparation for your PCR application?

14 A: Yes.

15 Q: And what did you tell Mr. Barr about essentially what was
16 your entire defense, this venue argument? What did you tell
17 him?

18 A: Well, my issue is I didn't want to win the case on what I
19 consider to be a loophole. I wanted to win on the facts that
20 I did not do anything, period. And I wanted my witnesses
21 heard and continually asked him to speak to my -- well, I
22 wrote him and asked him to get a hold of my witnesses, get a
23 hold of my witnesses.

24 Q: And during trial did Mr. Barr ever indicate to you how as
25 far -- how the defense of venue was going?

ROBERT TROY TAYLOR - DIRECT BY MS. BLANCHETTE

1 A: He felt very confident. He had told us that we were
2 going to win. It's a slam dunk. We've got this. They have
3 to prove it no matter what. They can't infer it was his
4 language. They must prove it.

5 Q: During the trial, especially towards the close of the
6 trial, did that attitude change?

7 A: Absolutely, yeah. And I wouldn't even say towards the
8 end of it. I'd say actually sort of the middle of it really
9 for me.

10 Q: Okay. And what occurred?

11 A: Well, he -- if I'm not mistaken, it seems as if something
12 was ruled on from the judge and Mr. Barr got extremely
13 worried. There was a break at some point, at which point he
14 and my father took me in what I would just basically say was a
15 broom closet. And Mr. Barr told me that -- excuse me for
16 getting upset, but he said that my sisters -- he said that my
17 sisters were outside crying and they wanted me to plead guilty
18 so that I could get whatever they would offer me because they
19 didn't want to see me go to jail for my life. And my dad
20 said, son, I know that you didn't do this, but your sisters
21 want me to tell you what they want you to hear.

22 And I told Mr. Barr and Mr. Barr was the one that was
23 amen-ing the proceeding. He was sort of pushing that. And I
24 told him I did not do this and I remember -- it might sound
25 Boy Scout-ish, but I remember telling Mr. Barr you be Atticus

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1 Finch, I think is the right way, and go out there and win this
2 because I didn't do this and win it.

3 And at that point was when he -- when we got back into
4 the courtroom, he slid one of those small legal pads -- not
5 the large one, but the smaller kind. He slid it to me and
6 said write down the name of your witnesses again for me. And
7 then at the next chance, break, whatever, he turns around to
8 my family and says we've got to get these witnesses up here.
9 And that was how -- that was -- that's how it went down.
10 Excuse me.

11 Q: Were you aware --

12 A: I'm sorry.

13 Q: Were you and your family asking Mr. Barr to speak to
14 witnesses?

15 A: Well, I couldn't speak to him because he never got the
16 phone thing hooked up, but I was writing letters to him. My
17 family -- I was calling mom and dad and asking them to make
18 sure that he got a hold of witnesses over and again.

19 MS. BLANCHETTE: Your Honor, do I need to keep requesting
20 to approach the witness?

21 THE COURT: You're fine to approach. No problem.

22 BY MS. BLANCHETTE:

23 Q: Mr. Taylor, can you identify what I've handed you there
24 for the record, please?

25 A: Yes, ma'am. It's an original copy of a letter dated

ROBERT TROY TAYLOR - DIRECT BY MS. BLANCHETTE

1 January the 8th, 2007, to me. It was written to me while I was
2 at Evans Correctional and it's from Mr. Barr.

3 MS. BLANCHETTE: Your Honor, at this time, I would move
4 this letter dated January 8th, 2007, in as Applicant's Number
5 12.

6 THE COURT: Any objection?

7 MR. GOURLEY: No, Your Honor.

8 THE COURT: All right. It is so entered. Thank you.

9 (WHEREUPON, Applicant's Exhibit Number 12, a letter, was
10 admitted into evidence.)

11 BY MS. BLANCHETTE:

12 Q: And what's indicated in this letter to you?

13 A: If you don't mind, it's only three small paragraphs.

14 Dear Troy, I received -- I have received and reviewed all
15 of the written background material relating to your
16 indictment. I am ready to start personal interviews. In the
17 meantime, I want some movement. The Solicitor's Office has a
18 murder case that I'm also involved in and the judge has
19 ordered the case to be tried. I will see you before the end
20 of the month. I lost my mother December the 2nd. Sincerely,
21 Charles David Barr.

22 Q: And what was your understanding based upon this letter?

23 A: That he was going to start personal interviews of the
24 witnesses, the list that he had been given so often, and that
25 he was going to -- let me make sure I'm right. Yeah. I will

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1 see you before the end of the month. So the last sentence
2 down there or second to last sentence. So I was expecting two
3 things from this letter. Number one, that he was going to
4 contact the witnesses and, number two, that he would be coming
5 to see me.

6 Q: Were you aware of him ever contacting the witnesses and
7 did he follow up to you -- with you regarding that?

8 A: Again, my only information came from mom and dad,
9 Michelle or Tonja, whomever I was able to talk to. I never
10 heard from Mr. Barr, but I was absolutely under the impression
11 that he was going to be doing that.

12 Q: And did you try to regularly communicate to him how
13 important those witnesses were?

14 A: Yes. Yes.

15 Q: Troy, I'm going to hand you a document there. If you
16 could, identify that for the record, please.

17 A: Sure. And if you don't mind, I'll simply just say that
18 in prison you can't call me. I have to initiate the phone
19 call unless they were to call, like, the warden or something.
20 So the phones in there are, like, up against the wall so I can
21 call. Like, when I call Tricia, I have to instigate the call,
22 if that makes sense. So I didn't have that opportunity. He
23 didn't set it up. You have to set that up for me to be able
24 to do that.

25 This letter is to Mr. Barr from me in my handwriting on

ROBERT TROY TAYLOR - DIRECT BY MS. BLANCHETTE

1 Wednesday, May the 16th, 2007.

2 MS. BLANCHETTE: Your Honor, at this time, I would move
3 this and -- this letter dated May 16th, 2007, between Mr.
4 Taylor and his attorney, Charles Barr, in as Applicant's
5 Number 13.

6 THE COURT: All right. Any objection?

7 MR. GOURLEY: No, Your Honor.

8 THE COURT: All right. It is so entered. Thank you.

9 (WHEREUPON, Applicant's Exhibit Number 13, a letter, was
10 admitted into evidence.)

11 BY MS. BLANCHETTE:

12 Q: Mr. Taylor, if you need to review this letter briefly,
13 that's fine.

14 A: Yes, ma'am.

15 Q: But what was it that you were requesting him to do in
16 this letter?

17 A: The third paragraph says I want to remind you of two key
18 witnesses, Trevor Morton and Zack Webster. They are both
19 ready to speak with you and to testify. I believe that
20 another key witness will be Chuck Harrison. He is named by
21 victim [REDACTED] as being at the camping trip. However, word has
22 gotten to me that Chuck denies both this trip -- or denies
23 being on this trip. And I at the bottom had given him my new
24 address. At this point, I had been relocated to McDougall,
25 which is in Ridgeville towards Charleston.

ROBERT TROY TAYLOR - DIRECT BY MS. BLANCHETTE

1 Q: Did he ever follow up with you about speaking with Trevor
2 and Zack and Chuck or Charles Harrison after you sent this
3 letter?

4 A: No.

5 Q: And you're aware that we were able to obtain an affidavit
6 in lieu of testimony of both Charles Harrison and Zack
7 Webster?

8 A: Yes, ma'am.

9 Q: Why are those two witnesses in particular -- why were
10 they important to you?

11 A: Well, they're important to me. Well, first of all, I
12 know I didn't do anything. So I'm not -- I wanted to hear
13 what they have to say, but the fact was they were named by the
14 accuser. So I felt like it was a very strong -- we need to
15 hear what they had to say if they were named by him.

16 Q: And in victim [REDACTED] statement that's already been
17 introduced, he specifically named Charles Harrison and Zack
18 Webster as people that had potentially seen this occur?

19 A: Yes, ma'am.

20 Q: And you are aware of the fact that Charles Harrison has
21 provided an affidavit affirming what you state here that he
22 was not on that trip?

23 A: Absolutely. Yeah.

24 Q: And why was that important to your case?

25 A: Well, it's -- if you don't mind, Scott Joye had back in

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1 the first part of this said that the idea is that you try to
2 basically shoot holes in a story, if you will. I can't
3 imagine a larger hole than an accuser saying ask this person,
4 they were there, they would know about it, and that person
5 says I have never been on such a trip ever at all. And I felt
6 like that was huge, yeah.

7 Q: But that information was not brought forward at your
8 trial; is that correct?

9 A: No, ma'am, it was not.

10 Q: But you specifically in this letter were asking your
11 attorney and telling him that was your understanding?

12 A: Yes, ma'am.

13 Q: Now, you were incarcerated at the time, Mr. Taylor. You
14 couldn't go out and gather these witnesses?

15 A: No.

16 Q: Is that correct?

17 A: Yes, ma'am, I was.

18 Q: Who were you trusting to put together your defense and do
19 the proper investigation?

20 A: Charles David Barr.

21 MS. BLANCHETTE: Your Honor, if I could beg the Court's
22 indulgence one moment?

23 THE COURT: Absolutely. Can we get him some more water
24 while we're waiting?

25 THE CLERK: Sure.

ROBERT TROY TAYLOR - DIRECT BY MS. BLANCHETTE

1 THE COURT: Thank you.

2 THE APPLICANT: Thank you. Thank you very much.

3 THE CLERK: Yes, sir.

4 BY MS. BLANCHETTE:

5 Q: Mr. Taylor, do you recall as part of the discovery order
6 in this case that you would get a complete copy of the clerk's
7 file --

8 A: Yes, ma'am.

9 Q: -- from your case?

10 A: Yes, ma'am.

11 Q: And can you identify what I've just handed you?

12 A: This is the plaintiff -- well, excuse me. It's the
13 potential witness list for the trial.

14 Q: Okay. And whose names are listed here?

15 A: In type, Trevor Morton, Charles Harrison, and Zack
16 Webster. And in my handwriting, Drexel Mixon and Tracy
17 Parrott.

18 Q: So what do you identify this document to be? Whose
19 witness list?

20 A: This would have been my witness list.

21 Q: Okay. And when you say in handwriting, you handwrote
22 those in?

23 A: I did.

24 Q: And when did that occur?

25 A: I apologize. I really do not remember.

ROBERT TROY TAYLOR - DIRECT BY MS. BLANCHETTE

1 Q: Okay. If you could, turn to the second page and identify
2 what that states to be?

3 A: This is the witness -- it's titled the list of witnesses
4 proposed to be called by the State.

5 Q: And who was on that list?

6 A: There are seven and then there's an eighth line there in
7 case I guess they want to add somebody, but the seven that are
8 typed in: Sergeant Laura Rogers, who was with the Williamsburg
9 County Sheriff's Office; victim [REDACTED]; Zackary Webster;
10 Allison Taylor; Wade Causey; Pam Causey; and Gaye Allen-Cook.

11 Q: And do you see where both of these are stamped that it's
12 a certified true copy from the Williamsburg County Clerk of
13 Court?

14 A: Yes, ma'am.

15 MS. BLANCHETTE: Your Honor, at this time, I would move
16 this exhibit in as Applicant's Number 14.

17 THE COURT: Any objection?

18 MR. GOURLEY: No, Your Honor.

19 THE COURT: All right. It's so entered.

20 (WHEREUPON, Applicant's Exhibit Number 14, witness list,
21 was admitted into evidence.)

22 BY MS. BLANCHETTE:

23 Q: And you've already explained to us that you handwrote in
24 those names on the defense's potential witness list, but what
25 strikes you on the State's potential witness list?

ROBERT TROY TAYLOR - DIRECT BY MS. BLANCHETTE

1 A: Well, not to take that word, but there's a name struck
2 off.

3 Q: And whose name is that?

4 A: Zachary Webster.

5 Q: Do you have -- did your counsel ever speak with you about
6 that and explain to you that the State had originally listed
7 him and it appeared he was struck off their list?

8 A: No. No, he did not.

9 Q: And Zack Webster has provided an affidavit and states in
10 that affidavit that he would have been willing to testify for
11 the defense in your case; is that correct?

12 A: Yes, ma'am.

13 Q: Now, if you could, turn to page 425 of your transcript
14 that you have there in front of you. And this is when you
15 were speaking to the Court. Do you recall speaking to the
16 Court at the close of your case?

17 A: Yes, ma'am. (Coughs.) Excuse me.

18 Q: If you could, just review kind of approximately starting
19 at line 7 your comments there to the Court.

20 A: Line 7 on 425; right?

21 Q: Yes.

22 (WHEREUPON, there was a pause in the proceedings.)

23 A: Yes, ma'am. I'm ready.

24 Q: Could you explain what you were talking about? Give us
25 some context to your comments there, please.

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1 A: Well, I'm basically saying to -- I guess say His Honor,
2 the judge, that we didn't -- we had -- I had witnesses that I
3 wanted to be heard that were not there that were not able to
4 be heard that day. Yeah, so.

5 Q: And was it because those witnesses were unavailable or
6 was it because those witnesses had not been contacted and
7 subpoenaed by your attorney?

8 A: I can speak to what I know now and what I know now is
9 they were never contacted. They were not spoken to by Charles
10 David Barr. I couldn't speak to their availability. I was,
11 you know, locked up, but I've never spoken to any of these
12 witnesses in the last ten years. So I was only going on what
13 I was told, but they were not there that day and I was
14 basically telling His Honor that I understood that his hands
15 were somewhat tied, but that the witnesses weren't heard that
16 we had that I wanted to be heard. And by the way, I mentioned
17 my nephew outside of the other witnesses. So, you know, I
18 clearly was talking about others besides Trevor.

19 Q: And let's talk about Trevor for a minute. Can you flip
20 back to page 304 of the transcript?

21 A: Yes, ma'am.

22 Q: In there on redirect, does Mr. Barr elicit that he's
23 never spoken with Trevor before that day? Beginning
24 approximately on line 18.

25 A: On 18? To give a little bit of what happened was that

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1 they were asking Trevor before that has anyone ever contacted
2 you about an interview and Trevor had said no. Mr. Barr had
3 asked did the accuser know you then and Trevor says yes. Did
4 he know you were there? And Trevor says, yes, he knew I was
5 there. And then he's asked have you ever gotten involved in
6 any way in this entire incident other than to come here today
7 as a witness and Trevor answers, no, sir. Today is my first
8 day to even come and talk to you.

9 Q: And so it was apparent from your transcript Trevor was
10 being candid he had never even spoken to Mr. Barr before that
11 day?

12 A: Yes, ma'am.

13 THE COURT: Can you state that page number again?

14 MS. BLANCHETTE: Yes, Your Honor. We're at the bottom of
15 page 304.

16 THE COURT: 304? I was on 306. No wonder I couldn't
17 find it. Okay. Thank you.

18 MS. BLANCHETTE: And the redirect starts on line 7.

19 THE COURT: Okay. Thank you.

20 MS. BLANCHETTE: Uh-huh.

21 BY MS. BLANCHETTE:

22 Q: Troy, we've kind of gone through essentially your entire
23 first issue in your amendment regarding preparation and
24 investigation. We've discussed the time and place objection
25 and motion that Mr. Barr made. We've discussed venue. We've

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1 discussed witnesses that you asked him to come and the
2 witnesses that were here today, and we discussed the
3 preparation of Trevor, the witness that was called.

4 Is there anything I failed to ask you on that issue that
5 you'd like to convey to the Court today as it's your only day
6 in court? So I want to make sure that we haven't missed
7 anything.

8 A: Yeah. Nothing comes to mind right now that I can think
9 of anything.

10 Q: And then I'll just ask you -- you've hit on this, but I
11 just want to make sure we're really clear for the record. We
12 have called three witnesses today that testified about being
13 at the campsite and we've provided two affidavits to the
14 Court, one of Zack Webster and one of Charles Harrison. Would
15 you have wanted those witnesses utilized in the capacity they
16 were used today at your trial?

17 A: Yes, ma'am.

18 Q: And do you know any reason -- did you ever tell Mr. Barr
19 that you didn't want those witnesses utilized?

20 A: No, never. Never, ma'am.

21 Q: Was it ever part of any type of strategy discussion that
22 you had with Mr. Barr as to not use those witnesses?

23 A: No, ma'am.

24 MS. BLANCHETTE: Your Honor, if I could beg the Court's
25 indulgence one moment?

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1 THE COURT: Okay.

2 BY MS. BLANCHETTE:

3 Q: All right. Let's move on to your second claim then.

4 You've alleged that both your attorneys, trial and appellate
5 counsel, were ineffective in the handling of the *Batson*
6 motion. I'm going to show you what's been previously marked
7 as Applicant's Number 15. Could you please identify this for
8 the record?

9 A: This is an original letter I sent to Jeremy.

10 Q: And who is Jeremy?

11 A: I'm sorry. Jeremy Thompson.

12 Q: Okay.

13 A: Sorry.

14 Q: And -- oh, I'll introduce it first.

15 A: And by the way, Wednesday, 9/9/09, happened to be the
16 day.

17 MS. BLANCHETTE: Your Honor, at this time, I would move
18 to introduce Applicant's Number 15. It's a letter stated
19 Jeremy, Wednesday, 9/9 of '09, and it's signed by Mr. Taylor.

20 THE COURT: All right. Any objection?

21 MR. GOURLEY: No, Your Honor.

22 THE COURT: All right. It's so entered as Applicant's
23 15.

24 (WHEREUPON, Applicant's Exhibit Number 15, a letter, was
25 admitted into evidence.)

ROBERT TROY TAYLOR - DIRECT BY MS. BLANCHETTE

1 MS. BLANCHETTE: I apologize. It's copied for me.

2 THE COURT: That's all right.

3 BY MS. BLANCHETTE:

4 Q: And, Mr. Taylor, what was kind of the substance and the
5 purpose of this letter as it relates to the *Batson* issue?

6 A: Oh, just give me one moment and let me just look at it
7 real quick.

8 Q: Please do.

9 (WHEREUPON, there was a pause in the proceedings.)

10 A: Okay. I think I'm ready.

11 Q: And what were you trying to bring to Mr. Thompson's
12 attention regarding the *Batson* issue?

13 A: Well, just for the sake of remembrance, the *Batson* took
14 place in the judge's chamber or the whole thing happened back
15 there away from everyone else. So it was really me and Mr.
16 Barr and then this lady, the stenographer --

17 Q: Court reporter.

18 A: Yeah, court -- excuse me. The court reporter and
19 whomever, the judge. It was sort of laid-back much more
20 compared to a courtroom and basically what happened -- I
21 didn't have a clue what a *Batson* thing was, but what happened
22 was that Mr. Barr had to give a -- I think the phrase is race-
23 neutral and gender-neutral reason for every juror that he
24 chose and every juror that he did not choose or struck.

25 And in particular, there was a lady -- I put down here

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1 Juror 146. Her name was Mary Smith. I actually gave the
2 transcript pages if you want that. But I was telling Jeremy
3 that I did remember that Mr. Barr -- and it was actually
4 written -- it's in the transcript that Mr. Barr had given some
5 I thought race- and gender-neutral things.

6 So I wanted to bring that to Jeremy's attention because I
7 felt like that was something that we needed to sort of, you
8 know, take a longer look at, if you will.

9 Q: And what were your interactions with Jeremy? Did you
10 communicate with him a lot?

11 A: Absolutely, yeah.

12 Q: Did you communicate with him more than you did with Mr.
13 Barr?

14 A: Oh, yes. I consider Jeremy a friend. Jeremy is -- he's
15 good people and we talked quite a lot.

16 Q: And you're not a lawyer; so I'm going to move on. Do you
17 have anything else regarding this Batson issue that you'd like
18 to bring to the Court's attention?

19 A: Yeah. I don't know anything about that kind of stuff.
20 So --

21 Q: Okay. But you are alleging that Mr. Barr was also
22 ineffective in his handling of the Batson motion?

23 A: Yes, ma'am. Yes.

24 Q: Okay. Now, our third issue is failing to properly
25 impeach or cross-examine the State's witnesses at trial.

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1 Based upon the information that has been presented to the
2 Court today, would you have wanted Mr. Barr to cross-examine
3 and impeach the State's witnesses that were the investigator,
4 victim [REDACTED], his mother, and Ms. Gaye Allen-Cook with the
5 information that's been presented in your PCR today?

6 A: Absolutely, yes.

7 Q: And let's speak a little bit about Gaye Allen-Cook. When
8 she was on the stand, I showed her a document that was marked
9 for identification as Applicant's Number 3. Can you identify
10 that for the record?

11 A: Yes, ma'am. This is the DSS determination fact sheet.

12 Q: And is this something that you've had in your possession
13 both prior to and during your case?

14 A: Yes, ma'am.

15 Q: Okay.

16 MS. BLANCHETTE: Your Honor, at this time I would move
17 Applicant's Number 3 in.

18 THE COURT: All right. Any objection?

19 MR. GOURLEY: No objection, Your Honor.

20 THE COURT: Okay. It's so entered.

21 (WHEREUPON, Applicant's Exhibit Number 3, DSS
22 determination fact sheet, was admitted into evidence.)

23 BY MS. BLANCHETTE:

24 Q: And I've already asked Ms. Allen-Cook about this
25 document, but what are the findings in this document and why

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1 do you think it mattered in your case?

2 A: Well, it's dealing with -- it's in bold -- threat of harm
3 of sexual abuse as supported by the facts and observations
4 reported below in the county investigative file, and then
5 there's three separate things that are listed here from facts.
6 And the other part of the -- the other column has supporting
7 documentation observations. And the bottom line is that they
8 said it was un -- you know, substantiated. There was no -- I
9 think they called it unfounded basically.

10 Q: Is that -- is that something that you were able to
11 discuss with Mr. Barr?

12 A: It was available. I don't remember had we talked about
13 it or not, but it was definitely in our discovery that we got
14 from Scott Joye.

15 Q: Now, we've raised a number of allegations regarding Ms.
16 Gaye Allen-Cook's testimony at trial and regarding your
17 testimony here today. It's kind of a sticky issue because she
18 essentially did testify for the State, but would you have
19 wanted Mr. Barr to try to find out if she had issued a report
20 or what her opinions were prior to your trial?

21 A: Definitely, yes.

22 Q: Would you have wanted him to reach out to her either
23 prior to trial or during cross-examination to review documents
24 from the case file?

25 A: Yes, ma'am.

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1 Q: Would you have wanted him to object or move to suppress
2 her testimony?

3 A: Yes, ma'am.

4 Q: And would you have wanted him to utilize, even if it
5 wasn't her, someone in her capacity to assist with your
6 defense?

7 A: Yes, ma'am.

8 MS. BLANCHETTE: Your Honor, if I could beg the Court's
9 indulgence one moment?

10 BY MS. BLANCHETTE:

11 Q: And Gaye Allen-Cook testified about her interactions with
12 Pete Skidmore. He's testified to his interactions with her
13 and the investigation that he's done in this case. Would you
14 have wanted someone utilized in the capacity as an
15 investigator that Pete Skidmore was used in preparation for
16 your PCR case?

17 A: Yes, ma'am. Absolutely.

18 Q: Would you have wanted him to go out and talk to the
19 witnesses that he talked to?

20 A: Yes, ma'am.

21 Q: Would you have wanted him to obtain the information
22 regarding the scene that he obtained?

23 A: Yes, ma'am.

24 Q: Now, let's turn to your issue regarding closing argument.
25 And if you could, also turn to your transcript, page 338,

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1 please.

2 A: 338?

3 THE APPLICANT: Your Honor, could I get some water?

4 THE COURT: Water? Can we get him some more water,
5 please?

6 THE APPLICANT: I'm so sorry.

7 THE COURT: No, it's okay. Again, those cups are not big
8 enough. That's not your fault.

9 THE CLERK: We don't usually have this many water
10 drinkers either.

11 THE APPLICANT: I apologize.

12 BY MS. BLANCHETTE:

13 A: You said 338; right?

14 Q: Yes. And I emptied my whole water pitcher. And if you
15 could just look over on 338, his closing argument begins.

16 A: Yes, ma'am.

17 Q: And have you read over that recently, Mr. Taylor?

18 A: I have.

19 Q: Okay. And we've directed the Court's attention to it.
20 She can read through it as well. What essentially was the
21 gist of his closing argument?

22 A: The whole thing came down to -- I'm going to use the
23 phrase a diatribe about a wedding ring or an expensive ring
24 and they got into an argument or something and she said -- I
25 think she's the one that said she was going to go and pawn it

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1 and it was in the middle of the divorce they were going
2 through. So Mr. Barr said he took the ring out and buried it
3 and he went on and on and on and on. I think it seems to me
4 it came down to a backhoe in the backyard trying to find the
5 ring that was never found.

6 Q: And how did he tie that to your case?

7 A: I'm still waiting for it to be tied to my case, to be
8 honest with you. I have no idea how he tied that to my case
9 though.

10 Q: But what was the argument? Was that part of his
11 discussion about venue?

12 A: His whole thing was that because he never found the ring
13 but he knew it was out there somewhere that he tried to turn
14 and say, well, we don't know where the place where this trip
15 took place. It's just out there somewhere and we don't, you
16 know, have a big backhoe to go dig that information up I guess
17 is sort of how he was tying it all together.

18 Q: Now, Mr. Taylor, you had been served with a life without
19 parole notice; is that correct?

20 A: Yes, ma'am.

21 Q: You're sitting there in closing argument knowing your
22 life is on the line?

23 A: Yes, ma'am.

24 Q: What were you thinking?

25 A: Permission to speak freely, I was thinking my life is

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1 going down the toilet.

2 Q: Now, the Court can review it for herself, but I would
3 submit that the closing argument focused solely on venue.

4 A: Yes.

5 Q: Later, in the order stemming from your motion for
6 reconsideration or a new trial, did Judge James actually find
7 that that wasn't even a proper question to present to the
8 jury?

9 A: Yes, ma'am. He did say that.

10 MS. BLANCHETTE: And, Your Honor, I guess I need to
11 clarify if that order is part of the record or if I should
12 introduce that at this time. I do have the order of Judge
13 James.

14 THE COURT: I do not have that in the transcript. So if
15 you can introduce that so I can --

16 MS. BLANCHETTE: I'd be happy to, Your Honor. We've
17 already pre-marked exhibits through 17; so this would be -- I
18 would move this in as Applicant's 18.

19 THE COURT: Okay. And there's no objection?

20 MR. GOURLEY: No, Your Honor. I'm sorry.

21 THE COURT: All right. That's all right. The order will
22 be Applicant's Exhibit 18.

23 (WHEREUPON, Applicant's Exhibit Number 18, order, was
24 admitted into evidence.)

25 BY MS. BLANCHETTE:

ROBERT TROY TAYLOR - DIRECT BY MS. BLANCHETTE

1 Q: Now, Troy, I've already mentioned that you had been
2 served notice that you were eligible for life without parole
3 that's essentially statutorily required. Let me --

4 A: I'm sorry. Yes. I was nodding my head.

5 Q: Can you identify that document for the record, please?

6 A: This is -- excuse me. This is the document sent to Mr.
7 Barr. It says:

8 Dear Charles, please find enclosed and served upon you
9 the State's notice of intent to seek a sentence of life
10 without parole pursuant to -- that funny little symbol -- 17-
11 25-45(h), South Carolina Code of Laws. I've also served this
12 on the defendant at Williamsburg County Detention Center.

13 Q: And what's the date on this letter?

14 A: March the 15th, 2007.

15 MS. BLANCHETTE: Your Honor, at this time, I would move
16 to admit the letter and notice of intention to seek an LWOP
17 sentence in as Applicant's Number 16.

18 THE COURT: All right. Any objection?

19 MR. GOURLEY: No, Your Honor.

20 THE COURT: All right. It is so entered as Applicant's
21 16. Thank you.

22 (WHEREUPON, Applicant's Exhibit Number 16, LWOP letter,
23 was admitted into evidence.)

24 BY MS. BLANCHETTE:

25 Q: And I hate to be redundant, Mr. Taylor --

ROBERT TROY TAYLOR - DIRECT BY MS. BLANCHETTE

1 MS. BLANCHETTE: I'm sorry, Madam Court Reporter. Do I
2 need to pause?

3 THE COURT REPORTER: No.

4 MS. BLANCHETTE: Okay.

5 BY MS. BLANCHETTE:

6 Q: I hate to be redundant, but what's the date on this
7 letter?

8 A: This is March the 15th, 2007.

9 Q: And you didn't go to trial until July; is that correct?

10 A: Yes, ma'am. Same year.

11 Q: At any time between when you received this notice and
12 when you went to trial did Mr. Barr ever discuss with you any
13 objections, motions, arguments he would be making to try to
14 defeat the State's intention to seek life without parole in
15 your case?

16 A: Looking at this made me realize that this would've been
17 the only other time I was at Williamsburg because she says
18 here she served me there and that would have been the only
19 time he and I talked about anything and, no, I do not remember
20 him giving me any answers. Again, venue. We're going to win
21 on venue. It's a slam-dunk case on venue. But no, I do not
22 remember any arguments that he told me he was going to bring
23 up concerning the statute of LWOP.

24 Q: And Mr. Taylor, in the amendment, you essentially have
25 alleged that there is additional arguments you would have

ROBERT TROY TAYLOR - DIRECT BY MS. BLANCHETTE

1 wanted him to make on your behalf; is that correct?

2 A: Absolutely, yes.

3 Q: And specifically, you've reviewed the appellate decision
4 stemming from Jeremy Thompson's work on your case?

5 A: Yes, ma'am.

6 Q: There were arguments that were found to be unpreserved.
7 Would you have wanted him to raise those arguments?

8 A: Yes, ma'am.

9 Q: And do you know of any reason why those were not raised?

10 A: No, ma'am, I do not.

11 Q: Now, we've hit on the fact that you did have a
12 reconsideration hearing in this case; is that correct?

13 A: Yes, ma'am.

14 Q: And did Mr. Barr -- do you recall if he came out to meet
15 with you in-between the time that you were convicted and the
16 time of the motion hearing?

17 A: No, he did not.

18 Q: Okay.

19 MS. BLANCHETTE: And, Your Honor, just to be clear, I'm
20 operating from three separate transcripts. I have the *Batson*
21 motion transcript, a document that's the trial transcript, and
22 then I have a third which is the reconsideration hearing
23 transcript.

24 THE COURT: And I do not believe I have the
25 reconsideration transcript at all. I have the *Batson* and the

ROBERT TROY TAYLOR - DIRECT BY MS. BLANCHETTE

1 trial transcript all in one, but I don't -- unless I
2 overlooked it, but it just ends.

3 MR. GOURLEY: I brought an extra just in case. This is
4 the record on appeal --

5 THE COURT: Okay.

6 MR. GOURLEY: -- from Mr. Thompson that includes the
7 motion hearing.

8 THE COURT: Okay.

9 MR. GOURLEY: Sorry, Judge.

10 THE COURT: That's okay.

11 MS. BLANCHETTE: And one other thing, Your Honor, is the
12 trial transcript is not in its entirety in the record on
13 appeal.

14 THE COURT: Right. And I have it. All right. Thank
15 you.

16 MS. BLANCHETTE: So both are a complete record.

17 THE COURT: So I have the complete trial transcript and
18 then in the record on appeal I can refer to that for the
19 motion for reconsideration hearing.

20 BY MS. BLANCHETTE:

21 Q: And, Mr. Taylor, do you have a copy of the motion for
22 reconsideration hearing in front of you?

23 A: Yes. Yes. This is the big one.

24 Q: No. It's a small one.

25 MS. BLANCHETTE: If I could beg the Court's indulgence?

ROBERT TROY TAYLOR - DIRECT BY MS. BLANCHETTE

1 I do have an extra.

2 BY MS. BLANCHETTE:

3 A: I'm sorry about that. Yeah. I only have the transcript
4 of record is what I have.

5 Q: You recall the motion hearing that was conducted after
6 you were convicted; is that correct?

7 A: Yes, ma'am.

8 Q: And do you recall Mr. Barr leading with an argument about
9 concurrent -- asking for concurrent sentences?

10 A: Yes, ma'am.

11 Q: Would winning on that argument have done you any good?

12 A: No, ma'am.

13 Q: And what was your reaction to that being his leading
14 argument?

15 A: I was floored. I mean you can only die once. Having
16 them put together didn't seem to do a whole lot to satisfy
17 getting me out of prison for something I didn't do and I was
18 floored. I didn't understand it.

19 Q: If you could, turn to page 5, line 14, of that transcript
20 you have in front of you.

21 A: Five being the little number; right?

22 Q: Five being the little number.

23 A: Gotcha. All right.

24 Q: And there, Mr. Barr begins making an argument about these
25 two incidents could be considered one because they're so close

ROBERT TROY TAYLOR - DIRECT BY MS. BLANCHETTE

1 in time?

2 A: Yes, ma'am.

3 Q: And as he's making that argument, does he appear to even
4 know the facts of the two cases?

5 A: Give me just one moment.

6 Q: Okay.

7 A: I'm going to read this paragraph real quick.

8 Q: Yeah. Beginning on about line 14 through page 6.

9 A: So 14.

10 (WHEREUPON, there was a pause in the proceedings.)

11 A: Okay. I think I'm there.

12 Q: There, does the judge actually have to clarify for him
13 when and where these incidents took place?

14 A: Yes, ma'am.

15 Q: So on his leading argument regarding the imposition of
16 the life without parole, the judge had to clarify the facts
17 for him; is that correct?

18 A: Yes, ma'am.

19 Q: What was your reaction sitting there in the courtroom?

20 A: He was stumbling over his words and, again, I was just
21 floored. This is November and I had at that point since July
22 been at a level III institution. So my whole life had been
23 very different and I'm here with something -- or a gentleman
24 who clearly did not still know the issues of my case, and the
25 judge literally was having to tell him the times and dates and

ROBERT TROY TAYLOR - DIRECT BY MS. BLANCHETTE

1 stuff that my lawyer should have known. I mean he had ample
2 time and all the information in front of him and he didn't
3 know.

4 Q: And in the order that we've already referenced, the judge
5 sets out a different argument regarding the imposition of life
6 without parole sentence. Is that an argument that you would
7 have wanted your attorney to make and preserve?

8 A: Yes, ma'am. Yes, ma'am.

9 Q: Now, we've hit on a couple of issues regarding Jeremy
10 Thompson, your appellate counsel, but you've also raised a
11 separate allegation in your amendment alleging that he was
12 ineffective if it would have been proper to raise Mr. Barr's
13 objection regarding the time and place. So are you also
14 alleging today that Jeremy Thompson was ineffective in that
15 regard?

16 A: Yes, ma'am.

17 MS. BLANCHETTE: Your Honor, if I could beg the Court's
18 indulgence one moment?

19 THE COURT: Okay.

20 BY MS. BLANCHETTE:

21 Q: Troy, as I've already mentioned, this is your one day in
22 court, your one bite of the apple. We don't get to come back
23 and get a do-over. You're serving a life sentence. You've
24 put a lot of work into this yourself. So no pressure.

25 A: Yeah.

ROBERT TROY TAYLOR - DIRECT BY MS. BLANCHETTE

1 Q: But is there anything else that I have failed to ask you
2 that you'd like to tell the Court in support of your
3 allegations?

4 A: There's one thing that's crossing my mind that I want to
5 mention, but I don't know if I'm allowed to because it was one
6 of the things back. But is that okay or no?

7 Q: It can be in support of any of your allegations.

8 A: Okay. I just want to mention that the juror that I had
9 wrote and mentioned to Jeremy -- I think it was 146 -- she's
10 the -- she actually got chosen. She got drawn for the second
11 one too. I didn't mention that. So I thought that was a
12 pretty big deal, you know, the fact that she was one that we
13 didn't want. Mr. Barr stumbled through his, you know, answer
14 in the *Batson* motion and she was the one.

15 So I hope that's okay to mention that, but I wanted to
16 make sure that was brought up because I thought it was a
17 pretty big deal that, you know, we didn't want her and then
18 she ended up getting -- she was the only one I know of who got
19 drawn twice and the judge said we could not strike anyone --
20 we couldn't strike her for the second jury. But as far as the
21 last thing, I can't think of anything.

22 Q: And I do have one more question. I've called a number of
23 your friends and family members that were present in the
24 courtroom. Do you recall Mr. Barr turning to you and telling
25 you you needed to get witnesses together?

ROBERT TROY TAYLOR - DIRECT BY MS. BLANCHETTE

1 A: Yeah. He -- there was a little -- again, not the large
2 yellow pads, but the smaller ones, and he slid it over to me
3 and said write down the names of your witnesses again. And so
4 I wrote them down and then at some point there was a break
5 very soon there -- maybe -- maybe we were on the break then.
6 I'm not sure, but he turned to my family who were, you know,
7 sort of like they are now and he said we've got to get these
8 witnesses up here. Y'all go get these witnesses.

9 And I was taken in the back; so I was -- you know, at
10 that point because of the break I didn't see anything else
11 that happened after that, but I can remember clearly, you
12 know, asking me to write it down and then turn around and
13 telling them to go get them.

14 MS. BLANCHETTE: Your Honor, I have no further questions
15 of this witness.

16 THE COURT: All right. Mr. Gourley?

17 MR. GOURLEY: Judge, do you want to take a break or
18 continue on?

19 THE COURT: We'll go ahead and take a break now.

20 MR. GOURLEY: Okay.

21 THE COURT: And we'll start your cross after the break.
22 It's about 12:25. For all practical purposes, it takes us
23 about well over an hour to get lunch. We'll come back --
24 let's try to get back here at 1:50, ten minutes to two.

25 MR. GOURLEY: Yes, ma'am.

ROBERT TROY TAYLOR - CROSS BY MR. GOURLEY

1 THE COURT: All right.

2 MR. GOURLEY: Thank you, Judge.

3 THE COURT: Thank you.

4 MS. BLANCHETTE: Thank you, Your Honor.

5 THE COURT: Thank you.

6 THE APPLICANT: Do you want me to just leave these here?

7 THE COURT: Yeah. You're allowed to -- you can just
8 leave that there. If you want to take it with you, you're
9 welcome to take it with you, whatever you prefer.

10 THE APPLICANT: Well, I'll --

11 THE COURT: Yeah, sure. Whatever you prefer.

12 (WHEREUPON, there was a break in the proceedings from
13 12:24 p.m. until 1:50 p.m.)

14 THE COURT: And you remain under oath, Mr. Taylor.

15 THE WITNESS: Yes, ma'am.

16 THE COURT: All right. Mr. Gourley?

17 MR. GOURLEY: Thank you, Judge. May it please the Court?

18 THE COURT: Yes, sir.

19 CROSS-EXAMINATION

20 BY MR. GOURLEY:

21 Q: Mr. Taylor, how many times did you meet with Mr. Barr
22 prior to trial?

23 A: Twice. Before trial you said?

24 Q: Yes, sir.

25 A: Twice.

ROBERT TROY TAYLOR - CROSS BY MR. GOURLEY

1 Q: Twice? Okay. And do you recall when those meetings
2 were?

3 A: Just looking at that sheet that we had a while ago, that
4 March date, and then the other time would have been when we
5 hired him, which would have been -- forgive me, but I would
6 say November. I think I'm right.

7 Q: That's fine.

8 A: Yeah. I'm not sure.

9 Q: It was a long time ago.

10 A: Yeah. It's been quite a while.

11 Q: During the -- I guess what you said was the March
12 meeting, what did you all talk about?

13 A: It was very brief. That sheet I had been served, the
14 LWOP -- if you don't mind, LWOP sheet. It was just a very
15 brief meeting. I remember it was at the Sheriff's Office as a
16 matter of fact. They brought me out from the back and we sat
17 in that room and talked right in front. It wasn't a very long
18 talk at all. Venue was mentioned. The fact that we had
19 witnesses I would have mentioned. But again, I'm -- you know.

20 Q: Okay. So it kind of mostly centered around the LWOP
21 notice and Mr. Barr's representation?

22 A: Yeah. I don't even remember talking about that a whole
23 lot, but it was the fact that I had got served was really the
24 predicate, if you will, of the case.

25 Q: Okay. So you met with Mr. Barr in November when you

ROBERT TROY TAYLOR - CROSS BY MR. GOURLEY

1 hired him and you met with Mr. Barr in March. Prior to Mr.

2 Barr, you had Joy Scott?

3 A: Scott Joye.

4 Q: Scott Joye?

5 A: Yeah.

6 Q: Okay. And you fired him because he wanted you to plead
7 guilty?

8 A: Yes.

9 Q: Okay. Is there any other reason why you fired him?

10 A: No.

11 Q: You just wanted to make sure you were going to trial?

12 A: I wanted to fight, yeah.

13 Q: Okay.

14 A: And he was more of a "let's get you a deal" kind of
15 thing.

16 Q: And you mentioned on direct that you didn't want to kind
17 of do a loophole, you wanted to actually show your innocence;
18 correct?

19 A: And I know that that's probably not the right phrase, but
20 to me it was. I didn't want to -- I didn't want to win on a
21 -- forgive me for not having a large vocabulary, but yeah, a
22 loophole. I wanted to prove my innocence. I didn't want
23 everybody out there to be saying, yeah, well, I mean come on.
24 I wanted them to know that I didn't do anything.

25 Q: Okay. And you wanted to prove that via the witnesses and

ROBERT TROY TAYLOR - CROSS BY MR. GOURLEY

1 so on and so forth?

2 A: Yes, sir.

3 Q: Okay. And Mr. Barr obviously wasn't getting those
4 witnesses according to you?

5 A: Well, I wouldn't have a way of knowing because I couldn't
6 -- he didn't come see me.

7 Q: All right.

8 A: He didn't fix the phone. I don't know if I mentioned
9 before I think, but I can only call who -- you know, at that
10 point, it was a little different than it is now, but I could
11 only call who had set up -- forgive me. I don't know the
12 name, but let's just say, you know, ABC company.

13 Q: Okay.

14 A: You have to put a certain amount of money on it and from
15 a lawyer standpoint I think there's something else because
16 they don't record our conversations. But like if I called
17 home, they'd record, you know, everything. So it's a
18 situation where I just can't pick up the phone and call
19 anybody I want to.

20 Q: Right.

21 A: I couldn't call you.

22 Q: Right.

23 A: Let's put it that way. So if he didn't set it up, which
24 he didn't, I couldn't call him. So all I could do was write
25 letters.

ROBERT TROY TAYLOR - CROSS BY MR. GOURLEY

1 Q: Okay. So -- but your family was in contact with Mr.
2 Barr?

3 A: Yes.

4 Q: Okay. Were you in contact with your family?

5 A: Yes, sir.

6 Q: So you did have some kind of idea what maybe Mr. Barr was
7 doing on your behalf through your family?

8 A: Yeah. Mom and dad had -- they responded. Of course, you
9 know, it's not easy to go from the inlet to --

10 Q: Sorry about that.

11 A: -- to go all the way through Conway and through I guess
12 even Andrews to get up there, but anyway nonetheless, it was a
13 long trip. But I knew that they had gone up there. I think
14 mom mentioned four times.

15 Q: Right.

16 A: I wouldn't have a number, but I know they had gone.

17 Q: And did they ever inform you that they felt kind of
18 dissatisfied with Mr. Barr's services in regards to getting
19 these witnesses available?

20 A: We were all nervous about the witness thing.

21 Q: Okay.

22 A: Yeah, there's no doubt about it. We were all worried
23 about it.

24 Q: Okay. Well, I guess my question to that is if you were
25 concerned about the lack of witnesses and the lack of

ROBERT TROY TAYLOR - CROSS BY MR. GOURLEY

1 preparation by Mr. Barr and you wanted to prove your
2 innocence, why not fire Mr. Barr and get a new attorney at
3 that time?

4 A: Well, they had put the trial thing at October. There is
5 a letter we have, I think the one that we already put on, that
6 said they were going to push for an October date.

7 Q: Uh-huh.

8 A: And we had -- basically, I guess they gave a continuance
9 is all I know because we had hired Scott. I am a pastor.

10 Q: Right.

11 A: If you need somebody married or buried, I'm your man, but
12 when it comes to the law, I don't know that much about it.

13 Q: Right.

14 A: So I had to trust my lawyer to do his job and I -- I
15 guess fall on the grace of the Court. I felt like if I keep
16 firing every lawyer I get, it doesn't sound very good. So at
17 that point when we got the -- you know, getting from March to
18 there and with the letter that he had sent me saying that I'm
19 going to be starting, you know, interviews I think is the way
20 he phrased it?

21 Q: Right.

22 A: So it's like at that point I'm within reason and hoping
23 that he's doing his job. And it's the -- it's a yellow-ish
24 piece of paper.

25 Q: Yellow-ish? Thank you.

ROBERT TROY TAYLOR - CROSS BY MR. GOURLEY

1 A: There you go.

2 Q: Okay. And this is a letter dated January 8th?

3 A: Yes.

4 Q: And again, it talks about him potentially interviewing
5 witnesses; right?

6 A: Yes, sir.

7 Q: Okay. And you met again in March with him; right?

8 A: Yes.

9 Q: Okay. And at that point did you talk about any witnesses
10 or anything like that?

11 A: I don't know that names were brought up. I know -- and
12 I'm only going because I know me.

13 Q: Right.

14 A: I would have mentioned witnesses.

15 Q: Okay.

16 A: But again, it was a very, very brief meeting in March.

17 Q: Did Mr. Barr ever tell you, hey, I haven't checked these
18 guys out yet?

19 A: I'm going to say no because I don't remember. I'd rather
20 not say that.

21 Q: That's fine.

22 A: I don't remember that. So --

23 Q: Okay. And again, you obviously --

24 A: I do know that it was never brought up about like a --

25 well, knowing what I know now working with these guys, I know

ROBERT TROY TAYLOR - CROSS BY MR. GOURLEY

1 that Pete -- excuse me -- or a PI would be the one that would
2 do the subpoenas or whatever.

3 Q: Okay.

4 A: So I know that wasn't taken care of because we never paid
5 him for a private investigator.

6 Q: You never paid Mr. Barr for a private investigator?

7 A: No.

8 Q: But do you have any independent recollection as to
9 whether Mr. Barr hired a private investigator on your behalf?

10 A: I don't have any recollection of it, no.

11 Q: Okay.

12 A: And to my knowledge, he never did.

13 Q: Okay.

14 A: I will say this though. Towards the end, there was
15 something to do about a juror or something that he called my
16 dad or wrote me a letter, one or the other, and said he wanted
17 some money to hire a private investigator to follow up on some
18 jury issue, but it ended up being nothing. So --

19 Q: Okay.

20 A: I guess that tells us he didn't hire one because we
21 would've already had him hired.

22 Q: Okay. But again, you had concerns with Mr. Barr. You'd
23 already fired Mr. Joye. So you knew you could get another
24 attorney if you wanted one, but I guess your concerns weren't
25 great enough for you to prompt you to fire Mr. Barr and get

ROBERT TROY TAYLOR - CROSS BY MR. GOURLEY

1 another one?

2 A: No. They were great enough, but the reality is these
3 chains don't allow me to go in and out of the gates. So I
4 pretty much had to go with what he was leading and when he
5 came in March I mean it was we're going forward, we're going
6 to win this thing, we're going to win this thing, we're going
7 to win this thing. We were going to win this thing all the
8 way up until he got me in that broom closet.

9 Q: He was going to win this thing on the venue issue; right?

10 A: Well, he would say venue and we would bring up the
11 witnesses. So for us, it was both. And I see where you're
12 going, but it would have been both because in our mind we've
13 got witnesses we know that need to be talked to. If not by
14 him, by someone in your position or the police. You'd think
15 somebody would talk to them.

16 Q: Okay. But he hadn't done it?

17 A: It wasn't -- you know, again, I don't remember him
18 telling me that he had or had not.

19 Q: Okay.

20 A: I'm under the assumption that he was because of what he
21 drove me.

22 Q: And in March, you obviously knew you were facing a life
23 without parole?

24 A: Yes, sir.

25 Q: Obviously, fairly big sentence?

ROBERT TROY TAYLOR - CROSS BY MR. GOURLEY

1 A: Sure, yeah.

2 Q: Which I'm sure alarmed you?

3 A: Yeah.

4 Q: And at that point in time, even with that information,
5 knowing that you were facing life, knowing that you weren't
6 satisfied with Mr. Barr's representation, you still didn't
7 fire him?

8 A: At that point, I'm looking at that letter that you just
9 read that's telling me that he is going to be following up on
10 what we've given him and, again, you know, I wrote him other
11 letters again in March.

12 Q: Uh-huh.

13 A: I think we already put that on the record too.

14 Q: You already put that one of the record too?

15 A: Yeah. Where I reminded him once again of names and
16 specifics, you know.

17 Q: Right. I think it was Zack Webster and your nephew?

18 A: It was Zack, Trevor, and Chuck, yes.

19 Q: Okay.

20 A: That was named by the accuser.

21 Q: And we got affidavits from the accuser?

22 A: Yes, sir.

23 Q: Okay. I think that's all I've got for you, Mr. Taylor.

24 A: Thank you. I appreciate it.

25 THE COURT: Redirect?

ROBERT TROY TAYLOR - REDIRECT BY MS. BLANCHETTE

1 MS. BLANCHETTE: Briefly, Your Honor.

2 THE COURT: Okay.

3 REDIRECT EXAMINATION

4 BY MS. BLANCHETTE:

5 Q: Mr. Taylor, were you surprised at trial when your
6 attorney turned to you and told you you needed to get the
7 witnesses together?

8 A: I was surprised and furious and scared and everything
9 else. Yes, I was very surprised.

10 Q: If you would have known that he had not done that before
11 the trial started, would you have potentially then moved to
12 relieve him and bring that to the Court's attention?

13 A: Yes. Definitely, yeah.

14 Q: Okay. Did you ever agree at any time to not have
15 witnesses called on your behalf?

16 A: No, ma'am.

17 Q: The witnesses that were called today essentially?

18 A: No, ma'am. I never agreed to them not being called.

19 Q: And your nephew, Trevor Morton, was actually called. So
20 Mr. Barr did decide to call a witness; is that correct?

21 A: Yeah. He's the one that they -- again, I'm going on what
22 I -- you know, what I know now, but I wasn't aware of it then.
23 But yeah, Trevor was contacted, he showed up, and he's the
24 only one that did take the stand actually.

25 Q: And you were relying on Mr. Barr, that you had given him

ROBERT TROY TAYLOR - REDIRECT BY MS. BLANCHETTE

1 information regarding witnesses. He indicated he'd be

2 following up with them, but you were relying upon him to do

3 his job; is that correct?

4 A: Yes. And I gave him as much specific and as often as I
5 could information, names, whatever we had.

6 Q: If Mr. Barr had told you that he needed to hire a private
7 investigator, would you have been agreeable to that and
8 provided any funds that were needed?

9 A: Yes. I wouldn't have had the money myself, but we
10 would've found it. Yes, we would've hired a private
11 investigator, no doubt.

12 Q: And the issue that you referenced about the juror, was
13 that actually after you were convicted that he hired a private
14 investigator --

15 A: Yes.

16 Q: -- to look into a juror?

17 A: Yes. It was after I was convicted and everything, yeah.

18 MS. BLANCHETTE: Your Honor, I have no further questions.

19 THE COURT: All right.

20 MR. GOURLEY: Nothing further, Judge.

21 THE COURT: All right. Thank you, Mr. Taylor.

22 THE APPLICANT: Thank you.

23 THE COURT: You may step down.

24 MS. BLANCHETTE: Your Honor, I'd call attorney Jeremy
25 Thompson to the stand.

JEREMY THOMPSON - DIRECT BY MS. BLANCHETTE

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

3 THE WITNESS: Jeremy Thompson.

4 THE CLERK: Do you solemnly swear or affirm your
5 testimony to the Court shall be the truth, the whole truth,
6 and nothing but the truth, so help you God?

7 THE WITNESS: I do.

8 THE CLERK: Thank you, sir. Have a seat up here, please.
9 Please state your full name and spell your last name for the
10 record.

11 THE WITNESS: Jeremy Adam Thompson, T-h-o-m-p-s-o-n.

12 JEREMY THOMPSON, being first duly
13 sworn, testified as follows:

14 DIRECT EXAMINATION

15 BY MS. BLANCHETTE:

16 Q: And, Mr. Thompson, what's your current profession?

17 A: I am a lawyer.

18 Q: And what -- I know we have to be careful with the word
19 specialty, but what does your practice primarily focus on?

20 A: I have been practicing for just over eight years now.
21 I was sworn in in November of 2007. I have my own practice
22 that I run in Columbia, but it's a state-wide criminal
23 practice.

24 I handle primarily -- I guess kind of what I always
25 call the worst of the worst, the most violent felonies. I

JEREMY THOMPSON - DIRECT BY MS. BLANCHETTE

1 do criminal cases. I do direct appeals, PCRs, PCR appeals,
2 federal habeas cases, federal habeas appeals, U.S. Supreme
3 Court appeals, and federal criminal cases and federal
4 criminal appeals. I would say that probably at least about
5 -- at any given time, about fifty percent or more of my
6 caseload deals with post-conviction relief or after in terms
7 of the process.

8 Q: How is it that you became involved with the direct
9 appeal in this case?

10 A: When I first started practicing, I worked for Tara
11 Shurling, another attorney who does this kind of practice in
12 Columbia. I started practicing with her when I was sworn in
13 as an attorney in 2007. She was representing -- and I don't
14 remember exactly when she began representing Troy, but I do
15 know him as Troy as well. I don't remember exactly when she
16 started representing Troy, but she represented him on the
17 Georgetown PCR.

18 Through the course of -- you know, kind of our practice
19 and what we did at Ms. Shurling's firm was that I would
20 accompany her any time we went to go to a -- any time she
21 went to go to a prison to meet with a client, I would
22 usually go with her.

23 I distinctly remember the very first meeting I had with
24 Troy. It was at Lieber Correctional, and there was some
25 kind of lockdown or something at the prison where we

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1 couldn't move, and I sat in the Lieber visitation area with
2 Troy for about three to three-and-a-half hours the very
3 first time I met with him and, you know, we got -- you know,
4 we got to talking about -- about lots of things that just
5 weren't -- you know, weren't law related at that point in
6 time.

7 And that's how, you know, we kind of got to know each
8 other. I know -- I don't remember exactly how many times
9 because I don't have Tara's file. I know I met with Troy a
10 number of times before he went to court on his Georgetown
11 PCR. I believe his Georgetown PCR was really close in time
12 to when I got hired to do the direct appeal.

13 I got hired to do the direct appeal I believe in
14 October or November of 2008, and so I had been practicing
15 about a year at that point. And they -- they -- I think
16 they had -- the family had the option of hiring Tara or
17 hiring me, and they hired me.

18 Q: And can you take us through procedurally how the direct
19 appeal transpired?

20 A: Yeah. My -- my general practice in -- in handling a
21 direct appeal or a PCR appeal primarily is I -- kind of the
22 way I work -- I write a brief as I go through the
23 transcript, make note of any objections that get made, make
24 -- you know, make note of the rulings and what have you.
25 And then I kind of have a list, you know, one, two, three,

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1 four, five, six.

2 My personal practice is I don't believe good issues
3 bring great issues down, but I believe that bad issues do
4 bring good issues down and do bring great issues down. So I
5 start -- I start by taking all of the issues that I think
6 are arguable and starting to write a brief on those issues.

7 When I get to a point where I start writing and I'm
8 like I just -- I can't argue this, I can't win this, I can't
9 see the Court ever granting relief on that, then I drop it.
10 But -- but that's generally speaking how I go about
11 preparing -- preparing a brief.

12 In this case, there was a little bit of additional
13 confusion because there were a couple -- as Your Honor has
14 already noted this morning, there are a couple of additional
15 transcripts. That Batson motion transcript -- I think we
16 had to postpone or hold the -- hold the appeal in abeyance
17 for a little while while we got that. And then there was
18 the post-trial motion hearing transcript. I can't remember
19 if we had that to begin with or not.

20 But there were -- there were a lot of transcripts to
21 have to track down and so that made it a little bit more
22 difficult, but -- but that's kind of how -- I guess that's
23 kind of in general how I go about preparing my brief.

24 I also do it in pretty close consultation with my
25 clients. I -- I had added it up and this -- this -- this

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1 includes my entire, I think, representation of Troy when I
2 was actually representing him, and I have noted here that I
3 had at least fourteen meetings with him over the course of
4 -- I guess about six years or so. And I know I spent well
5 over ten to twelve hours at least meeting with him and
6 talking about his case and talking about the various issues
7 between the two -- between the two cases.

8 That's a long-winded explanation. I hope that answers
9 your question.

10 Q: That is fine, Mr. Thompson. So to follow up, you're
11 very familiar with Mr. Taylor's case?

12 A: Yes.

13 Q: Okay.

14 A: Yes.

15 Q: Now, there was an oral argument heard on March 11th of
16 2011 in the Court of Appeals on this case; is that correct?

17 A: I will trust you that the date is correct.

18 Q: Okay. And do you have a copy of the ultimate -- the
19 two appellate decisions in this case?

20 A: I believe you gave it to me, yes.

21 Q: Okay. And I was just hoping you could explain to us
22 how it came to be that there were two opinions issued by the
23 Court of Appeals in this case? If you could, take us
24 through procedurally what occurred.

25 A: Yeah.

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1 THE WITNESS: I know, Judge, that you worked at the
2 Court of Appeals. So I do not intend any disparagement in
3 what I'm about to say, but this was very frustrating to me
4 what happened.

5 BY MS. BLANCHETTE:

6 A: The Court of Appeals issued their initial or their
7 first opinion and it took them -- it took them nine months.
8 Yeah. It was March 10th. That's right. March 10th was the
9 oral argument. December 21st, 2011, was the -- was the
10 opinion date. So it took them over nine months to issue
11 this opinion.

12 I filed the petition for rehearing after we lost.
13 There were aspects of the -- we lost on all issues, but the
14 State still wanted to file a petition for rehearing. So the
15 -- the State, instead of filing a petition for rehearing,
16 filed an extension to ask for a petition -- to file a
17 petition for rehearing.

18 The State -- the Court of Appeals denied my petition I
19 think before the State had even filed theirs. Then the
20 State filed their petition for rehearing and -- and they
21 held on to the State's petition for rehearing for several
22 months because their second opinion that was issued was
23 issued on June 6th, 2012.

24 And in the meantime, I was having to ask for extensions
25 from the Supreme Court on what to do about filing a cert

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1 petition in the Supreme Court because as I read the rules,
2 my time to file a cert petition ran from when my petition
3 for rehearing was filed. Eventually, I think we even had to
4 get the cert petition held in abeyance while the Court of
5 Appeals issued their follow-up opinions.

6 So it was very frustrating. It was very difficult
7 trying to convey it to Troy, explaining what was going on,
8 and I've never really seen anything -- I'd never really had
9 to deal with anything like that before, but -- but that's --
10 I think that's what happened and then they -- then they did
11 issue their -- their second opinion in the case. So that's
12 -- that's what happened there.

13 Q: And the second -- the refiled opinion from June of
14 2012, that was as a result of the State's petition for
15 rehearing; is that correct?

16 A: Correct.

17 Q: Okay. Now I want to take you through the allegations
18 of ineffective assistance of counsel and also some of the
19 issues that are just raised in the brief.

20 First of all, very simply put, why didn't you raise the
21 objection or motion that Mr. Barr made regarding the verbal
22 statement of the victim regarding the time and place where
23 this occurred?

24 A: And I should -- I should clarify in response that,
25 again, when I -- when I look at all arguable issues, I look

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1 at something. When I start to write the brief, I start to
2 look at issues that I think have any merit to them
3 whatsoever, that have a possible chance of winning.

4 When I went over that particular issue, I don't even
5 think I even started to write the brief on it because I had
6 already rejected out of hand that it would be meritorious.
7 And I was reading back over the -- the argument earlier
8 today. I don't think the -- one, I don't know if the State
9 has any obligation to turn over a verbal statement made from
10 a -- made from a witness to a police officer.

11 You know, I know in criminal cases that I've handled
12 when a prosecutor gets an oral statement, you know, like
13 when they're talking to a -- when they're talking to a
14 witness, they will call me and tell me, hey, I talked to
15 them. I know I don't even have to turn this over, but I
16 just wanted to give you the heads up.

17 But I don't know that they're even required to do it.
18 But even if they were, I didn't -- I didn't really see any
19 way of winning that issue on appeal because I just don't
20 know that it was -- I don't know that I could have won on
21 prejudice even if it was a -- even if it was a meritorious
22 claim, but I don't even know that they're required to give
23 that -- give that over. So that's why I didn't raise that.
24 Q: And, Mr. Thompson, I'm going to hand you the arrest
25 warrant in this case. Is that something you consulted in.

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1 trying to determine if this was an arguable issue?

2 A: Yeah. And -- and again, I should clarify that I
3 represented Troy also on Georgetown after Ms. Shurling's PCR
4 was unsuccessful. I handled the appeal to the Supreme
5 Court, which cert got granted, and then they ultimately
6 denied in a published opinion.

7 And so one of the issues or something that come -- that
8 came up a lot of the time in the case was the interaction
9 between Georgetown and Williamsburg, and one of the things
10 that happened in the Georgetown case that was alleged of
11 ineffective assistance of counsel against Scott Joye is that
12 he didn't review the arrest warrant in Williamsburg before
13 he had Troy plead in Georgetown.

14 So I was extremely familiar with this warrant because
15 I'd had to -- I'd had to familiarize myself. Even if I
16 wasn't representing him at that Georgetown hearing, I had to
17 familiarize myself with it before -- you know, before we
18 even did Georgetown, before I even got involved in
19 Williamsburg.

20 So yes, I was familiar with this and, again, you know,
21 I think the State had met its obligation in what they had to
22 turn over. I don't think I could argue anything different.
23 I think Judge James ruled correctly.

24 Q: And one of the arguments you did raise and was
25 extensively argued was venue. Did it make sense to you that

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1 you could argue an issue with venue, but yet argue that you
2 didn't know where it supposedly took place?

3 A: So I guess -- I guess if I can just kind of explain
4 what I did with the venue issue. The venue was a bit -- I
5 guess a bit odd. My -- I think my brief -- if you look at
6 my brief, I think my venue arguments may be two pages, three
7 pages at the most. It's --

8 THE COURT: Can I just interrupt you for one moment?
9 Am I supposed to have a copy to the brief? Because if so, I
10 do not.

11 MR. GOURLEY: Sorry, Judge. You should. Here's his
12 file. There's a copy in the file.

13 THE COURT: All right. Thank you.

14 MR. GOURLEY: I'll hand this back up.

15 MS. BLANCHETTE: Thank you, Your Honor. I thought you
16 had those. I'm sorry.

17 THE COURT: That's all right. I have read the opinions
18 online -- the opinion online and the petition for cert. So
19 go ahead.

20 BY MS. BLANCHETTE:

21 A: My argument -- because I tried -- I tried -- when I was
22 writing the venue argument, I tried to do my own research to
23 try and figure out if there was anything I could use under,
24 say, a judicial notice argument to show that the -- that the
25 -- to show that the crime did not occur in Williamsburg.

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1 County.

2 And unfortunately, I was unable to do that because
3 following the directions of -- you know, of the witnesses,
4 Andrews, as I understand and as I found I think online, is
5 right on the -- it kind of saddles the border. I think
6 there's actually a County Line Road that runs through
7 Andrews or right on the other side of Andrews. And so if
8 they were coming from the Horry County/Georgetown County
9 side of Andrews going through Andrews, they're going to have
10 to go into Williamsburg.

11 And so the testimony was that's what we did. We drove
12 through Andrews and went on the other side of Andrews, and
13 there was no way I could look -- and just even looking at a
14 map, I could argue that venue -- that -- not venue, but that
15 the crime did not occur in Williamsburg just following the
16 directions.

17 So the way I chose to argue it on appeal was to argue
18 that the directions just were so vague that you just
19 couldn't prove anything about where they were. I think the
20 -- if I recall it correctly, I may have argued that there's
21 just as much evidence that the crime occurred in Greenville
22 County. Yeah, there it is. There's as much evidence that
23 these crimes were committed in Greenville County as there is
24 that these crimes were committed in Williamsburg County.

25 I raised the venue argument because it was a directed

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1 verdict argument. I -- and I guess if I -- if I can, I'll
2 just -- I'll just kind of explain why I picked and chose the
3 arguments that I did.

4 The *Batson* argument I felt was going to be the easiest
5 to win because the juror that was -- that was struck by Mr.
6 Barr was sat on the jury. So if we won on *Batson*, Troy
7 automatically got a new trial without having to get into the
8 evidence in the case.

9 The 404(b) I picked because I felt that was the
10 strongest argument on the merits on the appeal, and I felt
11 that there was -- you know, at the time I don't believe
12 *Wallace* and *Clasby* had been decided or maybe they had been.
13 It was right around that time. I thought there was a lot of
14 movement -- potential movement in that area for that -- for
15 that issue of law. So I wanted to raise that.

16 Venue I felt that if we won, Troy -- it was over. It
17 was a directed verdict and Troy wouldn't have to be retried.

18 And then the LWOP issue I raised because I had -- that
19 was kind of my fallback to try and -- to try and at least
20 get Troy, you know, some kind of relief. But -- but I think
21 even Judge James had run both life sentences consecutively
22 at the conclusion of the trial. So I was afraid that, you
23 know, if we came back for a resentencing, Judge James was
24 just going to max him out on thirty and thirty for the two
25 crimes and give him sixty, and it was going to be the

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1 equivalent anyway. But I was just trying to get Troy some
2 relief.

3 Q: Let me go back and just ask you some specific questions
4 on the issues you just talked about. For venue, in your
5 argument you didn't focus and you really didn't raise the
6 closing argument that Mr. Barr made on venue. Was there a
7 reason for that?

8 A: I did not believe that I could get into any argument
9 dealing with what the jury was supposed to find regarding
10 venue. I believe it's even in Judge James' order after the
11 -- in the post-trial -- the post-trial motion order where he
12 says that he improperly submitted the issue to the jury.
13 And I didn't -- I agree with that. I don't think that
14 should have been submitted to the jury. I think venue was a
15 question for the Court. That's all the law I could find was
16 that venue was an issue for the Court and should be raised
17 at directed verdict.

18 So I didn't feel like I was going to get anywhere with
19 the Court of Appeals by arguing venue, you know, beyond a
20 reasonable doubt kind of issue. It's however slight. I had
21 to show that there was no evidence whatsoever that venue was
22 proper in Williamsburg.

23 So that's why I didn't get into the closing argument.
24 I -- well, I think that answers your question.

25 Q: And you're familiar with the facts that the Court put

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1 in both of their -- the Court of Appeals put in both of
2 their decisions; is that correct?

3 A: Yeah. Yes.

4 Q: Especially regarding your Rule 404(b) argument, have
5 you been in the courtroom today and heard the witnesses that
6 testified?

7 A: Yes.

8 Q: Would that testimony have aided your argument on
9 appeal?

10 A: I believe so. I believe that -- that any -- that the
11 -- I think -- obviously, the Court of Appeals didn't agree
12 with me on the merits of the 404(b) analysis, but one of the
13 problems you're always going to have on an appeal is
14 prejudice. It's whether or not you can show that you were
15 prejudiced by the admission of improper evidence.

16 I think had we had, you know, the witnesses who were on
17 the camping trip -- I think if they had testified at the
18 trial, you know, I'd like to think we wouldn't have even
19 been doing an appeal in the first place. But if we had, I
20 think it certainly would have made it that much more likely
21 that he would have gotten a new trial had the Court of
22 Appeals agreed with us because I think at that point there's
23 no doubt there's prejudice, you know, because I think -- I
24 think you'd have to -- in my opinion, I think you have to
25 conclude that the jury convicted him in Williamsburg based

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1 on what they heard about Georgetown.

2 MR. GOURLEY: Your Honor, I'm going to object to any
3 kind of opinion testimony from Mr. Thompson.

4 THE COURT: Okay. Sustained.

5 BY MS. BLANCHETTE:

6 Q: Mr. Thompson -- and I apologize. When I first asked
7 you the question, you also reviewed the two affidavits that
8 were submitted today from Zack Webster and Charles Harrison;
9 is that correct?

10 A: Yes.

11 Q: And those would factor into the answer that you just
12 offered?

13 A: Yes.

14 Q: Okay. And with a Rule 404(b) argument, there's a
15 balancing test; is that correct?

16 A: Yes.

17 Q: And as part of the prejudice, the factual witnesses
18 would have been part of the balancing test you would have
19 asked the Court to conduct?

20 A: Yes. I mean I think -- I think you can certainly add
21 in some of the factual aspects regarding, you know, if there
22 was even a tent. You know, part of the -- part of Mr.
23 **Victim**'s testimony and part of the reason why the two
24 allegations are similar is because the allegation is that
25 Troy took Mr. **Victim** away.

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1 If there's -- you know, I mean I know it's Mr. **Victim**
2 testimony that he was taken away to a tent, but if you had
3 some evidence that there's not even a tent there, then I
4 think that diminishes the similarities between the two
5 crimes even more because I think you have to question where
6 it could have occurred.

7 Q: And, Mr. Thompson, let's talk now a little bit about
8 the *Batson* issue. You already touched on it and said it was
9 the -- you thought it would potentially be the easiest way
10 to win a new trial for Troy. If you could look at footnote
11 1 in the second opinion, the refiled opinion?

12 A: All right.

13 Q: And --

14 A: I got it.

15 Q: It states -- I'm sorry.

16 A: I got it.

17 Q: Okay. It states there that Taylor has not argued on
18 appeal that defense counsel's poor personal relationship
19 with Juror 146's husband was a proper race-neutral
20 explanation for the strike. Accordingly, we are precluded
21 from addressing the issue. Why did you not raise that
22 issue?

23 A: I had researched that prior to -- prior to preparing
24 the brief because it was -- I was trying to look for any --
25 any possible way to uphold what Mr. Barr's explanation was

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1 for -- for *Batson*. And let me clarify by saying that I
2 thought *Batson* was the easiest way to get a new trial
3 because prejudice would be the easiest on *Batson*. I didn't
4 think *Batson* was the strongest issue.

5 I think we had -- I had issues certainly with the
6 aspect of -- Mr. Barr gets into a racial explanation for his
7 race-neutral reason for striking the juror, which I thought
8 was extremely problematic and I tried to confront head on in
9 the brief. I tried to turn it around and say, well, that
10 actually explains -- you know, his racial explanation
11 explains why his race-neutral explanation is not pre-
12 textual.

13 But it was -- it was an uphill climb and the -- I would
14 have liked to have raised the argument that -- and if I
15 recall correctly, that -- that -- yeah -- that he said that
16 I know her husband and we just don't get along. I think if
17 he had said that and stuck with that, there wouldn't have
18 been an issue. I don't know if the *Batson* motion would have
19 been granted.

20 I researched the issue when preparing the brief.
21 There's an opinion -- a Supreme Court opinion named *Payton*
22 *v. Kears* -- that's K-e-a-r-s-e -- where our Supreme Court
23 says that you cannot -- you know, basically if you've got
24 one bad explanation -- you get five explanations and four
25 are good and one is bad, one trumps the rest. You -- you

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1 know, you don't get to argue multiple race-neutral reasons,
2 have one found pre-textual, and then get to say, well, the
3 other ones, they were better, go with those.

4 So again, not to express too much frustration with the
5 Court of Appeals, but I didn't -- I didn't appreciate this
6 footnote being put in the opinion because I didn't think
7 there was -- that I could have gotten relief granted on that
8 basis. That if I had argued that to the Court of Appeals
9 and they granted it, they would have been wrong. I think I
10 may have even put that in my -- my cert petition when we
11 appealed to the Supreme Court that that shouldn't -- that
12 wasn't proper.

13 MS. BLANCHETTE: And, Your Honor, just as a reference,
14 I have a copy of *Payton v. Kears* --

15 THE COURT: Oh, thank you.

16 MS. BLANCHETTE: -- if you'd like that.

17 BY MS. BLANCHETTE:

18 Q: And, Mr. Thompson, during his testimony, Mr. Taylor
19 spoke to a letter that he had written you on the *Batson*
20 issue. I'm going to hand you a document. Can you identify
21 that for the record, please?

22 A: Yes. This is a letter I wrote back to Troy on
23 September 29th, 2009, while I was still employed at Ms.
24 Shurling's office.

25 MS. BLANCHETTE: Your Honor, at this time, I would move

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1 this in as Applicant's Number 17 I believe. Yes.

2 THE COURT: Any objection?

3 MR. GOURLEY: No objection, Judge.

4 THE COURT: All right. It's so entered, Number 17.

5 (WHEREUPON, Applicant's Exhibit Number 17, a letter,
6 was admitted into evidence.)

7 BY MS. BLANCHETTE:

8 Q: And, Mr. Thompson, if you'd just like to explain kind
9 of this letter and how it relates to the *Batson* issue and
10 the concerns that Mr. Taylor was raising to you?

11 A: Right. Troy had written me. Troy had written me a
12 couple of letters regarding -- regarding *Batson*. I'd like
13 to think I've had a lot of experience dealing with *Batson*.
14 The -- I was not that far out of law school.

15 While I was in law school, I had a research class
16 called *Race and the Law*. My subject that I wrote like a
17 thirty-page paper on was *Batson*, and while I was working at
18 Ms. Shurling's office, we got *State v. Cochran*, which I
19 think is something like a fifty-page opinion that Judge
20 Anderson wrote on *Batson* that we handled at the Court of
21 Appeals. So I was very familiar with the *Batson* procedure
22 and what could be argued and what couldn't be.

23 So -- so Troy had tried to, you know, ask me a number
24 of questions dealing with how his case kind of fit in with
25 other *Batson* cases, and I tried to explain to him that the

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1 problem with his case was not that he -- many *Batson* cases
2 -- when you're dealing with the three-step *Batson* process,
3 which is where you allege that -- you allege that someone
4 has struck a juror improperly, the attorney gives a race-
5 neutral explanation, and then the other side argues if it's
6 pre-textual.

7 That most of the cases dealt with the second step,
8 which is where the attorney had given a race-neutral
9 explanation. And not many cases -- a lot of cases got
10 overturned on the second step where a judge had just said,
11 well, that's not race-neutral and you can't strike them for
12 that reason, and then the appellate court disagreed with
13 that.

14 Troy's case was a -- was on the third prong, which was
15 -- which was where the State had proven that -- and Judge
16 James had agreed with anyway that the reason given by Mr.
17 Barr was pre-textual. And so I had to show that -- that the
18 juror that was seated was not similarly situated, and that
19 was a -- that was a harder showing and was not helped by Mr.
20 Barr's varying explanations that he gave at the hearing.

21 Q: Now turning to the issue -- the life without parole
22 issue, because in our amendment we've alleged both
23 ineffective assistance in various ways against Mr. Barr and
24 against yourself and how the issue was raised. And once
25 again, the Court of Appeals has taught us the art of,

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1 footnotes. I'm mostly going to ask you here about the
2 footnotes in both opinions.

3 First, the footnote, footnote 4 in the first opinion.
4 It says:

5 Taylor contends the definition of inextricably
6 connected and continuous course of conduct as applied to
7 these facts entitles him to leniency or either relief in the
8 application, Section 17-25-50. He did not raise this issue
9 at trial. Thus, we are bound by the laws of preservation.

10 Could you just explain to me what you were trying to
11 argue that appears to have been shut down by their
12 application of the laws of preservation?

13 A: So my argument was that by -- these -- these -- the two
14 offenses, the Georgetown offense and the Williamsburg
15 offense, were committed allegedly I think about six months
16 apart from each other, but they got admitted under a
17 continuous course of conduct basis in -- under Rule 404(b).

18 My argument, which I believe Judge James raised at the
19 post-trial motion hearing, my argument was that when you
20 admit a prior crime under 404(b), you are saying this crime
21 is so close in nature and kind to the one that you're on
22 trial for that it has to be -- you have to consider them all
23 together, you know, that this -- that this prior crime
24 explains the current crime you're on trial for.

25 That I have a hard time understanding why that -- when

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1 you look at 17-25-50, that they're not the same analysis. I
2 don't understand how you can -- how you can introduce one as
3 so close in time under 404(b) and then say no, no, they're
4 separate for sentencing purposes, that this is a prior
5 conviction under sentencing purposes, but it's the same
6 crime in terms of 404(b). That to me just didn't make a
7 whole lot of logical internal consistence. It didn't make a
8 whole lot of sense.

9 I -- I thought in -- I was kind of surprised. I
10 thought in making the argument, it was -- it was kind of --
11 you know, I wanted to argue it. I thought it's a very neat
12 issue. I thought I was going to have the hardest time with
13 it in the Court of Appeals.

14 When we got to the oral argument, I thought that's what
15 I was going to get asked a lot of questions about. They
16 didn't ask me questions about that.

17 The questioning at the -- at the Court of Appeals
18 centered primarily on the *Batson* for me anyway, the *Batson*
19 and the 404(b) issues. But the State's questioning -- when
20 the State's attorney got up, they were repeatedly questioned
21 about this issue. I think from my observation at the -- at
22 the oral argument, the Court of Appeals was very interested
23 in this issue.

24 The problem came up with preservation in that the way
25 it got raised was it almost got raised by Judge James during

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1 the hearing. Judge James kind of goes off on this argument
2 and engages in a discussion with the solicitor about whether
3 or not 404(b) plays into 17-25-50. Mr. Barr doesn't ever
4 really make the argument himself. He just kind of says
5 yeah, Judge, that's -- that's a good -- that's a good
6 argument.

7 And the Court of Appeals I think did not -- or found
8 that it was unpreserved I think for a couple reasons. One
9 is that it got raised for the first trial -- for the first
10 time in a post-trial motion, not at the actual sentencing
11 when Troy got sentenced at the trial. And the second aspect
12 of it was that it was raised by Judge James in the first
13 instance, not by Mr. Barr.

14 So -- so that's -- you know, as we frequently do when
15 we have to argue in front of the Court of Appeals, I'm dealt
16 the hand I'm dealt. I can't change the way that it -- that
17 it was argued. I think it -- I think it turned into a very
18 good argument and -- and again, not to criticize the Court
19 of Appeals too much, I don't understand why you -- why you
20 find something is unpreserved when you have an order, a
21 multi-page order, going over the issue. I would have
22 thought that's enough for the -- for the Court of Appeals to
23 understand what the ruling is and to reverse it potentially,
24 but that's -- that's what they did.

25 Q: And, Mr. Thompson, I may have gotten confused.

JEREMY THOMPSON - DIRECT BY MS. BLANCHETTE

1 Footnote 4 in both opinions referenced this issue, the
2 preservation issue, but in the first opinion it actually
3 calls your argument a persuasive argument; is that correct?

4 A: That's correct.

5 Q: And then that language was omitted from the refiled
6 opinion?

7 A: Yes. Which I was not happy about, but again, I thought
8 -- I thought that indicated to me that they thought that the
9 -- the issue was -- was strong and that they may have ruled
10 in my favor had it been preserved. Of course, then they
11 removed the language in the second opinion. So I don't even
12 know -- I don't know what to think after that, but -- but
13 that's -- that's what happened.

14 Q: Would it have aided your argument if you didn't have to
15 be concerned with preservation on that issue?

16 A: Absolutely. That's why we lost.

17 Q: Mr. Thompson, you have explained that you have worked
18 on this case almost for the majority of your career. Is
19 there anything that I've failed to ask you about today as
20 far as your representation in this case that you would like
21 to add to your testimony?

22 A: The only thing I would add is that, at least in terms
23 of the oral argument, venue was barely touched upon. It did
24 not seem to be something that the Court of Appeals thought
25 to -- you know, they didn't seem to have much concern for

JEREMY THOMPSON - DIRECT BY MS. BLANCHETTE

1 that issue. And I believe the -- I believe their ruling on
2 it is very summary in nature compared to the rest of it. So
3 I just -- I think they kind of gave it pretty short shrift,
4 but I think that's about it.

5 Q: And you'd agree that Judge James' written order on
6 venue is also rather scant; is that correct?

7 A: I think so, yeah.

8 MS. BLANCHETTE: Your Honor, I have no further
9 questions of this witness.

10 THE COURT: All right. Mr. Gourley?

11 MR. GOURLEY: Thank you, Judge.

12 CROSS-EXAMINATION

13 BY MR. GOURLEY:

14 Q: Mr. Thompson, you always like the facts to be better
15 for you; right?

16 A: Say what?

17 Q: I said you always like the facts to be a little bit
18 better for you; right?

19 A: Oh, I always would. Yes, sir.

20 Q: I've just got a couple questions for you. In talking
21 about the *Batson* issue specifically, you mentioned a
22 detaining rule that South Carolina follows; right? So when
23 we have one pre-textual reason, it kind of, like you said,
24 trumps a non-pre-textual reason?

25 A: Right.

JEREMY THOMPSON - CROSS BY MR. GOURLEY

1 Q: And you mentioned that Mr. Barr kind of gave two
2 different reasons for striking the juror; right?

3 A: Yes. I think -- well, I'd say initially he gave -- if
4 I recall correctly, the order is he gave the -- I don't like
5 -- you know, I don't get along with her husband and -- and I
6 sat her based on her education. And then once the State
7 said, well, you've sat someone else with more education than
8 she did, then he shifted into -- into his employment in
9 management argument.

10 Q: Right. And it's your testimony today that had he not
11 brought up the fact that he also struck her for the -- her
12 higher education, then she would have been successful on the
13 *Batson* in your opinion?

14 A: I don't -- personally, I don't know that Judge James
15 would have been able to -- to grant the State's *Batson*
16 motion had he stuck just -- I'm not saying -- I'm not saying
17 he -- you know, I think -- you know, the way the ruling
18 turns out, he struck a juror on the basis of her race.

19 So I'm not saying, you know, he should take actions to,
20 you know, hide that he did that. I just think under the --
21 the way the law works, if you give a personal explanation
22 for why you sat -- why you sat or did not seat a juror,
23 that's a lot harder to disprove than it is an explanation
24 that you sat her or him because of a -- because of a -- you
25 know, an objective reason, so to speak.

JEREMY THOMPSON - CROSS BY MR. GOURLEY

1 Q: All right.

2 A: So I think had he just said I don't get along with her
3 husband, I don't think she -- I don't think he likes me, I
4 don't think she likes me, I don't think Judge James -- I
5 don't think you can -- you can find someone similarly
6 situated.

7 Q: Absolutely. But you're aware of the Rules of
8 Professional Conduct; right?

9 A: Right.

10 Q: And we have to be obviously in full candor with the
11 Court?

12 A: Right.

13 Q: And so Mr. Barr was just being full -- completely
14 honest with the Court as to why he struck the juror; right?

15 MS. BLANCHETTE: Your Honor, I'd say I object based --
16 that's based on speculation. He doesn't know why Mr. Barr
17 picked the reason that he gave.

18 THE COURT: Sustained.

19 BY MR. GOURLEY:

20 Q: You're not suggesting that Mr. Barr should not have
21 been completely honest with the Court about as to why he
22 struck a juror; correct?

23 A: Correct.

24 Q: And that includes the two reasons why he struck her;
25 right?

JEREMY THOMPSON - CROSS BY MR. GOURLEY

1 A: If he -- again --

2 MS. BLANCHETTE: Your Honor, I again object based on
3 speculation. I think he's asking him what Mr. Barr's
4 reasoning was.

5 THE COURT: Ask your question again.

6 BY MR. GOURLEY:

7 Q: And I'm saying -- I'm simply saying you're not asking
8 this Court to simply rule that Mr. Barr was ineffective for
9 being completely honest with the Court; correct?

10 A: Well, I guess -- I guess let me -- I'm not --

11 MS. BLANCHETTE: Your Honor, I object again. He
12 doesn't know if Mr. Barr was being completely honest with
13 the Court.

14 THE COURT: Well, that's not his question though. He's
15 -- you -- I have heard your question. You can ask it a
16 third time and he can answer it.

17 BY MR. GOURLEY:

18 Q: I'm simply asking you're not suggesting that -- to this
19 Court that Mr. Barr should not have been fully honest with
20 the reasons why he struck the juror, including the two
21 reasons why he struck her; correct?

22 A: I don't -- I don't disagree with that. If I can
23 explain, I think -- I think where I'm trying to be I guess
24 careful is that Judge James found that the reason he gave
25 was pre-textual. So Judge James found that he was lying to

JEREMY THOMPSON - CROSS BY MR. GOURLEY

1 the Court when he said that he struck her for that reason,
2 that he was just coming up with explanations for why he
3 struck her when he actually struck her on the basis of her
4 race.

5 So my -- I don't know. I don't know if he was being
6 truthful or not. The judge could have made an improper
7 ruling and made the improper inference from the similarly
8 situated. He may very well have been being truthful, but
9 the finding is that he was lying. And -- and that's where
10 I'm having to struggle with the -- with your question.

11 Q: The finding is that he struck her for a non-
12 race/gender-neutral reason, not that he was lying to the
13 Court?

14 A: The -- the way *Batson* works is you're saying that an
15 attorney struck a juror based on their race, and that you're
16 giving that attorney an opportunity to explain why they
17 didn't strike them based on their race. And if you find
18 that that -- as the judge, if you find that that reason is
19 not sufficient --

20 Q: Right.

21 A: -- that then you grant the motion because you find that
22 the attorney struck that juror based on their race.

23 Q: Right.

24 A: And that's what Judge James did. Judge James found
25 that Mr. Barr struck that juror based on her race.

JEREMY THOMPSON - CROSS BY MR. GOURLEY

1 Q: Right.

2 A: So again, I don't know if that -- I don't know in Mr.
3 Barr's heart of hearts if that is true or not --

4 Q: Right.

5 A: -- but the finding of the Court is that he struck that
6 juror because of her race.

7 Q: Right. That clearly is not what he said. He said he
8 struck her --

9 A: Right.

10 Q: -- because of the --

11 A: Right.

12 Q: -- higher education.

13 A: Right.

14 Q: He didn't strike a similarly situated juror?

15 A: Correct. Correct.

16 MR. GOURLEY: Judge, I don't have any other questions.

17 THE COURT: Okay. Any redirect?

18 MS. BLANCHETTE: No, Your Honor.

19 THE COURT: All right. Thank you so much. You may
20 step down.

21 THE WITNESS: Thank you.

22 MS. BLANCHETTE: Your Honor, and I would just -- Mr.
23 Thompson is in here under subpoena today, but I know that he
24 needs to get back to Columbia. So I want to make sure that
25 there's no objection to him being released.

CHARLES DAVID BARR - DIRECT BY MR. GOURLEY

1 THE COURT: Is there any objection to Mr. Thompson
2 returning to Columbia?

3 MR. GOURLEY: No, ma'am.

4 THE COURT: All right. Have a safe trip.

5 THE WITNESS: Thank you so much, Judge.

6 MS. BLANCHETTE: Your Honor, it's my understanding that
7 the State intends to call Mr. Barr; so we have no further
8 witnesses at this time.

9 THE COURT: All right. Mr. Gourley?

10 MR. GOURLEY: Yes, Your Honor. We'd call Mr. Barr,
11 please.

12 THE CLERK: State your name, please.

13 THE WITNESS: Charles David Barr.

14 THE CLERK: Do you solemnly swear or affirm your
15 testimony to the Court shall be the truth, the whole truth,
16 and nothing but the truth, so help you God?

17 THE WITNESS: I affirm.

18 THE CLERK: Thank you, sir. Please state your full
19 name and spell your last name for the record.

20 THE WITNESS: My name is Charles David Barr, B-a-
21 double-r.

22 THE COURT: Mr. Gourley?

23 MR. GOURLEY: Thank you, Your Honor.

24 CHARLES DAVID BARR, being
25 first duly sworn, testified as follows:

CHARLES DAVID BARR - DIRECT BY MR. GOURLEY

DIRECT EXAMINATION

2 BY MR. GOURLEY:

3 Q: Mr. Barr, how long have you been practicing law?

4 A: Thirty -- thirty-seven years.

5 Q: Okay. And you were retained in this case?

6 A: Yes, sir.

7 Q: Okay. And how many CSC cases have you defended in your
8 course of career?

9 A: More than fifty.

10 Q: Okay.

11 A: At the General Sessions, more than fifty.

12 Q: And is it in your typical course of practice to consult
13 experts in preparation for defense?

14 A: Not usually. But, of course, I guess it depends on the
15 nature of the case, but usually I don't find it necessary.

16 Q: Did you feel -- in your opinion, was it necessary in
17 this case to consult an expert?

18 A: No, sir, I didn't.

19 Q: Okay. How many times did you meet with Mr. Taylor
20 prior to his trial roughly?

21 A: I met with Mr. Taylor -- he mentioned the Kingstree
22 thing. I don't -- I don't -- quite frankly, I don't even
23 remember talking with him in Kingstree. The first time I
24 met Mr. Taylor that I can recall, it was -- I think it was
25 in Bennettsville and -- and I remember distinctively and I

CHARLES DAVID BARR - DIRECT BY MR. GOURLEY

1 met him and visited with him at prison more than one time,
2 not in Williamsburg County.

3 The first thing he did when we -- when we met is he
4 went into a prayer session and every -- and I remember that
5 distinctively. Every time I met with him, it was always his
6 thing to pray and to pray over me, and I know we did that a
7 number of times.

8 Q: Okay. And did you have the opportunity to file Rule 5
9 and Brady in this case?

10 A: I usually do on almost every case, of course. Most --
11 I think most of the discovery material came from -- I don't
12 know that Kimberly Barr, the assistant solicitor -- I don't
13 know that she reproduced everything that she had reproduced
14 for Scott, but we did have all discovery as far as I'm
15 concerned.

16 Q: And did you have the opportunity to review that with
17 Mr. Taylor prior to his trial?

18 A: Yes, sir.

19 Q: Okay. Did y'all talk about his version of events?

20 A: We talked about his version of the events in detail.

21 Q: And can you recall what those were?

22 A: Well, of course, he denied -- he denied that -- that
23 the incident on Black River occurred and, you know, I had --
24 at that time, I had no reason to -- not to believe what he
25 said.

CHARLES DAVID BARR - DIRECT BY MR. GOURLEY

1 Q: Well, knowing that, what was your trial strategy in
2 this case?

3 A: There's been a whole lot said about venue. Venue did
4 not come up and I -- and I -- and I know that I never
5 mentioned venue to anybody until the issue of venue came up
6 in the trial. The young lady that introduced the issue of
7 venue is probably the poorest testifying officer for
8 Williamsburg County. And when I realized that she did not
9 know where and realized that they did not know where --
10 where the -- where the incident actually allegedly took
11 place, that's when the issue of venue -- that's when it
12 really became an issue.

13 Q: Yes, sir.

14 A: But otherwise, our theory was to try to discredit the
15 -- the alleged victim. But the problem came in when -- when
16 Judge -- Judge James made what I -- I've always called it
17 Lyle issues, but when Judge James allowed everything to come
18 in from -- from this other case where Mr. Taylor had pled
19 guilty to rape, well, then we -- we -- it changed the whole
20 complexion of -- of the entire scenario because that issue
21 should have been handled. The whole thing should have been
22 handled in a global way. He should have never pled to that
23 offense in Georgetown County with an outstanding indictment
24 in Williamsburg County.

25 Q: Okay. Let's kind of break this up a little bit. With

CHARLES DAVID BARR - DIRECT BY MR. GOURLEY

1 your -- you said initially your trial strategy was to attack
2 the credibility of the witnesses?

3 A: To create -- to create reasonable doubt.

4 Q: Okay. You got -- you got a copy of the transcript up
5 here?

6 A: Yes, sir.

7 Q: All right. Let's go ahead and start with your opening
8 argument.

9 A: Opening argument?

10 Q: Yes, sir. And I've got a page cite for you. Page 43,
11 line 10, through page 44, line 1. And if you'll just read
12 that to yourself?

13 A: 43?

14 Q: Starting at line 10.

15 A: Line 10. Beginning with the first complete sentence?

16 Q: Yes, sir.

17 A: There's another side, and as His Honor will instruct
18 you, that side will come from the evidence or lack of
19 evidence. It'll come -- much of it will come from this
20 witness stand. As the judge has already told you, whenever
21 a person gets on the witness stand, they put into issue
22 their credibility.

23 And how do you decide how much, if any, of a witness'
24 -- of a witness to believe? There are a number of things
25 you look at, and I can see that from the age of everybody

CHARLES DAVID BARR - DIRECT BY MR. GOURLEY

1 that's on this jury, we don't have any young or any of y'all
2 are about my age. I'm a little bit younger, but you're all
3 about my age and you've had those kinds of experience --
4 experiences that allow you to tell when somebody is not
5 telling you the truth.

6 And as Your Honor will instruct in his preliminary
7 remarks, you have to use your common sense, experience --
8 and experience to make decisions in this case as to whether
9 or not what is true or what to believe. The demeanor of a
10 witness gets -- when a person gets on the witness stand,
11 you're -- you're -- you're the judges of the cred -- the
12 witness' credibility. You will have to make those decisions
13 because of all of what you hear. I stopped swearing on the
14 Bible.

15 Q: Mr. Barr, that's good. That's basically your opening
16 argument in a nutshell setting up the trial strategy of
17 attacking the witnesses' credibility; right?

18 A: Yes, sir.

19 Q: Okay. Now, let's turn to -- let's turn to your cross-
20 examination of the victim's mother, and specifically on page
21 89 starting with line 10 through 18. And I'll just kind of

22 --

23 A: 89?

24 Q: Yes, sir. I'll just kind of walk you through it. The
25 victim in this case did a lot of drugs; right?

CHARLES DAVID BARR - DIRECT BY MR. GOURLEY

- 1 A: All right.
- 2 Q: Started with marijuana and kind of graduated to some
3 cocaine and then some Xanax; right? Is that based off of
4 your recollection?
- 5 A: What line are you at now?
- 6 Q: I'm going to start with 10. I'm just kind of setting
7 it up here.
- 8 A: All right.
- 9 Q: But to get to the point, the victim attempted to commit
10 suicide; right?
- 11 A: Well, that's -- yeah, that's what -- yes, sir.
- 12 Q: And did you not harp on the victim's mother here on
13 cross-examination that she didn't even try to get her son to
14 the hospital after he attempted to commit suicide?
- 15 A: Yes, sir.
- 16 Q: Okay. Now, let's turn to page 93 very quickly,
17 specifically line 14 through 16. And that's you there
18 asking the -- his mother did it ever occur to her that her
19 son was just playing him -- playing her. What do you mean
20 by that, if you can recall?
- 21 A: Well, without some more context, I just -- I don't --
- 22 Q: Okay.
- 23 A: It's -- it was almost seven years ago --
- 24 Q: Okay.
- 25 A: -- since I --

CHARLES DAVID BARR - DIRECT BY MR. GOURLEY

1 Q: So the victim was smoking marijuana, doing cocaine, and
2 Xanax, had committed suicide --

3 A: Well --

4 Q: -- as a teenager?

5 A: If I said playing her, I mean she -- the -- he would be
6 being disingenuous with her.

7 Q: Disingenuous about --

8 A: About whatever it was he was doing.

9 Q: Okay. Now, let's go ahead and go straight to the
10 victim here, starting on page 197.. That's again you talking
11 with the victim about the fact that he did not attend or go
12 to the hospital after trying to commit suicide. And then we
13 drop down to line 14 and you point out that apparently his
14 attempt to kill himself wasn't very serious at all if he
15 didn't even make it to the hospital; right?

16 A: Yes, sir.

17 Q: Okay.

18 MR. GOURLEY: I beg the Court's indulgence, Your Honor.

19 BY MR. GOURLEY:

20 Q: Let's turn to page 211, specifically line 14 through
21 16. And if you want to read just very briefly to yourself
22 that little bit ahead of that maybe to get the context?

23 A: 211?

24 Q: Yes, sir.

25 A: Page 211, line what now?

CHARLES DAVID BARR - DIRECT BY MR. GOURLEY

1 Q: Let's start -- we'll go ahead -- you can start to read
2 yourself from line 9, but this is basically your cross-
3 examination of the victim regarding his allegations against
4 Mr. Taylor as to why he didn't come forward and tell anybody
5 about anything. And are you not here questioning the reason
6 why the victim did not report this --

7 A: Why he didn't come forward and at least say something
8 to somebody prior to all of this time if it hadn't, in fact,
9 happened.

10 Q: And you insinuated that it -- that he didn't do that --
11 he didn't come forward because this event never took place;
12 right?

13 A: It didn't take place, yes, sir.

14 Q: All right. And then let's go to page 213 very briefly,
15 and this is you on cross-examination of the victim regarding
16 the fact that there were multiple boys at this camping trip
17 and not a single one of these boys on this camping trip were
18 there to corroborate his story; right?

19 A: None that I'm aware of.

20 Q: Right. And you pointed out in your cross-examination
21 that there were several of these people here and no one here
22 to back him up on this; right?

23 A: Yes, sir.

24 Q: And then let's finally go to page 220 and line -- page
25 220 and 221. And I guess starting on line 24 of 220, you

CHARLES DAVID BARR - DIRECT BY MR. GOURLEY

1 basically just flat out called the victim in this case a
2 liar?

3 A: I called -- I essentially called him a liar.

4 Q: Okay. And then again in closing arguments, while you
5 did mention venue -- and we'll get to that in just a minute.
6 You also hit on credibility of the victim; right?

7 A: Yes, sir.

8 Q: Okay. Now, going back to the venue aspect of it. How
9 long have you lived in Williamsburg County?

10 A: All my life.

11 Q: Okay. So it's fair to say that you're pretty familiar
12 with the layout of Williamsburg County?

13 A: I fish on Black River all the time. I grew up fishing
14 on Black River.

15 Q: Were you familiar with the location of --

16 A: Yes, sir.

17 Q: You were?

18 A: Right out of Andrews.

19 Q: Okay.

20 A: Right about down by -- not too far from the landing.

21 Q: It's fair to say that you were aware that this occurred
22 in Williamsburg County?

23 A: Sure.

24 Q: But you just saw an opportunity to jump on an argument
25 based off of what the officer testified to?

CHARLES DAVID BARR - DIRECT BY MR. GOURLEY

1 A: Well, we were -- I mean we don't -- we certainly -- I
2 don't think we should have taken anything for granted.

3 Q: Absolutely. And to that point, Judge James actually
4 made a couple comments during the trial; correct? Let's
5 turn to page 272, specifically lines -- starting with line
6 13. And this is your argument regarding venue, and actually
7 Judge James called the evidence about venue hazy; right? Do
8 you recall that?

9 A: Yes, sir. I thought he was going to grant the motion
10 one time.

11 Q: And then you were actually successful in getting Judge
12 James to charge the jury on venue despite the fact that --

13 A: He did. He charged them on -- he did charge them on
14 venue and -- and we argued it.

15 Q: Uh-huh. And that's certainly beneficial to your
16 client?

17 A: Well, if the jury had come back and bought it.

18 Q: Right.

19 A: We don't know why they would have said not guilty, but
20 all I wanted to hear was not guilty, whatever the reason
21 was.

22 Q: Yes, sir.

23 A: And you never can tell what the --

24 Q: Okay. And I'm going to show you what's been marked as
25 Applicant's Exhibit Number 18, and this is the order of

CHARLES DAVID BARR - DIRECT BY MR. GOURLEY

1 Judge James following a motion for reconsideration,
2 specifically page 3, and just take a look at this last line
3 of the first full paragraph there. And is this not Judge
4 James saying my view of the evidence taken as a whole
5 establishes, however slightly, that the offense occurred in
6 Williamsburg County; correct?

7 A: Well, that's what he -- that's what he said at that
8 time.

9 Q: Okay.

10 A: Uh-huh.

11 Q: But it wasn't a conclusive statement; it was Judge
12 James acknowledging that the evidence again was a bit hazy?

13 A: Well, if you know Judge James, he's -- he's -- once
14 he's made up his mind, he's not going to -- he's not going
15 to back down on something that he -- once he's decided what
16 he -- what he's going to do.

17 Q: Okay. But is it fair to say --

18 A: But I mean the thing about it -- I mean -- directed
19 verdict -- you know, that -- that would have been rather
20 extreme. When I say rather extreme, I'm not saying that he
21 should not have done it, but to allow me to argue it was not
22 altogether out of the ballpark.

23 Q: Okay. It's fair to say though that venue was not your
24 main defense in this case?

25 A: No, sir.

CHARLES DAVID BARR - DIRECT BY MR. GOURLEY

1 Q: It wasn't discussed very much, if at all, with Mr.
2 Taylor; right?

3 A: I don't -- I don't recall ever mentioning the word
4 venue to any layperson because I mean I don't know that I
5 would want -- even want to get into discussion of trying to
6 explain to them what venue is -- is all about.

7 Q: All right. Well, let's talk about these witnesses for
8 a second. What was the situation like back in 2007 when you
9 were representing Mr. Taylor? How was the community taking
10 the allegations against Mr. Taylor as a preacher?

11 A: Well, as I recall, they were -- people were kind of --
12 they thought it was something very serious and it's hard to
13 -- it's hard to separate the -- what I call the incident
14 down -- down -- down at the beach -- it's hard to separate
15 the two -- the two things because one kind of ran into the
16 other. I mean you didn't know whether people were feeling
17 bad about what happened down there or whether or not it was
18 the -- the revelation of the Williamsburg County thing
19 because they all just kind of came together.

20 Q: Okay. Did you -- did you hire an investigator in this
21 case?

22 A: Yes, sir.

23 Q: Okay. During the course of your investigation, did you
24 come across any witnesses or anything like that?

25 A: I -- we talked with -- I talked -- I asked Mr. Taylor

CHARLES DAVID BARR - DIRECT BY MR. GOURLEY

1 to give me the names of all the people that were present at
2 the time that -- that -- that the incident supposedly took
3 place down on the river and -- and as far as the ones that
4 we used, there are two in particular.

5 Of course, when we did voir dire at the trial, we -- we
6 -- we submitted a number of names, but I specifically
7 remember him talking about Trevor. And then somehow -- I
8 don't know what happened to this other gentleman. I can't
9 remember his name right now, but I don't --

10 Q: Zack Webster?

11 A: Pardon me?

12 Q: Zack Webster?

13 A: Zack Webster. That's the one we talked about.

14 Q: Okay. I'm going to show you -- which I don't have
15 marked, but let me find it.

16 MR. GOURLEY: I beg the Court's indulgence, Your Honor.

17 BY MR. GOURLEY:

18 Q: Marked as Plaintiff's Exhibit 13. Do you recall
19 receiving that letter from Mr. Taylor?

20 A: I don't. He could have sent it.

21 Q: Okay.

22 A: I mean he could have sent it, but I just don't -- it's
23 been a long time.

24 Q: Right. Well, it's fair to say that in this letter Mr.
25 Taylor mentions two key witnesses, Trevor Martin and Zack

CHARLES DAVID BARR - DIRECT BY MR. GOURLEY

1 Webster; right?

2 A: Yes, sir.

3 Q: Okay. And Trevor Martin obviously testified at trial;

4 correct?

5 A: He did.

6 Q: How did that come about?

7 A: I don't remember. I know I didn't subpoena him.

8 Q: Okay.

9 A: But I remember he testified.

10 Q: All right. And is this -- Plaintiff's Exhibit 14, is
11 that your potential witness list for trial?

12 A: That is it.

13 Q: Okay. And --

14 A: This was done -- this -- this was done at the time we
15 did voir dire.

16 Q: Okay. And Trevor Martin is obviously listed. Charles
17 Harrelson, Zack Webster, Drexel Minton, and Tracey Parrott;
18 right?

19 A: Yes, sir.

20 Q: Okay.

21 A: The last two somebody added. I don't -- I guess that
22 may have been Mr. Taylor probably.

23 Q: That's -- that's what he testified to earlier.

24 A: All right.

25 Q: Okay. Now, I know you've been here all day and you've

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1 heard the testimony of the three witnesses that testified
2 today. Were you aware of any of those witnesses prior to
3 trial?

4 A: I've never heard of those people.

5 Q: You've never heard of those people?

6 A: Never seen them, never heard of them.

7 Q: And they weren't mentioned in Mr. Taylor's letter to
8 you, were they?

9 A: I've never heard of them.

10 Q: Nor were they listed on your potential witness list,
11 were they?

12 A: I don't -- I never saw them or heard of them until
13 today.

14 Q: Okay. Regarding the *Batson* motion, there's been talk
15 about Juror Number 146 and you struck her because you had
16 knew her husband in the past and had some poor relations.
17 An additional reason you stated was that you struck her
18 because she had a higher education. Do you recall that?

19 A: Yes, sir.

20 Q: And can you just kind of explain? I mean were those
21 the reasons why you actually struck her?

22 A: I didn't want her on the jury. That's why I struck
23 her. I didn't think she would -- I didn't -- I didn't think
24 she was -- *Batson* is -- from the standpoint of trial
25 practice, *Batson* is the law, but *Batson* makes a whole lot of

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1 lawyers say things that are probably not exactly -- and
2 that's just a reality of how it's done.

3 Q: Uh-huh.

4 A: And -- and anybody that won't admit it don't do it.

5 Q: Right.

6 A: But you -- you -- you decide who you want on a jury and
7 then you develop -- now, usually -- usually, you know, when
8 you strike somebody, you -- you -- you usually have a -- try
9 to be prepared with a race-neutral reason --

10 Q: Uh-huh.

11 A: -- so if you do get a *Batson* motion from the State that
12 you can justify the strike that you were taking.

13 Q: Right.

14 A: If I'm not mistaken, there were -- there was -- there
15 was at least one person that I wanted and, if I had gotten
16 that one person, it would have turned the case.

17 Q: Right.

18 A: So I took a chance on getting rid of that lady that I
19 didn't want and maybe playing it along and getting somebody
20 else that I -- that I thought that was going to be much more
21 favorable to our position. And when the time -- when the
22 time came, in terms of the race-neutral explanation that I
23 attempted to give, Judge -- Judge James found it, applying
24 the law -- and I agree with the young man who just testified
25 as to the three-prong analysis that the Courts use to decide

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1 whether or not *Batson* has been violated, but the judge
2 decided that *Batson* was violated. And as -- as a result, he
3 made us pick the jury over again.

4 Q: Did that provide you the opportunity to get the juror
5 that you wanted?

6 A: No. No, sir.

7 Q: Not --

8 A: It was a whole different land -- whole different
9 situation all together.

10 Q: Okay. I'm just going to ask a very general question.
11 Do you feel you properly impeached and cross-examined the
12 State's witnesses at the trial?

13 A: I -- the transcript speaks for itself. Anybody that
14 reads the transcript can develop their own opinion about
15 whether or not the cross-examinations were effective based
16 on what -- what we wanted to elicit or discredit and -- and
17 -- and -- and -- and I argued in terms of positioning
18 ourselves.

19 We argued -- even in closing argument, we went through
20 them, each one of them, as it relates to the various
21 offenses that he was charged with. So I don't -- I don't --
22 I don't have any -- you know, I don't have any problem with
23 how the -- the -- all of the witnesses were -- witnesses
24 were cross-examined.

25 Q: Okay. Regarding the expert testimony of Gaye Allen

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1 Cook, obviously she was kind of used during that point as an
2 educator expert in delayed disclosure in sexual assault;
3 right?

4 A: She's somebody Kimberly decided to call at the last
5 minute and -- and if she had -- if she had -- she --
6 apparently, she didn't -- she didn't have anything in
7 writing. Judge James would have insisted that -- that that
8 be disclosed prior to the time she got on the witness stand.
9 But I don't think she was -- I don't think she was that much
10 of a -- I don't think her -- her testimony carried a whole
11 lot of weight.

12 Q: Right. And you actually cross-examined her on her lack
13 of knowledge and familiarity with the case; correct?

14 A: I most certainly did.

15 Q: And then in closing argument you also harped on in
16 front of the jury that the solicitor just brought in this
17 expert just to kind of talk about the basic characteristics
18 of delayed disclosure; correct?

19 A: Well, you know, the details of -- of really what an
20 expert is and what an expert is allowed to testify about,
21 you can -- you can tell and you have to tell the jury, but
22 juries hear what they want to hear.

23 Q: Uh-huh.

24 A: And in this case, my position was here is this woman
25 that says she's an expert who doesn't know anything about

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1 the case, but yet will come in here and tell you in her
2 opinion that -- that it's not unusual for people to wait
3 twenty years before they come up and complain about
4 something. Well, that's -- you know, that's -- that's
5 argument and it's good for creating -- creating doubt.

6 Q: Right.

7 MR. GOURLEY: And that, Your Honor, is on page 365, 366
8 on that issue.

9 BY MR. GOURLEY:

10 Q: I think we -- let's go -- let's kind of talk about the
11 closing argument a little bit. You kind of came up -- well,
12 how many closing arguments do you think you've done in your
13 -- your time as a defense attorney roughly?

14 A: Three or four hundred.

15 Q: Okay. And with that experience, how do you kind of --
16 what's your strategy or how do you come about making those
17 arguments?

18 A: The -- the judge had decided to allow -- allow me to
19 argue -- and if you look at the indictment, the indictment
20 says Williamsburg County.

21 Q: Yes, sir.

22 A: So my position is that it's an element of the -- of the
23 offense.

24 Q: Right.

25 A: Something just like identification.

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1 Q: Uh-huh.

2 A: But anyhow, I thought -- I thought -- I thought that --
3 that -- that the initial part of -- of the story that I told
4 the jury would -- would in a -- from a practical standpoint,
5 be something that they could identify with in terms of
6 understanding the importance of knowing what something is
7 and knowing how to go back and find it.

8 Q: Okay.

9 A: Because Laura Rogers had no idea where -- I think if
10 she had to go back to where she claimed this thing took
11 place, I think it would just be a stab in the dark for her.
12 I don't think she could go back to it.

13 So I thought that was something that the jury could
14 understand in terms of understanding the importance of the
15 place where the incident took place. And that if they
16 didn't find that it took place in Williamsburg County, then
17 that in and of itself would be sufficient to return a not
18 guilty verdict.

19 Q: Right. And then, of course, in addition to the venue
20 argument and your story that you presented to -- to the jury
21 during closing, you also harped on the credibility of the
22 witness; right? And kind of pieced the facts together?

23 A: Yes, sir.

24 Q: Okay. So your -- your closing argument, as Mr. Taylor
25 has alleged, was solely based on venue. That's -- that's

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1 just not true; right?

2 A: Well, as I said, it's written right here in the
3 transcript.

4 Q: Yes, sir.

5 A: I mean it's --

6 Q: Regarding the motion for reconsideration, I think Mr.
7 Taylor has kind of alleged that you opened up with the
8 consecutive sentence argument to Judge James. Tell us about
9 that.

10 A: Well -- well, listen, the law is on their side on that.

11 Q: Yes, sir.

12 A: Any way you cut it. And we had to argue something, but
13 as I said, our problem was when you -- when you get two
14 cases in one, that's -- that's where the problem is. I
15 don't -- I don't -- you know, in terms of -- of
16 reconsideration, as well as at the appellate stage, I mean
17 unless -- you know, unless there's just some things that --
18 that otherwise amount to reversible error --

19 Q: Uh-huh.

20 A: And you got good trial judges now. They don't -- and
21 you got good trial lawyers too. They don't just go mess up,
22 and I mean occasionally you might find things depending upon
23 the trial, but when you get a trial -- this was not a
24 complicated trial other than the fact that we wound up
25 getting two trials in one.

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1 But otherwise, you had a very limited number of
2 witnesses. The issues were -- were not complicated issues.
3 You just -- we lost this case because we wound up having to
4 try two cases in one.

5 Q: And what do you mean trying two cases in one?

6 A: The victim was allowed to -- it has always bothered me.
7 In fact, as I said earlier, I don't like Lyle. I think it's
8 just terrible when you can -- when you can use one offense
9 to -- to buttress a conviction for a second offense. And
10 that's what -- that's what this -- that's what this does. I
11 mean it --

12 Q: Right.

13 A: At the end of the day, we've developed under our rules
14 a method by which we determine, first of all, whether
15 there's prejudice and whether or not -- but when you -- when
16 you walk into a -- when you -- when you -- when you go in
17 the witness --

18 When you go on trial for shooting somebody and kill
19 them, and then it turns out that somebody comes up and says,
20 yeah, well, that's not the first one he shot, he shot one
21 last week and killed him, you can't get that -- juries don't
22 -- they're going to -- they're going to -- you know -- and
23 it's only natural that people think that way. Even though
24 you may not want to admit it and you may very well develop
25 rules. Now -- now, this is the defense lawyer's

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1 perspective. I mean I know that -- I know what the law is.

2 Q: Yes, sir.

3 A: But when you start dealing with jurors, they don't -- a
4 lot of times, they don't make the technical distinctions and
5 apply the rules. And moreover, we've got a main thing for
6 them to remember by way of -- of instructions and that's
7 just -- but that's something that you have to take into
8 consideration if you're trying the case.

9 Q: Right. Mr. Barr, I just want -- I'm sorry to jump
10 back. I just want to talk about these witnesses real quick.

11 A: Yes, sir.

12 Q: One of the witnesses that were alleged you should have
13 interviewed and looked into and called was Charles Harrison,
14 and I do want to point you to page 348 of your closing
15 argument, I guess line 25 going on to page 349, line 4.

16 And again, I guess Mr. Taylor has alleged that you were
17 ineffective for failing to call Mr. Harrison because Mr.
18 Harrison had allegedly requested that the victim go on this
19 camping trip. And I believe your argument is kind of
20 contradictory to that.

21 A: Well, there must be -- there must have been something
22 that he said involving what Harrison told him or something.

23 Q: I mean is this not you pointing out to the jury that,
24 hey, this wasn't Mr. Taylor that lured him on this trip, it
25 was his buddy, Mr. Harrison; correct?

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1 A: Yes, sir.

2 Q: And having Mr. Harrison come in and testify that he was
3 never on this camping trip kind of undercut your argument
4 there, would it not?

5 A: Well, that would, in fact, be the case, but I don't
6 think we -- we didn't even get that far with that -- on
7 that.

8 Q: With that witness?

9 A: He was not a witness.

10 Q: Right. Potential witness I guess?

11 A: Well, he could potentially be a witness, but you can
12 always -- I mean, you know, you -- sometimes you get to
13 testify for people.

14 Q: Uh-huh.

15 A: And unless they're paying attention, a lot of times you
16 can get what -- what you need to get in and that's kind of
17 what -- that's kind of what -- that's kind of what happened
18 here.

19 Q: Okay. And back in 2007 when you were representing Mr.
20 Taylor, did you have any kind of witnesses coming forward to
21 you to say, hey, I was on this camping trip, I don't recall
22 any of this or anything like that?

23 A: I don't think -- I don't -- back -- back in those
24 times, I think Mr. Taylor probably had his family and some
25 close friends, but I don't know that -- I don't know that

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1 there were a whole lot of people running to -- to -- to come
2 to Mr. Taylor's aid at that -- not at that time.

3 Q: Mr. Taylor's family --

4 A: If they were -- if they were, I don't -- you know, I
5 don't know. I think if people had said they -- they visited
6 or came to my office, I don't -- they could have come. I
7 don't know.

8 Q: So you had a little bit of trouble getting people to
9 come?

10 A: No. I didn't have any trouble. Let me -- and Mr.
11 Taylor's family was -- I have never until -- when I realized
12 what -- maybe about -- about six -- a couple of months ago
13 when Mr. Taylor wrote me about another copy of the file, I
14 knew it was my time, but other than that, I had never heard
15 anything negative from Troy Taylor or from his parents.

16 Q: Okay.

17 A: From the time I started working with them until after
18 the trial, I never heard anything negative. I never heard
19 anything that they were dissatisfied with anything or I
20 never heard from Troy.

21 Q: Okay.

22 MR. GOURLEY: Your Honor, I beg the Court's indulgence
23 one second.

24 THE COURT: Okay.

25 MR. GOURLEY: Your Honor, I don't have any other

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1 questions. Thank you, Mr. Barr.

2 THE COURT: All right. Before we get into cross-
3 examination -- we've been going for about an hour and a
4 half. So let's go ahead and take a ten-minute comfort break
5 and we'll be back on the record. And, Mr. Barr, you can, of
6 course, step down and enjoy yourself during the break too.
7 Just don't discuss --

8 THE WITNESS: Judge, I think I'm going to just lean
9 back right here.

10 THE COURT: You can lay back and enjoy yourself sitting
11 there. It's a more comfortable seat I bet.

12 THE WITNESS: It sure is. No, no. It's not a
13 comfortable seat. I -- it's a comfortable chair --

14 THE COURT: All right.

15 THE WITNESS: -- but it's not a comfortable seat.

16 THE COURT: All right. We'll be at ease.

17 (WHEREUPON, there was a break in the proceedings from
18 3:21 p.m. until 3:35 p.m.)

19 THE COURT: Thank y'all. Y'all can take a seat. Ms.
20 Blanchette?

21 MS. BLANCHETTE: Thank you, Your Honor.

22 CROSS-EXAMINATION

23 BY MS. BLANCHETTE:

24 Q: Mr. Barr, do you have a copy of the transcript there in
25 front of you?

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1 A: Yes, ma'am.

2 Q: If you could turn to page 150, line 15? Would you
3 agree that Judge James eventually ruled that the victim
4 could testify to the alleged facts or the events, but not to
5 either the conviction or the guilty plea in Georgetown?

6 A: That -- that -- that could have been his -- it could
7 have been a limited ruling. I'm not -- I don't recall
8 specifically, but it could very well have been.

9 Q: Okay. And I'm just asking because on direct I thought
10 you said that the guilty plea and conviction came in.

11 A: Well -- well, what happened -- the testimony came in.

12 Q: Okay.

13 A: And that was -- in my opinion, it was -- it amounted to
14 pretty much the same thing.

15 Q: Now, you said that you met with Mr. Taylor a number of
16 times in Bennettsville. He --

17 A: Wherever he was. I can't remember exactly where he
18 was, but I met with him several times.

19 Q: Do you have any record of those meeting dates or
20 anything with you in your file?

21 A: I don't -- I don't know. I really don't.

22 Q: Okay. And you mentioned that up until Mr. Taylor asked
23 for his file --

24 A: But I mean I noted -- well, the only record that I know
25 would have been at the institutions where I visited him.

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1 Q: Okay. And you mentioned that Mr. Taylor had asked for
2 his file several months ago and do you recall that your
3 original response to him was that the file was destroyed?

4 A: I told him that it was.

5 Q: And once I got a court order requesting it, then you
6 sent the file to my office; is that correct?

7 A: My files -- I keep files consistent with what the
8 ethics rules say. After that -- after six years, I think
9 they go to the warehouse. Now, what I did is I actually
10 went to my warehouse myself and went through the warehouse
11 and, as much of his file as I could find -- there have been
12 people that -- who have broken into the warehouse, stolen
13 out of the warehouse, but with a court order I figured I'd
14 better go down there and look, and I did. But I think I was
15 well within -- within -- was beyond the period that I'm
16 required to keep a file.

17 Q: And do you recall Mr. Taylor sending you a letter
18 saying it wasn't within that period, that it had only been
19 six years?

20 A: Well, I mean I don't let Mr. Taylor tell me what the
21 rules of ethics are.

22 Q: Okay. But you were eventually able to produce a file
23 once I got a court order for it?

24 A: You got a court order, I went to the warehouse myself,
25 and I started looking.

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1 Q: And in that file that you turned over to me, the only
2 private investigator bill that I could find --
3 A: Uh-huh.
4 Q: -- is this bill I'm going to hand you from October 11th
5 of 2007 from Davis Investigations, and that was post-trial
6 and it appears it's relating to an issue of looking into
7 something a juror may have said to you after the trial.
8 A: If I'm not mistaken, I had Davis do a number of things
9 regarding this case.
10 Q: And do you have any bills or records from that?
11 Because I did not see any in the file.
12 A: No, ma'am, I sure don't .
13 Q: But you did --
14 A: I think they actually paid for this. This was after
15 the trial.
16 Q: Correct.
17 A: Uh-huh.
18 Q: But you don't have any other bills or records where
19 there was an investigator that worked pre-trial?
20 A: No, I don't. I've got an investigator that I use and
21 I've always used from time to time, and I pay him.
22 Q: Were you finished, sir? I'm sorry.
23 A: Yes, ma'am.
24 Q: Okay. I'm going to show you some items that have been
25 previously marked and introduced in this case today. I'm

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1 going to show you the two statements of the victim. The
2 first one was marked as Applicant's Number 8. And could you
3 read the last three lines here of the victim's statement?

4 And my question is who does he name as potential
5 eyewitnesses to the alleged incident?

6 A: He said that -- tent and made me sleep beside him. I
7 guess I wouldn't say nothing. I'm not really sure if anyone
8 saw anything, but if they did, Zack Webster or Charles
9 Harrison would be the one that saw.

10 Q: Do you have a specific entry in your file or
11 recollection of anyone speaking to Charles Harrison or Zack
12 Webster prior to trial since their names are mentioned right
13 there in that statement?

14 A: No, ma'am.

15 Q: And --

16 A: Not other than talking to Mr. Taylor.

17 Q: And let me just read to you the affidavit that Zack
18 Webster provided that's been admitted here in court today.

19 It says:

20 I have reviewed the voluntary statement of victim [REDACTED]
21 dated June 1st, 2005, and voluntary statement of victim [REDACTED]
22 dated November 23rd, 2005. I have read the trial testimony
23 of victim [REDACTED] from the trial of Robert Troy Taylor on July
24 10th through 12th, 2007. My name is listed in the voluntary
25 statement dated June 1st, 2005, as possibly seeing the

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1 actions at issue.

2 I was on the camping trip on November 6th through 7th,
3 1998. I did not witness anything out of the ordinary, nor
4 any behavior by Robert Troy Taylor that was memorable. I do
5 not remember Charles Harrison, who is also listed, on the
6 trip.

7 I do not recall being contacted by Charles David Barr,
8 Esquire, prior to Robert Troy Taylor's trial in July of
9 2007. I further do not recall receiving a subpoena for July
10 11th or 12th in 2007. If I had received a subpoena, I would
11 have complied and been present as needed.

12 Prior to being shown the witness list for the State and
13 the defense during the week of November 2nd of 2015, I was
14 unaware that I had been placed on a witness list for either
15 party. I would have been willing to testify for the defense
16 at trial.

17 Now, it's undisputed that he was on your witness list.
18 Why wasn't he talked to?

19 A: I will stake my life that he did not write that
20 statement.

21 Q: All right.

22 THE BAILIFF: Come to order, please.

23 Q: And we have a second affidavit that has been admitted
24 too -- admitted and agreed upon by the State in this case.

25 It's from Charles Harrison. He says:

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1 I have no memory of attending a camping trip with
2 Robert Troy Taylor and other teenage boys, including victim
3 victim, on November 6th through 7th, 1998, near the Black
4 River, nor do I have any memory of witnessing anything as
5 referenced in victim's statement dated June 1st, 2005.
6 I have verified this with my parents that I did not attend
7 the camping trip on November 6th through 7th, 1998, near the
8 Black River.

9 I do not recall being contacted by Charles David Barr,
10 Esquire, prior to Robert Troy Taylor's trial in July of
11 2007. If I had received a subpoena, I would have complied
12 and been present as needed.

13 His name is in that statement. Again, did you contact
14 him? And if so --

15 A: No, ma'am.

16 Q: Why not? If you're saying now that your primary
17 defense was to discredit the State's witnesses, the State's
18 witness is saying these are the two boys that would have
19 witnessed it, and one of them is saying he wasn't even
20 there?

21 A: The State -- in terms of what Mr. victim has said here,
22 he indicates that -- that he did not -- that Zack Webster or
23 Charles Harrison could have been -- would have been the
24 person that would have seen him, but now in terms of who we
25 called, I specifically discussed Zack Webster. I don't

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1 recall discussing Charles Harrison, but I discussed Zack
2 Webster with Mr. Taylor. And if he -- if he wanted me -- I
3 could have subpoenaed him if he wanted me to subpoena him.

4 Q: And why is that?

5 A: I said I could have if he wanted me to subpoena him. I
6 don't know.

7 Q: And I just want to go back to your statement about Zack
8 Webster because it's actually an accusation against myself.
9 So you are stating that I am --

10 A: No, ma'am. I am --

11 Q: -- bringing up --

12 A: I'm stating --

13 Q: -- lies --

14 A: I'm stating that --

15 MS. BLANCHETTE: Your Honor, if I could finish my
16 question?

17 THE COURT: All right. Let's make sure we don't talk
18 over people. Ms. Blanchette, ask your question and, when
19 you're finished, allow Mr. Barr to answer you.

20 BY MS. BLANCHETTE:

21 Q: You're stating that this is not his affidavit. I met
22 with Mr. Webster the week of November 2nd. He was scheduled
23 to actually appear tomorrow per the judge allowing us to
24 bring him on Friday because he was unavailable today. In
25 lieu of that, the State requested that I obtain his

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1 affidavit. I obtained his affidavit, which is notarized.

2 So are you saying both my -- that I am bringing up
3 fraud upon the Court and this --

4 A: No, ma'am.

5 Q: -- notary is lying?

6 A: No, ma'am. I'm not saying that at all. What I stated
7 was that I'd probably stake my life that he didn't write
8 that.

9 Q: And so the notary is lying when she --

10 A: No, ma'am. I --

11 Q: -- says that he signed this?

12 A: I didn't say that he didn't sign it, and I didn't say
13 that his signature wasn't notarized. I just said that he
14 probably didn't write it.

15 Q: Well, if he didn't write it, he's still saying that
16 he's being duly sworn and deposed and then says the
17 following?

18 A: Well --

19 Q: He's swearing to it.

20 A: Well, it speaks for itself.

21 Q: Okay. Now, you did call Trevor Morton and on page 304
22 in your redirect, he says this is the first time I've ever
23 met you, which clearly says you two had never met, and he's
24 a family member. Is there a reason why you didn't meet with
25 him prior to trial?

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1 A: I didn't think it was necessary. I know I spoke with
2 him before I put him on the witness stand.
3 Q: So he was lying to the Court?
4 A: I don't think he was lying to the Court. He said he
5 didn't -- he'd never spoken with me until that day.
6 Q: And he said that under oath in the courtroom?
7 A: I'm sure he did.
8 Q: And it was from a line of questioning where you were
9 trying to establish, you know, that essentially you hadn't
10 coached him and told him what to say?
11 A: Yes, ma'am.
12 Q: Okay. And he actually says on cross-examination that
13 there was a tent, and every one of the witnesses today have
14 said there was no tent. So is there a reason why you chose
15 to call a witness that essentially verified what the victim
16 was saying versus these witnesses that have refuted it?
17 A: Well, he -- he was the one that Mr. Taylor said that he
18 wanted there.
19 Q: Did he also tell you he wanted Zack Webster there?
20 A: No, ma'am.
21 Q: Why was he on your witness list?
22 A: Because when we asked about witnesses at the time, we
23 put everybody on there that were potential witnesses. The
24 trial lasted two days. I could have subpoenaed anybody that
25 he told me that was on the witness list. I could have

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1 subpoenaed any of them. I think the trial actually lasted
2 more than two days.

3 Q: If you could have, then why didn't you?

4 A: Because he didn't tell me to.

5 Q: So he was in charge? He was calling the shots?

6 A: No, ma'am. He wasn't in charge, but I'm not going to
7 do something the man -- that he doesn't approve.

8 Q: And so he actually told you he disapproved of those
9 witnesses?

10 A: No. He didn't tell me he disapproved. Not at -- not
11 -- he certainly didn't.

12 Q: So you're asking the Court to believe that Mr. Taylor
13 --

14 A: No, ma'am. I'm just telling you --

15 THE COURT: Wait a minute. Let's go ahead and let Ms.
16 Blanchette finish her question and then you can answer, Mr.
17 Barr. Go ahead.

18 BY MS. BLANCHETTE:

19 Q: You're asking the Court to believe that you did an
20 investigation, you discovered the information that we've
21 given today, and Mr. Taylor made a knowing decision to not
22 have these witnesses called?

23 A: I'm not asking the Court to believe anything. I'm
24 telling you that I called the person that he wanted and told
25 me to call.

CHARLES DAVID BARR - CROSS BY MS. BLANCHETTE

1 Q: I'll move on. Would you agree that Gaye Allen-Cook's
2 testimony at trial lined up with the exact signs and
3 symptoms testified to by the victim and his mother, thus
4 bolstering their testimony, the exact testimony that you
5 said was your sole strategy to discredit?

6 A: No. I think -- I don't think her testimony --, I think
7 -- I don't think the jury would have given that much weight
8 to her testimony.

9 Q: Do you recall the juror that you wanted sat when you
10 said that you struck the other juror trying to get to a
11 juror? Do you recall his name?

12 A: David Pressley.

13 Q: And why did you want him sat?

14 A: He's -- he's -- he's a friend of mine from Hemingway.

15 Q: I'm sorry. What was that?

16 A: I said he's a friend of mine from Hemingway.

17 Q: And we've already discussed the fact that you provided
18 a complete copy of your file as you were able to find it in
19 the warehouse?

20 A: As I was, yes.

21 Q: And you had actually told me over the phone about Mr.
22 Pressley. So as we had a copy --

23 A: I don't know if I told you about him or not..

24 Q: Well, I had a note where we talked and you told me
25 about Mr. Pressley. So I was pretty excited when I found

CHARLES DAVID BARR - CROSS BY MS. BLANCHETTE

1 the juror list --

2 A: Uh-huh.

3 Q: -- in your file. And so I immediately flipped to David
4 Pressley, and can you tell me what it says by David
5 Pressley's name there?

6 A: It says not -- related to Sergeant Rogers.

7 Q: So that would actually be the testifying officer in
8 this case?

9 A: Uh-huh.

10 MS. BLANCHETTE: Your Honor, at this time, this is the
11 only copy I have, but I would move this juror list in as
12 Applicant's Number 19 I believe.

13 BY MS. BLANCHETTE:

14 A: David Pressley is probably the only person in
15 Williamsburg County that I would call a friend.

16 THE COURT: Okay. All right. Just one moment. Is
17 there any objection?

18 MR. GOURLEY: No, Your Honor.

19 THE COURT: All right. It's so entered into evidence.
20 And that is Applicant's Number 19?

21 MS. BLANCHETTE: 19.

22 THE COURT: Okay.

23 MS. BLANCHETTE: Yes, Your Honor.

24 (WHEREUPON, Plaintiff/Applicant's Exhibit Number 19,
25 the juror list, was admitted into evidence.)

CHARLES DAVID BARR - CROSS BY MS. BLANCHETTE

1 BY MS. BLANCHETTE:

2 Q: Now, the State asked you a lot of questions about kind
3 of what the climate was around this case at the time of
4 trial. Gaye Allen-Cook has already testified today that the
5 side of the courtroom for the defense essentially was
6 packed. Do you not recall that there was standing room only
7 because of the people there?

8 A: No, ma'am, I sure don't.

9 Q: You don't recall that at all?

10 A: No, ma'am.

11 MS. BLANCHETTE: Your Honor, if I could beg the Court's
12 indulgence one moment?

13 (WHEREUPON, there was a pause in the proceedings.)

14 MS. BLANCHETTE: Your Honor, I have no further
15 questions of this witness.

16 THE COURT: Okay. Mr. Gourley?

17 MR. GOURLEY: Just very briefly, Your Honor.

18 REDIRECT EXAMINATION

19 BY MR. GOURLEY:

20 Q: Mr. Barr, referencing Plaintiff's Exhibit Number 8, Ms.
21 Blanchette asked you about the last line talking about Zack
22 Webster or Charles Harrison. Does it not say I'm not really
23 sure if anyone saw anything, but, if they did, Zack Webster
24 or Charles Harrison would be the ones that saw it? Ms.
25 Blanchette characterized it as two eyewitnesses to this

CHARLES DAVID BARR - REDIRECT BY MR. GOURLEY

1 crime, but that's not what that says, is it?

2 A: No. That's not what it says.

3 Q: Okay. That's just potentially speculation on the part of
4 the victim in this situation that if anyone were to see it, it
5 would have been potentially these two witnesses; correct?

6 A: Well, that's what's stated in the -- in the statement.

7 Q: Okay. And in regard to the statement starting on line --
8 or page 204, you kind of go through and impeach the victim
9 with this statement. Specifically, you pointed out that Mr.
10 victim listed February and April, and actually the camping
11 trip took place in November. And I'm talking about lines --
12 page 206. I apologize. Yeah, line 6.

13 A: And what was your -- your question now?

14 Q: That you impeach him on the fact that he listed February
15 and April on this statement and --

16 A: Yes, sir.

17 Q: -- in fact, the camping trip took place in November;
18 right?

19 A: Yes, sir.

20 Q: And also in this statement he does not talk about being
21 raped anally; correct? Do you recall that?

22 A: I do.

23 Q: All right. And on page 204, backtracking to that, is
24 when you kind of hit on that and the fact that it's now after
25 this statement in June is given that he then discusses or

CHARLES DAVID BARR - REDIRECT BY MR. GOURLEY

1 discloses that Mr. Taylor did the things that he did to him;
2 correct?

3 A: I think I remember seeing that in the -- in the closing
4 argument. I -- I hadn't gone back through the -- through
5 here, but I -- I do remember talking about it. Uh-huh.

6 Q: Okay.

7 MR. GOURLEY: I beg the Court's indulgence, Your Honor.

8 (WHEREUPON, there was a pause in the proceedings.)

9 MR. GOURLEY: Your Honor, that's all the questions I
10 have. Thank you, Mr. Barr.

11 THE COURT: All right. Any --

12 MS. BLANCHETTE: No, Your Honor.

13 THE COURT: All right. Mr. Barr, you may step down.
14 Thank you very much.

15 THE WITNESS: Yes, ma'am.

16 MR. GOURLEY: And, Your Honor, Mr. Barr is under
17 subpoena. I would ask that he be excused.

18 THE COURT: All right.

19 MS. BLANCHETTE: I have no objection, Your Honor.

20 THE COURT: All right. Mr. Barr, you may be excused.
21 All right. Any additional witnesses for the State?

22 MR. GOURLEY: No, Your Honor.

23 THE COURT: All right. Any closing arguments?

24 MS. BLANCHETTE: Your Honor, I do have a copy of a couple
25 cases and I'm sure you're already familiar with these cases.

1 THE COURT: I never mind having cases presented to me
2 though. Thank you.

3 MS. BLANCHETTE: These are just kind of cases that hit on
4 our major issues today. I have a copy of *Ard v. Cato* and
5 *Lowndes v. State* that hit on the issue that we've talked over
6 and over again about today, investigation and preparation.

7 *Bannister v. State*, which essentially says the burden is
8 on us to bring the witnesses that we're saying should have
9 been called at trial, and that is what burden we tried our
10 best to meet today.

11 And then I have a copy of *McKnight v. State*. It's the
12 closest on point PCR case I could find where counsel is
13 essentially found ineffective. It was a case where there was
14 a trial and then there was a second trial. He didn't call an
15 expert that had been favorable for them at the first trial at
16 the second trial, and then counsel actually used an expert
17 that was more favorable for the State. So that's the closest
18 case that I could find just to our expert issue.

19 THE COURT: Okay.

20 MS. BLANCHETTE: So I'm going to hand those up to Your
21 Honor.

22 THE COURT: Thank you. And one thing I want to be made
23 clear for the record are these two witnesses who have
24 testified today via affidavit. I understand that both sides
25 agree for me to consider their testimony via affidavit. I

1 understand Zack Webster was going to be here tomorrow and
2 instead he testified via affidavit, but I'm not sure Mr.
3 Harrison -- what the reason was behind him having to testify
4 via affidavit rather than being present.

5 MS. BLANCHETTE: And, Your Honor, I'd be happy to fill
6 you in on that. What happened is -- I believe it was last
7 Thursday that Dan and I were communicating, and I had gotten a
8 call from Mr. Harrison because he received our subpoena. He
9 is a -- he practices real estate in Myrtle Beach and he had a
10 number of closings lined up for today. So he had contacted me
11 to say is there any way that I can come and testify on Friday.
12 Literally before I could call Dan back, he had left me a voice
13 mail saying everything has dropped off for Friday. Is there
14 any way you can get an affidavit from Zack Webster?

15 So at that point in time, I told him about Mr. Harrison,
16 and that's how we got to the two affidavit instead of just the
17 one.

18 THE COURT: Okay. All right.

19 MS. BLANCHETTE: And I apologize if I failed to keep you
20 in the loop on that, Your Honor.

21 THE COURT: That is fine. I just want to make it clear
22 for the record that there's no objection from either side to
23 those affidavits being considered by this Court.

24 MR. GOURLEY: No, Your Honor, absolutely not.

25 THE COURT: Okay. All right.

1 MS. BLANCHETTE: Your Honor, one other just kind of
2 housekeeping matter is I did hand up the appendix to the
3 petition --

4 THE COURT: Yes.

5 MS. BLANCHETTE: -- for re-certiorari from Georgetown.
6 Would Your Honor mind marking that as a Court's exhibit or
7 should I mark it just so it's clear that it has been part of
8 the record before the Court today?

9 THE COURT: We will make it a Court's exhibit.

10 (WHEREUPON, Court's Exhibit Number 1, the appendix to the
11 petition for re-certiorari, was marked and admitted.)

12 MS. BLANCHETTE: Thank you, Your Honor. I just didn't
13 want that to be confusing for an appeal.

14 MR. GOURLEY: And, Judge, one other concern that I had is
15 I don't know -- I know you have Mr. Thompson's briefs. I
16 don't know if you have Mr. Blitch's brief also.

17 THE COURT: I do not. I -- you handed up the appellant's
18 final brief and the appellant's final reply brief, but not the
19 respondent's brief.

20 MR. GOURLEY: Okay. Well, Your Honor, I don't have that.
21 I don't have a copy of it on me. I can email it to you,
22 unless Ms. Blanchette has an extra copy.

23 THE COURT: It looks like she's got it.

24 MS. BLANCHETTE: The brief of the respondent.

25 MR. GOURLEY: Thank you, Judge. Sorry about that though.

1 THE COURT: That's okay. All right. Anything else from
2 either side?

3 MS. BLANCHETTE: Your Honor, I'd be happy if you have any
4 questions. I usually ask the Court if they have any questions
5 instead of just rehashing everything that you've heard today.
6 I've been noticing you've been taking notes and listening very
7 intently. So instead of wasting your time and recapping
8 everything --

9 THE COURT: Sure.

10 MS. BLANCHETTE: -- you've already heard today, I'm happy
11 to answer any questions. I mean I've provided some cases for
12 the Court to review as well.

13 THE COURT: Okay. I do not have any questions. I have
14 carefully read over this entire transcript before coming to
15 this hearing. There are many things though that I didn't have
16 before me prior to the hearing that I will definitely need to
17 review. This is obviously a very serious case and I take
18 post-conviction relief actions, as do all circuit court
19 judges, very seriously.

20 I will diligently review this material. We have a
21 chambers week next week, which is convenient for me because
22 that means I don't have court. I won't be in court. I can
23 devote myself to studying this case and one other PCR that I
24 have under advisement.

25 And so I hope to have a ruling shortly. I don't plan to

1 take any longer than I need to. I don't plan to rush this for
2 sure, but I won't take any longer than -- than I need to to
3 make a decision. This will be high on my priority list.

4 And so I thank both of y'all for great presentations
5 today. I know it was a long day, but you both handled
6 yourself wonderfully and I appreciate having you in my
7 courtroom, and I will get a ruling to you as soon as possible.

8 MR. GOURLEY: Thank you, Judge.

9 MS. BLANCHETTE: Thank you, Your Honor.

10 THE COURT: Thank you.

11 (WHEREUPON, the proceedings ended at 3:58 p.m.)

12

13 --- END REQUESTED TRANSCRIPT ---

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1 State of South Carolina)
2) Certificate
3 County of Florence)
4

5 I, the undersigned, Krystal J. Smith, Notary Public and
6 Official Court Reporter for the Twelfth Judicial Circuit of
7 the State of South Carolina, do hereby certify that the
8 foregoing pages, numbered 1 through 228 constitute a true,
9 accurate, and complete Transcript of Record of all of the
10 proceedings had and evidence introduced in the hearing of the
11 above captioned case, relative to appeal, in the Court of
12 Common Pleas for Williamsburg County, held in Sumter County,
13 South Carolina, on the 19th day of November, 2015.

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

16
17 Krystal J. Smith

18 Court Reporter

19
20 Florence, South Carolina

21 May 3, 2016
22
23
24
25

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF GENERAL SESSIONS
COUNTY OF WILLIAMSBURG	)	
THE STATE,	)	
	)	
PLAINTIFF,	)	TRANSCRIPT OF RECORD
	)	C/A #: 2006-GS-45-176
v.	)	
	)	
ROBERT TROY TAYLOR,	)	MOTION HEARING
	)	
DEFENDANT.	)	

WILLIAMSBURG COUNTY COURTHOUSE
September 27, 2007

BEFORE: HONORABLE GEORGE C. JAMES, PRESIDING JUDGE.

APPEARANCES:

ASSISTANT SOLICITOR RONNIE SABB, ESQUIRE
ASSISTANT SOLICITOR KIMBERLY BARR
Attorneys for The State

CHARLES DAVID BARR, ESQUIRE
Attorney for Defendant

TAKEN BY MELISSA R. SINGLETARY
CERTIFIED VERBATIM REPORTER

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HEARING

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1 THE COURT: This is of course State of South Carolina v. Robert
2 Troy Taylor. On July 12th, 2007, Mr. Taylor was found guilty by a jury of kidnaping
3 and criminal sexual conduct with a minor of the 2nd degree ... that's correct, isn't it,
4 Mr. Barr?

5 MR. BARR: Yes, sir, Judge.

6 THE COURT: And I sentenced him to life without parole pursuant to
7 Section 17-25-45 and Mr. Barr timely filed and sent to me various Motions and
8 today's Hearing is held for the purposes of hearing Mr. Barr's Motions. I'll be glad to
9 hear from you, Mr. Barr, in whatever order you'd like to go.

10 MR. BARR: May it please the Court, Judge, I ... first of all, I'd like to
11 take this opportunity to thank the Court as well as opposing counsel and everyone
12 else who's associated with this process for taking a Friday morning to come in here
13 and hear us talk some more. Your Honor, of course in addition to the items that were
14 set forth in our amended Motions for Reconsideration, I think there was some issue
15 as to the Defendant was also sentenced to consecutive sentence on the kidnaping
16 charge.

17 THE COURT: Yes, sir.

18 MR. BARR: And that was one of the items that we wanted the Court
19 to take another look at, that is whether or not under the circumstances the ... the
20 Defendant should have been sentenced ... should have gotten a concurrent sentence
21 or perhaps should have gotten concurrent sentence as opposed to a consecutive
22 sentence.

23 THE COURT: Right.

24 MR. BARR: And Your Honor, I ... I would just simply start with that
25 issue and of course realizing that ... that it is, certainly sentencing is well within the

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1 clearly defined province as established by ... by every precedent we know it is within
2 the sound discretion of the trial judge and Your Honor, of course having heard the
3 facts and circumstances of this case, we would just again take the position that ... that
4 ... that ... and it would certainly be an issue involving perhaps to some degree due
5 process, fundamental affairs, cruel and unusual punishment, but at the end of today
6 we would certainly hope the Court would, given the consecutive nature of the
7 sentencing on the kidnaping and the conviction of second degree criminal sexual
8 conduct. The next item, Judge, I think that there's some question as to the request to
9 reconsider the request for a directed verdict. Of course, the issue there would have
10 been those items that were actually set forth during the course of the trial and ... and I
11 believe that the record may be adequately clear for review purposes on those matters
12 and Judge, I would not have noted at the time that we were making a motion for
13 reconsideration that it would be necessarily appropriate, may very well be redundant
14 to try to go back to those things. So we would then move on to the ...

15 THE COURT: The basis for those Motions were generally taking the
16 evidence in the light most favorable to the state there was insufficient evidence as a
17 matter of law for the jury to find Mr. Taylor guilty.

18 MR. BARR: Yes, sir, particularly on the issue as I recall of ... of
19 venue and I believe that there was quite a bit of discussion ...

20 THE COURT: Right.

21 MR. BARR: ... on both sides and all of which I think that the record
22 clearly shows what the positions were there on ... on that issue. And in fact, I think
23 that the evidence on the issue of venue in terms was pretty much confined to the
24 testimony of ... of one witness which would be Officer Rogers. Your Honor, we ...
25 we've also raised an issue concerning I think initially there was a Motion to ...

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1 initially we had a Motion to ... we had a Motion that was addressed to the
2 appropriateness of the State's Notice to Seek ... it was a Motion to quash it is what it
3 was. The State's decision to seek life without possibility of parole and I think that
4 that ... at that ... at that time it was an issue which perhaps we didn't talk about as
5 much ... as much about it as perhaps we should have and I do note that it's an issue
6 that ... that ... that one of the central issues in this case as it relates to the conviction.
7 Your Honor, I would respectfully point out that and of course in the section ... one of
8 the things that I have looked at pretty closely as it relates to the appropriateness of ...
9 of the Recidivist Statute is the ... the next Code Section which deals with actually the
10 exceptions of section 17-25-50 which deals with the issue considered closest, the
11 closely connected offenses as one offense and that would just simply be one ... one
12 item that we thought in terms of this particular prosecution that there was some
13 similarities to ... to some issues that ... that we thought, at least the court is very clear
14 about as it relates to prosecution under the Statute. If I recall correctly, the basis for
15 the State's decision to ... to serve Notice was a prior conviction from Georgetown
16 County involving this same Defendant or this same victim, was not actually a
17 conviction but it was a guilty plea involving this same Defendant or same victim for
18 the same offense.

19 THE COURT: Different times.

20 MR. BARR: Different times.

21 THE COURT: The one we tried ... the one we tried here occurred in
22 '98. The one that was tried in Georgetown County occurred about nine months later
23 in '99.

24 MR. BARR: Well, I ... I think that that ...

25 THE COURT: And that one was pled first.

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1 MR. BARR: Yes. Well, and of course I'm not going to say different
2 times because quite frankly we're arguing against that because given the time, the
3 sequence and ... and the fact that you're dealing with the same victim, it was my
4 understanding that even the law enforcement officers got confused as to what or
5 where the incident occurred and ... and of course I realize that as far as the indictment
6 is concerned which was the dates that we actually looked at, but I believe even the
7 one, the incident from Georgetown County the Defendant pled guilty to that, the
8 offense having occurred perhaps in November.

9 THE COURT: I believe that's right.

10 MR. BARR: I believe of '99. And this involves August ...

11 THE COURT: I think it was November of '98 and August of '99.

12 MR. BARR: Yes, sir.

13 THE COURT: Are the two alleged offenses.

14 MR. BARR: And of course, Judge, under the circumstances we would
15 certainly take the position that ... that with respect to the parties, with respect to the
16 various allegations surrounding these two events that they ... they certainly could
17 easily be looked upon as one as opposed to two separate incidents.

18 THE COURT: Under 17-25?

19 MR. BARR: Under 17-25. Now, of course, Judge, that still leaves the
20 issue of aside from the 17-25 the appropriate, the application of the Statute, that is
21 the application to consider the Statute and I realize that there has been a number of
22 ... of issues raised concerning the constitutionality of the Statute itself and it would
23 clearly say that under the Supreme Court earlier ruling they pretty much established
24 that on its face that Statute as generally applied would certainly be constitutional so
25 ... but at the same time given a proportion of the criminal sanctions that have been

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1 proposed against this Defendant. We would seriously question the constitutionality
2 of the Statute as well. The other item, Your Honor, would be the Court's ruling
3 which we described in our Motion as a ruling on July 12th, 2007. And Your Honor, if
4 ... if memory serves me correctly, I think that was ... that was the ruling by the Court
5 whereby we requested by way of a Motion in Limine that the Defendant be at least
6 put on notice or specifically informed concerning what convictions and/or prior bad
7 acts he would get impeached with if he took the witness stand. And of course
8 if I recall the Court's ruling was that it would only be after he took the witness stand
9 that he would find out or that you would rule on ... on the ... the application of ... of
10 the prior convictions and/or prior conduct to impeach the Defendant. And certainly,
11 Judge, that in my humble opinion was ... was an issue that severely chilled any intent
12 that we may have had to put the Defendant on the witness stand. Certainly any
13 decision that he may have made to take the witness stand pertaining to this not
14 knowing what his fate would be.

15 THE COURT: Let's talk about that for a moment.

16 MR. BARR: Yes, sir.

17 THE COURT: When you cross examined the victim very, very
18 vigorously a lot of that cross examination or I would say the bulk of that cross
19 examination was directed at what I'm just going to call the Georgetown County
20 incident, the one that Mr. Taylor pled guilty to before Judge Cottingham. Now, you
21 had ... and you were ... you were ... and it was incumbent on you to do it, you had to
22 attack the victim's credibility by going into the Georgetown County incident and
23 would you be telling me that if Mr. Taylor took the stand that Ms. Barr would not
24 have been able to say, hey, he pled guilty to it? After all this back and forth question
25 and answer, challenging the victim's testimony, you're telling me that Mr. Taylor

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1 would not have been subject to cross examination on that?

2 MR. BARR: Judge, clearly I think he would have actually have been
3 subject to cross examination and we weren't too much concerned about that. In fact,
4 I won't get into collateral proceedings but as I understand it, there is a ... there is a
5 Post Conviction proceedings that was proceeding at the very time that addresses the
6 circumstances under which the ... the plea in Georgetown was actually made and for
7 that reason while it could have been used as perhaps being potentially devastating
8 because the Defendant could clearly have been asked the pointed question of whether
9 or not he actually pled guilty in Georgetown but then on the other hand, he could
10 have given an explanation concerning that guilty plea. And of course, I don't know
11 that the jury not being deprived of his explanation that could have very well have
12 taken whatever position they would have made regarding whatever weight they
13 would have decided to give to that evidence. So at the end, I think clearly there is
14 cause, there is some consideration on both sides but I think in this particular situation
15 the Defendant would almost have to compel to explain and I think he could have
16 explained exactly the circumstances surrounding the guilty plea in Georgetown but I
17 really don't ... I don't ... I don't think that his having to on cross examination would
18 not have been in his best interest. Judge, I think that's pretty much by way of the
19 Motion, that's pretty much the issue. Thank you, sir.

20 THE COURT: All right. As part of your Motion under Section 17-25-
21 45 and 50, one thing that I want to address as well. I remember when you made the
22 Motion to Quash under the LWOP notice, one of your Motions was over a statute.

23 MR. BARR: Yes, sir.

24 THE COURT: At the time I ruled on that I indicated that in the
25 context of facts of our case that reasoning didn't apply because in my mind these two

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1 incidents November and the August did not occur so closely in time that they should
2 be considered as one incident. One thing that perhaps we did not fully address at the
3 time of the ruling is State v. Gordon which, it was a Supreme Court case that causes
4 a fair amount of people to scratch their head, that's 588SCsd105. And I don't know
5 whether its dicta or whether it is part of the holding, but my conclusion at that time
6 was it was basically a commentary. In that case, the Defendant was convicted of
7 trafficking in crack cocaine and was sentenced to 30 years in prison. The State had
8 requested life without parole because of some prior ... or a prior conviction for a
9 most serious offense. And the Supreme Court said ... if I can find the quote ... "We
10 find the Recidivist Statute was aimed at career criminals, those who have been
11 previously sentenced and then commit another crime, not as those whose recidivist
12 status premise solely upon acts which occurred at times so closely connected in the
13 point of time that they may be considered as one offense." And that's when the
14 Supreme Court said according to this we hold 45 and 50 actually together in any
15 given case. It was my view at that time that these two events did not occur so closely
16 in time to trigger that language. I don't know if Ms. Barr would respond to this. By
17 the way, the Legislature in July of last year tagged on a sentence at the end of
18 subparagraph F of 17-25-45 that to me tells me the Legislature was trying to overrule
19 State v. Gordon. Then we get back into separation of powers ...

20 MR.BARR: Yes, sir.

21 THE COURT: ... but that Amendment to the Statute doesn't apply to
22 this case at all because it was passed well after the alleged incident and well after the
23 Indictment.

24 MR. BARR: Judge, of course, if you remember, we had ... we had
25 quite a bit of discussion about that. Basically, from the standpoint that the

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(803) 436-2150

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1 Georgetown County incident was actually ... the Williamsburg County case was
2 actually before it.

3 THE COURT: Yeah, and that takes me to the drug case. The drug
4 cases say for enhancement purposes. I think the case is State v. Waites. But for
5 enhancement purposes it doesn't matter ... you can get tried for the third one first ...

6 MR. BARR: Yes, sir.

7 THE COURT: ... then the other two, the prior two next and you are
8 still ... when you try the next two that occurred before the third ... I know I'm totally
9 confusing everybody now, but the order of offenses does not impact the enhancement
10 impact from the drug case. Ms. Barr, would you like to respond to this first
11 argument that concurrent sentences should have been imposed?

12 MS. BARR: Yes, Your Honor, if I may. May it please the Court,
13 Judge. Obviously this was an appropriate sentence particularly taking into
14 consideration all of the evidence that was presented during the course of the trial.
15 Taking into consideration the victim impact statement as well as the statement
16 regarding prior incident in Georgetown County. Your Honor, given the role that the
17 Defendant played in the lives of his victims, how that role allowed him to access two
18 of his victims and how there were allegations in this case as well as victims in the
19 Georgetown County case that the crimes occurred during church functions. The
20 State given the facts in the Georgetown County case as well as our case, I think
21 certainly is supported by the facts of the case ...

22 THE COURT: Just for the record while we're on that point, would you
23 ... I know the record shows Mr. Barr, and Mr. Taylor, but Ms. Barr, if you would
24 state for the record the folks that are with you. The victim and the parents, if you
25 would state that for the record

HEARING

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1 MS. BARR: Your Honor. If it please the Court. **VICTIM** is
2 here. His parents Mr. and Ms. are here.

3 THE COURT: All right. So noted for the record. All right. The
4 second point that he raised was I guess was the readdressing the directed verdict
5 motion.

6 MS. BARR: Your Honor, please the Court. To protect the record, the
7 State would first of all take the position that ground two of his Motion for
8 Reconsideration, the law requires we make a specific motion before the Court stating
9 the grounds. On each ground, we have done that, Your Honor. In the event ---
10 Secondly, assuming that is true, it is properly preserved. Judge, we would allege that
11 there is certainly enough evidence from the victim in and of itself that a crime was
12 alleged and in fact had occurred. In addition, I recall that counsel and the Court, in
13 chambers and on the record, heavily discussed the issue involving venue and what's
14 required to prove venue and the Court was satisfied with what the State was required
15 to prove beyond a reasonable doubt. Your Honor, while we recognize defense
16 Motion for a Direct Verdict particularly regarding the issue of, in terms of what
17 statements were required to proof. Your Honor, it is our position that any evidence
18 was enough to have the case submitted to the jury, so I believe that denying the
19 defense Motion for Directed Verdict should stand.

20 THE COURT: How about the argument he makes that the LWOP
21 Notice should be quashed because if these two events were one continuous event for
22 the purpose of recidivism.

23 MS. BARR: Judge, of course, we just take the opposite view. I think
24 when you look at cases that interpret Section 17-25-45, the LWOP Statute, I think it
25 talks about cases where you have sort of a crime spree going on. If you have

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1 someone go and rob one convenience store and then an hour later goes and robs
2 another convenience store, then an hour or two hours later goes and kills somebody.
3 I think that is the continuing course of conduct that the case law references when it
4 talks about the inapplicability of the LWOP Statute. You also have as in State v.
5 Gordon, you had a situation where someone is alleged to have committed the crime
6 of conspiracy to traffic on September, somewhere between September the 19th and
7 the 23rd and then five days later they have been accused of committing the offense of
8 trafficking within that period and I think the argument was made in State v. Gordon
9 that because that is a continuing course of conduct it should be treated as one event
10 for the purpose of invoking that one Statute and they made it inapplicable. Judge,
11 this is clearly not the case in our ... in our situation. We had a I believe it was an
12 eight or nine month time frame between the first incident that happened in
13 Williamsburg County in 1998 and the second incident that happened in August of
14 1999 in Georgetown County. It was in complete separate counties, it was under
15 complete different circumstances and I don't think that that particular argument is
16 appropriate in this case. I mean it clearly wasn't a continuing course of conduct. The
17 victim testified that he actually didn't have any contact ...

18 THE COURT: But under ... but under Lyle, the reason I let the
19 evidence in of the prior incident under Lyle was that because of the way the case law
20 breaks down on child sex offenses that if it involves the same victim, under Lyle it's
21 looked at as part of a common scheme or plan. There is certainly no case on point
22 but it is my ruling that it is one common scheme or plan for Lyle purposes, does that
23 require me to find that it's one continuous event for sentencing purposes?

24 MS. BARR: Judge, I don't think so. I think there are two separate
25 issues. I believe that one of ... the primary reason the Court allowed the second

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1 incident to come in as evidence is because it showed that it was the same victim, it
2 happened at a church sponsored function, the assault began the same way, it ended
3 the same way. It is a situation where the victim was isolated from other folks to
4 allow the assault to take place. I think it's been different. And also I believe that
5 there is ... there is case law that allows in evidence of subsequent illicit conduct
6 between the Defendant and the victim in the child sexual assault case. So, I think
7 that the Court allowed that in properly under Lyle and under the case law that allows
8 in subsequent illicit conduct between the parties but I definitely think it's certainly a
9 different issue when it comes to sentencing in the Life Without Parole Statute. I
10 think the Life Without Parole Statute in order to make it inapplicable here for
11 example, if you had a situation where on this camping trip he assaulted the child that
12 night and then got up the next morning and assaulted the child again or on the way
13 home assaulted the child again, I think that that would create a better argument or a
14 more solid argument that the Life Without Parole Statute didn't take place because it
15 was along the continuing course of conduct as opposed to a common scheme or plan.
16 But, I think when you have a nine month delay between the assault where the victim
17 and Defendant didn't see each other at any point in time during the time period which
18 the assault took place, I think it's a different thing. I think it's a highly different
19 matter.

20 THE COURT: All right. The ... is that all you want to say on that
21 point? On the quashing of the LWOP Notice for the one continuous event argument?
22 I haven't gotten yet to the ... to the latter part of that analysis but on the argument Mr.
23 Barr advances that these two incidents should be considered one continuous event,
24 anything else you have on that point?

25 MS. BARR: No, Your Honor.

HEARING

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1 THE COURT: His next point was my refusal to give an advance
2 ruling, I'll call it, on whether on how I was going to let Mr. Taylor be cross examined
3 insofar as his criminal record is concerned. His prior criminal record.

4 MS. BARR: Your Honor, I ... as I understand the law, the Court is not
5 required to issue an advisory opinion and I think that rulings that we see regarding
6 Motions in limine in past situations where cases are appealed, one of the things that
7 the Appellate Court require is that if you get a preliminary ruling on a Motion in
8 limine, you're not protecting the record. You actually have to bring the Motion again
9 once the evidence is offered to preserve it for appeal. So, you know, one of the
10 things that I would tell the Court is that first of all, if Your Honor had issued an
11 advisory opinion it's not binding because it hasn't been ruled on officially as far as the
12 trial is concerned. Second of all, it appears that Mr. Taylor would want to have his
13 cake and eat it, too. You know, you ... you made an interesting point when you
14 suggested, you asked a question whether or not the defense had during the course of
15 their cross examination of the victim and through closing argument they refer
16 repeatedly to this Georgetown County incident for which we have a conviction.
17 Now, although I understand there is a Post Conviction Relief Action pending, as far
18 as we're concerned today as we stand in the courtroom he still has a conviction for
19 that. Unless ... unless and until some other Court determines that that's no longer the
20 case it's still a conviction.

21 THE COURT: Well, if ... if the case law is that if somebody has been
22 convicted of a crime, let's just say it involves dishonesty so it would be
23 automatically admissible for impeachment purposes without the prejudicial impact
24 analysis, the person who is on the stand getting impeached would have the right to
25 say yes, but that's under appeal. I don't know whether the case law would say yes,

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1 but that's subject to a Post Conviction attack right now. I don't know what the
2 answer to that question is.

3 MS. BARR: Yes, sir.

4 THE COURT: But, you're saying that ... that ... I assume you're saying
5 that my ruling was correct in not giving an advance ruling on that.

6 MS. BARR: I don't think that the Court would be required to give an
7 advance advisory opinion regarding the issue that come into evidence. I think that the
8 Defendant as well as the State has to offer the evidence before a ruling is required
9 and you will see that one of the things that I thought about was ask the question of
10 whether or not if it was even a issue in the course of the trial and in closing
11 arguments if the Defendant had got on the stand would I then not be allowed to cross
12 examine him regarding the fact that he pled guilty and Mr. Barr's response to that
13 was, "Well, you know, he may have been able to offer an explanation for that." And
14 I don't know that ... that he would have ... could have offered an explanation that
15 didn't implicate the other guilty pleas because he had two other guilty pleas to child
16 sexual related offenses to two other victims and, you know, we see it in this
17 courtroom and the courtrooms across the state where you have Defendants who have
18 multiple charges pending and they'll put it up in a lump sum and plea to all of them
19 just to dispose of all them, that happens every day. But, how he could have offered
20 an explanation that didn't implicate the other crimes would ... which would have been
21 if not more prejudicial then at least as prejudicial as the crime that he's committed ...
22 convicted of committing against this child.

23 THE COURT: And you're talking about the lewd act convictions on
24 two other victims?

25 MS. BARR: That's correct. That's correct. In addition, Your Honor,

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1. and again, to protect the record it appears that ground for the Motion for
2 Reconsideration may not properly be preserved because it doesn't state a factual basis
3 for that Motion itself. That would be my response regarding those issues.

4 THE COURT: How about the ... well, let's go back. There's a PCR
5 case, Mr. Barr, called Koon v. State, K-O-O-N, came out this year. I don't know how
6 far long before the trial but in that case, the Defendant requested a Post Conviction
7 Relief in a three strikes case, not a two strikes case but a three strikes case. He had
8 been convicted for grand larceny and burglary, 2nd, which is serious, that's serious.
9 Except he's three strikes. Prior to that he had been convicted of burglary for events
10 that occurred March 13th, March 14th, and March 28th in '70, excuse me, '86. The
11 Supreme Court said that the March 13 and March 14 burglaries were one. The
12 March 28th burglary which occurred 14 days later was far enough away in point in
13 time to be a second separate event. Of course, these were different victims. I know
14 your argument is that this is the same victim so therefore it should be considered as
15 one. How about, Ms. Barr, the State v. Gordon statement that I read earlier that says,
16 "We find that the Recidivist Statute is aimed at career criminals" ... which it doesn't
17 define what a career criminal is ... "those who have been previously sentenced and
18 then commit another crime" ... well, maybe that is a definition ... "not at those whose
19 recidivist status is premised solely upon acts which occurred in time so closely
20 connected." How do you look at that first part of that sentence that says, "We find
21 the Recidivist Statute is aimed at career criminals, those who have been previously
22 sentenced and then commit another crime"?

23 MS. BARR: Judge, I think you have to look at the first part of the
24 sentence in conjunction with the second part of the sentence. I think that that's the
25 only way that you can reconcile the two because that particular case does not define

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1 what a career criminal was. Is a career criminal a person who commits multiple
2 crimes and ... and is convicted? Or is a career criminal a person who commits
3 multiple crimes and hasn't been adjudicated on them? So, I think that the only way
4 that you can look at that logically is by looking at the second part and it says that ...
5 that not one who is charged with a crime that is committed so close or is so closely
6 connected in point of time as to come within the purview of Section 17-25-50. I
7 think that's the only time that that's the only way that you can reconcile the two. I
8 think Gordon stands for the proposition if you have someone who goes through a
9 crime spree so to speak, that the Court will not look at crimes most serious or serious
10 crimes that are committed during that spree as a prior conviction. I think that's
11 probably the only way to reconcile that particularly when they invoke the provisions
12 of 17-25-50 and clearly when you look at 17-25-45 it talks about convictions as
13 opposed to the date that these incidents occurred and there is no doubt that on the
14 date that we tried this case in Williamsburg County the Defendant had a conviction
15 for a most serious offense.

16 THE COURT: Okay. Ms. Barr, are you familiar enough to know
17 what the PCR proceeding? Are you familiar with that at all? If that application is
18 granted for whatever error that may have occurred to nullify that conviction and send
19 it back for further proceedings, that would affect these ... this sentencing as well,
20 right?

21 MS. BARR: I absolutely agree with that, yes, Your Honor.

22 THE COURT: All right, Mr. Barr, anything you would like to say in
23 response to ...

24 MR. BARR: Judge, just first of all, and I'll take these in chronological
25 order. The issue regarding what Ms. Barr referred to as advisement of opinion, of

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1 course, I think that in ... in an interrogatory kind of situation where you're trying the
2 case, she has equated what would otherwise be a ruling concerning the conduct of the
3 trial with what would otherwise amount to ultimate judgement involving the case so I
4 don't see if ... if ... if what we asked for in limine would ... would be considered an
5 advisement of opinion of course, you know, clearly the trial process would probably
6 not be able to take place as we currently expect it to do. However, in this case, I
7 think that it's a moot issue because the issue of the Defendant taking the witness
8 stand, that issue would address by way of the conduct of the trial at the time that ...
9 that the issue came up again. So clearly I think the record speaks for that so it's not a
10 situation where we asked for it in advance expecting some kind of ruling and never
11 to revisit the issue again when it actually came up at the time that the Defendant
12 would have otherwise been in a position to take the witness stand. The second thing
13 is, you know, I'm a little bit kind of stunned by the State's position that ... that
14 logically finds the aspect of the LWOP Statute which deals with ... with ... with the
15 policy reason for ... for trying to handle the issue of recidivism. The ... clearly based
16 on the Court's statement or holding or I certainly wouldn't want to call it dicta, but
17 the object is it's a positive consideration. And in this case it almost amounts to expo
18 facto kind of situation where in this context you have a person that's being punished
19 or receiving additional punishment when in fact they have not done anything
20 subsequent to the time that ... that their actually on trial for an offense that has taken
21 place. So, clearly I think what you have is a situation where you are kind of reaching
22 back and ... and punishing by way of enhancement conduct that perhaps

23 THE COURT: Happened first?

24 MR. BARR: Sir?

25 THE COURT: Conduct that happened first.

HEARING

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1 MR. BARR: Yes, sir. Conduct that happened first. And for policy
2 reasons, Judge, I just think that that ... that ... that is absolutely against policy.

3 THE COURT: All right. I just want to make sure I ... I want to make
4 sure I state this correctly, Ms. Barr. I'm sure you and Mr. Barr will correct me. The
5 ... not the offense that was tried here occurred in 1998. The offense that resulted in a
6 plea in Georgetown occurred in 1999. The victim in both cases was the same 11 year
7 old boy. In 2006, the Defendant pled in the Georgetown County case and that was
8 most serious strike one. He got served thereafter by Ms. Barr ... you didn't challenge
9 the fact of service?

10 MR. BARR: No, sir.

11 THE COURT: He was served with the LWOP Notice for the
12 Williamsburg County case and the jury trial or the jury in this case on July 12th, 2007
13 returned a guilty verdict and it was my finding at the time that the Life Without
14 Parole Statute mandated that I sentence him to life. I think that's a correct statement
15 of the order we have in this case. Now, Ms. Barr, how about Mr. Barr's argument on
16 the reverse order of these convictions? In other words, Georgetown County
17 happened the second but he pled first. You may have already addressed that.

18 MS. BARR: Judge, I don't know that I did. But, if I did I'll certainly
19 address it again. Your Honor, the Statute that invokes Life Without Parole doesn't
20 make any mention of the dates in which the crimes were committed. For the
21 purposes of jurisdiction on the LWOP Statute, it only concerns convictions, not
22 admission date. In addition, Judge, mention some of the drug case and of course, I
23 know that they're not on the point so to speak but, some of the drug cases that we
24 have and looking at Waiter v. State, Supreme Court Opinion handed down in
25 February of 2007, that was a situation where someone was charged with a drug

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1 offense on one day. Two days later they get arrested for another drug offense and of
2 course there is no disposition of that charge between the first and the second. So, the
3 Defendant pleads guilty of one. You have the second one where the State is ... has
4 indicted it for a second offense and the Court determined that that's admissible, that
5 for purposes of that Article of the South Carolina Code of Law it doesn't matter when
6 the crimes were committed. It only matters when the conviction was handed down.
7 And certainly I would take that position in this case. I think to allow the opposite
8 view you really have to put prosecutors and law enforcement in a position if you
9 have a Defendant who commits crimes in multiple states over a period of years we
10 almost have to coordinate the trial of those cases so that that wouldn't be a problem.
11 That's almost impossible to have happen. In this case, although the Williamsburg
12 County case occurred first in time, these case did not come to the attention of law
13 enforcement until I believe it was 2003, 2005 and Georgetown County got the same
14 charge. Your Honor may remember there was a long discussion at trial about the
15 delay between the time the Georgetown County Sheriff's Department notified ... was
16 notified and the time Williamsburg County actually took over the case and there was
17 some concern or questions regarding venue. So, of course, that case came to a
18 conclusion when law enforcement reported the Georgetown County case was before
19 Williamsburg. And sometimes things just happen like that. But, I ... I don't believe
20 that the fact that our case happened first in time and the conviction was second in
21 time is of any legal significance. I think that the legislators or legislators intended
22 that the Courts focus on the date the crime was committed as opposed to the date the
23 crime was committed as opposed to date of conviction. Clearly section 17-25-45 talks
24 about convictions and not dates the crimes were committed.

25 THE COURT: Mr. Barr, I guess the last thing I'll mention is my

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1. recollection is is that when ... it may have been right before or during or right after
2. Mr. Taylor and I engaged in the general exchange about whether or not he was going
3. to testify about discussing his Fifth Amendment Rights. I may have just asked a
4. rhetorical question at that time. I don't really recall. If much of the cross
5. examination of the victim has been directed at his credibility in the Georgetown
6. County incident, how would I not allow Mr. Taylor to be cross examined on whether
7. or not that was a conviction. I think you ... you responded to that by saying that yes,
8. even if he could have been cross examined on that point he would have been able to
9. say but there is Post Conviction Relief application pending. And I don't know
10. whether I would have let it go any further than that if I'd have let that in but, is there
11. anything else that either side would like to put on the record at this time?

12. MR. BARR: No, sir, Judge. The only thing that I would say and this
13. is in response to something else that Ms. Barr raised in her final argument. Again,
14. the ... this ... this ... the issue of the LWOP Statute from the policy. It's not
15. substantively controlled by prosecutorial discretion. It's an issue that actually is
16. directly intact with the sentencing authority of the presiding judge. So, to simply say
17. well, this would cause confusion among the various jurisdictions, I mean, clearly
18. that's instead of rational, that's irrational because it would from the standpoint of
19. when a prosecutor would decide to prosecute it would make no difference. Once it in
20. fact is a conviction then that issue would be something that would be addressed by
21. the sentencing judge at the appropriate time that the conviction occurred.

22. THE COURT: All right.

23. MR. BARR: Thank you, sir.

24. THE COURT: Thank you, Mr. Barr. Thank you, Ms. Barr. I'll ...
25. what I'm going to do in this case is prepare an Order and send it to both of you after

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1 it's been filed. All right?

2 MS. BARR: Thank you, sir.

3 THE COURT: Thank you.

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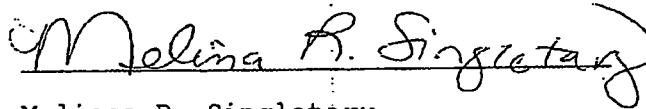
THIRD JUDICIAL CIRCUIT
(803) 436-2150

CERTIFICATE

This is to certify that the hearing in the matter of State vs. Robert Troy Taylor, consisting of Twenty-Two pages is a true and correct transcript; said hearing was reported by the method of Stenomask with Backup.

I further certify that I am not employed by any of the parties in this matter or their counsel; nor do I have any interest, financial or otherwise, in the outcome of same.

IN WITNESS WHEREOF I have hereunto set my hand and seal this 23rd day of October, 2009.



Melissa R. Singletary
Certified Court Reporter

Notary Public for South Carolina
My Commission Expires: 3-5-2014

STATE OF SOUTH CAROLINA
COUNTY OF WILLIAMSBURG

FILED

IN THE COURT OF COMMON PLEAS
THIRD JUDICIAL CIRCUIT

Robert Troy Taylor, #315084, SHARON W. S. JUDGE 2015-CP-45-037
Applicant CLERK OF COURT

v.

KINGSTREE, S.C.

State of South Carolina,
Respondent.

**ORDER GRANTING APPLICATION
FOR POST-CONVICTION RELIEF**

2016 FEB 24 AM 11:40
JENNIFER W. ROBBINS
CLERK OF COURT
KINGSTREE, S.C.

This matter comes before the Court pursuant to Robert Troy Taylor's Application for Post-Conviction Relief filed on December 31, 2014, and amended on October 14, 2015. The State filed its Return on June 8, 2015.

Taylor is presently confined in the South Carolina Department of Corrections and is serving a life sentence without the possibility of parole for kidnapping and second degree criminal sexual conduct with a minor. The Honorable George C. James, Jr. presided over Taylor's jury trial, which began on July 10, 2007. Charles David Barr represented Taylor at trial.

Taylor appealed from his conviction, and Jeremy A. Thompson represented Taylor on appeal. On June 6, 2012, the South Carolina Court of Appeals affirmed Taylor's convictions and sentence. *State v. Taylor*, 399 S.C. 51, 731 S.E.2d 596 (Ct. App. 2012). Taylor then sought certiorari to the South Carolina Supreme Court, but his petition was denied. His case was remitted on April 7, 2014.

Since that time, Taylor filed this post-conviction relief action, and an evidentiary hearing was held on November 19, 2015, at the Sumter County Courthouse. Taylor was present and represented by Tricia A. Blanchette. Assistant Attorney General Daniel Gourley represented the State.

[Signature]

After carefully considering the testimony and exhibits presented during the evidentiary hearing, the records of the Williamsburg County Clerk of Court, the trial transcript, the appellate court filings, and the Appendix from Taylor's Georgetown County conviction, Taylor's application for post-conviction relief is granted for the reasons that follow.

FACTUAL BACKGROUND

The Court of Appeals provided this succinct explanation of the allegations against Taylor:

Taylor was the pastor of the church Victim attended in Murrells Inlet, South Carolina. In November 1998, when Victim was 11, Taylor organized a camping trip with Victim and a group of six or seven boys from the church. Taylor took the boys to an area "just outside [the city of] Andrews" on Highway 521 and the group hiked about a mile into the woods to a campsite "right next to the Black River." Taylor and the boys set up a tent and a large tarp, made a fire, and cooked food. At approximately 11 p.m., the boys retired to their sleeping bags under the tarp. Later that night, Taylor woke Victim, placed his hand over Victim's mouth, and carried him to the tent. Once inside the tent, Taylor removed Victim's clothes and forced Victim to touch his penis and anus. Taylor also touched Victim's penis and anus. Next, Taylor raped Victim. After raping Victim, Taylor instructed Victim not to reveal the rape to anyone and returned Victim to his sleeping bag. Taylor slept next to Victim and held him throughout the course of the night.

State v. Taylor, 399 S.C. 51, 55, 731 S.E.2d 596, 598-99 (Ct. App. 2012).

This allegation will hereinafter be referred to as the "Williamsburg County incident," and it is the crime for which Taylor is serving a life without parole sentence and from which he seeks post-conviction relief.

As with many cases involving allegations of child sexual abuse, Victim did not disclose the Williamsburg County incident until many years later, when he was seventeen years old. On June 1, 2005, Victim provided the following written statement to the Georgetown County Sheriff's Office:

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Sometime between February and April LC3 Youth Groups went on a camping trip to Andrews, S.C. It was very cold outside and it rained a little bit. My friend Charles Harrison asked me if I wanted to go. We went back in the woods about a mile and a half. There were corn fields all around with two houses on either side of the street. We set up camp around like 7:30 PM. We made a bon fire and then went to bed around 11:00. About 2 to 3 hours later Troy woke me up by putting his hand over my mouth and telling me to be qui[et]. He took me to a sep[a]rate tent and started touching my penis. He was honestly rubbing and fondling it. He did this for like 30 minutes continuously touching me. I told him to stop numerous times he just told me to be qui[et]. After that he took me back to the other tent and made me sleep beside him. I g[ue]ss so I wouldn't say nothing. I'm not really sure if anyone saw anything but if they did Zack Webster or Charles Harrison would be the ones that saw.

Six months after disclosing the abuse from the 1998 Williamsburg County incident, Victim disclosed another incident of abuse at the hands of Taylor. This incident occurred in 1999 in Georgetown County. The Court of Appeals described it as follows:

In August 1999, Taylor and a few other adults from the church organized a trip to the beach. After leaving the beach, the group returned to the church to use the showers. Once all the showers were occupied, Taylor asked Victim and another boy if they would like to use the showers at his house. Victim and the other boy accompanied Taylor to his home near the church. While Victim was showering, Taylor entered the bathroom, removed his clothes, and entered the shower. Taylor forced Victim to touch his penis and Taylor touched Victim's penis and anus. Next, Taylor raped Victim. After raping Victim, Taylor instructed Victim not to divulge the rape to anyone. Taylor drove Victim and the other boy back to the church.

State v. Taylor, 399 S.C. at 55-56, 731 S.E.2d at 599.

Taylor pleaded guilty in Georgetown County to this 1999 incident on April 20, 2006.¹ The Honorable Edward B. Cottingham sentenced Taylor to eight years', suspended to five years of active time and three years' probation.

In March of 2007, approximately four months before Taylor was tried for the 1998 Williamsburg County incident, the State served Taylor with a notice of intent to seek a sentence of life without the possibility of parole pursuant to section 17-25-45 of the South Carolina Code. The State relied on Taylor's 2006 Georgetown County conviction for second degree criminal sexual conduct to enhance Taylor's punishment.

At Taylor's trial, the State moved to strike the first jury that was selected, arguing that defense counsel had used eight out of ten strikes against white jurors. The trial judge found that defense counsel violated *Batson v. Kentucky*, when he struck juror number 146. Mr. Barr purportedly struck her because she was too educated, yet he sat a black, female juror with more education than juror number 146. A new jury was then selected, and juror number 146 was seated on the jury that convicted Taylor.

At trial, the State called four witnesses: (1) Gayle Allen Cooke of the Durant Children's Center, who was qualified as an expert in the field of counseling and treatment of childhood sexual abuse; (2) Victim's mother; (3) Victim; and (4) Sergeant Laura Rogers of the Williamsburg County Sheriff's Office. Ms. Cooke testified generally that a person who has been abused as a child may be withdrawn and have suicidal tendencies. She further explained that it was "pretty normal" for abused children to turn to alcohol or drugs and that it was very common for them to have difficulties with the law. She also testified that 69% of child victims wait to

¹ Taylor also pleaded guilty to two counts of lewd act on a minor, which appear to stem from this same incident although the record is not entirely clear.

disclose abuse until adulthood. On cross-examination, she admitted that she had never met Victim and did not know if he was sexually abused.

Victim's mother testified that her son attended the church camping trip in November 1998, when he was 11. She further testified that at the age of 14, Victim began abusing drugs and alcohol, and at some point prior to disclosing the abuse, he attempted to kill himself with an overdose of Xanax. On cross-examination, defense counsel asked Victim's mother a series of questions about the location of the camping trip, apparently attempting to demonstrate that she did not have firsthand knowledge that the campsite was located in Williamsburg County. (p. 90-92) Counsel also elicited testimony from her that Victim's behavior was not noticeably different between the ages of eleven and fourteen, when Victim began abusing drugs and alcohol.

Victim's mother also admitted that she and her husband (Victim's father) were experiencing a "little bit" of marital difficulty when she "started noticing [Victim's] somewhat unwholesome behavior."

Victim, who was 19 years old at the time of the trial, also testified, describing both the 1998 Williamsburg County incident and the 1999 Georgetown County incident. Victim testified that after being abused, he was too scared to tell anyone. At 14, Victim admitted he began smoking marijuana, and a year later, he began drinking alcohol. He testified that he did this in an effort to drown out memories of the abuse, and by the age of sixteen he graduated to more serious drugs, such as cocaine and pills. At the age of 17, he took nine Xanax pills because he wanted to hurt himself. After that, Victim testified he told a male friend about being abused by Taylor as a child. Victim then disclosed the 1998 Williamsburg County incident to law enforcement, and six months later, he disclosed the 1999 Georgetown County incident. Victim specifically identified the location of the campsite as being in Williamsburg County. On cross-

examination, defense counsel pointed out discrepancies between Victim's initial statement and his testimony in court. For instance, defense counsel pointed out that Victim first identified the trip happening sometime between February and April, yet testified it happened in November only after finding a church bulletin listing the actual date of the youth camping trip. Defense counsel also questioned Victim about whether the other boys saw Taylor waking up next to Victim, and Victim acknowledged that they did but none of them said anything. Victim also testified that Taylor did not bring his son on the camping trip.

The State's final witness was Sergeant Laura Rogers, a victim's advocate for the Williamsburg County Sheriff's Office. She testified that the incident occurred in Williamsburg County, and at the time of the incident, Victim was 11 years old and Taylor was 39 years old. On cross examination, defense counsel focused on the location of the incident, pointing out that the Black Ricker runs through both Georgetown and Williamsburg counties.

The defense called one witness, Trevor Morton. Mr. Morton is Taylor's nephew and participated in the camping trip. According to Mr. Morton, he slept next to Taylor under the tarp, and Taylor had his three- or four-year-old son with him, sleeping in the same sleeping bag. Mr. Morton testified that he knew Taylor remained next to him all night because Mr. Morton did not sleep well due to being cold and feeling scared from the ghost stories told earlier in the evening. Mr. Morton confirmed that another tent was set up, but testified that the tent had everyone's gear stored in it. Mr. Morton did not remember Taylor sleeping next to Victim, nor did he remember anything unusual happening that night. On cross-examination, the State pointed out that Mr. Morton loved his uncle and did not want anything bad to happen to him. After Mr. Morton's testimony, the defense rested.

Defense counsel successfully requested that the trial judge charge the jury on the issue of venue, so that issue would be part of the jury's deliberation. As a result, counsel spent a fair amount of time arguing venue in his closing statement, though he also questioned the victim's credibility in an effort to create a reasonable doubt. Ultimately, the jury convicted Taylor, and the judge sentenced him to life without the possibility of parole.

Taylor appealed his convictions and essentially argued the trial court erred in four respects: (1) granting the State's *Batson* motion, (2) allowing Victim to testify about the 1999 Georgetown County incident, (3) denying Taylor's motion for directed verdict because venue had not been established, and (4) sentencing Taylor to life without parole when the substantive facts of the predicate offense were admitted at trial as common scheme or plan evidence. The South Carolina Court of Appeals affirmed Taylor's convictions, and the Supreme Court denied certiorari.

Taylor filed this post-conviction relief action and raised the following allegations:

1. Trial counsel failed to prepare and investigate prior to trial, which resulted in a failure to present a reasonable defense at trial. Specifically, Taylor alleges trial counsel: (a) failed to investigate the scene and be aware of the location of the alleged incident; (b) pursued an unreasonable defense by focusing on venue, when minimal investigation revealed venue was proper and when the issue of venue is one for the trial court, not the jury; (c) failed to even speak to potential witnesses prior to trial; and (d) called only one of several possible favorable witnesses at trial without ever having spoken to that witness prior to trial.
2. Trial counsel failed to properly impeach and/or cross-examine the State's witnesses at trial.
3. Trial counsel's handling of Gaye Allen-Cook expert testimony was ineffective. Specifically, Taylor alleges trial counsel failed to: (a) request information regarding her findings prior to trial; (b) object and/or move to suppress her testimony. Alternatively, Taylor argues that post-conviction relief is appropriate based on the newly

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discovered evidence that Gaye Allen-Cook would not have taken the stand for the State if given the opportunity to review the case and would have been willing to assist with the defense of Taylor.

4. Trial counsel failed to preserve for appeal the argument that Taylor should not have been sentenced to life without parole based on a previous conviction for CSC with a minor when earlier in the trial, the trial judge allowed evidence of the previous conviction under the common scheme or plan exception.
5. Trial counsel provided ineffective assistance of counsel in his handling of post-trial motions.
6. Trial counsel and appellate counsel did not provide effective assistance of counsel in their handling of the Batson motion matter at trial and on appeal.
7. Appellate counsel failed to raise all meritorious issues on appeal.

At the evidentiary hearing, Taylor testified along with Gaye Allen Cooke, William Eddie Brown, Chad Bernard, Nick Everett, Lina Taylor, John Pezzullo, Michelle Gallagher, Tonya Morton, Pete Skidmore, Jeremy A. Thompson, and Charles D. Barr. By agreement with the State, the testimony of two other witnesses, Zack Webster and Charles Harrison, was submitted by affidavit. After listening to this testimony, carefully weighing the witnesses' credibility, and reviewing the transcript from Taylor's trial, I agree that Taylor received ineffective assistance of trial counsel and grant his application for post-conviction relief.

LAW/ANALYSIS

"A convicted defendant's claim that counsel's assistance was so defective as to require reversal of a conviction . . . has two components." *Strickland v. Washington*, 466 U.S. 668, 687 (1984). First, the defendant must prove that counsel's performance was deficient, meaning the performance "fell below an objective standard of reasonableness." *Franklin v. Catoe*, 346 S.C. 563, 570-71, 552 S.E.2d 718, 722 (2001); *see also Strickland*, 466 at 687. Second, the defendant

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must demonstrate that counsel's deficient performance resulted in prejudice. *Strickland*, 466 at 687. "To prove prejudice, [the convicted defendant] must show there is a reasonable probability that but for counsel's deficient performance, the result of the proceeding would have been different." *Franklin*, 346 S.C. at 571, 552 S.E.2d at 723. The applicant in a PCR hearing bears the burden of establishing his entitlement to relief. *Suber v. State*, 371 S.C. 554, 558, 640 S.E.2d 884, 886 (2007).

I. Trial Counsel Was Deficient for Failing to Investigate

Taylor argues that trial counsel failed to investigate witnesses and that counsel's lack of investigation fell below an objective standard of reasonableness. I agree.

"Without a doubt, '[a] criminal defense attorney has a duty to investigate, but this duty is limited to reasonable investigation.'" *Ard v. Catoe*, 372 S.C. 318, 331, 642 S.E.2d 590, 597 (2007) (quoting *Thompson v. Wainwright*, 787 F.2d 1447, 1450 (11th Cir.1986)). "[W]hile the scope of a reasonable investigation depends upon a number of issues, 'at a minimum, counsel has the duty to interview potential witnesses and to make an **independent** investigation of the facts and circumstances of the case.'" *Id.* at 331-32, 642 S.E.2d at 597 (quoting *Troedel v. Wainwright*, 667 F.Supp. 1456, 1461 (S.D.Fla.1986) (emphasis in original)).

Courts recognize there are as many ways to try a case as there are lawyers. Accordingly, Courts considering an application for post-conviction relief strongly presume "that counsel rendered adequate assistance and exercised reasonable professional judgment in making all significant decisions in a case." *McKnight v. State*, 378 S.C. 33, 43, 661 S.E.2d 354, 359 (2008). So long as counsel can articulate a reasonable trial strategy, he will not be deemed ineffective. *Id.*

Here, trial counsel acknowledged that he never interviewed the other boys who went on the camping trip. Trial counsel claims that his trial strategy was to discredit the victim's testimony in an effort to create a reasonable doubt. If this were so, there is no valid strategic reason why trial counsel would not make some attempt to interview the other boys on the camping trip.

If trial counsel had spoken to the other boys, he may have been able to articulate a valid strategic reason for not calling them as witnesses; however, it is impossible for trial counsel to engage in strategic reasoning without first engaging in some investigation. According to trial counsel, he did not contact the other campers because he had never heard of them. This testimony is either not true or illustrative of counsel's deficient representation.

Had trial counsel properly prepared for this trial, he would have read the victim's statement, which identified Mr. Harrison and Mr. Webster as possible eye witnesses. Additionally, trial counsel received a letter from Taylor in which Taylor named other boys on the camping trip. Furthermore, numerous members of Taylor's family credibly testified that they had provided counsel with the names of the other boys on the camping trip. Indeed, some of the other campers were listed as witnesses on Taylor's pre-trial statement. Accordingly, I find that trial counsel knew of the other campers' identities. I further find that his failure to interview potential witnesses and independently investigate the facts and circumstances surrounding the allegations against Mr. Taylor was objectively unreasonable and was not the result of a valid trial strategy.²

² Taylor argues that trial counsel's strategy was to win an acquittal because the State had failed to prove the crime occurred in Williamsburg County. Taylor argues that such a strategy was unreasonable because (1) the issue of venue is one for the judge, not the jury; and (2) trial counsel would have known the campsite was in Williamsburg County had he engaged in minimal investigation. Taylor called several witnesses who testified that trial counsel discussed



II. Prejudice to Taylor

For a convicted defendant to receive post-conviction relief, he must not only prove that his counsel's performance was deficient, but that the defendant was prejudiced by the deficiency. "Prejudice" in this context means there is a reasonable probability that the result of the proceeding would have been different absent trial counsel's deficient performance. *Franklin*, 346 S.C. at 571, 552 S.E.2d at 723. The PCR applicant bears the burden of proving prejudice, and I find Taylor has met this burden.

At the evidentiary hearing, Taylor provided the affidavits of Zack Webster and Charles Harrison. Taylor also called three young men who were on the camping trip—William Edward Brown, Chad Bernard, and Nick Everett.

Mr. Brown testified that he has known Taylor since Mr. Brown was a child, and he recalled going on the camping trip. He provided vivid details of the trip, which included sleeping side-by-side on a tarp and no tents being set up at the camping site. He recalled Taylor's young son, Griffin, being on the trip and Griffin sharing Taylor's sleeping bag. Mr. Brown recalled waking up early the next morning and getting the fire started. Mr. Brown also remembered telling ghost stories prior to bed and sleeping very lightly. He did not witness anything strange or out of the ordinary. He confirmed that he was never contacted by trial counsel prior to trial and he willingly spoke with Taylor's private investigator prior to the PCR evidentiary hearing. Mr. Brown testified that he would have been willing to testify on behalf of the defense at trial.

this strategy with them, and the trial transcript reflects that trial counsel strenuously argued the issue of venue, particularly in his closing statement. However, at the evidentiary hearing, trial counsel testified that his strategy going into the trial was to discredit the victim and that the issue of venue arose only when the State's law enforcement witness testified uncertainly about the location of the incident. Considering the allegations against Taylor and the sentence he faced of life without the possibility of parole, I find that trial counsel's failure to investigate witnesses was deficient because without such an investigation, counsel was unable to make valid strategic decisions.

Mr. Bernard's testimony was similar to Mr. Brown's. Mr. Bernard testified that he attended Taylor's church and remembered going on the camping trip in question. He recalled some specifics of the campsite, which included sleeping side by side in sleeping bags and no tents being set up at the site. Specifically, Mr. Bernard testified that he had reviewed the victim's statements and disagreed that there was a separate tent set up as victim stated. Based upon his recollection of the campsite, Mr. Bernard believes it very unlikely for the assault to have occurred as the victim described it because all of the boys were sleeping so close together. Mr. Bernard testified that he believes that he would have woken up if Taylor carried away the victim from the sleeping area. Mr. Bernard testified that defense counsel never contacted him prior to trial and that he would have been willing to testify for the defense at trial.

Mr. Everett also testified regarding the camping trip, which he remembered attending as a boy. He testified that he had reviewed the victim's statements and there was no tent set up at the campsite. He testified that nothing out of the ordinary happened during the trip, and he believes he would have woken up if Taylor had arisen during the nighttime because they were all sleeping side by side. Mr. Everett testified that he was not contacted by defense counsel prior to trial and that he would have been willing to testify for the defense if he had been contacted.

Additionally, the affidavits of Zack Webster and Charles Harrison were admitted. Zack Webster testified:

1. I have reviewed the Voluntary Statement of [the victim] dated June 1, 2005, and Voluntary Statement of [the victim] dated November 23, 2005. I have read the trial testimony of [the victim] from the trial of Robert Troy Taylor on July 10-12, 2007.
2. My name is listed in the Voluntary Statement dated June 1, 2005 as possibly seeing the actions at issue. I was on the camping trip on November 6-7, 1998, and I did not witness anything out of the ordinary nor any behavior by Robert

Troy Taylor that was memorable. I do not remember Charles Harrison, who is also listed, on the trip.

3. I do not recall being contacted by Charles David Barr, Esquire, prior to Robert Troy Taylor's trial in July of 2007. I further do not recall receiving a subpoena for July 11th or 12th in 2007. If I had received a subpoena, I would have complied and been present as needed.
4. Prior to being shown the witness list for the State and the defense during the week of November 2nd of 2015 I was unaware that I had been placed on a witness list for either party. I would have been willing to testify for the defense at trial.

(Applicant's Exhibit 1)

Charles Harrison, who the victim identified as being a possible eye witness and who victim claimed had invited him on the trip, testified:

1. I have no memory of attending a camping trip with Robert Troy Taylor and other teenage boys, including [the victim], on November 6-7, 1998 near the Black River nor do I have any memory of witnessing anything as was referenced in [the victim]'s statement dated June 1, 2005.
2. I have verified with my parents that I did not attend the camping trip on November 6-7, 1998 near the Black River.
3. I do not recall being contacted by Charles David Barr, Esquire, prior to Robert Troy Taylor's trial in July of 2007. If I had received a subpoena, I would have complied and been present as needed.

(Applicant's Exhibit 2)

At the trial, the only evidence against Taylor came from the victim, who testified about the Williamsburg County incident and the Georgetown County incident. To refute that testimony, defense counsel called one witness and that witness (Trevor Morton) was related to

Taylor.³ On cross-examination, the State used this familial relationship to demonstrate bias. The other boys on the camping trip were not related to Taylor, and their accounts of the camping trip contradicted the victim's testimony with regard to things like the existence of a separate tent, the absence of Charles Harrison, and whether Taylor slept in the same sleeping bag with his young son. These other boys also expressed doubt that Taylor could have carried the victim away without them noticing. At trial, the case against Taylor was basically the victim's word against the testimony of Taylor's nephew. Had defense counsel called these other, non-related witnesses, the jury may have doubted the victim's story and there is a reasonable probability that the outcome of Taylor's trial would have been different.

III. Additional Issues Raised by Taylor

Taylor raised numerous other issues against both trial counsel and appellate counsel. Each of those issues is addressed in turn below.

A. Batson motion

Taylor alleges counsel was ineffective in the "handling of the Batson motion matter at trial." I agree that trial counsel was deficient, and this deficiency lends further support to my conclusion that counsel was ill-prepared to try Taylor's case; however, I do not find that this deficiency separately prejudiced Taylor.

During direct examination at the evidentiary hearing, Mr. Barr was asked about the reasons he provided for striking juror #146 during the Batson motion. The following testimony was elicited in response:

Q: And can you just kind of explain? I mean were those the reasons why you actually struck her.

³ At trial, Mr. Morton testified that he had not even spoken to defense counsel prior to the day he testified.

A: I didn't want her on the jury. That's why I struck her. I didn't think she would - I didn't - I didn't think she was - Batson is - from the standpoint of trial practice, Batson is the law, but Batson makes a whole lot of lawyers say things that are probably not exactly - and that's just a reality of how it's done.

Q: Uh-huh.

A: And - and anybody that won't admit it don't do it.

Q: Right.

A: But you - you - you decide who you want on a jury and then you develop - now, usually - usually, you know, when you strike somebody, you - you - you usually have a - try to be prepared with a race-neutral reason -

Q: Uh-huh.

A: -- so if you do get a Batson motion from the State that you can justify the strike you were taking.

Q: Right.

A: If I'm not mistaken, there were - there was - there was at least one person that I wanted and, if I had gotten that one person, it would have turned the case.

Q: Right.

A: So I took a chance on getting rid of that lady that I didn't want and maybe playing it along and getting somebody else that I - that I thought that was going to be much more favorable to our position. And when the time - when the time came, in terms of the race-neutral explanation that I attempted to give, Judge - Judge James found it, applying the law - and I agree with the young man who just testified as to the three-prong analysis that the Courts use to decide whether or not Batson has been violated, but the judge decided that Batson was violated. And as - as a result, he made us pick the jury over again.

Q: Did that provide you the opportunity to get the juror that you wanted?

A: No. No, sir.

On cross-examination, the following exchange took place:

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Q: Do you recall the juror that you wanted sat when you said that you struck the other juror trying to get to a juror? Do you recall his name?

A: David Pressley.

Q: And why did you want him sat?

A: He's – he's – he's a friend of mine from Hemingway.
....

A: David Pressley is probably the only person in Williamsburg County that I would call a friend.

This Court finds that Mr. Barr's representation was deficient where he admittedly struck jurors in an effort to seat David Pressley, a friend of Mr. Barr's who Mr. Barr believed would have changed the outcome of the case. As a result of this improper purpose, Mr. Barr struck a number of white jurors and for one of them, juror #146, he provided a non-race neutral explanation. Although a trial attorney's failure to provide a race neutral explanation is not per se deficient performance, where the trial attorney admits that the true reason for striking the juror was to accomplish an improper purpose (i.e., seating a different juror who was a friend of the attorney), such behavior falls below professional norms. Mr. Barr's conduct during jury selection reinforces this Court's finding that trial counsel failed to investigate and prepare for this case because, according to Mr. Barr's own testimony, he relied on winning the trial based on seating a biased juror. To the extent prejudice resulted, it is the same prejudice already addressed above – trial counsel failed to properly investigate and call favorable witnesses on Taylor's behalf.

B. Venue and Failure to Properly Cross-Examine State's Witnesses

Taylor also argues that trial counsel was ineffective by focusing on venue and by failing to impeach and/or cross-examine the State's witnesses at trial. These allegations are encompassed

in the above findings regarding counsel's failure to prepare and investigate, which resulted in his failure to present a reasonable defense.

C. Expert Testimony of Gaye Allen Cooke

Taylor argues that trial counsel was ineffective for failing to request information regarding Gayle Allen Cooke's findings and opinions prior to trial, for failing to discuss those findings with her, and for failing to object and/or move to suppress her testimony. I disagree.

At the evidentiary hearing, Taylor's PCR counsel called Gaye Allen Cooke to the stand. The State stipulated to her expert qualification previously given at the trial in Williamsburg County. With regard to her involvement in the underlying trial, she recalled receiving a call from Kimberly Barr, Assistant Solicitor, and being asked to testify. Ms. Cooke understood that she would testify about the dynamics of child sexual abuse and delayed disclosure. She acknowledged that she was not contacted by defense counsel prior to trial, but testified that she would have spoken to him if he had contacted her. She affirmed that she did not have any knowledge of the victim or the particulars of the case prior to trial.

Turning to the trial, she remembered vividly that the courtroom was packed (standing room only) for Taylor, and empty on the side where she sat for the prosecution. She remembered leaving and thinking that defense counsel could have attempted to discredit her testimony on cross-examination, but it was the easiest cross-examination she had ever experienced.

As to her involvement in the PCR action, she indicated that she reviewed the complete file, including transcripts and the Appendix from the Georgetown case. One document of great interest to her was the South Carolina Department of Social Services Determination Fact Sheet (Applicant's Exhibit 3), which determined that Taylor presented no threat of harm of sexual

abuse to his children. She indicated that she would have asked for further information on the case if this finding had been presented to her prior to her trial testimony.

She explained that she had met with Robert Troy Taylor, Zack Webster, Trevor Morton, Chad Bernard, Tony and Linda Taylor, and Jimmy and Peggy Morris. She explained that she shared her findings from her meetings with PCR counsel and PCR investigator, Pete Skidmore. As to her specific findings, she noted that Zack Webster was very close to Taylor and Webster disclosed that Taylor never attempted to abuse him, which raised a red flag for her. She further explained that the Morrisises were missionaries and ran a ministry in Romania involving an orphanage. She learned from them that they had seen Taylor interact with the children at the orphanage and had no concerns.

Ms. Cooke was emphatic that after reviewing the case file and meeting with the above listed individuals, she would not have testified for the State. She made it clear that she does not get involved with every case that she is contacted on and this case has red flags that would have kept her from testifying for the State. She also explained that at this juncture, she is willing to testify for the defense. She also expressed her concern that her testimony was used to bolster the victim's testimony.

This Court heard the testimony of Gaye Allen Cooke and found it to be admissible for the purpose for which it was offered at the evidentiary hearing. Upon review of her trial testimony, this Court finds that her expert testimony was in line with *State v. Weaverling*, 337 S.C. 460, 523 S.E.2d 787 (Ct. App. 1999), and defense counsel was not deficient for never contacting her prior to trial or for not objecting to her trial testimony. She simply testified about generalities and did not vouch for the victim.

Alternatively, Taylor alleges that Gaye Allen Cooke's willingness to now testify on his behalf is newly discovered evidence that should allow him to have a new trial. To prevail on this claim, Taylor "must show that the after-discovered 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 trial; 4) is material; and 5) is not merely cumulative or impeaching." *State v. Spann*, 334 S.C. 618, 619, 513 S.E.2d 98, 99 (1999).

Even though Ms. Allen Cooke testified that she would not have assisted the State if provided the information she has since reviewed and received prior to the evidentiary hearing, I find Taylor has failed to establish that her change in position could not have been discovered, in the exercise of due diligence, prior to trial. Additionally, I find that Ms. Cooke affirmed that the testimony she offered at trial was accurate regarding the topics addressed, and this Court struggles to find how her testimony changed the outcome of Taylor's trial. As a result, I deny Taylor's alternative allegation of newly discovered evidence.

D. Trial Counsel's Failure to Preserve Argument against the Imposition of LWOP

Taylor next argues that trial counsel was ineffective for failing to argue that the Georgetown incident should not have been used as a predicate offense to enhance Taylor's penalty to a life without parole sentence when the jury was allowed to hear testimony about that same incident under the theory that it was all a part of a "common scheme or plan." I find Taylor has failed to carry his burden of proof on this issue.

On March 15, 2007, the State served trial counsel with the "State's Notice of Intent to Seek a Sentence of Life without Parole pursuant to §17-25-45 (H), South Carolina Code of Laws." Applicant's Exhibit 16. Prior to the victim taking the stand in July of 2007, defense counsel made a motion *in limine*, seeking to exclude testimony regarding Taylor's prior

Georgetown conviction. The State proffered Victim's testimony, and each party offered arguments regarding the evidence in light of Rule 404(b), SCRE, and *State v. Lyle*, 125 S.C. 406, 118 S.E. 803 (1923). Trial Transcript pp. 135-150. The State primarily argued "common scheme or plan" and provided the trial court with a list of the similarities between the two incidents and noted that the incidents were close in time (within a year of each other). Trial Transcript pp. 125, ln. 18-126, ln. 23. Specifically, defense counsel advanced the following arguments: 1) "In looking at the facts, clearly, we don't have the appropriate components for a *Lyle* exception," and 2) "The prejudice from admitting these confusing statements to the jury would – substantially outweigh any probative value of this information." Trial Transcript pp. 128, lns. 21-23, 129, lns. 5-9. Ultimately, the trial court ruled: "He (victim) can testify as to the events that occurred, but let's stay away from the conviction." Trial Transcript p. 150, lns. 15-18.

Once the jury returned a guilty verdict, the State sought to impose a sentence of life without parole (LWOP) pursuant to section 17-25-45 of the South Carolina Code. Trial Transcript p. 410, ln. 15. Following the State's lengthy argument, defense counsel stated: "Judge, our position is that this offense does not qualify for life without parole." Transcript p. 412, lns. 12-15. After the State responded, the Court had the following conversation with defense counsel:

Court: Mr. Barr, is it your argument that the earlier conviction, the Georgetown county conviction, makes it such that these two convictions one for Kidnapping and one for Criminal Sexual Conduct with a minor in the second degree in this incident we tried, which is it that makes this not qualified for life without parole, is it Georgetown County?

Barr: The date of the offense in the Georgetown County proceedings.

Court: Yes sir. It was after this incident?

Barr: Yes sir.

Trial Transcript p. 414, lns. 4-14.

Thereafter, the trial court ruled:

Mr. Barr, I don't detect anything in the statute or in the case citations which I have read that talks about the fact that this statutory scheme would not apply because at the time of the offense as it compares to the date of convictions were in. So, if you've got any case citations that would support that, I don't know that they exist, but certainly you made that argument, I deny your motion to quash the notice and of course, if you want to make a motion for reconsideration because you detected a case on that regard you can certainly do that, but I have looked for it myself just in case the situation arose but I do not find it, so I would deny your motion to quash.

(Trial Transcript p. 415, lns. 9-20.)

Then, the trial court imposed a sentence of life without parole. (Trial Transcript pp. 438-9.)

Following trial, defense counsel filed a motion to reconsider, and a hearing was convened on September 27, 2007. After the trial court pointed out that the crimes occurred approximately nine months apart, defense counsel argued: "Judge, under the circumstances we would definitely take the position that... that with respect to the parties, with respect to the various allegations surrounding these two events that they... they certainly could easily be looked upon as one as opposed to two separate incidents." Reconsideration Transcript pp. 5, 6, lns. 14-17. Ultimately, the trial judge disagreed, finding:

The defendant's actions did involve a common scheme or plan under *State v. Lyle*; however, there is no authority for the proposition that separate offenses which amount to a "common scheme or plan" under *Lyle* are necessarily "so closely connected in point of time that they may be considered as one offense" under Section 17-25-50. There may be some factual scenarios in which the conclusion argued by the defendant is correct, but under the circumstances of this case, the existence of a common scheme or plan under *Lyle* does not warrant a finding that the Williamsburg and Georgetown crimes were part of one continuous course of conduct under Section 17-25-50. Therefore, the LWOP notice should not be quashed on this basis.

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On appeal, the following issue was argued in the Brief of Appellant: "The lower court improperly sentenced the Appellant to life without parole because the substantive facts of the predicate offense were admitted as common scheme or plan evidence." Brief of Appellant p. 22.

Specifically, the following argument was made:

S.C. Code Ann. §§17-25-45(F) and 17-25-50 must be construed together. State v. Gordon, 356 S.C. 143, 588 S.E.2d 105 (2003). §17-25-50 precludes an LWOP sentence "when the multiple offenses are inextricably connected and share an immediate temporal proximity." Bryant v. State, 384 S.C. 525, 532, 683 S.E.2d 280, 284 (2009). In other words §17-25-50 prevents the imposition of an LWOP sentence when the offense of conviction and the predicate offense(s) constitute "one continuous course of conduct." Gordon at 151, 588 S.E.2d at 109. "The cases which have found 'one continuous course of conduct' under §17-25-50 have been cases in which, for example, the defendant had two convictions arising out of a single incident; or situations which involve crimes closely connected in point in time; or apply to a single, continuous crime spree." Koon v. State, 372 S.C. 531, 533-534, 643 S.E.2d 680, 682 (2007) (internal citations omitted).

The Appellant would contend that where, as here, substantive facts of prior convictions are admitted as common scheme or plan evidence pursuant to Rule 404(b), SCRE, those prior convictions cannot be used as predicate offenses under the "continuous crime spree" definition of "one continuous course of conduct" given in Koon. If evidence of another crime is so closely connected to the crime for which the defendant is on trial for committing, as was posited by the State in this case, then the "common scheme or plan" then the offenses must be "inextricably connected," and should be treated as "one continuous course of conduct" worthy of §17-20-25's protections. See Bryant, *supra* at 532, 683 S.E.2d at 284.

Brief of Appellant p. 24.

On December 21, 2011, the South Carolina Court of Appeals issued an Opinion affirming Applicant's conviction and sentence. State v. Taylor, 396 S.C. 193, 720 S.E.2d 522 (Ct. App.

2011) (hereinafter *Taylor I*). In regards to the issue raised regarding the imposition of the life sentence, the Court held:

We find the issue of whether the crimes should have been considered one serious offense due to their close temporal proximity and inextricable connection is unpreserved because our review of the record reveals Taylor never raised it during trial. *Wilder Corp. v. Wilke*, 330 S.C. 71, 76, 497 S.E.2d 731, 733 (1998) (stating an issue must be "raised to and ruled upon by the trial judge to be preserved for appellate review") (emphasis added); *State v. Carriker*, 269 S.C. 553, 555, 238 S.E.2d 678, 678 (1977) (finding issue unpreserved because it was not raised by the appellant). Taylor appears to approach the issue at the post-trial motion hearing. Even so, this is insufficient to preserve the issue for our review because it was not raised at trial. See *Dixon v. Dixon*, 362 S.C. 388, 399, 608 S.E.2d 849, 854 (2005) (holding that an issue first raised in a post-trial motion is not preserved for appellate review); see also *Wilder*, 330 S.C. at 77, 497 S.E.2d at 734 (holding post-trial motions are not necessary to preserve issues that have already been ruled on; they are used to preserve those that have been raised to the trial court but not yet ruled on by it). The balance of the argument on the issue at the post-trial motion hearing was raised by the trial court, which is also insufficient to preserve the issue for our review. *Duncan v. Hampton Cnty School Dist. No. 2*, 335 S.C. 535, 545, 517 S.E.2d 449, 454 (Ct. App. 1999) (finding issue unpreserved where it was raised sua sponte by the trial court and not by the respondent). Furthermore, on appeal, Taylor argues "[t]he [trial court] improperly sentenced [Taylor] to life without parole because the substantive facts of the predicate offense were admitted as common scheme or plan evidence." However, at trial and during argument on his motion to reconsider, Taylor repeatedly maintained the trial court erred in sentencing him to life without parole because the predicate most serious offense, the 1999 rape, occurred after the 1998 rape. Taylor cannot argue one ground for error at trial and a different ground for error on appeal. See *State v. Haselden*, 353 S.C. 190, 196, 577 S.E.2d 445, 448 (2003). Accordingly, this issue is not preserved for our review.

Taylor I, 396 S.C. 193, 205-06, 720 S.E.2d 522, 528-29 (Ct. App. 2011).

By way of a footnote, the Court further stated:

Taylor contends, in a persuasive argument, that the definition of "inextricably connected" and "continuous course of conduct," as

applied to these facts, entitles him to lenity or other relief in the application of section 17-25-50. However, he did not raise this issue at trial; thus, we are bound by the laws of preservation.

Taylor I, 396 S.C. 193, 205 n.4, 720 S.E.2d 522, 528 n.4 (Ct. App. 2011).

After both parties petitioned for rehearing, the Court of Appeals refiled its Opinion on June 6, 2012. By way of the refiled Opinion, the Court again found the issue was not properly preserved by trial counsel for appeal, but no longer described Taylor's argument as "persuasive." *State v. Taylor*, 399 S.C. 51, 62-63, 731 S.E.2d 596, 602-3 (Ct. App. 2012) (hereinafter *Taylor II*).

When asked about the LWOP issue, Mr. Thompson (appellate counsel) explained the argument he made on appeal. According to Mr. Thompson, the Court was very interested in the issue based upon the questioning of the State at oral argument. Recalling his argument in front of the Court of Appeals in regards to preservation, Mr. Thompson stated: "I'm dealt the hand I'm dealt. I can't change the way that it – that it was argued." When asked if it would have aided his argument if he did not have to be concerned with preservation, he responded: "Absolutely, that's why we lost."

Because this issue was found to be unpreserved on direct appeal, Taylor has properly raised this issue in his application for post-conviction relief. *McLaughlin v. State*, 352 S.C. 476, 483 n.2, 575 S.E.2d 841, 844 n.2 (2003); *see also Foye v. State*, 335 S.C. 586, 518 S.E.2d 265 (1999), *cert. denied*, 529 U.S. 1072, 120 S.Ct. 1685, 146 L.Ed.2d 492 (2000) (holding that an issue raised on direct appeal but disposed of on preservation grounds may be raised in PCR proceeding). For Taylor to prevail in his post-conviction relief action, however, he bears the burden of proving that his appeal would have been successful if this issue had been preserved for review. I find that Taylor has not met this burden.

Although the Court of Appeals initially described Taylor's argument as "persuasive" in its *Taylor I* opinion, the Court of Appeals withdrew that opinion and issued *Taylor II*, which found only that the argument was not preserved. No other appellate decision has addressed this specific issue. However, a review of section 17-25-50 and the Supreme Court's interpretation of the language used in that statute suggest that Taylor would not prevail on appeal.

Section 17-25-50 states:

In determining the number of offenses for the purpose of imposition of sentence, the court shall treat as one offense any number of offenses which have been committed at times so closely connected in point of time that they may be considered as one offense, notwithstanding under the law they constitute separate and distinct offense.

The South Carolina Supreme Court reviewed this statute in *Bryant v. State*, 384 S.C. 525, 683 S.E.2d 280 (2009), and stated:

We acknowledge the "so closely connected in point of time" language in section 17-25-50 may become ambiguous as applied to certain situations. When construing statutes forming part of the same legislative scheme, we must examine the statutes together as a whole. Accordingly, when we read the unambiguous timing feature of "a prior conviction" under section 17-25-45(F) alongside section 17-25-50, we construe the language of section 17-25-50 to preclude a life without parole sentence when the multiple offenses are inextricably connected and share an immediate temporal proximity.

384 S.C. at 532, 683 S.E.2d at 283-84.

Here, the Williamsburg County and Georgetown County incidents did not share an immediate temporal proximity, as required by section 17-25-50. The Williamsburg County camping trip occurred in November 1998 and the Georgetown County incident occurred in August of 1999, nine months later. Accordingly, I do not believe Taylor has satisfied his burden of proving that he would have prevailed on this issue if it had been preserved for appeal. To the

extent Taylor alleges additional issues relating to trial counsel's handling of the post-trial motion, I find Taylor has failed to demonstrate that trial counsel's performance was deficient or that Taylor was prejudiced.

E. Allegations against Appellate Counsel

Taylor also alleges that Mr. Thompson, his appellate counsel, was ineffective for failing to raise all meritorious issues on appeal. Specifically, Taylor claims that appellate counsel should have argued that the trial court erred in overruling defense counsel's objection to the officer testifying about Victim's verbal statement to her about the time and place of the alleged rape when that verbal statement was not provided to the defendant prior to trial. I disagree.

"Although appellate counsel is required to provide effective assistance of counsel, 'appellate counsel is *not* required to raise every nonfrivolous issue that is presented by the record.'" *Tisdale v. State*, 357 S.C. 474, 476, 594 S.E.2d 166, 167 (2004) (quoting *Thrift v. State*, 302 S.C. 535, 539, 397 S.E.2d 523, 526 (1990)(emphasis in original). "For judges to second-guess reasonable professional judgments and impose on ... counsel a duty to raise every 'colorable' claim suggested by a client would disserve the very goal of vigorous and effective advocacy...." *Jones v. Barnes*, 463 U.S. 745, 754 (1983).

At the evidentiary hearing, Mr. Thompson testified at length about the process he used to determine what issues to raise on appeal. Mr. Thompson considered the time and place objection and decided not to raise it because he did not believe it had merit. Taylor has failed to carry his burden of proving why this issue should have been raised, nor has he proven that his appeal would have been successful if the issue had been raised.

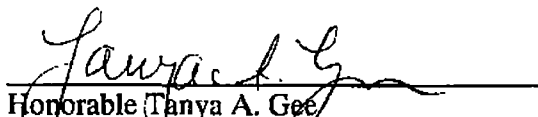
CONCLUSION

Based upon the foregoing, this Court grants Taylor's Application for Post-Conviction for the reasons stated above. To the extent Taylor raised additional arguments that were not addressed in this Order, this Court finds those argument were waived because he did not present evidence to support them during the evidentiary hearing.

IT IS THEREFORE ORDERED:

1. That Robert Troy Taylor has met his burden of proof as to his specific allegation of ineffective assistance of trial counsel as detailed above;
2. That Robert Troy Taylor has not met his burden of proof as to his allegation of ineffective assistance of appellate counsel;
3. That Robert Troy Taylor has not met his burden of proof as to his allegation of newly discovered evidence;
4. That Robert Troy Taylor's Application for Post-Conviction Relief is granted, that his convictions for second degree criminal sexual conduct and kidnapping are vacated, and that he is granted a new trial;
5. That Robert Troy Taylor shall be transferred from the custody of the South Carolina Department of Corrections to the custody of Williamsburg County pending the disposition of his criminal case, with normal bond proceedings.

AND IT IS SO ORDRED this 19th day of February, 2016


Honorable Tanya A. Gee
Presiding Judge
Third Judicial Circuit

Columbia, South Carolina

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF WILLIAMSBURG

STATE VS.

ROBERT TROY TAYLOR

AKA:

Race: White

Sex: Male

Age:

DOB: [REDACTED]

SS#: [REDACTED]

Address: [REDACTED]

City, State, Zip [REDACTED]

DL#

SID# [REDACTED]

INDICTMENT/CASE#:

2007-GS-45-176

A/W#:

Date of Offense: November 1988

S.C. Code §: 16-3-910

CDR Code #: 0 / 0 / 9 / 5

SENTENCE SHEET

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

TO: KIDNAPPING

in violation of §16-3-910 of the S.C. Code of Laws, bearing CDR Code # 0 0 9 5

☐ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS

☐ Mandatory GPS (CSC
w/minor 1st or Lewd Act)

☒ §17-25-45

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (Defendant initial)
The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.
ATTEST:

Solicitor

Defendant

Attorney for Defendant

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of Life w/ 10 years days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment of \$ _____;
plus costs and assessments as applicable*; the balance is suspended with probation for _____ months/years and subject to South
Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____

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

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

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Heard, ☐ Waived, ☐ Ordered
Total: \$ _____ plus 20% fee: \$ _____

Payment Terms:

☐ set by SCDPPPS

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: _____

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)

\$35.13 (Public Def/Prob)

\$73.3, 1B TP (Law Enforce. Funding)

\$33.7, 1B TP (Drug Court Surcharge)

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

\$56-5-2942(J) (Vehicle Assessment)

3% to County (if paid in installments)

TOTAL

\$100

\$100

\$12

\$500

\$25

\$100

\$50

\$40/ea

\$

\$

PRESIDING JUDGE

Judge Code: _____

Sentence Date: _____

Clerk of Court/ Deputy Clerk

Court Reporter: _____

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF WILLIAMSBURG
STATE VS.

INDICTMENT/CASE#:

ROBERT TROY TAYLOR,

2007-GS-45-0176

AKA:

A/W#:

Race: White

Sex: Male

Age:

Date of Offense: November 1988

DOB: [REDACTED] 9

SS#: [REDACTED]

S.C. Code §: 16-3-655 (B)

Address:

CDR Code #: 0 / 3 / 9 / 6

City, State, Zip

SENTENCE SHEET

DL#

SID#

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

TO: CRIMINAL SEXUAL CONDUCT WITH A MINOR - SECOND DEGREE

in violation of § 16-3-655 (B) of the S.C. Code of Laws, bearing CDR Code # 0396

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

ATTEST:

Solicitor

Defendant

Attorney for Defendant

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

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

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Heard, ☐ Waived, ☐ 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)

§14-1-211(A)(2) (DUI Surcharge)

§56-5-2995 (DUI Assessment)

§35.13 (Public Def/Prob)

§73.3, 1B TP (Law Enforce. Funding)

§33.7, 1B TP (Drug Court Surcharge)

§50-21-114(BUI Breath Test Fee)

§56-5-2942(J) (Vehicle Assessment)

3% to County (if paid in installments)

TOTAL

\$100

\$100

\$12

\$500

\$25

\$100

\$50

\$40/ea

\$

\$

\$

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: _____

\$17-25-45☐ Appointed PD or appointed other counsel, \$35.13 TP
Requires \$500 be paid to Clerk during probation.

PRESIDING JUDGE

Judge Code:

Sentence Date:

2 1 1 4 1 37/12/07

Clerk of Court/ Deputy Clerk

Court Reporter:

VERDICT FORM

STATE OF SOUTH CAROLINA	)	IN THE COURT OF GENERAL
	)	SESSIONS
COUNTY OF WILLIAMSBURG	)	Indictment Number 2006-GS-45-176
	)	
The State of South Carolina	)	
	)	
	)	
v.	)	
	)	
Robert Troy Taylor	)	
	)	
Defendant.	)	
_____	)	

VERDICT

1. As to the charge of Kidnapping, we the jury unanimously find the defendant:

_____ Not Guilty

✓ Guilty

2. As to the charge of Criminal Sexual Conduct with a Minor- Second Degree, we the jury unanimously find the defendant:

_____ Not Guilty (If chosen, go to Question 3)

✓ Guilty (If chosen, sign the verdict form and notify the bailiff)

3. If you have found the Defendant not guilty of Criminal Sexual Conduct with a Minor - Second Degree, then you must consider the lesser included offense of Assault and Battery of a High and Aggravated Nature.

As to the lesser included offense of Assault and Battery of a High and Aggravated Nature, we jury unanimously find the defendant:

_____ Not Guilty

_____ Guilty

I certify this decision is the unanimous decision of the jury.

Barbara Jones
Foreperson

7/12/07
Date



**State of South Carolina
Third Judicial Circuit**

GEORGE C. JAMES, JR.
CIRCUIT COURT JUDGE

FILED

07 NOV 19 PM 2:03

CAROLYN F. WILLIAMS
CLERK OF COURT
KINGSTREE, S.C.

141 NORTH MAIN STREET, SUITE 303
POST OFFICE BOX 1716
SUMTER, SOUTH CAROLINA 29151-1716
TELEPHONE: (803) 436-2150
FAX: (803) 436-2403
E-MAIL: gjamesj@sccourts.org

November 16, 2007

Honorable Carolyn Williams
Williamsburg County Clerk of Court
125 West Main Street
Kingstree, South Carolina 29556

RE: State of South Carolina v Robert Troy Taylor (06-GS-45-176)

Dear Ms. Williams:

I enclose an Order for filing in the above matter.

Please file the order and send certified copies to all attorneys of record.

If you have any questions, please let me know.

Yours very sincerely,

George C. James, Jr.

George C. James, Jr.

GCIJr:djf

Enclosures

STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
06-GS-45-176

COUNTY OF WILLIAMSBURG)

State of South Carolina,)

Plaintiff,)

vs)

Robert Troy Taylor,)

Defendant,)

ORDER

07 NOV 19 PM 2:03
CAROLYN F. WILLIAMS
CLERK OF COURT
KINGSTREE, S.C.

FILED

On September 27, 2007, this court convened for a hearing of the defendant's post trial motions, which were filed after a Williamsburg County jury found the defendant guilty of kidnapping and criminal sexual conduct with a minor, first degree. Both offenses are "most serious" under S.C. Code Section 17-25-45. Prior to trial, the State had duly served the defendant and defense counsel with notice that it would seek a sentence of life in prison, without possibility of parole. The basis for this notice was that the defendant had previously entered a guilty plea in Georgetown County to a charge of criminal sexual conduct with a minor, first degree, obviously also a "most serious" offense. Consequently, the defendant has arguably sustained the second of his "two strikes" and is subject to mandatory life without parole.

At the September 27 hearing, the defendant advanced five basic arguments:

1. Concurrent life sentences should have been imposed for the kidnapping and CSC convictions (this court imposed consecutive life sentences).
2. The court should have entered a directed verdict of acquittal on the basis that the State did not establish that venue was proper in Williamsburg County.



3. The life without parole (LWOP) notice should have been quashed in that the Williamsburg County incident and the Georgetown County incident should be construed to be one continuous event and not subject to separate consideration insofar as imposition of a life sentence for two most serious convictions is concerned.
4. An imposition of life without parole under Section 17-25-45 was not otherwise warranted in light of recent case law interpreting that code section.
5. This court erred in refusing to give an "advance ruling" to the defendant as to whether the court would allow evidence (for impeachment purposes) of the defendant's convictions in Georgetown County for CSC first with a minor and two counts of lewd act on a minor.

1. CONSECUTIVE SENTENCES

The defendant cites no authority for the proposition that imposition of consecutive life sentences amounts to cruel and unusual punishment. In my view, the facts of this case are such that consecutive sentences are appropriate.

2. VENUE

A criminal defendant is entitled "to a directed verdict when the State fails to present evidence that the offense was committed in the county alleged in the indictment." State v Evans, 307 S.C. 477, 480, 415 S.E. 2nd 816, 818 (1992), overruled in part on other grounds by State v Gentry, 363 S.C. 93, 610 S.E. 2nd 494 (2005). However, as noted in State v Crocker, 366 S.C. 394, 621 S.E. 2nd 890, 895 (Ct. App. 2005), "[t]he standard for establishing venue is not a stringent one, for 'venue, like jurisdiction, in a criminal case

need not be affirmatively proved, and circumstantial evidence of venue, though slight, is sufficient.” (quoting State v Williams, 321 S.C. 327, 334, 468 S.E. 2nd 626, 630 (1996).

The defendant maintains there was insufficient evidence as a matter of law that the incident occurred in Williamsburg County. The court, upon joint request of the parties, submitted the question of venue to the jury, charging that the place of the crime had to be established by the greater weight of the evidence. The submission of this issue to the jury was error, but in and of itself is not the error claimed by the defendant. In my view, the evidence taken as a whole establishes, however slightly, that the offense occurred in Williamsburg County.

3. MOTION TO QUASH LWOP NOTICE

The evidence established that the instant crimes occurred in November 1998 in Williamsburg County. The evidence also established that the defendant engaged in basically identical criminal conduct with the very same victim in August 1999 in Georgetown County. Several months before the Williamsburg County trial, the defendant entered a plea of guilty to CSC first with a minor (the 1999 offense) before the Honorable Edward C. Cottingham in Georgetown County and received a sentence of eight (8) years. The defendant now claims that pursuant to S.C. Code Section 17-25-50, the Williamsburg County conviction and the Georgetown County conviction should be treated as one offense for sentencing purposes. Obviously, CSC first with a minor and kidnapping are both “most serious” offenses under Section 17-25-45 (these two Williamsburg County convictions are one strike) and if the defendant’s contention is correct, he would not be subject to life imprisonment pursuant to 17-25-45. The defendant urges this result on the basis that the Williamsburg and Georgetown crimes

involved the same victim and on the basis that the Georgetown County incident was admitted into evidence under State v Lyle, 125 S.C. 406, 118 S.E. 803 (1923) as part of a common scheme or plan. I disagree. The defendant's actions did involve a common scheme or plan under State v Lyle; however, there is no authority for the proposition that separate offenses which amount to a "common scheme or plan" under Lyle are necessarily "so closely connected in point of time that they may be considered as one offense" under Section 17-25-50. There may be some factual scenarios in which the conclusion argued by the defendant is correct, but under the circumstances of this case, the existence of a common scheme or plan under Lyle does not warrant a finding that the Williamsburg and Georgetown crimes were part of one continuous course of conduct under Section 17-25-50. Therefore, the LWOP notice should not be quashed on this basis.

4. IS DEFENDANT OTHERWISE SUBJECT TO LWOP?

The defendant contends that the Supreme Court of South Carolina's holding in State v Gordon, 356 S.C. 143, 588 S.E. 2nd 105 (2003) forecloses a sentence of life without parole. Again, this defendant has two convictions for criminal sexual conduct in the first degree with a minor. The first offense occurred in November 1998 in Williamsburg County, which of course is the subject of the instant conviction. The second offense occurred in 1999 in Georgetown County. The victim in both cases was the same eleven (11) year old boy. In 2006, the defendant pled guilty to the 1999 Georgetown County offense. The State contends this was "strike one". The defendant was then served with an LWOP notice for the Williamsburg County case, and the jury

trial resulted in a conviction for CSC first with a minor (and kidnapping). The State contends this conviction was strike two and compels an LWOP sentence.

The following discussion includes the relevant legislative history of Section 17-25-45, appellate cases interpreting this statute (and Section 17-25-50), and the arguments presented by the State and the defendant.

A. Legislative History of § 17-25-45

The earliest version of South Carolina Code § 17-25-45 was enacted in 1982 and provided that a third conviction for certain listed crimes would result in a life sentence. The 1982 version specifically provided that "a conviction shall be considered a second conviction only if the date of the commission of the second crime occurred subsequent to the imposition of the sentence of the first offense." 1982 S.C. Acts No. 358 § 1, pp. 2175-76. A similar provision defined a "third conviction." In 1986, the General Assembly amended § 17-25-45 to provide that a third conviction for a crime defined as "violent" in South Carolina Code § 16-1-60 would result in a life sentence. This amendment specifically included the same definitions of a "second conviction" and "third conviction" set forth in the 1982 version discussed above. 1986 S.C. Acts No. 462 § 37, p. 2996. In 1995, the General Assembly amended § 17-25-45 to provide that either a second conviction for a "most serious" crime or a third conviction for a "serious" crime would lead to a sentence of life. The 1995 amendment deleted the specific definitions for second and third convictions, and substituted the language of "prior conviction" now found in section (F) of the statute. 1995 S.C. Acts No. 83 § 18, pp. 565-68.

Up until the passage of the 1995 version, § 17-25-45 specifically required that a second or subsequent offense be committed after imposition of a sentence on the first or

previous offense. Currently, the statute only requires there to be a prior conviction. The logical conclusion as to the 1995 amendment is that the General Assembly intended to eliminate the requirement that the offenses be committed in sequence.

A plain reading of § 17-25-45(F) as it was written at the time of this offense subjects Taylor to life without parole. The statute states “[f]or the purpose of determining a prior or previous conviction under this section and Section 17-25-50, a prior or previous conviction shall mean the defendant has been convicted of a most serious or serious offense, as may be applicable, on a separate occasion, prior to the instant adjudication.” (emphasis added). The words “prior conviction” mean only that § 17-25-45 is premised upon a conviction-to-conviction sequence rather than a conviction-to-offense sequence or an offense-to-offense sequence. In other words, the statute does not require that the previous conviction upon which an enhanced sentence is based precede the commission of the offense upon which the sentence is being imposed. Under this interpretation of the statute, § 17-25-45 applies even when the defendant has first been convicted of one offense that actually occurred after another separate offense.

In the present case, Taylor had a prior conviction for the 1999 offense. Although the 1999 offense occurred after the 1998 Williamsburg County offense, he still had a prior conviction “prior to the instant adjudication.” According to the statute, Taylor is subject to life without parole because he had that prior conviction.

B. South Carolina Cases Interpreting § 17-25-45

The Supreme Court first interpreted the 1995 version of § 17-25-45, and specifically the language in subsection (F) concerning “prior convictions,” in State v. Benjamin, 353 S.C. 441, 579 S.E.2d 289 (2003). In Benjamin, the Court held that the

recidivist statute must be construed independently of any other statute, specifically finding § 17-25-50 to be inapplicable in a "three strikes rule" analysis. However, nine months later Benjamin was overruled by State v. Gordon, 356 S.C. 143, 588 S.E.2d 105 (2003). In Gordon, the Court found that its holding in Benjamin regarding the independent nature of § 17-25-45 was contrary to legislative intent and prior precedent of the Court.

In Gordon, the Court states that "the recidivist statute is aimed at career criminals, those who have been previously sentenced and commit another crime, not at those whose recidivist status is premised solely upon acts which occur at times so closely connected in point of time that they may be considered one offense." *Id.* at 111, 588 S.E.2d at 154. Accordingly, the Court held that § 17-25-45 and § 17-25-50 must be construed together in determining whether crimes committed close in time qualify for a recidivist sentence. It is this quoted language that must be analyzed in light of the facts of the instant case.

C. State's Argument

In the present case, Taylor's crimes were separate offenses which resulted in two separate convictions. Section 17-25-50 does not apply to this case because his acts in Georgetown and Williamsburg were not so closely connected in point of time that they are considered one offense. The Supreme Court decided Gordon on the reasoning that § 17-25-45, read in light of § 17-25-50, requires that a defendant be "previously sentenced and then commit another crime." Currently, there is no South Carolina case that deals directly with the issue of whether the conviction of a subsequent crime (offense #2)

before the conviction of the prior crime (offense #1) is considered a "prior conviction" solely under § 17-25-45.¹

The State contends that the specific language of the statute should govern, and that the statute requires only that the Georgetown conviction be entered before entry of the instant conviction, not that the Georgetown conviction be entered before commission of the instant offense. While a recidivist statute is intended to deter commission of a crime, it is also used to punish the persistent offender and the State contends the defendant is the recidivist the statute was intended to punish.

Although the facts in Walters v. State, 371 S.C. 591, 641 S.E.2d 434 (2007) are significantly different, the case interprets the term "prior conviction" under § 44-53-470, a drug statute. The offense used to enhance the defendant's status to second offender occurred on July 28, 2000, two days after the offense at issue in the opinion. The Court held that the timing of the crimes was irrelevant to the determination of a subsequent offense so long as there is a prior conviction.

D. Defendant's Argument

The defendant argues the foregoing case law renders § 17-25-45 ambiguous and that when a statute is ambiguous, the rules regarding construction of criminal statutes require the court to resolve that ambiguity in the defendant's favor. The cardinal rule of statutory construction is that the court must ascertain and effectuate the intent of the legislature. Statutes, as a whole, must receive "practical, reasonable, and fair interpretation consonant with the purpose, design and policy of law makers." State v.

¹ Cynthia L. Sletto, *Chronological or Procedural Sequence of Former Convictions as Affecting Enhancement of Penalty under Habitual Offender Statutes*, 7 A.L.R.5th 263 (1992) discusses similar cases from other states. The states that upheld a defendant's sentence looked to the specific language of the statute and specifically the use of the term "prior conviction." Other states concluded that prior convictions must have preceded commission of the offense and resolve ambiguities in favor of the defendant.

Woody, 345 S.C. 34, 37-38, 545 S.E.2d 521, 522-523 (Ct. App. 2001). Therefore, in interpreting a statute, the words must be given their plain and ordinary meaning without resorting to a subtle or forced construction that limits or expands the statute's operation. *Id.*

"Courts will reject the plain and ordinary meaning of statutory language when to accept it would lead to a result so absurd that it could not have been intended by the Legislature, or would defeat plain legislative intention." Gordon, 356 S.C. at 153, 588 S.E.2d at 110. If possible, courts "will construe a statute as to escape an absurd result and carry the legislative intention into effect . . . Moreover, [courts] are constrained to strictly construe penal statutes in the defendant's favor." *Id.* In my view, the defendant's ambiguity argument fails because the statute is not ambiguous on its face; judicial interpretation of the statute under a different factual scenario than presented in Gordon is more difficult.

The defendant claims that according to Gordon, § 17-25-45 does not come into play except when a defendant has been convicted and sentenced, and then commits another crime.² Such a broad reading of the holding in Gordon directly contradicts § 17-25-45.

E. Conclusion As To "Gordon" Argument

If the Court's intent in Gordon was to create LWOP eligibility only where the second offense occurs *after* the conviction for the first offense, then the holding arguably conflicts with the language of § 17-25-45. When the holding is interpreted in light of the specific facts set forth in Gordon, it does not necessarily conflict with the statute. In

² In my view, the Gordon Court uses this statement solely in support of its conclusion that § 17-25-45 and § 17-25-50 should be construed together.

Gordon, the Court was addressing the interplay between § 17-25-45 and § 17-25-50. The Supreme Court's purpose in construing the two statutes together is to prevent a defendant from receiving life when he commits two offenses that can be considered one offense.

Since the instant case does not deal with the interplay between § 17-25-45 and § 17-25-50, the holding in Gordon does not apply. If the defendant's Georgetown and Williamsburg crimes were so closely connected in point of time that they are considered one offense then the defendant would not be subject to LWOP. Although the crimes involved the same victim, they occurred nine months apart and are considered separate offenses for sentencing purposes. The purpose behind the holding in Gordon is to prevent a defendant from receiving life when two crimes should be considered one when it comes to counting strikes. The fact that the language of § 17-25-45 was changed in 1995 to include the words "prior conviction" instead of requiring the subsequent offense to be committed after the sentence for the previous offense compels this court to conclude that under the facts of this case (which again are inapposite to the facts in Gordon), the defendant is subject to mandatory LWOP.

5. REFUSAL TO GIVE "ADVANCE RULING" ON ADMISSIBILITY OF POTENTIAL IMPEACHMENT EVIDENCE

After the State rested its case-in-chief, the court conducted the standard inquiry of the defendant as to whether he desired to testify. In addition to advising the defendant of his right to remain silent, the court advised the defendant that if he did testify, he would be subject to the same rules governing the examination and cross-examination of other witnesses. He was specifically told that if he had been convicted of any crimes involving dishonesty or false statement, these could be used on cross-examination to impeach his credibility. He was further advised that if he had been convicted of any crimes

punishable by imprisonment for more than one year and that if the court determined that the probative value of admitting such evidence outweighed its prejudicial effect, these convictions could likewise be introduced to attack his credibility. The defendant specifically requested the court for an advance ruling as to whether his Georgetown County CSC conviction could be used to impeach his credibility as opposed to simply being used to establish a common scheme or plan under State v Lyle.

As noted above, during the State's case-in-chief, the court admitted evidence of the Georgetown County incident (but not the guilty plea) as evidence of a common scheme or plan under State v Lyle. At that time, the court instructed the jury that this evidence could be used only as evidence of a common scheme or plan, and for no other purpose. The court did not permit evidence at that stage that the Georgetown County incident had resulted in a guilty plea (and therefore an admission on the part of the defendant). During the court's colloquy with the defendant about his decision whether or not to testify, counsel for the defendant asked the court for a specific ruling as to whether the Georgetown County plea could be used against the defendant for impeachment purposes. Obviously, that offense carries potential imprisonment in excess of one year, but it is not a crime of dishonesty or false statement. Therefore, the court would have been compelled to balance the probative value against its prejudicial effect pursuant to Rule 609(a)(1). The court refused to give such a specific ruling in advance, as the dynamic of direct examination and cross-examination could impact the court's determination of whether the probative value of admitting the conviction for impeachment purposes outweighed its prejudicial effect to the defendant. In other words, "probative value" and "prejudicial effect" are better determined in the immediate

context of examination and cross-examination, rather than an academic analysis prior to questioning taking place.

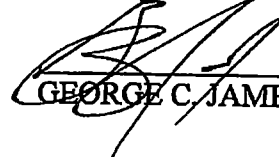
The defendant points to no authority for the proposition that the court was required to give such an advance ruling, and the defendant's motion on this ground is denied.

CONCLUSION

For the foregoing reasons, the defendant's motions are denied.

AND IT IS SO ORDERED.

PRESIDING JUDGE


GEORGE C. JAMES, JR.

Sumter, South Carolina

November 16, 2007

11:14:51 Friday, April 03, 2015

CMTI330D
OMCOMITA

SCDC OFFENDER MANAGEMENT SYSTEM
RELEASE DATE SCREEN

04/03/15
C056427

SCDC# > 315084

LOC: PERRY

TAYLOR, ROBERT TROY

SCDC CLASSIFICATION...: VIOLENT

OFFENDER TYPE...: ADULT-STRAIGHT SENTENCE

SEXUAL REGISTRY...: Y

SEXUAL PREDATOR...: PENDING

DNA STATUS...: COMPLETED

GPS REQUIREMENT...: N

PREA DECISION...:

CURRENT SENTENCE:

CONSECUTIVE SENTENCE ...:

LIFE

CURRENT SENT START DATE: 07/12/2007

PROJECTED COMPLETION DATES

MAXOUT DATE: 99/99/9999

CURRENT EWC ..:

YOA SIX YEAR DATE:

CURRENT EEC ..:

INITIAL PAROLE DATE: 00/00/0000

NEXT PAROLE HEARING DATE: 00/00/0000

TOTAL GT DAYS EARNED: 000000

LABOR CREW/WORK PROG DATE: 99/99/9999

TOTAL EARNED WORK CREDITS ...: 000000

LABOR CREW DISQ REASON:

TOTAL EDUCATION CREDITS: 000000

CURRENT OR PRIOR SEX CONDUCT CONVICT

TOTAL EXTRA EARNED CREDITS ..: 000

SUPERVISED REENTRY DATE...: 00/00/00

TOTAL SERVICE TIME EARNED ...: 000000

ISS.....:

PFKEYS:

5:HISTORY OF DATE CHANGES

South Carolina Department of Corrections

Classification Summary Reports

Date: Friday, April 3, 2015

Classification Summary Reports

Inmate Number

Classification Summary Report for TAYLOR, ROBERT TROY :

CLASSIFICATION SUMMARY REPORT DATED 04/03/2015

SCDC# 00315084

TAYLOR, ROBERT TROY

FBI# 523262DC9

OFFENDER ADULT-STRAIGHT
TYPE: SENTENCE

INSTITUTION: PERRY

SECURITY/CUST: 3 MINIMUM IN

CURR INCARC 999 YRS 0 MOS
SENT: 0 DAYS

VICTIM WITNESS: Y SEPREQ:Y

MED MED PROB/WORK
CLASS: RESTRICT

INST
RESTRICT: NO RESTRICTION

MENTAL NMH (NO MENTAL
CLASS: HEALTH TRE

CURRENT NO CURRENT
PROGRAM: PROGRAM

SEX REGISTRY: Y

DNA: C

AGE: 45



RESIDENT
STABILITY: NA

DORMROOMBUNK_CODE: Q1B 0205 B

PROJ MAXOUT
DATE: -

PROJ PAROLE DATE: -

EWC JOB: RECREATION AIDE

ASSIGNMENT: BUILDING #1

EWC
LEVEL: 3P5 EEC LEVEL:-

EDUC
PGM: NO CURR EDUC PROGRAM

PREVIOUS NUMBERS:

NO PREVIOUS NUMBERS

CURRENT OFFENSES	YRS	MOS	DYS	COUNTY	SENTENCE	START	SENTENCE	V/NV	CAT	INDICT
KIDNAPPING	999	99	999	WILLIAMSBURG		07/12/2007	V	5	07GS45-176	

CRIM SEX COND.W/MINOR(2N	999	99	999	WILLIAMSBURG	07/12/2007 N	4	07GS45-0176
LEWD ACT/CHILD UNDER 16	5	0	0	GEORGETOWN	04/20/2006 N	4	04GS2244
LEWD ACT/CHILD UNDER 16	5	0	0	GEORGETOWN	04/20/2006 N	4	05GS22523
CRIMINAL SEX CNDCT 2ND DE	5	0	0	GEORGETOWN	04/18/2006 V	4	06GS22361

COMPLETED OFFENSES

NO COMPLETED OFFENSES

PRIOR COMMITMENTS OVER 90 DAYS:

INMATE HAS NO PRIORS

OFFENSES UNDER PREVIOUS NUMBER:

NO PREVIOUS OFFENSES

DETAINEES (HOLD,WANTED,NOTIFY):

CRIM SEX COND.W/MINOR(1S	WANTED	OPEN ARREST NOTIFICATION	CATEG:5

ESCAPES:

NO ESCAPE HISTORY

CRIMINAL CHARGES:

NO CRIMINAL CHARGES HISTORY

ASSAULTIVE DISCIPLINARIES:

NO ASSAULTIVE DISCIPLINARY HISTORY

PREVIOUS ASSAULTIVE DISCIPLINARIES:

NO PREVIOUS ASSAULTIVE DISCIPLINARY HISTORY

NON-ASSAULTIVE DISCIPLINARIES:

07/26/2013	SMUGGLING/CONSPIRACY SMUGGLE CONTRABAND	DISMISSED	MAJOR DISC. HEARING
01/03/2013	DISRESPECT	DISMISSED	MAJOR DISC. HEARING
12/29/2009	POSSESSION OF CONTRABAND	CONVICTED	ADMINISTRATIVE RESOLUTION
11/26/2009	FALSE STATEMENT TO HARM ANOTHER PERSON	DISMISSED	MAJOR DISC. HEARING
01/06/2007	DAMAGE,DESTROY,PROP.VALUE AT \$100./MORE	CLOSED	OTHER ACTION TAKEN/INFORM
08/07/2006	POSSESSION OF CONTRABAND	CLOSED	OTHER ACTION TAKEN/INFORM

PREVIOUS NON-ASSAULTIVE DISCIPLINARIES:

NO PREVIOUS NON-ASSAULTIVE DISCIPLINARIES HISTORY

HISTORY OF MOVEMENTS:

03/27/2015	PERRY	INCARCERATED	ADMINISTRATIVE
03/27/2015	ANDERSON CO	AUTH ABSENCE (AWL)	MEDICAL
01/29/2015	PERRY	INCARCERATED	ADMINISTRATIVE
01/29/2015	PALMETTO RCHLAND	AUTH ABSENCE (AWL)	MEDICAL
12/08/2014	PERRY	INCARCERATED	ADMINISTRATIVE
12/08/2014	KIRKLAND	INCARCERATED	MEDICAL
11/06/2014	PERRY	INCARCERATED	ADMINISTRATIVE
11/06/2014	RICHLAND CO	AUTH ABSENCE (AWL)	MEDICAL
09/23/2014	PERRY	INCARCERATED	ADMINISTRATIVE
09/17/2014	LEE	INCARCERATED	ADMINISTRATIVE
09/16/2014	KIRKLAND	INCARCERATED	MEDICAL
07/17/2014	LEE	INCARCERATED	ADMINISTRATIVE
07/17/2014	RICHLAND CO	AUTH ABSENCE (AWL)	MEDICAL
05/01/2014	LEE	INCARCERATED	ADMINISTRATIVE

05/01/2014	KIRKLAND	INCARCERATED	MEDICAL
12/16/2013	LEE	INCARCERATED	ADMINISTRATIVE
10/29/2012	KIRKLAND	INCARCERATED	RETURN FROM COURT
10/29/2012	HORRY CO	AUTH ABSENCE (AWL)	TO COURT
07/02/2012	KIRKLAND	INCARCERATED	ADMINISTRATIVE
07/02/2012	LEXINGTON CO	AUTH ABSENCE (AWL)	MEDICAL
01/04/2012	KIRKLAND	INCARCERATED	ADMINISTRATIVE
11/14/2011	LEE	INCARCERATED	ADMINISTRATIVE
11/14/2011	BROAD RIVER	INCARCERATED	EVALUATION/INTERVIEW
06/10/2010	LEE	INCARCERATED	ADMINISTRATIVE
02/24/2010	LIEBER	INCARCERATED	ADMINISTRATIVE
02/23/2010	TURBEVILLE	INCARCERATED	RETURN FROM COURT
02/23/2010	HORRY CO	AUTH ABSENCE (AWL)	TO COURT
02/22/2010	TURBEVILLE	INCARCERATED	ADMINISTRATIVE
01/28/2010	LIEBER	INCARCERATED	RETURN FROM COURT
01/28/2010	HORRY CO	AUTH ABSENCE (AWL)	TO COURT
11/24/2008	LIEBER	INCARCERATED	ADMINISTRATIVE
11/21/2008	KIRKLAND	INCARCERATED	RETURN FROM COURT
11/19/2008	GEORGETOWN CO	AUTH ABSENCE (AWL)	TO COURT
03/19/2008	LIEBER	INCARCERATED	RETURN FROM COURT
03/19/2008	HORRY CO	AUTH ABSENCE (AWL)	TO COURT
09/27/2007	LIEBER	INCARCERATED	RETURN FROM COURT
09/27/2007	WILLIAMSBURG CO	AUTH ABSENCE (AWL)	TO COURT
07/12/2007	LIEBER	INCARCERATED	ADMINISTRATIVE
07/12/2007	MACDOUGALL CORR INST	INCARCERATED	RETURN FROM COURT
07/10/2007	WILLIAMSBURG CO	AUTH ABSENCE (AWL)	TO COURT
05/14/2007	MACDOUGALL CORR INST	INCARCERATED	ADMINISTRATIVE
05/09/2007	EVANS	INCARCERATED	RETURN FROM COURT
04/30/2007	WILLIAMSBURG CO	AUTH ABSENCE (AWL)	TO COURT
03/16/2007	EVANS	INCARCERATED	RETURN FROM COURT
03/07/2007	WILLIAMSBURG CO	AUTH ABSENCE (AWL)	TO COURT
10/19/2006	EVANS	INCARCERATED	RETURN FROM COURT
10/03/2006	WILLIAMSBURG CO	AUTH ABSENCE (AWL)	TO COURT
07/11/2006	EVANS	INCARCERATED	RETURN FROM COURT
07/11/2006	GEORGETOWN CO	AUTH ABSENCE (AWL)	TO COURT
05/11/2006	EVANS	INCARCERATED	ADMINISTRATIVE
04/24/2006	KIRKLAND	INCARCERATED	R&E PROCESSING
04/24/2006	LIEBER	INCARCERATED	NEW ADMISSION

HISTORY OF EARNED WORK CREDIT ASSIGNMENTS:

JOB DESCRIPTION	START DATE	END DATE	TERMINATION REASON	JOB LVL
RECREATION AIDE	09/25/2014	-		3P5
TEACHER ASSISTANT	01/28/2014	09/23/2014	INSTIT TRANSFER	3F5
GENERAL WORKER	12/19/2013	01/27/2014	LATERAL TRANSFER	3F5
CIU PROGRAM	01/24/2013	12/16/2013	INSTIT TRANSFER	3F5
CIU PROGRAM	01/05/2012	01/09/2013	PLACED IN ST/SP CUSTODY	3F5
MACHINE OPERATOR	10/25/2011	01/04/2012	INSTIT TRANSFER	3F5
CHIEF CLERK	04/19/2011	10/24/2011	LATERAL TRANSFER	3F5
GENERAL WORKER	06/15/2010	04/18/2011	LATERAL TRANSFER	3F5
TEACHER ASSISTANT	02/26/2010	06/10/2010	INSTIT TRANSFER	3F5
TEACHER ASSISTANT	11/25/2008	02/22/2010	INSTIT TRANSFER	2F5
TEACHER ASSISTANT	10/01/2007	11/24/2008	INSTIT TRANSFER	2F5

CONSTRUCTION TRAINEE	09/07/2007	09/30/2007	LATERAL TRANSFER	2F5
HOUSEKEEPER	05/24/2007	07/12/2007	INSTIT TRANSFER	2F5
GENERAL WORKER	05/15/2007	05/23/2007	INMATE REQUEST	2F5
CARPENTER HELPER	05/09/2007	05/14/2007	INSTIT TRANSFER	2F5
CARPENTER HELPER	03/19/2007	04/30/2007	COURT	2F5
CARPENTER HELPER	12/12/2006	03/16/2007	INSTIT TRANSFER	2F5
CUSTODIAL WORKER	10/20/2006	12/11/2006	LATERAL TRANSFER	2F5
CUSTODIAL WORKER	05/19/2006	10/03/2006	COURT	2F5
CUSTODIAL WORKER	05/12/2006	05/18/2006	MI ELIGIBLE FOR LEVEL 2	3F5

HISTORY OF EARNED EDUCATION CREDITS:

NO SCHOOL ASSIGNMENTS

***** END OF REPORT *****

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[Version: 1.4.12 Built: 02/03/2015 11:57:23 AM Time: 11:22:49 AM]

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF WILLIAMSBURG

INDICTMENT/CASE#:

STATE VS.

2007-GS-45-0176

ROBERT TROY TAYLOR,

A/W#:

AKA:

Date of Offense: November 1988

Race: White Sex: Male Age:

S.C. Code §: 16-3-655 (B)

DOB: 1969 SS#: [REDACTED]

CDR Code #: 0 / 3 / 9 / 6

Address: 412 Adare Court

City, State, Zip: Murrell Inlet, SC 29576

DL# SID#

SENTENCE SHEET

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

TO: CRIMINAL SEXUAL CONDUCT WITH A MINOR - SECOND DEGREE

In violation of § 16-3-655 (B) of the S.C. Code of Laws, bearing CDR Code # 0396

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

ATTEST:

Solicitor

Defendant

Attorney for Defendant

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

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

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Heard, ☐ Waived, ☐ Ordered

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

Payment Terms:

☐ set by SCDPPPS

Recipient:

*Fine:

\$14-1-208 (Assessments 107.5%)

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

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

\$56-5-2885 (DUI Assessment)

\$35.13 (Public Def/Prob)

\$73.3, 1B TP (Law Enforce. Funding)

\$33.7, 1B TP (Drug Court Surcharge)

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

\$56-5-2842(J) (Vehicle Assessment)

3% to County (if paid in installments)

TOTAL

\$100
\$100
\$12
\$500
\$25
\$100
\$50
\$40/ea

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:

INMATE RECORDS OFFICE
 2007 JUL 1 PM 1:41

\$17-25-45

☐ Appointed PD or appointed other counsel, \$35.13 TP

Requires \$500 be paid to Clerk during probation.

PRESIDING JUDGE

Judge Code:

Sentence Date:

2 1 1 4 1 3
 7/12/07

Court Reporter:

SCCA/217 (9/2006)

George James 760

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF WILLIAMSBURG
STATE VS.

ROBERT TROY TAYLOR

AKA:

Race: White Sex: Male Age:

DOB: 1969 SS#

Address: 412 Adare Court

City, State, Zip Murrell Inlet, SC 29576

DL# SID#

INDICTMENT/CASE#:

2007-GS-45-176

AW#:

Date of Offense: November 1988

S.C. Code §: 16-3-910

CDR Code #: 0 / 0 / 9 / 5

SENTENCE SHEET

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

TO: KIDNAPPING

In violation of §16-3-910 of the S.C. Code of Laws, bearing CDR Code #0095

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

ATTEST:

Solicitor

Defendant

Attorney for Defendant

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of Life w/parole days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment of \$ _____
plus costs and assessments as applicable; the balance is suspended with probation for _____ months/years and subject to South
Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.☐ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____☐ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State
Department of Corrections.☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Heard, ☐ Waived, ☐ Ordered

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

Payment Terms:

☐ set by SCDPPPS

Recipient:

*Fine:

§14-1-208 (Assessments 107.5%)

§14-1-211(A)(1) (Conv. Surcharge)

§14-1-211(A)(2) (DUI Surcharge)

§60-5-2895 (DUI Assessment)

§35-13 (Public Def/Prob)

§73.3, 1B TP (Law Enforce. Funding)

§33.7, 1B TP (Drug Court Surcharge)

§60-21-114 (BUI Breath Test Fee)

§60-5-2942(J) (Vehicle Assessment)

3% to County (if paid in installments)

TOTAL

\$100
\$100
\$12
\$500
\$25
\$100
\$60
\$40/ea

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 \$ _____

\$ _____

Other: _____

PRESIDING JUDGE

Judge Code: _____

Sentence Date: _____

STATE OF SOUTH CAROLINA

COUNTY OF
STATE

Georgetown

VS.

Robert Tray Taylor

AKA:

Race:

W

Sex:

M

Age:

DOB:

69

SS#:

Address:

594 Little Tony Ave.

City, State, Zip

Murrells Inlet, SC 29570

DL#

SID#

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#:

04

GS-

22

44

AW#:

G-109876

Date of Offense:

On or between 1-01-88 and 12-31-88

S.C. Code §:

16-15-0140

CDR Code #:

2 1 4 1 6 1 8

☐ CASE RESTORED

SENTENCE

☒ PLEA ☐ TRIALIn disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADS TO: Level A1in violation of §16-15-0140 of the S.C. Code of Laws, bearing CDR Code # 2 1 4 1 6 1 8☒ 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:

Solicitor

Defendant

Attorney for Defendant

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center, for a determinate term of 8 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 5 days/months/years and/or payment of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for 3 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: 05-361; 05-523☐ 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.☐ RESTITUTION: ☐ Heard, ☐ Waived, ☐ 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)

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

\$56-5-2995 (DUI Assessment)

\$35.13 (Public Def/Prob)

\$73.3, 1B TP (Law Enforce. Funding)

\$33.7, 1B TP (Drug Court Surcharge)

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

\$56-5-2942(J) (Vehicle Assessment)

3% to County (if paid in installments)

TOTAL

\$	\$
\$	\$
\$100	\$100.00
\$100	\$
\$12	\$
\$500	\$
\$25	\$25.00
\$100	\$
\$50	\$
\$40/ea	\$
\$	\$3.75
\$	\$128.75

Clerk of Court/Deputy Clerk

Court Reporter: Linda McCall

SPECIAL CONDITIONS:

PTUP

days/hours Public Service Employment

Obtain GED

Attend Voc. Rehab. for 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 \$ 10.00 beginning

\$ _____ paid to Public Defender Fund

Other: Must register as a sex offender

☐ Appointed PD or appointed other counsel, \$35.13 TP
Requires \$500 be paid to Clerk during probation.

PRESIDING JUDGE

Judge Code:

Sentence Date:

0 1 8 1 4 1 1
4-20-06

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF
STATEGeorgetown
VS.Robert Troy Taylor

AKA:

Race:

W

Sex:

M

Age:

DOB:

1-69

SS#:

Address:

412 Adare Court

City, State, Zip

Murrells Inlet SC 29576

DL#

SID#

INDICTMENT/CASE#:

05

-GS-

22523

AW#:

Direct Indictment

Date of Offense:

On or between 1-1-89 and 12-31-89

S.C. Code §:

16-15-0140

CDR Code #:

2 1 4 1 6 1 8☐ CASE RESTORED

SENTENCE

☒ PLEA☐ TRIALIn disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADS
TO: Level Ain violation of § 16-15-140 of the S.C. Code of Laws, bearing CDR Code # 2, 4, 6, 8☒ 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:

Solicitor

Defendant

Attorney for Defendant

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 3 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 5 days/months/years and/or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for 3
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: 04-44, 06-361☐ 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.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Heard, ☐ Waived, ☐ 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)

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

\$56-5-2995 (DUI Assessment)

\$35.13 (Public Def/Prob)

\$73.3, 1B TP (Law Enforce. Funding)

\$33.7, 1B TP (Drug Court Surcharge)

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

\$56-5-2942(J) (Vehicle Assessment)

3% to County (if paid in installments)

TOTAL

\$	
\$	
\$100	\$100.00
\$100	\$
\$12	\$
\$500	\$
\$25	\$25.00
\$100	\$
\$50	\$
\$40/ea	\$
\$375	\$
\$128.75	\$

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 \$ 10.00 beginning mo. of release

\$ _____ paid to Public Defender Fund

Other: Must register as a sex offender☐ Appointed PD or appointed other counsel, \$35.13 TP
Requires \$500 be paid to Clerk during probation.

PRESIDING JUDGE

Judge Code:

Sentence Date:

Clerk of Court/Deputy Clerk

Court Reporter:

White - Clerk

Green - Corrections

Canary - Probation

Pink - Defendant

SCCA/217(7/2003)

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF
STATE

Georgetown

VS.

AKA:

Race: W Sex: M Age:

DOB: 169 SS#:

Address: 412 Adare Court

City, State, Zip: Murrells Inlet SC 29576

DL# SID#

INDICTMENT/CASE#:

06

-GS-

22

361

AW#:

H-750363

Date of Offense:

On or about 8-5-99 through 8-7-99

S.C. Code §:

16-3-655(2)

CDR Code #:

0 1 3 1 9 1 6

☐ CASE RESTORED

SENTENCE

☒ PLEA ☐ TRIALIn disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADS

TO: Criminal Sexual Unlawful 2nd degree

In violation of § 16-3-655(2) of the S.C. Code of Laws; bearing CDR Code #

0 1 3 1 9 1 6

☐ NON-VIOLENT☒ VIOLENT☐ SERIOUS☒ MOST SERIOUS☐ 17-25-45The charge is: ☐ As Indicted, ☐ Lesser Included Offense, ☒ Defendant Waives Presentment to Grand JuryThe plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State

ATTEST:

Solicitor

Defendant

Attorney for Defendant

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center, for a determinate term of 8 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 5 days/months/years and/or payment

of \$; plus costs and assessments as applicable*; the balance is suspended with probation for 3

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: 04-44, 05-523☐ 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.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Heard, ☐ Waived, ☐ 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 \$100.00
\$14-1-211(A)(2) (DUI Surcharge)	\$100 \$
\$56-5-2995 (DUI Assessment)	\$12 \$
\$35.13 (Public Def/Prob)	\$500 \$
\$73.3, 1B-TP (Law Enforce. Funding)	\$25 \$25.00
\$33.7, 1B-TP (Drug Court Surcharge)	\$100 \$
\$50-21-114(BUI Breath Test Fee)	\$50 \$
\$56-5-2942(J) (Vehicle Assessment)	\$40/ea \$
3% to County (if paid in installments)	\$3.75
TOTAL	\$128.75

Clerk of Court/Deputy Clerk

Court Reporter:

Kinda McCall

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 \$ 10.00 beginning 1st day of probation

\$ paid to Public Defender Fund

Other: Must register as a sex offender

☐ Appointed PD or appointed other counsel; \$35.13-TP Requires \$500 be paid to Clerk during probation.

PRESIDING JUDGE

Judge Code:

0 1 0 1 4 1 1

Sentence Date:

4-20-00

STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM WILLIAMSBURG COUNTY
Court of Common Pleas

The Honorable Tanya A. Gee, Circuit Court Judge

Case No. 2015-CP-43-037

Robert Troy Taylor, #315084, ...Respondent,

v.

State of South Carolina, ...Petitioner.

NOTICE OF APPEAL

The State of South Carolina appeals the Honorable Tanya A. Gee order dated February 19, 2016, and filed February 24, 2016, granting post-conviction relief to the Respondent. The State received notice of entry of the order on March 10, 2016. A copy of the order on appeal is attached to this notice.

[SIGNATURE PAGE TO FOLLOW]

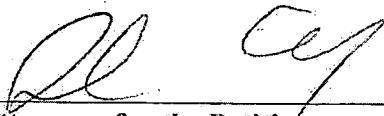
Respectfully submitted,

ALAN WILSON
Attorney General

DANIEL GOURLEY
Assistant Attorney General
S.C. Bar # 100934

P.O. Box 11549
Columbia, S.C. 29211
(803) 734-3737

By:


Attorneys for the Petitioner

Columbia, South Carolina

March 23, 2016

Other counsel of record:

Tricia Blanchette, Esquire
Law office of Tricia A. Blanchette, LLC
P.O. Box 12725
Columbia, SC 29211

STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM WILLIAMSBURG COUNTY
Court of Common Pleas

The Honorable Tanya A. Gee, Circuit Court Judge

Case No. 2015-CP-43-037

Robert Troy Taylor, #315084, ...Respondent,

v.

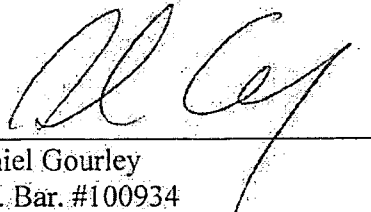
State of South Carolina, ...Petitioner.

PROOF OF SERVICE

I, Daniel Gourley, Counsel for the Petitioner, certify that I have today served the within notice of appeal upon the Respondent by depositing a copy of it in the United States Mail, postage prepaid, addressed to his attorney of record:

Tricia Blanchette, Esquire
P.O Box 12725
Columbia, SC 29211

I further certify that all parties required by Rule to be served have been served this 23 day of March, 2016.



Daniel Gourley
S.C. Bar. #100934
Office of Attorney General
Post Office Box 11549
Columbia, SC 29211
(803) 734-3737
Attorney for the Petitioner

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM WILLIAMSBURG COUNTY
Court of Common Pleas
Post Conviction Relief

Honorable Tanya A. Gee, Circuit Court Judge

Case No.: 2015-CP-43-0037

Robert Troy Taylor,

Respondent-Petitioner,

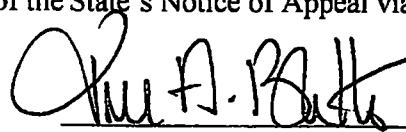
vs.

State of South Carolina,

Petitioner-Respondent.

NOTICE OF CROSS-APPEAL

Robert Troy Taylor cross-appeals the Order Granting Application for Post Conviction Relief, which was signed by the Honorable Tanya A. Gee on February 19, 2016 and filed on February 24, 2016. The Williamsburg County Clerk of Court did not provide notice to Robert Troy Taylor or undersigned counsel regarding the entry of the Order, but counsel printed the Order from the online judicial records. On March 24, 2016, Robert Troy Taylor, through counsel, received a copy of the State's Notice of Appeal via mail from which this Notice timely follows.



Tricia A. Blanchette
Bar No. 74904
PO Box 12725
Columbia, SC 29211
(803) 988-0008

Other Counsel of Record:

Daniel Gourley
Assistant Attorney General
PO Box 11549
Columbia, SC 29211

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM WILLIAMSBURG COUNTY
Court of Common Pleas
Post Conviction Relief

Honorable Tanya A. Gee, Circuit Court Judge

Case No.: 2015-CP-43-0037

Robert Troy Taylor,

Respondent-Petitioner,

vs.

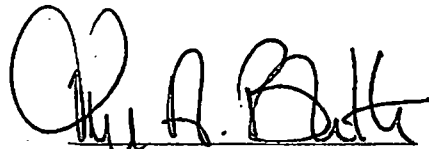
State of South Carolina,

Petitioner-Respondent.

CERTIFICATE OF SERVICE

I, Tricia A. Blanchette, Attorney at Law, certify that I served the Notice of Cross Appeal by depositing the same in the United States Mail this 28th day of March 2016 on the Attorney of Record for the Office of the Attorney General, addresses as follows:

Office of the Attorney General
Att: Daniel Gourley, Assistant Attorney General
PO Box 11549
Columbia, SC 29211



Tricia A. Blanchette
Bar No. 74904
PO Box 12725
Columbia, SC 29211
(803) 988-0008

STATE OF SOUTH CAROLINA
COUNTY OF WILLIAMSBURG

Robert Troy Taylor, #315084,
☒ Plaintiff

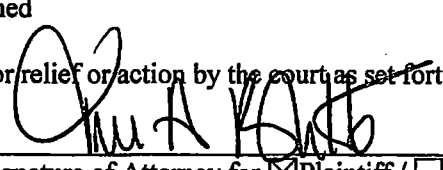
v.

State Of South Carolina
☐ Defendant.

IN THE COURT OF COMMON PLEAS

CASE NO.
2015-CP-45-0037

MOTION AND ORDER INFORMATION
FORM AND COVER SHEET

Plaintiff's Attorney: Tricia A. Blanchette, Bar No. 74904 Address: PO Box 12725 Columbia, SC 29211 phone: 803-988-0008 fax: 8030988-8070 e-mail: blanchettelaw@gmail.com other:	Defendant's Attorney: Daniel Gourley, Bar No. Address: PO Box 11549 Columbia, SC 29211 phone: 803-734-3737 fax: 803-734-4113 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: Discovery Estimated Time Needed: 10 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 March 27, 2015 Date submitted	
SECTION III: Motion Fee	
☐ PAID - AMOUNT: ☒ EXEMPT: ☐ Rule to Show Cause in Child or Spousal Support (check reason) ☐ 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, SCRPC) ☐ 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
	)	
COUNTY OF WILLIAMSBURG	)	DOCKET NO.: 2015-CP-45-0037
ROBERT TROY TAYLOR, 315084,	)	
Applicant,	)	
v.	)	MOTION FOR DISCOVERY
	)	
STATE OF SOUTH CAROLINA,	)	
Respondent,	)	
	)	

COMES NOW Applicant, by and through his undersigned attorney, and requests that this Court enter an Order for Production of Discovery pursuant to S.C. Code Ann. §17-27-150(a) (2008).

This matter comes before the Court by way of an Application for Post Conviction Relief filed on December 13, 2015. Prior to filing the Application, Applicant, through undersigned counsel, requested a copy of his file maintained by trial counsel (Charles David Barr, Esquire). Applicant received a written response that the file no longer existed, and he wrote to trial counsel questioning the non-existence of his file on November 12, 2014. As of today, Applicant nor counsel has received a response from trial counsel.

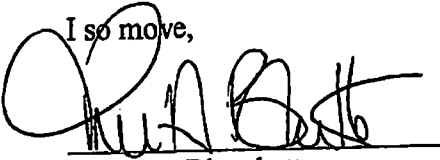
The underlying charges and conviction stem from a joint investigation by Williamsburg and Georgetown Counties involving the same alleged victim. Applicant entered a plea to the Georgetown County charges and was represented by R. Scott Joye, Esquire. Counsel has requested a copy of Scott Joye's file, but she has not received it as of the filing of this motion. Scott Joye, Esquire, did represent Applicant initially on the Williamsburg charges.

Applicant has retained the services of a private investigator and Gaye Allen-Cook, who testified as an expert for the State at his trial in Williamsburg trial. To ensure that Applicant, his counsel, his private investigator and the retained expert have the case material needed to properly prepare his case for an evidentiary hearing, Applicant would respectfully request the opportunity to issue subpoenas to the appropriate people, offices or agencies for the production of the following case documents pursuant to S.C. Code Ann. §17-27-150(a) (2008):

1. A complete copy of Applicant's file maintained by Charles David Barr, Esquire, and R. Scott Joye, Esquire, to include the recorded interview of the victim(s) and any other electronic discovery or audio/video recordings.
2. A complete copy of the State Law Enforcement Agency (SLED) file on both the Williamsburg and Georgetown cases, to include any investigation done into Applicant's computer contents and/or usage.
3. A complete copy of Applicant's criminal file created by the Williamsburg County Solicitor's Office, to include any audio/video recordings and any plea offers made to counsel.
4. A complete copy of the file maintained by the Williamsburg and Georgetown County Sheriff's Departments, to include any audio/video recordings.
5. A complete copy of the trial exhibits maintained by the Williamsburg County Clerk of Court.

The Applicant, through undersigned counsel, submits that the above listed documents and case materials are necessary for counsel, his private investigator, and retained expert to properly prepare his case and to present his claims. Furthermore, the Applicant, through counsel, submits that this request is not being made as a fishing expedition, but it is only being submitted to the Court due to the importance of the requested materials in Applicant obtaining "one full bite of the apple."

THEREFORE, based upon the foregoing the Applicant respectfully requests that this Court hold a hearing and/or enter an Order for Discovery, which allows counsel to issue subpoenas to the appropriate parties, offices and agencies for the above requested case materials that are necessary for the presentation of Applicant's case.

I so move,


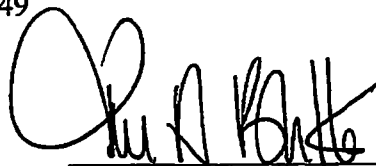
Tricia A. Blanchette
PO Box 12725
Columbia, SC 29211
Attorney for Applicant

March 27 2015
Columbia, SC

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF WILLIAMSBURG	)	DOCKET NO.: 2015-CP-45-0037
ROBERT TROY TAYLOR, 315084,	)	
Applicant,	)	
v.	)	CERTIFICATE OF SERVICE
	)	
STATE OF SOUTH CAROLINA,	)	
Respondent,	)	
_____	)	

I, Tricia A. Blanchette, Attorney for Applicant, hereby certify that I placed in the United States Mail this 27th day of March 2015, a copy of Motion for Discovery, to Daniel Gourley of the Attorney General's Office, at:

Office of the Attorney General
Att: Daniel Gourley, Ast. AG
P.O. Box 11549
Columbia, SC 29211-1549



Tricia A. Blanchette
PO Box 12725
Columbia, SC 29211
(803) 988-0008

March 27, 2015

STATE OF SOUTH CAROLINA
COUNTY OF WILLIAMSBURG

IN THE COURT OF GENERAL SESSIONS

THE STATE,

PLAINTIFF,

TRANSCRIPT OF RECORD
C/A #: 2006-GS-45-176

v.

ROBERT TROY TAYLOR,

MOTION HEARING

DEFENDANT.

WILLIAMSBURG COUNTY COURTHOUSE
September 27, 2007

BEFORE:

HONORABLE GEORGE C. JAMES, PRESIDING JUDGE.

APPEARANCES:

ASSISTANT SOLICITOR RONNIE SABB, ESQUIRE
ASSISTANT SOLICITOR KIMBERLY BARR
Attorneys for The State

CHARLES DAVID BARR, ESQUIRE
Attorney for Defendant

TAKEN BY MELISSA R. SINGLETARY
CERTIFIED VERBATIM REPORTER

INDEXPAGE

Certificate of Service

23

HEARING

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1 THE COURT: This is of course State of South Carolina v. Robert
2 Troy Taylor. On July 12th, 2007, Mr. Taylor was found guilty by a jury of kidnaping
3 and criminal sexual conduct with a minor of the 2nd degree ... that's correct, isn't it,
4 Mr. Barr?

5 MR. BARR: Yes, sir, Judge.

6 THE COURT: And I sentenced him to life without parole pursuant to
7 Section 17-25-45 and Mr. Barr timely filed and sent to me various Motions and
8 today's Hearing is held for the purposes of hearing Mr. Barr's Motions. I'll be glad to
9 hear from you, Mr. Barr, in whatever order you'd like to go.

10 MR. BARR: May it please the Court, Judge, I ... first of all, I'd like to
11 take this opportunity to thank the Court as well as opposing counsel and everyone
12 else who's associated with this process for taking a Friday morning to come in here
13 and hear us talk some more. Your Honor, of course in addition to the items that were
14 set forth in our amended Motions for Reconsideration, I think there was some issue
15 as to the Defendant was also sentenced to consecutive sentence on the kidnaping
16 charge.

17 THE COURT: Yes, sir.

18 MR. BARR: And that was one of the items that we wanted the Court
19 to take another look at, that is whether or not under the circumstances the ... the
20 Defendant should have been sentenced ... should have gotten a concurrent sentence
21 or perhaps should have gotten concurrent sentence as opposed to a consecutive
22 sentence.

23 THE COURT: Right.

24 MR. BARR: And Your Honor, I ... I would just simply start with that
25 issue and of course realizing that ... that it is, certainly sentencing is well within the

HEARING

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1 clearly defined province as established by ... by every precedent we know it is within
2 the sound discretion of the trial judge and Your Honor, of course having heard the
3 facts and circumstances of this case, we would just again take the position that ... that
4 ... that ... and it would certainly be an issue involving perhaps to some degree due
5 process, fundamental affairs, cruel and unusual punishment, but at the end of today
6 we would certainly hope the Court would, given the consecutive nature of the
7 sentencing on the kidnaping and the conviction of second degree criminal sexual
8 conduct. The next item, Judge, I think that there's some question as to the request to
9 reconsider the request for a directed verdict. Of course, the issue there would have
10 been those items that were actually set forth during the course of the trial and ... and I
11 believe that the record may be adequately clear for review purposes on those matters
12 and Judge, I would not have noted at the time that we were making a motion for
13 reconsideration that it would be necessarily appropriate, may very well be redundant
14 to try to go back to those things. So we would then move on to the ...

15 THE COURT: The basis for those Motions were generally taking the
16 evidence in the light most favorable to the state there was insufficient evidence as a
17 matter of law for the jury to find Mr. Taylor guilty.

18 MR. BARR: Yes, sir, particularly on the issue as I recall of ... of
19 venue and I believe that there was quite a bit of discussion ...

20 THE COURT: Right.

21 MR. BARR: ... on both sides and all of which I think that the record
22 clearly shows what the positions were there on ... on that issue. And in fact, I think
23 that the evidence on the issue of venue in terms was pretty much confined to the
24 testimony of ... of one witness which would be Officer Rogers. Your Honor, we ...
25 we've also raised an issue concerning I think initially there was a Motion to ...

HEARING

5

1 initially we had a Motion to ... we had a Motion that was addressed to the
2 appropriateness of the State's Notice to Seek ... it was a Motion to quash it is what it
3 was. The State's decision to seek life without possibility of parole and I think that
4 that ... at that ... at that time it was an issue which perhaps we didn't talk about as
5 much ... as much about it as perhaps we should have and I do note that it's an issue
6 that ... that ... that one of the central issues in this case as it relates to the conviction.
7 Your Honor, I would respectfully point out that and of course in the section ... one of
8 the things that I have looked at pretty closely as it relates to the appropriateness of ...
9 of the Recidivist Statute is the ... the next Code Section which deals with actually the
10 exceptions of section 17-25-50 which deals with the issue considered closest, the
11 closely connected offenses as one offense and that would just simply be one ... one
12 item that we thought in terms of this particular prosecution that there was some
13 similarities to ... to some issues that ... that we thought, at least the court is very clear
14 about as it relates to prosecution under the Statute. If I recall correctly, the basis for
15 the State's decision to ... to serve Notice was a prior conviction from Georgetown
16 County involving this same Defendant or this same victim, was not actually a
17 conviction but it was a guilty plea involving this same Defendant or same victim for
18 the same offense.

19 THE COURT: Different times.

20 MR. BARR: Different times.

21 THE COURT: The one we tried ... the one we tried here occurred in
22 '98. The one that was tried in Georgetown County occurred about nine months later
23 in '99.

24 MR. BARR: Well, I ... I think that that ...

25 THE COURT: And that one was pled first.

HEARING

6

1 MR. BARR: Yes. Well, and of course I'm not going to say different
2 times because quite frankly we're arguing against that because given the time, the
3 sequence and ... and the fact that you're dealing with the same victim, it was my
4 understanding that even the law enforcement officers got confused as to what or
5 where the incident occurred and ... and of course I realize that as far as the indictment
6 is concerned which was the dates that we actually looked at, but I believe even the
7 one, the incident from Georgetown County the Defendant pled guilty to that, the
8 offense having occurred perhaps in November.

9 THE COURT: I believe that's right.

10 MR. BARR: I believe of '99. And this involves August ...

11 THE COURT: I think it was November of '98 and August of '99.

12 MR. BARR: Yes, sir.

13 THE COURT: Are the two alleged offenses.

14 MR. BARR: And of course, Judge, under the circumstances we would
15 certainly take the position that ... that with respect to the parties, with respect to the
16 various allegations surrounding these two events that they ... they certainly could
17 easily be looked upon as one as opposed to two separate incidents.

18 THE COURT: Under 17-25?

19 MR. BARR: Under 17-25. Now, of course, Judge, that still leaves the
20 issue of aside from the 17-25 the appropriate, the application of the Statute, that is
21 the application to consider the Statute and I realize that there has been a number of
22 ... of issues raised concerning the constitutionality of the Statute itself and it would
23 clearly say that under the Supreme Court earlier ruling they pretty much established
24 that on its face that Statute as generally applied would certainly be constitutional so
25 ... but at the same time given a proportion of the criminal sanctions that have been

HEARING

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1 proposed against this Defendant. We would seriously question the constitutionality
2 of the Statute as well. The other item, Your Honor, would be the Court's ruling
3 which we described in our Motion as a ruling on July 12th, 2007. And Your Honor, if
4 ... if memory serves me correctly, I think that was ... that was the ruling by the Court
5 whereby we requested by way of a Motion in Limine that the Defendant be at least
6 put on notice or specifically informed concerning what convictions and/or prior bad
7 acts he would get impeached with if he took the witness stand. And of course
8 if I recall the Court's ruling was that it would only be after he took the witness stand
9 that he would find out or that you would rule on ... on the ... the application of ... of
10 the prior convictions and/or prior conduct to impeach the Defendant. And certainly,
11 Judge, that in my humble opinion was ... was an issue that severely chilled any intent
12 that we may have had to put the Defendant on the witness stand. Certainly any
13 decision that he may have made to take the witness stand pertaining to this not
14 knowing what his fate would be.

15 THE COURT: Let's talk about that for a moment.

16 MR. BARR: Yes, sir.

17 THE COURT: When you cross examined the victim very, very
18 vigorously a lot of that cross examination or I would say the bulk of that cross
19 examination was directed at what I'm just going to call the Georgetown County
20 incident, the one that Mr. Taylor pled guilty to before Judge Cottingham. Now, you
21 had ... and you were ... you were ... and it was incumbent on you to do it, you had to
22 attack the victim's credibility by going into the Georgetown County incident and
23 would you be telling me that if Mr. Taylor took the stand that Ms. Barr would not
24 have been able to say, hey, he pled guilty to it? After all this back and forth question
25 and answer, challenging the victim's testimony, you're telling me that Mr. Taylor

HEARING

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1 would not have been subject to cross examination on that?

2 MR. BARR: Judge, clearly I think he would have actually have been
3 subject to cross examination and we weren't too much concerned about that. In fact,
4 I won't get into collateral proceedings but as I understand it, there is a ... there is a
5 Post Conviction proceedings that was proceeding at the very time that addresses the
6 circumstances under which the ... the plea in Georgetown was actually made and for
7 that reason while it could have been used as perhaps being potentially devastating
8 because the Defendant could clearly have been asked the pointed question of whether
9 or not he actually pled guilty in Georgetown but then on the other hand, he could
10 have given an explanation concerning that guilty plea. And of course, I don't know
11 that the jury not being deprived of his explanation that could have very well have
12 taken whatever position they would have made regarding whatever weight they
13 would have decided to give to that evidence. So at the end, I think clearly there is
14 cause, there is some consideration on both sides but I think in this particular situation
15 the Defendant would almost have to compel to explain and I think he could have
16 explained exactly the circumstances surrounding the guilty plea in Georgetown but I
17 really don't ... I don't ... I don't think that his having to on cross examination would
18 not have been in his best interest. Judge, I think that's pretty much by way of the
19 Motion, that's pretty much the issue. Thank you, sir.

20 THE COURT: All right. As part of your Motion under Section 17-25-
21 45 and 50, one thing that I want to address as well. I remember when you made the
22 Motion to Quash under the LWOP notice, one of your Motions was over a statute.

23 MR. BARR: Yes, sir.

24 THE COURT: At the time I ruled on that I indicated that in the
25 context of facts of our case that reasoning didn't apply because in my mind these two

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1 incidents November and the August did not occur so closely in time that they should
2 be considered as one incident. One thing that perhaps we did not fully address at the
3 time of the ruling is State v. Gordon which, it was a Supreme Court case that causes
4 a fair amount of people to scratch their head, that's 588SCsd105. And I don't know
5 whether its dicta or whether it is part of the holding, but my conclusion at that time
6 was it was basically a commentary. In that case, the Defendant was convicted of
7 trafficking in crack cocaine and was sentenced to 30 years in prison. The State had
8 requested life without parole because of some prior ... or a prior conviction for a
9 most serious offense. And the Supreme Court said ... if I can find the quote ... "We
10 find the Recidivist Statute was aimed at career criminals, those who have been
11 previously sentenced and then commit another crime, not as those whose recidivist
12 status premise solely upon acts which occurred at times so closely connected in the
13 point of time that they may be considered as one offense." And that's when the
14 Supreme Court said according to this we hold 45 and 50 actually together in any
15 given case. It was my view at that time that these two events did not occur so closely
16 in time to trigger that language. I don't know if Ms. Barr would respond to this. By
17 the way, the Legislature in July of last year tagged on a sentence at the end of
18 subparagraph F of 17-25-45 that to me tells me the Legislature was trying to overrule
19 State v. Gordon. Then we get back into separation of powers ...

20 MR.BARR: Yes, sir.

21 THE COURT: ... but that Amendment to the Statute doesn't apply to
22 this case at all because it was passed well after the alleged incident and well after the
23 Indictment.

24 MR. BARR: Judge, of course, if you remember, we had ... we had
25 quite a bit of discussion about that. Basically, from the standpoint that the

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HEARING

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1 Georgetown County incident was actually ... the Williamsburg County case was
2 actually before it.

3 THE COURT: Yeah, and that takes me to the drug case. The drug
4 cases say for enhancement purposes. I think the case is State v. Waites. But for
5 enhancement purposes it doesn't matter ... you can get tried for the third one first ...

6 MR. BARR: Yes, sir.

7 THE COURT: ... then the other two, the prior two next and you are
8 still ... when you try the next two that occurred before the third ... I know I'm totally
9 confusing everybody now, but the order of offenses does not impact the enhancement
10 impact from the drug case. Ms. Barr, would you like to respond to this first
11 argument that concurrent sentences should have been imposed?

12 MS. BARR: Yes, Your Honor, if I may. May it please the Court,
13 Judge. Obviously this was an appropriate sentence particularly taking into
14 consideration all of the evidence that was presented during the course of the trial.
15 Taking into consideration the victim impact statement as well as the statement
16 regarding prior incident in Georgetown County. Your Honor, given the role that the
17 Defendant played in the lives of his victims, how that role allowed him to access two
18 of his victims and how there were allegations in this case as well as victims in the
19 Georgetown County case that the crimes occurred during church functions. The
20 State given the facts in the Georgetown County case as well as our case, I think
21 certainly is supported by the facts of the case ...

22 THE COURT: Just for the record while we're on that point, would you
23 ... I know the record shows Mr. Barr, and Mr. Taylor, but Ms. Barr, if you would
24 state for the record the folks that are with you. The victim and the parents, if you
25 would state that for the record

HEARING

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1 MS. BARR: Your Honor. If it please the Court. ~~VICTIM~~ is
2 here. His parents Mr. and Ms. are here.

3 THE COURT: All right. So noted for the record. All right. The
4 second point that he raised was I guess was the readdressing the directed verdict
5 motion.

6 MS. BARR: Your Honor, please the Court. To protect the record, the
7 State would first of all take the position that ground two of his Motion for
8 Reconsideration, the law requires we make a specific motion before the Court stating
9 the grounds. On each ground, we have done that, Your Honor. In the event ---
10 Secondly, assuming that is true, it is properly preserved. Judge, we would allege that
11 there is certainly enough evidence from the victim in and of itself that a crime was
12 alleged and in fact had occurred. In addition, I recall that counsel and the Court, in
13 chambers and on the record, heavily discussed the issue involving venue and what's
14 required to prove venue and the Court was satisfied with what the State was required
15 to prove beyond a reasonable doubt. Your Honor, while we recognize defense
16 Motion for a Direct Verdict particularly regarding the issue of, in terms of what
17 statements were required to prove. Your Honor, it is our position that any evidence
18 was enough to have the case submitted to the jury, so I believe that denying the
19 defense Motion for Directed Verdict should stand.

20 THE COURT: How about the argument he makes that the LWOP
21 Notice should be quashed because if these two events were one continuous event for
22 the purpose of recidivism.

23 MS. BARR: Judge, of course, we just take the opposite view. I think
24 when you look at cases that interpret Section 17-25-45, the LWOP Statute, I think it
25 talks about cases where you have sort of a crime spree going on. If you have

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1 someone go and rob one convenience store and then an hour later goes and robs
2 another convenience store, then an hour or two hours later goes and kills somebody.
3 I think that is the continuing course of conduct that the case law references when it
4 talks about the inapplicability of the LWOP Statute. You also have as in State v.
5 Gordon, you had a situation where someone is alleged to have committed the crime
6 of conspiracy to traffic on September, somewhere between September the 19th and
7 the 23rd and then five days later they have been accused of committing the offense of
8 trafficking within that period and I think the argument was made in State v. Gordon
9 that because that is a continuing course of conduct it should be treated as one event
10 for the purpose of invoking that one Statute and they made it inapplicable. Judge,
11 this is clearly not the case in our ... in our situation. We had a I believe it was an
12 eight or nine month time frame between the first incident that happened in
13 Williamsburg County in 1998 and the second incident that happened in August of
14 1999 in Georgetown County. It was in complete separate counties, it was under
15 complete different circumstances and I don't think that that particular argument is
16 appropriate in this case. I mean it clearly wasn't a continuing course of conduct. The
17 victim testified that he actually didn't have any contact ...

18 THE COURT: But under ... but under Lyle, the reason I let the
19 evidence in of the prior incident under Lyle was that because of the way the case law
20 breaks down on child sex offenses that if it involves the same victim, under Lyle it's
21 looked at as part of a common scheme or plan. There is certainly no case on point
22 but it is my ruling that it is one common scheme or plan for Lyle purposes, does that
23 require me to find that it's one continuous event for sentencing purposes?

24 MS. BARR: Judge, I don't think so. I think there are two separate
25 issues. I believe that one of ... the primary reason the Court allowed the second

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1 incident to come in as evidence is because it showed that it was the same victim, it
2 happened at a church sponsored function, the assault began the same way, it ended
3 the same way. It is a situation where the victim was isolated from other folks to
4 allow the assault to take place. I think it's been different. And also I believe that
5 there is ... there is case law that allows in evidence of subsequent illicit conduct
6 between the Defendant and the victim in the child sexual assault case. So, I think
7 that the Court allowed that in properly under Lyle and under the case law that allows
8 in subsequent illicit conduct between the parties but I definitely think it's certainly a
9 different issue when it comes to sentencing in the Life Without Parole Statute. I
10 think the Life Without Parole Statute in order to make it inapplicable here for
11 example, if you had a situation where on this camping trip he assaulted the child that
12 night and then got up the next morning and assaulted the child again or on the way
13 home assaulted the child again, I think that that would create a better argument or a
14 more solid argument that the Life Without Parole Statute didn't take place because it
15 was along the continuing course of conduct as opposed to a common scheme or plan.
16 But, I think when you have a nine month delay between the assault where the victim
17 and Defendant didn't see each other at any point in time during the time period which
18 the assault took place, I think it's a different thing. I think it's a highly different
19 matter.

20 THE COURT: All right. The ... is that all you want to say on that
21 point? On the quashing of the LWOP Notice for the one continuous event argument?
22 I haven't gotten yet to the ... to the latter part of that analysis but on the argument Mr.
23 Barr advances that these two incidents should be considered one continuous event,
24 anything else you have on that point?

25 MS. BARR: No, Your Honor.

HEARING

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1 THE COURT: His next point was my refusal to give an advance
2 ruling, I'll call it, on whether on how I was going to let Mr. Taylor be cross examined
3 insofar as his criminal record is concerned. His prior criminal record.

4 MS. BARR: Your Honor, I ... as I understand the law, the Court is not
5 required to issue an advisory opinion and I think that rulings that we see regarding
6 Motions in limine in past situations where cases are appealed, one of the things that
7 the Appellate Court require is that if you get a preliminary ruling on a Motion in
8 limine, you're not protecting the record. You actually have to bring the Motion again
9 once the evidence is offered to preserve it for appeal. So, you know, one of the
10 things that I would tell the Court is that first of all, if Your Honor had issued an
11 advisory opinion it's not binding because it hasn't been ruled on officially as far as the
12 trial is concerned. Second of all, it appears that Mr. Taylor would want to have his
13 cake and eat it, too. You know, you ... you made an interesting point when you
14 suggested, you asked a question whether or not the defense had during the course of
15 their cross examination of the victim and through closing argument they refer
16 repeatedly to this Georgetown County incident for which we have a conviction.
17 Now, although I understand there is a Post Conviction Relief Action pending, as far
18 as we're concerned today as we stand in the courtroom he still has a conviction for
19 that. Unless ... unless and until some other Court determines that that's no longer the
20 case it's still a conviction.

21 THE COURT: Well, if ... if the case law is that if somebody has been
22 convicted of a crime, let's just say it involves dishonesty so it would be
23 automatically admissible for impeachment purposes without the prejudicial impact
24 analysis, the person who is on the stand getting impeached would have the right to
25 say yes, but that's under appeal. I don't know whether the case law would say yes,

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1 but that's subject to a Post Conviction attack right now. I don't know what the
2 answer to that question is.

3 MS. BARR: Yes, sir.

4 THE COURT: But, you're saying that ... that ... I assume you're saying
5 that my ruling was correct in not giving an advance ruling on that.

6 MS. BARR: I don't think that the Court would be required to give an
7 advance advisory opinion regarding the issue that come into evidence. I think that the
8 Defendant as well as the State has to offer the evidence before a ruling is required
9 and you will see that one of the things that I thought about was ask the question of
10 whether or not if it was even a issue in the course of the trial and in closing
11 arguments if the Defendant had got on the stand would I then not be allowed to cross
12 examine him regarding the fact that he pled guilty and Mr. Barr's response to that
13 was, "Well, you know, he may have been able to offer an explanation for that." And
14 I don't know that ... that he would have ... could have offered an explanation that
15 didn't implicate the other guilty pleas because he had two other guilty pleas to child
16 sexual related offenses to two other victims and, you know, we see it in this
17 courtroom and the courtrooms across the state where you have Defendants who have
18 multiple charges pending and they'll put it up in a lump sum and plea to all of them
19 just to dispose of all them, that happens every day. But, how he could have offered
20 an explanation that didn't implicate the other crimes would ... which would have been
21 if not more prejudicial then at least as prejudicial as the crime that he's committed ...
22 convicted of committing against this child.

23 THE COURT: And you're talking about the lewd act convictions on
24 two other victims?

25 MS. BARR: That's correct. That's correct. In addition, Your Honor,

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1, and again, to protect the record it appears that ground for the Motion for
2 Reconsideration may not properly be preserved because it doesn't state a factual basis
3 for that Motion itself. That would be my response regarding those issues.

4 THE COURT: How about the ... well, let's go back. There's a PCR
5 case, Mr. Barr, called Koon v. State, K-O-O-N, came out this year. I don't know how
6 far long before the trial but in that case, the Defendant requested a Post Conviction
7 Relief in a three strikes case, not a two strikes case but a three strikes case. He had
8 been convicted for grand larceny and burglary, 2nd, which is serious, that's serious.
9 Except he's three strikes. Prior to that he had been convicted of burglary for events
10 that occurred March 13th, March 14th, and March 28th in '70, excuse me, '86. The
11 Supreme Court said that the March 13 and March 14 burglaries were one. The
12 March 28th burglary which occurred 14 days later was far enough away in point in
13 time to be a second separate event. Of course, these were different victims. I know
14 your argument is that this is the same victim so therefore it should be considered as
15 one. How about, Ms. Barr, the State v. Gordon statement that I read earlier that says,
16 "We find that the Recidivist Statute is aimed at career criminals" ... which it doesn't
17 define what a career criminal is ... "those who have been previously sentenced and
18 then commit another crime" ... well, maybe that is a definition ... "not at those whose
19 recidivist status is premised solely upon acts which occurred in time so closely
20 connected." How do you look at that first part of that sentence that says, "We find
21 the Recidivist Statute is aimed at career criminals, those who have been previously
22 sentenced and then commit another crime"?

23 MS. BARR: Judge, I think you have to look at the first part of the
24 sentence in conjunction with the second part of the sentence. I think that that's the
25 only way that you can reconcile the two because that particular case does not define

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1 what a career criminal was. Is a career criminal a person who commits multiple
2 crimes and ... and is convicted? Or is a career criminal a person who commits
3 multiple crimes and hasn't been adjudicated on them? So, I think that the only way
4 that you can look at that logically is by looking at the second part and it says that ...
5 that not one who is charged with a crime that is committed so close or is so closely
6, connected in point of time as to come within the purview of Section 17-25-50. I
7 think that's the only time that that's the only way that you can reconcile the two. I
8 think Gordon stands for the proposition if you have someone who goes through a
9 crime spree so to speak, that the Court will not look at crimes most serious or serious
10 crimes that are committed during that spree as a prior conviction. I think that's
11 probably the only way to reconcile that particularly when they invoke the provisions
12 of 17-25-50 and clearly when you look at 17-25-45 it talks about convictions as
13 opposed to the date that these incidents occurred and there is no doubt that on the
14 date that we tried this case in Williamsburg County the Defendant had a conviction
15 for a most serious offense.

16 THE COURT: Okay. Ms. Barr, are you familiar enough to know
17 what the PCR proceeding? Are you familiar with that at all? If that application is
18 granted for whatever error that may have occurred to nullify that conviction and send
19 it back for further proceedings, that would affect these ... this sentencing as well,
20 right?

21 MS. BARR: I absolutely agree with that, yes, Your Honor.

22 THE COURT: All right, Mr. Barr, anything you would like to say in
23' response to ...

24 MR. BARR: Judge, just first of all, and I'll take these in chronological
25 order. The issue regarding what Ms. Barr referred to as advisement of opinion, of

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1 course, I think that in ... in an interrogatory kind of situation where you're trying the
2 case, she has equated what would otherwise be a ruling concerning the conduct of the
3 trial with what would otherwise amount to ultimate judgement involving the case so I
4 don't see if ... if ... if what we asked for in limine would ... would be considered an
5 advisement of opinion of course, you know, clearly the trial process would probably
6 not be able to take place as we currently expect it to do. However, in this case, I
7 think that it's a moot issue because the issue of the Defendant taking the witness
8 stand, that issue would address by way of the conduct of the trial at the time that ...
9 that the issue came up again. So clearly I think the record speaks for that so it's not a
10 situation where we asked for it in advance expecting some kind of ruling and never
11 to revisit the issue again when it actually came up at the time that the Defendant
12 would have otherwise been in a position to take the witness stand. The second thing
13 is, you know, I'm a little bit kind of stunned by the State's position that ... that
14 logically finds the aspect of the LWOP Statute which deals with ... with ... with the
15 policy reason for ... for trying to handle the issue of recidivism. The ... clearly based
16 on the Court's statement or holding or I certainly wouldn't want to call it dicta, but
17 the object is it's a positive consideration. And in this case it almost amounts to expo
18 facto kind of situation where in this context you have a person that's being punished
19 or receiving additional punishment when in fact they have not done anything
20 subsequent to the time that ... that their actually on trial for an offense that has taken
21 place. So, clearly I think what you have is a situation where you are kind of reaching
22 back and ... and punishing by way of enhancement conduct that perhaps

23 THE COURT: Happened first?

24 MR. BARR: Sir?

25 THE COURT: Conduct that happened first.

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1 MR. BARR: Yes, sir. Conduct that happened first. And for policy
2 reasons, Judge, I just think that that ... that ... that is absolutely against policy.

3 THE COURT: All right. I just want to make sure I ... I want to make
4 sure I state this correctly, Ms. Barr. I'm sure you and Mr. Barr will correct me. The
5 ... not the offense that was tried here occurred in 1998. The offense that resulted in a
6 plea in Georgetown occurred in 1999. The victim in both cases was the same 11 year
7 old boy. In 2006, the Defendant pled in the Georgetown County case and that was
8 most serious strike one. He got served thereafter by Ms. Barr ... you didn't challenge
9 the fact of service?

10 MR. BARR: No, sir.

11 THE COURT: He was served with the LWOP Notice for the
12 Williamsburg County case and the jury trial or the jury in this case on July 12th, 2007
13 returned a guilty verdict and it was my finding at the time that the Life Without
14 Parole Statute mandated that I sentence him to life. I think that's a correct statement
15 of the order we have in this case. Now, Ms. Barr, how about Mr. Barr's argument on
16 the reverse order of these convictions? In other words, Georgetown County
17 happened the second but he pled first. You may have already addressed that.

18 MS. BARR: Judge, I don't know that I did. But, if I did I'll certainly
19 address it again. Your Honor, the Statute that invokes Life Without Parole doesn't
20 make any mention of the dates in which the crimes were committed. For the
21 purposes of jurisdiction on the LWOP Statute, it only concerns convictions, not
22 admission date. In addition, Judge, mention some of the drug case and of course, I
23 know that they're not on the point so to speak but, some of the drug cases that we
24 have and looking at Waiter v. State, Supreme Court Opinion handed down in
25 February of 2007, that was a situation where someone was charged with a drug

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1 offense on one day. Two days later they get arrested for another drug offense and of
2 course there is no disposition of that charge between the first and the second. So, the
3 Defendant pleads guilty of one. You have the second one where the State is ... has
4 indicted it for a second offense and the Court determined that that's admissible, that
5 for purposes of that Article of the South Carolina Code of Law it doesn't matter when
6 the crimes were committed. It only matters when the conviction was handed down.
7 And certainly I would take that position in this case. I think to allow the opposite
8 view you really have to put prosecutors and law enforcement in a position if you
9 have a Defendant who commits crimes in multiple states over a period of years we
10 almost have to coordinate the trial of those cases so that that wouldn't be a problem.
11 That's almost impossible to have happen. In this case, although the Williamsburg
12 County case occurred first in time, these case did not come to the attention of law
13 enforcement until I believe it was 2003, 2005 and Georgetown County got the same
14 charge. Your Honor may remember there was a long discussion at trial about the
15 delay between the time the Georgetown County Sheriff's Department notified ... was
16 notified and the time Williamsburg County actually took over the case and there was
17 some concern or questions regarding venue. So, of course, that case came to a
18 conclusion when law enforcement reported the Georgetown County case was before
19 Williamsburg. And sometimes things just happen like that. But, I ... I don't believe
20 that the fact that our case happened first in time and the conviction was second in
21 time is of any legal significance. I think that the legislators or legislators intended
22 that the Courts focus on the date the crime was committed as opposed to the date the
23 crime was committed as opposed to date of conviction. Clearly section 17-25-45 talks
24 about convictions and not dates the crimes were committed.

25 THE COURT: Mr. Barr, I guess the last thing I'll mention is my

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1, recollection is is that when ... it may have been right before or during or right after
2 Mr. Taylor and I engaged in the general exchange about whether or not he was going
3 to testify about discussing his Fifth Amendment Rights. I may have just asked a
4 rhetorical question at that time. I don't really recall. If much of the cross
5 examination of the victim has been directed at his credibility in the Georgetown
6 County incident, how would I not allow Mr. Taylor to be cross examined on whether
7 or not that was a conviction. I think you ... you responded to that by saying that yes,
8 even if he could have been cross examined on that point he would have been able to
9 say but there is Post Conviction Relief application pending. And I don't know
10 whether I would have let it go any further than that if I'd have let that in but, is there
11 anything else that either side would like to put on the record at this time?

12 MR. BARR: No, sir, Judge. The only thing that I would say and this
13 is in response to something else that Ms. Barr raised in her final argument. Again,
14 the ... this ... this ... the issue of the LWOP Statute from the policy. It's not
15 substantively controlled by prosecutorial discretion. It's an issue that actually is
16 directly intact with the sentencing authority of the presiding judge. So, to simply say
17 well, this would cause confusion among the various jurisdictions, I mean, clearly
18 that's instead of rational, that's irrational because it would from the standpoint of
19 when a prosecutor would decide to prosecute it would make no difference. Once it in
20 fact is a conviction then that issue would be something that would be addressed by
21 the sentencing judge at the appropriate time that the conviction occurred.

22 THE COURT: All right.

23 MR. BARR: Thank you, sir.

24 THE COURT: Thank you, Mr. Barr. Thank you, Ms. Barr. I'll ...
25 what I'm going to do in this case is prepare an Order and send it to both of you after

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1 it's been filed. All right?

2 MS. BARR: Thank you, sir.

3 THE COURT: Thank you.

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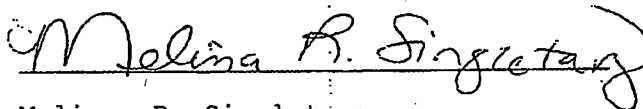
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CERTIFICATE

This is to certify that the hearing in the matter of State vs. Robert Troy Taylor, consisting of Twenty-Two pages is a true and correct transcript; said hearing was reported by the method of Stenomask with Backup.

I further certify that I am not employed by any of the parties in this matter or their counsel; nor do I have any interest, financial or otherwise, in the outcome of same.

IN WITNESS WHEREOF I have hereunto set my hand and seal this 23rd day of October, 2009.



Melissa R. Singletary
Certified Court Reporter

Notary Public for South Carolina
My Commission Expires: 3-5-2014

STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
COUNTY OF WILLIAMSBURG) 06-GS-45-176

State of South Carolina,)

Plaintiff,)

vs)

Robert Troy Taylor,)

Defendant,)

ORDER

FILED
07 NOV 19 PM 2:03
CAROLYN E. WILLIAMS
CLERK OF COURT
KINGSTREE, S.C.

On September 27, 2007, this court convened for a hearing of the defendant's post trial motions, which were filed after a Williamsburg County jury found the defendant guilty of kidnapping and criminal sexual conduct with a minor, first degree. Both offenses are "most serious" under S.C. Code Section 17-25-45. Prior to trial, the State had duly served the defendant and defense counsel with notice that it would seek a sentence of life in prison, without possibility of parole. The basis for this notice was that the defendant had previously entered a guilty plea in Georgetown County to a charge of criminal sexual conduct with a minor, first degree, obviously also a "most serious" offense. Consequently, the defendant has arguably sustained the second of his "two strikes" and is subject to mandatory life without parole.

At the September 27 hearing, the defendant advanced five basic arguments:

1. Concurrent life sentences should have been imposed for the kidnapping and CSC convictions (this court imposed consecutive life sentences).
2. The court should have entered a directed verdict of acquittal on the basis that the State did not establish that venue was proper in Williamsburg County.

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3. The life without parole (LWOP) notice should have been quashed in that the Williamsburg County incident and the Georgetown County incident should be construed to be one continuous event and not subject to separate consideration insofar as imposition of a life sentence for two most serious convictions is concerned.
4. An imposition of life without parole under Section 17-25-45 was not otherwise warranted in light of recent case law interpreting that code section.
5. This court erred in refusing to give an "advance ruling" to the defendant as to whether the court would allow evidence (for impeachment purposes) of the defendant's convictions in Georgetown County for CSC first with a minor and two counts of lewd act on a minor.

1. CONSECUTIVE SENTENCES

The defendant cites no authority for the proposition that imposition of consecutive life sentences amounts to cruel and unusual punishment. In my view, the facts of this case are such that consecutive sentences are appropriate.

2. VENUE

A criminal defendant is entitled "to a directed verdict when the State fails to present evidence that the offense was committed in the county alleged in the indictment." State v Evans, 307 S.C. 477, 480, 415 S.E. 2nd 816, 818 (1992), overruled in part on other grounds by State v Gentry, 363 S.C. 93, 610 S.E. 2nd 494 (2005). However, as noted in State v Crocker, 366 S.C. 394, 621 S.E. 2nd 890, 895 (Ct. App. 2005), "[t]he standard for establishing venue is not a stringent one, for 'venue, like jurisdiction, in a criminal case

need not be affirmatively proved, and circumstantial evidence of venue, though slight, is sufficient.” (quoting State v Williams, 321 S.C. 327, 334, 468 S.E. 2nd 626, 630 (1996).

The defendant maintains there was insufficient evidence as a matter of law that the incident occurred in Williamsburg County. The court, upon joint request of the parties, submitted the question of venue to the jury, charging that the place of the crime had to be established by the greater weight of the evidence. The submission of this issue to the jury was error, but in and of itself is not the error claimed by the defendant. In my view, the evidence taken as a whole establishes, however slightly, that the offense occurred in Williamsburg County.

3. MOTION TO QUASH LWOP NOTICE

The evidence established that the instant crimes occurred in November 1998 in Williamsburg County. The evidence also established that the defendant engaged in basically identical criminal conduct with the very same victim in August 1999 in Georgetown County. Several months before the Williamsburg County trial, the defendant entered a plea of guilty to CSC first with a minor (the 1999 offense) before the Honorable Edward C. Cottingham in Georgetown County and received a sentence of eight (8) years. The defendant now claims that pursuant to S.C. Code Section 17-25-50, the Williamsburg County conviction and the Georgetown County conviction should be treated as one offense for sentencing purposes. Obviously, CSC first with a minor and kidnapping are both “most serious” offenses under Section 17-25-45 (these two Williamsburg County convictions are one strike) and if the defendant’s contention is correct, he would not be subject to life imprisonment pursuant to 17-25-45. The defendant urges this result on the basis that the Williamsburg and Georgetown crimes

involved the same victim and on the basis that the Georgetown County incident was admitted into evidence under State v Lyle, 125 S.C. 406, 118 S.E. 803 (1923) as part of a common scheme or plan. I disagree. The defendant's actions did involve a common scheme or plan under State v Lyle; however, there is no authority for the proposition that separate offenses which amount to a "common scheme or plan" under Lyle are necessarily "so closely connected in point of time that they may be considered as one offense" under Section 17-25-50. There may be some factual scenarios in which the conclusion argued by the defendant is correct, but under the circumstances of this case, the existence of a common scheme or plan under Lyle does not warrant a finding that the Williamsburg and Georgetown crimes were part of one continuous course of conduct under Section 17-25-50. Therefore, the LWOP notice should not be quashed on this basis.

4. IS DEFENDANT OTHERWISE SUBJECT TO LWOP?

The defendant contends that the Supreme Court of South Carolina's holding in State v Gordon, 356 S.C. 143, 588 S.E. 2nd 105 (2003) forecloses a sentence of life without parole. Again, this defendant has two convictions for criminal sexual conduct in the first degree with a minor. The first offense occurred in November 1998 in Williamsburg County, which of course is the subject of the instant conviction. The second offense occurred in 1999 in Georgetown County. The victim in both cases was the same eleven (11) year old boy. In 2006, the defendant pled guilty to the 1999 Georgetown County offense. The State contends this was "strike one". The defendant was then served with an LWOP notice for the Williamsburg County case, and the jury

trial resulted in a conviction for CSC first with a minor (and kidnapping). The State contends this conviction was strike two and compels an LWOP sentence.

The following discussion includes the relevant legislative history of Section 17-25-45, appellate cases interpreting this statute (and Section 17-25-50), and the arguments presented by the State and the defendant.

A. Legislative History of § 17-25-45

The earliest version of South Carolina Code § 17-25-45 was enacted in 1982 and provided that a third conviction for certain listed crimes would result in a life sentence. The 1982 version specifically provided that "a conviction shall be considered a second conviction only if the date of the commission of the second crime occurred subsequent to the imposition of the sentence of the first offense." 1982 S.C. Acts No. 358 § 1, pp. 2175-76. A similar provision defined a "third conviction." In 1986, the General Assembly amended § 17-25-45 to provide that a third conviction for a crime defined as "violent" in South Carolina Code § 16-1-60 would result in a life sentence. This amendment specifically included the same definitions of a "second conviction" and "third conviction" set forth in the 1982 version discussed above. 1986 S.C. Acts No. 462 § 37, p. 2996. In 1995, the General Assembly amended § 17-25-45 to provide that either a second conviction for a "most serious" crime or a third conviction for a "serious" crime would lead to a sentence of life. The 1995 amendment deleted the specific definitions for second and third convictions, and substituted the language of "prior conviction" now found in section (F) of the statute. 1995 S.C. Acts No. 83 § 18, pp. 565-68.

Up until the passage of the 1995 version, § 17-25-45 specifically required that a second or subsequent offense be committed after imposition of a sentence on the first or

previous offense. Currently, the statute only requires there to be a prior conviction. The logical conclusion as to the 1995 amendment is that the General Assembly intended to eliminate the requirement that the offenses be committed in sequence.

A plain reading of § 17-25-45(F) as it was written at the time of this offense subjects Taylor to life without parole. The statute states "[f]or the purpose of determining a prior or previous conviction under this section and Section 17-25-50, a prior or previous conviction shall mean the defendant has been convicted of a most serious or serious offense, as may be applicable, on a separate occasion, prior to the instant adjudication." (emphasis added). The words "prior conviction" mean only that § 17-25-45 is premised upon a conviction-to-conviction sequence rather than a conviction-to-offense sequence or an offense-to-offense sequence. In other words, the statute does not require that the previous conviction upon which an enhanced sentence is based precede the commission of the offense upon which the sentence is being imposed. Under this interpretation of the statute, § 17-25-45 applies even when the defendant has first been convicted of one offense that actually occurred after another separate offense.

In the present case, Taylor had a prior conviction for the 1999 offense. Although the 1999 offense occurred after the 1998 Williamsburg County offense, he still had a prior conviction "prior to the instant adjudication." According to the statute, Taylor is subject to life without parole because he had that prior conviction.

B. South Carolina Cases Interpreting § 17-25-45

The Supreme Court first interpreted the 1995 version of § 17-25-45, and specifically the language in subsection (F) concerning "prior convictions," in State v. Benjamin, 353 S.C. 441, 579 S.E.2d 289 (2003). In Benjamin, the Court held that the

recidivist statute must be construed independently of any other statute, specifically finding § 17-25-50 to be inapplicable in a "three strikes rule" analysis. However, nine months later Benjamin was overruled by State v. Gordon, 356 S.C. 143, 588 S.E.2d 105 (2003). In Gordon, the Court found that its holding in Benjamin regarding the independent nature of § 17-25-45 was contrary to legislative intent and prior precedent of the Court.

In Gordon, the Court states that "the recidivist statute is aimed at career criminals, those who have been previously sentenced and commit another crime, not at those whose recidivist status is premised solely upon acts which occur at times so closely connected in point of time that they may be considered one offense." *Id.* at 111, 588 S.E.2d at 154. Accordingly, the Court held that § 17-25-45 and § 17-25-50 must be construed together in determining whether crimes committed close in time qualify for a recidivist sentence. It is this quoted language that must be analyzed in light of the facts of the instant case.

C. State's Argument

In the present case, Taylor's crimes were separate offenses which resulted in two separate convictions. Section 17-25-50 does not apply to this case because his acts in Georgetown and Williamsburg were not so closely connected in point of time that they are considered one offense. The Supreme Court decided Gordon on the reasoning that § 17-25-45, read in light of § 17-25-50, requires that a defendant be "previously sentenced and then commit another crime." Currently, there is no South Carolina case that deals directly with the issue of whether the conviction of a subsequent crime (offense #2)

before the conviction of the prior crime (offense #1) is considered a "prior conviction" solely under § 17-25-45.¹

The State contends that the specific language of the statute should govern, and that the statute requires only that the Georgetown conviction be entered before entry of the instant conviction, not that the Georgetown conviction be entered before commission of the instant offense. While a recidivist statute is intended to deter commission of a crime, it is also used to punish the persistent offender and the State contends the defendant is the recidivist the statute was intended to punish.

Although the facts in Walters v. State, 371 S.C. 591, 641 S.E.2d 434 (2007) are significantly different, the case interprets the term "prior conviction" under § 44-53-470, a drug statute. The offense used to enhance the defendant's status to second offender occurred on July 28, 2000, two days after the offense at issue in the opinion. The Court held that the timing of the crimes was irrelevant to the determination of a subsequent offense so long as there is a prior conviction.

D. Defendant's Argument

The defendant argues the foregoing case law renders § 17-25-45 ambiguous and that when a statute is ambiguous, the rules regarding construction of criminal statutes require the court to resolve that ambiguity in the defendant's favor. The cardinal rule of statutory construction is that the court must ascertain and effectuate the intent of the legislature. Statutes, as a whole, must receive "practical, reasonable, and fair interpretation consonant with the purpose, design and policy of law makers." State v.

¹ Cynthia L. Sletto, *Chronological or Procedural Sequence of Former Convictions as Affecting Enhancement of Penalty under Habitual Offender Statutes*, 7 A.L.R.5th 263 (1992) discusses similar cases from other states. The states that upheld a defendant's sentence looked to the specific language of the statute and specifically the use of the term "prior conviction." Other states concluded that prior convictions must have preceded commission of the offense and resolve ambiguities in favor of the defendant.

Woody, 345 S.C. 34, 37-38, 545 S.E.2d 521, 522-523 (Ct. App. 2001). Therefore, in interpreting a statute, the words must be given their plain and ordinary meaning without resorting to a subtle or forced construction that limits or expands the statute's operation.

Id.

"Courts will reject the plain and ordinary meaning of statutory language when to accept it would lead to a result so absurd that it could not have been intended by the Legislature, or would defeat plain legislative intention." Gordon, 356 S.C. at 153, 588 S.E.2d at 110. If possible, courts "will construe a statute as to escape an absurd result and carry the legislative intention into effect . . . Moreover, [courts] are constrained to strictly construe penal statutes in the defendant's favor." *Id.* In my view, the defendant's ambiguity argument fails because the statute is not ambiguous on its face; judicial interpretation of the statute under a different factual scenario than presented in Gordon is more difficult.

The defendant claims that according to Gordon, § 17-25-45 does not come into play except when a defendant has been convicted and sentenced, and then commits another crime.² Such a broad reading of the holding in Gordon directly contradicts § 17-25-45.

E. Conclusion As To "Gordon" Argument

If the Court's intent in Gordon was to create LWOP eligibility only where the second offense occurs *after* the conviction for the first offense, then the holding arguably conflicts with the language of § 17-25-45. When the holding is interpreted in light of the specific facts set forth in Gordon, it does not necessarily conflict with the statute. In

² In my view, the Gordon Court uses this statement solely in support of its conclusion that § 17-25-45 and § 17-25-50 should be construed together.

Gordon, the Court was addressing the interplay between § 17-25-45 and § 17-25-50. The Supreme Court's purpose in construing the two statutes together is to prevent a defendant from receiving life when he commits two offenses that can be considered one offense.

Since the instant case does not deal with the interplay between § 17-25-45 and § 17-25-50, the holding in Gordon does not apply. If the defendant's Georgetown and Williamsburg crimes were so closely connected in point of time that they are considered one offense then the defendant would not be subject to LWOP. Although the crimes involved the same victim, they occurred nine months apart and are considered separate offenses for sentencing purposes. The purpose behind the holding in Gordon is to prevent a defendant from receiving life when two crimes should be considered one when it comes to counting strikes. The fact that the language of § 17-25-45 was changed in 1995 to include the words "prior conviction" instead of requiring the subsequent offense to be committed after the sentence for the previous offense compels this court to conclude that under the facts of this case (which again are inapposite to the facts in Gordon), the defendant is subject to mandatory LWOP.

5. REFUSAL TO GIVE "ADVANCE RULING" ON ADMISSIBILITY OF POTENTIAL IMPEACHMENT EVIDENCE

After the State rested its case-in-chief, the court conducted the standard inquiry of the defendant as to whether he desired to testify. In addition to advising the defendant of his right to remain silent, the court advised the defendant that if he did testify, he would be subject to the same rules governing the examination and cross-examination of other witnesses. He was specifically told that if he had been convicted of any crimes involving dishonesty or false statement, these could be used on cross-examination to impeach his credibility. He was further advised that if he had been convicted of any crimes

punishable by imprisonment for more than one year and that if the court determined that the probative value of admitting such evidence outweighed its prejudicial effect, these convictions could likewise be introduced to attack his credibility. The defendant specifically requested the court for an advance ruling as to whether his Georgetown County CSC conviction could be used to impeach his credibility as opposed to simply being used to establish a common scheme or plan under State v Lyle.

As noted above, during the State's case-in-chief, the court admitted evidence of the Georgetown County incident (but not the guilty plea) as evidence of a common scheme or plan under State v Lyle. At that time, the court instructed the jury that this evidence could be used only as evidence of a common scheme or plan, and for no other purpose. The court did not permit evidence at that stage that the Georgetown County incident had resulted in a guilty plea (and therefore an admission on the part of the defendant). During the court's colloquy with the defendant about his decision whether or not to testify, counsel for the defendant asked the court for a specific ruling as to whether the Georgetown County plea could be used against the defendant for impeachment purposes. Obviously, that offense carries potential imprisonment in excess of one year, but it is not a crime of dishonesty or false statement. Therefore, the court would have been compelled to balance the probative value against its prejudicial effect pursuant to Rule 609(a)(1). The court refused to give such a specific ruling in advance, as the dynamic of direct examination and cross-examination could impact the court's determination of whether the probative value of admitting the conviction for impeachment purposes outweighed its prejudicial effect to the defendant. In other words, "probative value" and "prejudicial effect" are better determined in the immediate

context of examination and cross-examination, rather than an academic analysis prior to questioning taking place.

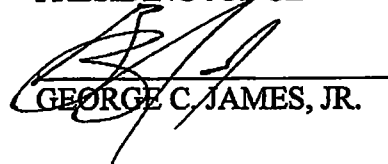
The defendant points to no authority for the proposition that the court was required to give such an advance ruling, and the defendant's motion on this ground is denied.

CONCLUSION

For the foregoing reasons, the defendant's motions are denied.

AND IT IS SO ORDERED.

PRESIDING JUDGE


GEORGE C. JAMES, JR.

Sumter, South Carolina

November 16, 2007

Receipt for Exhibits

Case # 2006-GS-45-0176

Judge George C. James

Plaintiff The State

Plt's Atty Kim Barr + Ronnie Sabb

Defendant Robert Troy Taylor

Def's Atty Charles David Barr

Date Trial Started Tuesday, July 10, 2007

Date Trial Ended _____

Received of Melissa R. Winfield

, Court Reporter for the above case, these exhibits:

- 1/ST 1. color photograph of victim
- 1/ST 2. color photograph of victim
- 10/ST 3. Pamphlet of Church
4. _____
5. _____
6. _____
7. _____
8. _____
9. _____
10. _____
- 11/ST 11. statement of Hugh Billy Causey
- 11/ST 12. statement of Hugh Billy Causey 11-23
- 11/ST 13. Incident Report
14. _____
15. _____
16. _____
- 10/ST 17. Juror list
- 10/ST 18. Transcript of Prior Hearing < PLEA > (Judge James H. Cus)
- 10/ST 19. Rule 5 Request
- 10/ST 20. A Request to Charge

This 12th day of July, 2007

Page _____ of _____

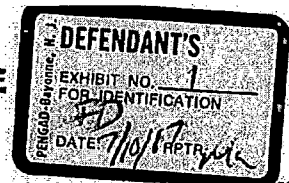
~~County~~ County Clerk of Court

By: Carolyn J. Williams

CERTIFIED TRUE COPY

Sharon W. Staggars
SHARON W. STAGGARS
CLERK OF COURT
WILLIAMSBURG COUNTY

GEORGETOWN COUNTY SHERIFF'S OFFICE
P.O. Box 1292, Georgetown, S.C. 29442



NAME: HUGH BILLY CAUSEY
ADDRESS: [REDACTED]
Seaside Beach S.C. 29575
PHONE - H: [REDACTED] W: [REDACTED]
DOB: [REDACTED] SSN: [REDACTED]

VOLUNTARY STATEMENT

CASE #: _____
PAGE NO. 1 OF 1 PAGES

I, HUGH BILLY CAUSEY am about to make known to
Investigator George Smith, GCSO that I volunteer the following information of my
own free will, for whatever purposes it may serve.

Some time between February and April LCC Youth Groups went
on a camping trip to Andrews S.C. It was very cold outside and
it rained a little bit. My friend Charles Harrison asked me if
I wanted to go. We went back in the woods about 9 miles and a
half. There were corn fields all around with two houses on
either side of the street. We set up camp around like
7:30 PM. We made a bon fire and then went to bed around
11:00. About 2 to 3 hours later Troy woke me up by putting
his hand over my mouth and telling me to be quiet. He took
me to a separate tent and started touching my penis. He was
honestly rubbing and fondling it. He did this for like 30 minutes.
Continuously touching me. I told him to stop numerous times. He just
told me to be quiet. After that he took me back to the other
tent and made me sleep beside him. I guess so I wouldn't
say nothing. I'm not really sure if anyone saw anything but
if they did Zack Webster or Charles Harrison would be the
ones that saw.

I have read each page of this statement consisting of 1 page(s), each page of which bears my signature,
and corrections, if any, bear my initials, and I certify that the facts contained herein are true and correct.

Taken at MI Office Time: 6:20 PM this 1 day of June 2005

SWORN to before me this

_____ day of _____

A CERTIFIED TRUE COPY

Sharon M. Staggers
SHARON M. STAGGERS
CLERK OF COURT
WILLIAMSBURG COUNTY

Signature of person giving voluntary statement

Witness

Notary Public for South Carolina

My Commission Expires: _____

Witness



WILLIAMSBURG COUNTY SHERIFF'S OFFICE

126 SOUTH JACKSON STREET
POST OFFICE BOX 179
KINGSTREE, SOUTH CAROLINA 29556



KELVIN WASHINGTON, SHERIFF
DWAYNE WILSON, CHIEF DEPUTY
MARIE MCBRIDE, ADMINISTRATIVE ASSISTANT

SHERIFF'S OFFICE: 843-355-6381
DETENTION CENTER: 843-355-9696
FAX: 843-355-7956

PAGE NO 1 OF 2 PAGE

VOLUNTARY STATEMENT

CF001.5/95

STATE OF SOUTH CAROLINA

COUNTY OF Williamsburg

PERSONALLY appeared before me Hugh Billy Causey, who states

"My name is Hugh Billy Causey. My address is 1500A DEERCREAK RD Sikesville, MD 21075

Date of Birth 07-27-87. Social Security Number 29865-5906. Phone Number 410-2589

I completed the grade in school and I cannot read and write."

Before answering any questions or making any statements

a person who identified himself as

duly warned and advised me, and I know and understand that I have the following rights: That I have the right to remain silent and I don not have to answer any questions or make any statements at all that any statement I make can and will be used against me in a court or courts of laws the offense or offenses concerning which the following statement is hereinafter made; that I have the right to consult with a lawyer of my choice before or at anytime during any questioning or statements I make; that if I cannot afford to hire a lawyer, I may request and have a lawyer appointed for me by the proper authority before or at ant time that I choose, and call for the presence of a lawyer to advise before continuing any more questioning or making any more statements, whether or not I have already answered some questions or made some statements.

I do not want to talk to a lawyer, and I hereby knowingly and purposely waive my right to remain silent, and my right to have a lawyer present while I make the following statement to the aforesaid person, knowing that I have the right and privilege to terminate any interview at any hereafter and have a lawyer present with me before answering any more questions or making any more statements, if I choose to do so.

I declare that the following voluntary statement is made of my own free will without promise or hope of reward, without fear or threat of physical harm, without coercion, favor, without leniency or offer of leniency, by any person or persons whomsoever.

The Church LGS had a youth Camping trip.
on a Friday in Nov. 1998. We left around
4:00 or so. It was pretty cold. We left
to go towards Andrews arriving around 6:00 or
6:30. It was dark outside. The youth
got to this camp site on the black
river. After we arrived we made a
big bon fire and set up camp.

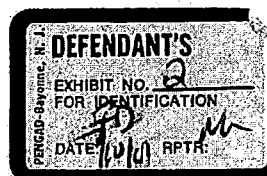
I have read each page of this statement consisting of _____ page(s), each page of which bears my signature, and correct any, bear my initials, and I certify that the facts contained herein are true and correct. I further certify that I made no request for the advice or presence of a lawyer before or during any part of this statement, nor at any time before it was finished did I request that this statement be stopped. I also declare that I was not told or promoted what to say I this statement.

This statement was completed at 11:35 AM on the 23 day of November, 20 19 05.

Hugh B. Causey
Signature of person giving voluntary statement.

SWORN TO AND SUBSCRIBED TO BEFORE
ME THIS _____ DAY OF _____ 19 _____

Sharon M. Williams
SHERIFF
CLERK OF COURT
WILLIAMSBURG COUNTY



812

VOLUNTARY STATEMENT
SUPPLEMENTAL

Statement of, Continued.

Troy had his own tent everyone else
 slept under this big tire thing. After we set
 up camp we made food and roasted marshmallows
 we went to sleep around 10:30 or so after
 I was asleep for awhile I guess Troy woke
 me up by putting his hand over my mouth and brought
 me to his tent. He began to touch me sexually
 like my penis and my anus. He then made me touch
 him. After a short time. He began to rape
 me by putting his penis in my anal cavity.
 After he was done he went back to the
 tent with everybody else and made me sleep
 next to him I guess so I wouldn't tell no one.
 He told me to never tell anyone I felt
 threatened in a way I was scared. We woke
 that morning and played a big game of
 hide and seek. We left around 2:00 and got
 home around 4:00. It was sunny outside still
 cold. ~~I~~ He never really talked to me after
 that. HBL

A CERTIFIED TRUE COPY

Sharon M. [Signature]

SHERIFF

CLERK

WILLIAMSBURG COUNTY

[Signature]

Signature of person giving voluntary statement

Person giving statement to place initials behind
 first word of statement as appears on last page.

NGIC

310	500

814

STATE OF SOUTH CAROLINA)

IN GENERAL SESSIONS COURT

COUNTY OF WILLIAMSBURG)

WARRANT NO.: K-085100

STATE OF SOUTH CAROLINA,)
Plaintiff,)

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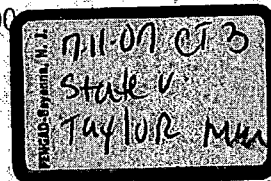
-VS-

REQUEST FOR DISCLOSURE

PURSUANT TO RULE 5,

RULES OF CRIMINAL PROCEDURE

ROBERT TROY TAYLOR)
Defendant.) WILLIAMSBURG)



TO: WILLIAMSBURG COUNTY SOLICITOR'S OFFICE as prosecuting agency:

COMES NOW the defendant(s), by and through his/her attorney, and respectively demands, pursuant to Rule 5 of the South Carolina Rules of Criminal Procedure (SCRCrimP), United States and South Carolina Constitutions, that the prosecuting Government:

A. Permit the inspection and copying of any relevant written or recorded statements made by the defendant(s), or copies thereof, within the possession, custody or control of the prosecution, the existence of which is known, or by the exercise of due diligence may become known, to the prosecution; the substance of any **oral statement** which the prosecution intends to offer in evidence at the trial made by the defendant(s) whether before or after arrest in response to interrogation by any person then known to the defendant(s) to be a prosecution agent or witness, pursuant to Rule 5(a)(1)(A) of the South Carolina Rules of Criminal Procedure (SCRCrimP).

B. To permit the inspection and copying of any documents, photographs, tangible objects, the defendant or his attorney or investigator, requests to examine tangible objects or copies or reproductions thereof; specifically, (1) any documents signed by or read to the defendant(s), (2) any incident reports prepared by any officers, agents, or assisting agencies, (3) any recorded materials such as, but not limited to, cassette tape recordings, recorded phone conversations, recorded conversations transmitted through use of a body wire or like device or transmitter, and any video recordings, (4) any photographs, drawings, or other similar material, which are in the possession, custody or control of the prosecution, and which are material to the preparation of his defense or are intended for use by the prosecution as evidence in chief at the trial, or

were obtained from or belonging to the defendant. Rule 5(a)(1)(C) SCRCrimP.

C. The Defendant's prior criminal record pursuant to Rule 5(a)(1)(B) of the South Carolina Rules of Criminal Procedure (SCRCrimP).

The prosecution shall respond to the defendants' request for disclosure no later than thirty (30) days after the request is made, or within such other time as may be ordered by the court. Rule 5(a)(3) SCRCrimP.

This request is deemed to be continuing pursuant to the provisions of Section © of Rule 5 SCRCrimP.

If the above requested disclosure is refused, restricted or deferred, or in other ways not complied with, the defendants hereby move for relief according to the provisions of Sections (d)(1) and/or (d)(2) of Rule 5 SCRCrimP.



R. Scott Joye, Esquire
3575 Highway 17 Business
Murrells Inlet, South Carolina 29576
(843) 357-6454
Attorney for the Defendant

May 15, 2006
Murrells Inlet, South Carolina

STATE OF SOUTH CAROLINA) IN GENERAL SESSIONS COURT
COUNTY OF WILLIAMSBURG) WARRANT NO.: K-085100

STATE OF SOUTH CAROLINA,)
Plaintiff,)

-vs-

ROBERT TROY TAYLOR,)
Defendant.)

**SUPPLEMENTAL DISCOVERY
MOTION**

CERTIFIED TRUE COPY

Sharon W. [Signature]

CLERK OF COURT

WILLIAMSBURG, S.C. 29182

TO: WILLIAMSBURG COUNTY SOLICITOR'S OFFICE as prosecuting agency:

COMES NOW the defendant(s), by and through his/her attorney, and respectively requests the Government pursuant to the constitutional mandates of due process, and specifically recognized and ordered in Brady v. Maryland, 373 U.S. 83(1963); United States v. Agurs, 427 U.S. 97(1976); Davis v. Alaska, 415 U.S. 308(1974) to produce any evidence which may be exculpatory, and evidence which will allow the defendant(s) named herein to effective cross-examination. **SPECIFICALLY**, but, not limited to, any and all investigative material, background information gathered, arrest records, and any other information relating to any and all co-defendants, or other witnesses, and any and all investigations, investigative reports, intelligence information, NCIC shared information, or information gathered from joint operations with the State Law Enforcement Division (SLED) or other agencies within the knowledge of the prosecuting agency or officers on or which make reference to the defendant(s) or any persons used or employed as informants or witnesses providing information in the above captioned case.

Further, and **MORE SPECIFICALLY**, the defendant(s) moves to require the government to reveal and produce any and all statements, whether written, oral or recorded, made by any witnesses during the investigation.

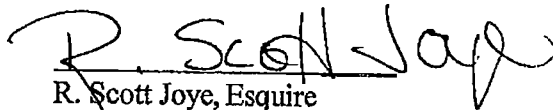
Further, and **MORE SPECIFICALLY**, the defendant(s) moves to require the government to reveal and produce the identity of the co-defendants or former co-defendants, who the state intends to call as a witness for trial if any, at a reasonable time prior to trial; and, his/her prior criminal record, whether or not

any charges are pending, or have or will be dismissed, the substance of any deal or compensation for being an informant or witness.

Further, and **MORE SPECIFICALLY**, the defendant moves to require the government to reveal and produce copies of all subpoena's issued on behalf of the State with respect to this case, whether from this trial, the second trial, or first trial of this matter.

Further, and **MORE SPECIFICALLY**, the defendant moves to require the government to reveal and produce copies of all SLED and/or FBI or other similar agency, whether governmental or private, reports, identifying the examiner, the test or examination performed, and the results thereof.

Further, and **MORE SPECIFICALLY**, the defendant moves to require the government to reveal and produce the identity of the confidential informant(s), if any, at a reasonable time prior to trial; and, his/her prior criminal record, whether or not any charges are pending, or have or will be dismissed, the substance of any deal or compensation for being an informant or witness.



R. Scott Joye, Esquire
3575 Highway 17 Business
Murrells Inlet, South Carolina 29576
(843) 357-6454
Attorney for the Defendant

May 15, 2006
Murrells Inlet, South Carolina

STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
COUNTY OF WILLIAMSBURG)
State of South Carolina,)
vs.)
Robert Troy Taylor,)
Defendant.)

THIRD JUDICIAL CIRCUIT
2006-GS-45-176

WARRANT NO.: K 085100

STATE'S RULE 5/BRADY DISCLOSURE

A CERTIFIED TRUE COPY

TO R. SCOTT JOYE, ATTORNEY FOR THE DEFENDANT

NOW COMES the State of South Carolina and produces the following material

pursuant to Rule 5, South Carolina Rules of Criminal Procedure, and Brady v. Maryland:

1. Williamsburg County Incident Report consisting of two (2) pages;
2. Voluntary Statement of Hugh Billy Causey two (2) pages;
3. Arrest Warrant (K 085100);
4. Indictment;
5. Criminal History of Defendant Robert Troy Taylor; and
6. Bond Paper.

OFFICE OF THE SOLICITOR
THIRD JUDICIAL CIRCUIT

Kimberly V. Barr
C. Kelly Jackson
Ronnie A. Sabb
Kimberly V. Barr

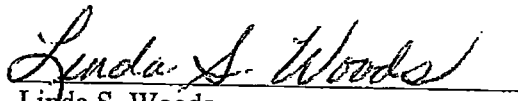
August 23, 2006.

STATE VS. ROBERT TROY TAYLOR

Certificate of Service

I hereby certify that the documents listed above were served on the attorney for the Defendant by depositing copies of the same in the United States Post Office in envelope addressed to his attorney of record on this 23rd day of August, 2006 at the following address:

R. Scott Joye, Esquire
3575 Highway 17 Business
Murrells Inlet, SC 29576


Linda S. Woods
Office of the Solicitor

Kingstree, South Carolina

The State of South Carolina



SOLICITOR

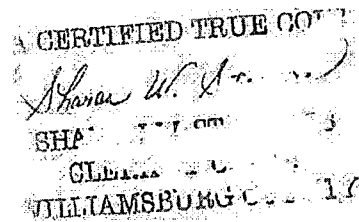
C. Kelly Jackson
Solicitor

Williamsburg County Courthouse
125 West Main Street, 3rd Floor
Kingstree, South Carolina 29556

Phone: (843)355-9321
Ext. 173/174
Fax: (843)355-9313

September 7, 2006

R. Scott Joye, Esquire
3575 Highway 17 Business
Murrells Inlet, South Carolina 29576



RE: State vs. Robert Troy Taylor
Indictment No.: 2006-GS-45-0176
Offenses: Criminal Sexual Conduct w/ a Minor (Second Degree) and Kidnapping

Dear Scott:

Please be advised that the State plans to call this case for trial during the next term of court, which begins on Monday, October 9, 2006 at 10:00 a.m.

Our records reflect that we responded to your discovery request on or about August 23, 2006. After having complied with Rule 5, South Carolina Rules of Criminal Procedure, the State hereby requests production and/or inspection from the defendant copies of all books, papers, documents, photographs, tangible objects, or portions thereof of any item that is in the possession, custody or control of the defendant or his attorney, and that he intends to introduce as evidence at the trial of this case. The State further requests inspection and/or production of all results or reports of any physical or mental examinations and of any scientific tests or experiments made of or on behalf of each defendant, of which each or either of the defendants intends to introduce as evidence at the trial of this case and the name, address and telephone number of the witness who prepared the report.

Further, the State hereby requests notice of the defense of insanity and/or of alibi by the defendant. The State maintains that the crime occurred between November 6, 1998 and November 7, 1998 during the nighttime at a campsite on or near the Black River Andrews Area of Williamsburg County.

With kindest regards, I am

COPY

Very truly yours,

Kimberly V. Barr

Kimberly V. Barr
Assistant Solicitor

KVB:lsw

STATE OF SOUTH CAROLINA
COUNTY OF WILLIAMSBURG

THE STATE,

Plaintiff,

VS.

ROBERT TROY TAYLOR,

Defendant.

IN THE COURT OF GENERAL SESSIONS
THIRD JUDICIAL CIRCUIT
INDICTMENT NO.: 2006-GS-45-476

FILED
CLERK OF COURT
WILLIAMSBURG, S.C.
JAN 10 AM 11:47

**MOTION FOR DISCOVERY
AND
INSPECTION**

A CERTIFIED TRUE COPY

Sharon W. Taylor
SHEA

CLERK

The Defendant herein **Robert Troy Taylor**, through his undersigned attorney, hereby moves the Court for discovery and inspection of the following:

1. Any written or recorded statements made by this defendant or co-defendant, and any audio or video recording of the alleged offense or any element thereof, or copies thereof, within the possession, custody or control of the State, the existence of which is known, or by the exercise of due diligence may become known, to the attorney for the State;
2. The substance of any oral statement which the State intends to offer in evidence at the trial made by this defendant;
3. Any prior criminal record or record of misconduct of this defendant;
4. All books, papers, documents, photographs or tangible objects which are in the possession, custody or control of the State, and are relevant to this case, including any handwritten and/or rough notes taken by any investigating agents in accordance with the South Carolina Rules of Criminal Procedure;
5. The result or reports of physical or mental examinations, of scientific tests or experiments, to include, but not limited to polygraph exams, or copies thereof, as to this defendant, the alleged victim and any other potential witnesses, which are within the possession, custody or

A CERTIFIED TRUE COPY
Carolyn F. Williams
CAROLYN F. WILLIAMS
CLERK OF COURT
WILLIAMSBURG, S.C.

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control of the State, in accordance with the South Carolina Rules of Criminal Procedure, the existence of which is known, or by the exercise of due diligence may become known to the attorney for the State;

6. All evidence favorable to the defendant, or which would be helpful in the preparation of a defense or in mitigation of punishment. This includes, but is not limited to, the following:

- a. All information relevant to the credibility of any State witness;
- b. All information concerning the conduct, character and reputation of such witnesses which is relevant to his or her truthfulness or untruthfulness;
- c. The criminal record of such witness, including specifically, any prior conviction of a crime punishable by death or imprisonment in excess of one (1) year or which involved dishonesty or false statements;
- d. The substance of any agreement, or proposed agreement, either oral or written, made in the name of the State as to any State witness, the subject of which deals either directly or indirectly with the promise of immunization from prosecution, of favored treatment or leniency in return for either pleas of guilty, nolo contendere or favorable testimony in this case or in any other criminal or civil litigation or sentencing procedure;
- e. All evidence tending to show that any acts or conduct by the defendant were done without criminal intent;
- f. This request specifically includes any information, which could show that at the time of any alleged act, that the defendant was neither present, mentioned nor involved directly or indirectly;
- g. All names and present addresses of persons who have any knowledge of the existence of any evidence which might be relevant to acts charged as a crime in the indictment against the defendant, including all persons who (a) will be witnesses for the State upon the trial of this case, or (b) will not be called as witnesses by the State;

h. The transcript of testimony of any and all persons who testified before the Grand Jury in this case; and

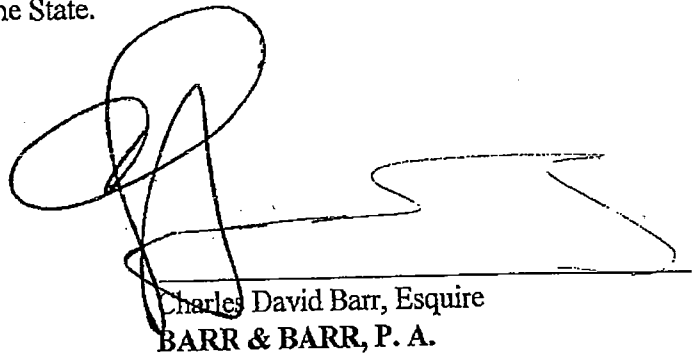
i. All evidence or information which may be favorable to the defendant and discoverable pursuant to Brady vs. Maryland, 373 USC 83 (1976).

7. All statements of witnesses producible under the South Carolina Rules of Criminal Procedure.

8. Copies of all NCIC reports concerning prospective jurors, provided such information has been made available to the State.

Kingstree, South Carolina

January 8, 2007



Charles David Barr, Esquire
BARR & BARR, P. A.

Attorneys and Counselors At Law
319 W. Main Street *Post Office Box 83
Kingstree, South Carolina 29556

STATE OF SOUTH CAROLINA)

IN THE COURT OF GENERAL SESSIONS

THIRD JUDICIAL CIRCUIT

INDICTMENT NO.: 2006-GS-45-176

COUNTY OF WILLIAMSBURG)

THE STATE,)

PLAINTIFF,)

VS.)

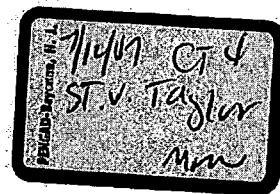
ROBERT TROY TAYLOR,)

DEFENDANT.)

REQUEST FOR CHARGE

If you find that the State has proven the Defendant's guilt, beyond a reasonable doubt, of a crime; but you do not conclude that the State has proven, beyond a reasonable doubt, that the crime occurred in Williamsburg County, you must find the Defendant not guilty.

A CERTIFIED TRUE COPY
Sharon W. L. (s.)
SHERIFF
CLERK OF COURT
WILLIAMSBURG COUNTY





State of South Carolina
Third Judicial Circuit

GEORGE C. JAMES, JR.
CIRCUIT COURT JUDGE

FILED
07 NOV 19 PM 2:03
CAROLYN F. WILLIAMS
CLERK OF COURT
KINGSTREE, S.C.

141 NORTH MAIN STREET, SUITE 303
POST OFFICE BOX 1716
SUMTER, SOUTH CAROLINA 29151-1716
TELEPHONE: (803) 436-2150
FAX: (803) 436-2403
E-MAIL: gjamesj@sccourts.org

November 16, 2007

Honorable Carolyn Williams
Williamsburg County Clerk of Court
125 West Main Street
Kingstree, South Carolina 29556

RE: State of South Carolina v Robert Troy Taylor (06-GS-45-176)

Dear Ms. Williams:

I enclose an Order for filing in the above matter.

Please file the order and send certified copies to all attorneys of record.

If you have any questions, please let me know.

Yours very sincerely,

George C. James, Jr.

George C. James, Jr.

GCJf:djf

Enclosures

A CERTIFIED TRUE COPY
Sharon W. Williams
SHARON W. WILLIAMS
CLERK OF COURT
WILLIAMSBURG COUNTY

STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
COUNTY OF WILLIAMSBURG) 06-GS-45-176

State of South Carolina,)
Plaintiff,)
vs)
Robert Troy Taylor,)
Defendant,)

A CERTIFIED TRUE COPY
ORDER
Sharon W. Hester
SHARON W. HESTER
CLERK OF COURT
WILLIAMSBURG COUNTY

07 NOV 19 PM 2:03
CAROLYN E. WILLIAMS
CLERK OF COURT
KINGSTREE, S.C.

FILED

On September 27, 2007, this court convened for a hearing of the defendant's post trial motions, which were filed after a Williamsburg County jury found the defendant guilty of kidnapping and criminal sexual conduct with a minor, first degree. Both offenses are "most serious" under S.C. Code Section 17-25-45. Prior to trial, the State had duly served the defendant and defense counsel with notice that it would seek a sentence of life in prison, without possibility of parole. The basis for this notice was that the defendant had previously entered a guilty plea in Georgetown County to a charge of criminal sexual conduct with a minor, first degree, obviously also a "most serious" offense. Consequently, the defendant has arguably sustained the second of his "two strikes" and is subject to mandatory life without parole.

At the September 27 hearing, the defendant advanced five basic arguments:

1. Concurrent life sentences should have been imposed for the kidnapping and CSC convictions (this court imposed consecutive life sentences).
2. The court should have entered a directed verdict of acquittal on the basis that the State did not establish that venue was proper in Williamsburg County.

BA #1

3. The life without parole (LWOP) notice should have been quashed in that the Williamsburg County incident and the Georgetown County incident should be construed to be one continuous event and not subject to separate consideration insofar as imposition of a life sentence for two most serious convictions is concerned.
4. An imposition of life without parole under Section 17-25-45 was not otherwise warranted in light of recent case law interpreting that code section.
5. This court erred in refusing to give an "advance ruling" to the defendant as to whether the court would allow evidence (for impeachment purposes) of the defendant's convictions in Georgetown County for CSC first with a minor and two counts of lewd act on a minor.

1. CONSECUTIVE SENTENCES

The defendant cites no authority for the proposition that imposition of consecutive life sentences amounts to cruel and unusual punishment. In my view, the facts of this case are such that consecutive sentences are appropriate.

2. VENUE

A criminal defendant is entitled "to a directed verdict when the State fails to present evidence that the offense was committed in the county alleged in the indictment." State v Evans, 307 S.C. 477, 480, 415 S.E. 2nd 816, 818 (1992), overruled in part on other grounds by State v Gentry, 363 S.C. 93, 610 S.E. 2nd 494 (2005). However, as noted in State v Crocker, 366 S.C. 394, 621 S.E. 2nd 890, 895 (Ct. App. 2005), "[t]he standard for establishing venue is not a stringent one, for 'venue, like jurisdiction, in a criminal case

need not be affirmatively proved, and circumstantial evidence of venue, though slight, is sufficient.” (quoting State v Williams, 321 S.C. 327, 334, 468 S.E. 2nd 626, 630 (1996).

The defendant maintains there was insufficient evidence as a matter of law that the incident occurred in Williamsburg County. The court, upon joint request of the parties, submitted the question of venue to the jury, charging that the place of the crime had to be established by the greater weight of the evidence. The submission of this issue to the jury was error, but in and of itself is not the error claimed by the defendant. In my view, the evidence taken as a whole establishes, however slightly, that the offense occurred in Williamsburg County.

3. MOTION TO QUASH LWOP NOTICE

The evidence established that the instant crimes occurred in November 1998 in Williamsburg County. The evidence also established that the defendant engaged in basically identical criminal conduct with the very same victim in August 1999 in Georgetown County. Several months before the Williamsburg County trial, the defendant entered a plea of guilty to CSC first with a minor (the 1999 offense) before the Honorable Edward C. Cottingham in Georgetown County and received a sentence of eight (8) years. The defendant now claims that pursuant to S.C. Code Section 17-25-50, the Williamsburg County conviction and the Georgetown County conviction should be treated as one offense for sentencing purposes. Obviously, CSC first with a minor and kidnapping are both “most serious” offenses under Section 17-25-45 (these two Williamsburg County convictions are one strike) and if the defendant’s contention is correct, he would not be subject to life imprisonment pursuant to 17-25-45. The defendant urges this result on the basis that the Williamsburg and Georgetown crimes

involved the same victim and on the basis that the Georgetown County incident was admitted into evidence under State v Lyle, 125 S.C. 406, 118 S.E. 803 (1923) as part of a common scheme or plan. I disagree. The defendant's actions did involve a common scheme or plan under State v Lyle; however, there is no authority for the proposition that separate offenses which amount to a "common scheme or plan" under Lyle are necessarily "so closely connected in point of time that they may be considered as one offense" under Section 17-25-50. There may be some factual scenarios in which the conclusion argued by the defendant is correct, but under the circumstances of this case, the existence of a common scheme or plan under Lyle does not warrant a finding that the Williamsburg and Georgetown crimes were part of one continuous course of conduct under Section 17-25-50. Therefore, the LWOP notice should not be quashed on this basis.

4. IS DEFENDANT OTHERWISE SUBJECT TO LWOP?

The defendant contends that the Supreme Court of South Carolina's holding in State v Gordon, 356 S.C. 143, 588 S.E. 2nd 105 (2003) forecloses a sentence of life without parole. Again, this defendant has two convictions for criminal sexual conduct in the first degree with a minor. The first offense occurred in November 1998 in Williamsburg County, which of course is the subject of the instant conviction. The second offense occurred in 1999 in Georgetown County. The victim in both cases was the same eleven (11) year old boy. In 2006, the defendant pled guilty to the 1999 Georgetown County offense. The State contends this was "strike one". The defendant was then served with an LWOP notice for the Williamsburg County case, and the jury

trial resulted in a conviction for CSC first with a minor (and kidnapping). The State contends this conviction was strike two and compels an LWOP sentence.

The following discussion includes the relevant legislative history of Section 17-25-45, appellate cases interpreting this statute (and Section 17-25-50), and the arguments presented by the State and the defendant.

A. Legislative History of § 17-25-45

The earliest version of South Carolina Code § 17-25-45 was enacted in 1982 and provided that a third conviction for certain listed crimes would result in a life sentence. The 1982 version specifically provided that "a conviction shall be considered a second conviction only if the date of the commission of the second crime occurred subsequent to the imposition of the sentence of the first offense." 1982 S.C. Acts No. 358 § 1, pp. 2175-76. A similar provision defined a "third conviction." In 1986, the General Assembly amended § 17-25-45 to provide that a third conviction for a crime defined as "violent" in South Carolina Code § 16-1-60 would result in a life sentence. This amendment specifically included the same definitions of a "second conviction" and "third conviction" set forth in the 1982 version discussed above. 1986 S.C. Acts No. 462 § 37, p. 2996. In 1995, the General Assembly amended § 17-25-45 to provide that either a second conviction for a "most serious" crime or a third conviction for a "serious" crime would lead to a sentence of life. The 1995 amendment deleted the specific definitions for second and third convictions, and substituted the language of "prior conviction" now found in section (F) of the statute. 1995 S.C. Acts No. 83 § 18, pp. 565-68.

Up until the passage of the 1995 version, § 17-25-45 specifically required that a second or subsequent offense be committed after imposition of a sentence on the first or

previous offense. Currently, the statute only requires there to be a prior conviction. The logical conclusion as to the 1995 amendment is that the General Assembly intended to eliminate the requirement that the offenses be committed in sequence.

A plain reading of § 17-25-45(F) as it was written at the time of this offense subjects Taylor to life without parole. The statute states “[f]or the purpose of determining a prior or previous conviction under this section and Section 17-25-50, a prior or previous conviction shall mean the defendant has been convicted of a most serious or serious offense, as may be applicable, on a separate occasion, prior to the instant adjudication.” (emphasis added). The words “prior conviction” mean only that § 17-25-45 is premised upon a conviction-to-conviction sequence rather than a conviction-to-offense sequence or an offense-to-offense sequence. In other words, the statute does not require that the previous conviction upon which an enhanced sentence is based precede the commission of the offense upon which the sentence is being imposed. Under this interpretation of the statute, § 17-25-45 applies even when the defendant has first been convicted of one offense that actually occurred after another separate offense.

In the present case, Taylor had a prior conviction for the 1999 offense. Although the 1999 offense occurred after the 1998 Williamsburg County offense, he still had a prior conviction “prior to the instant adjudication.” According to the statute, Taylor is subject to life without parole because he had that prior conviction.

B. South Carolina Cases Interpreting § 17-25-45

The Supreme Court first interpreted the 1995 version of § 17-25-45, and specifically the language in subsection (F) concerning “prior convictions,” in State v. Benjamin, 353 S.C. 441, 579 S.E.2d 289 (2003). In Benjamin, the Court held that the

recidivist statute must be construed independently of any other statute, specifically finding § 17-25-50 to be inapplicable in a "three strikes rule" analysis. However, nine months later Benjamin was overruled by State v. Gordon, 356 S.C. 143, 588 S.E.2d 105 (2003). In Gordon, the Court found that its holding in Benjamin regarding the independent nature of § 17-25-45 was contrary to legislative intent and prior precedent of the Court.

In Gordon, the Court states that "the recidivist statute is aimed at career criminals, those who have been previously sentenced and commit another crime, not at those whose recidivist status is premised **solely** upon acts which occur at times so closely connected in point of time that they may be considered one offense." *Id.* at 111, 588 S.E.2d at 154. Accordingly, the Court held that § 17-25-45 and § 17-25-50 must be construed together in determining whether crimes committed close in time qualify for a recidivist sentence. It is this quoted language that must be analyzed in light of the facts of the instant case.

C. State's Argument

In the present case, Taylor's crimes were separate offenses which resulted in two separate convictions. Section 17-25-50 does not apply to this case because his acts in Georgetown and Williamsburg were not so closely connected in point of time that they are considered one offense. The Supreme Court decided Gordon on the reasoning that § 17-25-45, read in light of § 17-25-50, requires that a defendant be "previously sentenced and then commit another crime." Currently, there is no South Carolina case that deals directly with the issue of whether the conviction of a subsequent crime (offense #2)

before the conviction of the prior crime (offense #1) is considered a "prior conviction" solely under § 17-25-45.¹

The State contends that the specific language of the statute should govern, and that the statute requires only that the Georgetown conviction be entered before entry of the instant conviction, not that the Georgetown conviction be entered before commission of the instant offense. While a recidivist statute is intended to deter commission of a crime, it is also used to punish the persistent offender and the State contends the defendant is the recidivist the statute was intended to punish.

Although the facts in Walters v. State, 371 S.C. 591, 641 S.E.2d 434 (2007) are significantly different, the case interprets the term "prior conviction" under § 44-53-470, a drug statute. The offense used to enhance the defendant's status to second offender occurred on July 28, 2000, two days after the offense at issue in the opinion. The Court held that the timing of the crimes was irrelevant to the determination of a subsequent offense so long as there is a prior conviction.

D. Defendant's Argument

The defendant argues the foregoing case law renders § 17-25-45 ambiguous and that when a statute is ambiguous, the rules regarding construction of criminal statutes require the court to resolve that ambiguity in the defendant's favor. The cardinal rule of statutory construction is that the court must ascertain and effectuate the intent of the legislature. Statutes, as a whole, must receive "practical, reasonable, and fair interpretation consonant with the purpose, design and policy of law makers." State v.

¹ Cynthia L. Sletto, *Chronological or Procedural Sequence of Former Convictions as Affecting Enhancement of Penalty under Habitual Offender Statutes*, 7 A.L.R.5th 263 (1992) discusses similar cases from other states. The states that upheld a defendant's sentence looked to the specific language of the statute and specifically the use of the term "prior conviction." Other states concluded that prior convictions must have preceded commission of the offense and resolve ambiguities in favor of the defendant.

Woody, 345 S.C. 34, 37-38, 545 S.E.2d 521, 522-523 (Ct. App. 2001). Therefore, in interpreting a statute, the words must be given their plain and ordinary meaning without resorting to a subtle or forced construction that limits or expands the statute's operation. *Id.*

"Courts will reject the plain and ordinary meaning of statutory language when to accept it would lead to a result so absurd that it could not have been intended by the Legislature, or would defeat plain legislative intention." Gordon, 356 S.C. at 153, 588 S.E.2d at 110. If possible, courts "will construe a statute as to escape an absurd result and carry the legislative intention into effect . . . Moreover, [courts] are constrained to strictly construe penal statutes in the defendant's favor." *Id.* In my view, the defendant's ambiguity argument fails because the statute is not ambiguous on its face; judicial interpretation of the statute under a different factual scenario than presented in Gordon is more difficult.

The defendant claims that according to Gordon, § 17-25-45 does not come into play except when a defendant has been convicted and sentenced, and then commits another crime.² Such a broad reading of the holding in Gordon directly contradicts § 17-25-45.

E. Conclusion As To "Gordon" Argument

If the Court's intent in Gordon was to create LWOP eligibility only where the second offense occurs *after* the conviction for the first offense, then the holding arguably conflicts with the language of § 17-25-45. When the holding is interpreted in light of the specific facts set forth in Gordon, it does not necessarily conflict with the statute. In

² In my view, the Gordon Court uses this statement solely in support of its conclusion that § 17-25-45 and § 17-25-50 should be construed together.

Gordon, the Court was addressing the interplay between § 17-25-45 and § 17-25-50. The Supreme Court's purpose in construing the two statutes together is to prevent a defendant from receiving life when he commits two offenses that can be considered one offense.

Since the instant case does not deal with the interplay between § 17-25-45 and § 17-25-50, the holding in Gordon does not apply. If the defendant's Georgetown and Williamsburg crimes were so closely connected in point of time that they are considered one offense then the defendant would not be subject to LWOP. Although the crimes involved the same victim, they occurred nine months apart and are considered separate offenses for sentencing purposes. The purpose behind the holding in Gordon is to prevent a defendant from receiving life when two crimes should be considered one when it comes to counting strikes. The fact that the language of § 17-25-45 was changed in 1995 to include the words "prior conviction" instead of requiring the subsequent offense to be committed after the sentence for the previous offense compels this court to conclude that under the facts of this case (which again are inapposite to the facts in Gordon), the defendant is subject to mandatory LWOP.

5. REFUSAL TO GIVE "ADVANCE RULING" ON ADMISSIBILITY OF POTENTIAL IMPEACHMENT EVIDENCE

After the State rested its case-in-chief, the court conducted the standard inquiry of the defendant as to whether he desired to testify. In addition to advising the defendant of his right to remain silent, the court advised the defendant that if he did testify, he would be subject to the same rules governing the examination and cross-examination of other witnesses. He was specifically told that if he had been convicted of any crimes involving dishonesty or false statement, these could be used on cross-examination to impeach his credibility. He was further advised that if he had been convicted of any crimes

punishable by imprisonment for more than one year and that if the court determined that the probative value of admitting such evidence outweighed its prejudicial effect, these convictions could likewise be introduced to attack his credibility. The defendant specifically requested the court for an advance ruling as to whether his Georgetown County CSC conviction could be used to impeach his credibility as opposed to simply being used to establish a common scheme or plan under State v Lyle.

As noted above, during the State's case-in-chief, the court admitted evidence of the Georgetown County incident (but not the guilty plea) as evidence of a common scheme or plan under State v Lyle. At that time, the court instructed the jury that this evidence could be used only as evidence of a common scheme or plan, and for no other purpose. The court did not permit evidence at that stage that the Georgetown County incident had resulted in a guilty plea (and therefore an admission on the part of the defendant). During the court's colloquy with the defendant about his decision whether or not to testify, counsel for the defendant asked the court for a specific ruling as to whether the Georgetown County plea could be used against the defendant for impeachment purposes. Obviously, that offense carries potential imprisonment in excess of one year, but it is not a crime of dishonesty or false statement. Therefore, the court would have been compelled to balance the probative value against its prejudicial effect pursuant to Rule 609(a)(1). The court refused to give such a specific ruling in advance, as the dynamic of direct examination and cross-examination could impact the court's determination of whether the probative value of admitting the conviction for impeachment purposes outweighed its prejudicial effect to the defendant. In other words, "probative value" and "prejudicial effect" are better determined in the immediate

context of examination and cross-examination, rather than an academic analysis prior to questioning taking place.

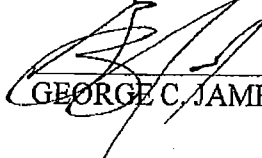
The defendant points to no authority for the proposition that the court was required to give such an advance ruling, and the defendant's motion on this ground is denied.

CONCLUSION

For the foregoing reasons, the defendant's motions are denied.

AND IT IS SO ORDERED.

PRESIDING JUDGE


GEORGE C. JAMES, JR.

Sumter, South Carolina

November 16, 2007

STATE OF SOUTH CAROLINA)
COUNTY OF WILLIAMSBURG)

The State,

Plaintiff,

vs.

Robert Troy Taylor,

Defendant.

IN THE COURT OF GENERAL SESSIONS
THIRD JUDICIAL CIRCUIT
INDICTMENT NO.: 06-GS-45-176

**NOTICE OF MOTION AND
MOTION TO RECONSIDER**

A CERTIFIED TRUE COPY

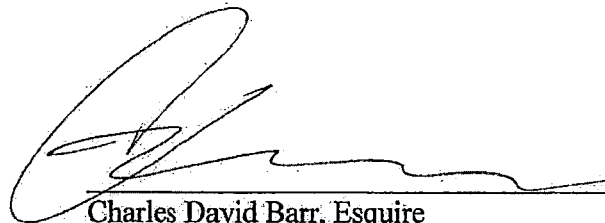
Sharon W. Williams
SHARON W. WILLIAMS
CLERK OF COURT
WILLIAMSBURG COUNTY

FILED
07 JUL 20 AM 10:17
CLERK OF COURT
KINGSTREE, S.C.

NOTICE IS HEREBY GIVEN that the undersigned attorney for the Defendant will move before the Circuit Judge George M. James, within ten (10) days of the date hereof or as soon thereafter as counsel may be heard, for reconsideration of the Courts ruling on July 12, 2007 that the Defendant's conviction for a most serious offense requires mandatory imposition of life without the possibility of parole and for the reconsideration of the Courts decision to impose consecutive sentences of the offenses of CSC 2nd and Kidnapping.

Kingstree, South Carolina

July 20th, 2007



Charles David Barr, Esquire
Attorney for the **Defendant**
319 W. Main Street
Kingstree, South Carolina 29556
Telephone: 843-355-8000
Facsimile: 843-355-8003

STATE OF SOUTH CAROLINA)
COUNTY OF WILLIAMSBURG)

The State,

Plaintiff,

vs.

Robert Troy Taylor,

Defendant.

IN THE COURT OF GENERAL SESSIONS
THIRD JUDICIAL CIRCUIT
INDICTMENT NO.: 06-GS-45-176

CERTIFICATE OF SERVICE

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CLERK OF COURT
WILLIAMSBURG, S.C.

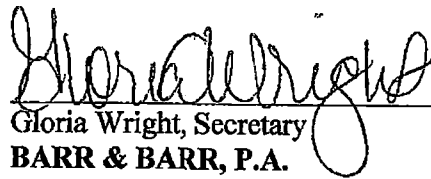
I HEREBY CERTIFY, that the NOTICE OF MOTION AND MOTION TO RECONSIDER has been served, by mailing a copy to the attorneys of record, in the United States mail, with sufficient postage affixed thereto, addressed to them at their address as shown below, on the 20th day of July 2007.

Ronnie A. Sabb, Solicitor
Third Judicial Circuit
125 West Main Street
Kingstree, South Carolina 29556

Kimberly Barr, Assistant Solicitor
Third Judicial Circuit
125 West Main Street
Kingstree, South Carolina 29556

Kingstree, South Carolina

July 20, 2007


Gloria Wright, Secretary
BARR & BARR, P.A.
319 W. Main Street
Kingstree, South Carolina 29556
Telephone: 843-355-8000
Fax: 843-355-8003

STATE OF SOUTH CAROLINA	)	IN THE COURT OF GENERAL SESSIONS
	)	
COUNTY OF WILLIAMSBURG	)	FOR THE THIRD JUDICIAL CIRCUIT
State of South Carolina,	)	
	)	INDICTMENT NO.: 2006-GS-45-176
vs.	)	
	)	
Robert Troy Taylor,	)	
	)	LIST OF WITNESSES PROPOSED
	)	TO BE CALLED BY THE STATE
Defendant(s).	)	

The State of South Carolina proposes to call the following witnesses at the trial of this case:

1.	Sgt. Laura Rogers, Williamsburg County Sheriff's Office	A CERTIFIED TRUE COPY: <i>Sharon W. Staggers</i> SHARON W. STAGGERS CLERK OF COURT WILLIAMSBURG COUNTY
2.	Hugh Billy Causey	
3.	~~Zachary Webster~~	
4.	Allyson Taylor	
5.	Wade Causey	
6.	Pam Causey	
7.	Gaye Allen Cooke	
8.		

July 10, 2007.

**OFFICE OF THE SOLICITOR
THIRD JUDICIAL CIRCUIT**

Kimberly V. Barr

C. Kelly Jackson
Ronnie A. Sabb
Kimberly V. Barr

STATE OF SOUTH CAROLINA
COUNTY OF WILLIAMSBURG

IN THE COURT OF GENERAL SESSIONS
THIRD JUDICIAL CIRCUIT
INDICTMENT NO.: 2006-GS-45-176

THE STATE,

PLAINTIFF,

vs.

ROBERT TROY TAYLOR,

DEFENDANT.

SUBSTITUTION OF COUNSEL

A CERTIFIED TRUE COPY

Sharon W. Staggers
SHARON W. STAGGERS

CLERK OF COURT
WILLIAMSBURG COUNTY

IT APPEARS that the R. Scott, Joye, Esquire, Counsel for the Defendant, has
moved to substitute Charles David Barr, Esquire as defense Counsel.

Motion Granted.

AND SO ORDERED.

I SO MOVE:

R. Scott Joye
R. Scott Joye, Esquire

WE CONSENT:

Robert Troy Taylor
Robert Troy Taylor

Charles David Barr
Charles David Barr, Esquire

Kingstree, South Carolina

November 20, 2006

[Signature]
Presiding Judge

06 NOV 21 AM 11:10
CLERK OF COURT
WILLIAMSBURG COUNTY
KINGSTREE, S.C.

FILED

WILLIAMSBURG COUNTY CLERK OF COURT

Carolyn F. Williams-Clerk of Court

125 West Main St

Kingstree, SC 29556

(843) 355-9321 ext 552 Fax (843) 355-9319

Deputy Clerk- Ms. Sharron M. McCutchen

FAX

To: JEREMY /SUSIE	From: SHARRON
Reference: ROBERT TROY TAYLOR(06-176)	Date: 5/26/09
Phone: (803)738-8622	Phone: (843) 355-9321 x 154
Fax: (803) 738-1600	Fax: (843) 355-9319

A CERTIFIED TRUE COPY

Sharon M. McCutchen

SHARRON M. MCCUTCHEN

CLERK OF COURT

WILLIAMSBURG COUNTY

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STATE OF SOUTH CAROLINA)

COUNTY OF WILLIAMSBURG)

THE STATE,)

PLAINTIFF,)

VS.)

ROBERT TROY TAYLOR,)

DEFENDANT.)

IN THE COURT OF GENERAL SESSIONS
THIRD JUDICIAL CIRCUIT
INDICTMENT NO.: 06-GS-45-176

MOTION IN LIMINE

The Defendant moves to require all State witnesses to refrain from giving any testimony concerning any other crimes and bad acts of the Defendant.]

A CERTIFIED TRUE COPY

Carolyn F. Williams

CAROLYN F. WILLIAMS
CLERK OF COURT
WILLIAMSBURG COUNTY

A CERTIFIED TRUE COPY

Sharon W. Starnes

SHARON W. STARNES
CLERK OF COURT
WILLIAMSBURG COUNTY

DEFENDANT.

MOTION IN LIMINE

CAROLYN E. WILLIAMS
CLERK OF COURT
WILLIAMSBURG COUNTY

STATE OF SOUTH CAROLINA)
COUNTY OF WILLIAMSBURG)

IN THE COURT OF GENERAL SESSIONS
THIRD JUDICIAL CIRCUIT
INDICTMENT NO.: 2006-GS-45-176

THE STATE,

PLAINTIFF,

vs.

ROBERT TROY TAYLOR,

DEFENDANT.

MOTION IN LIMINE

The Defendant, moves to quash the State's Notice of Intent to Seek, upon conviction of the Defendant, a life sentence without the possibility of parole. []

A CERTIFIED TRUE COPY

Carolyn F. Williams

CAROLYN F. WILLIAMS
CLERK OF COURT
WILLIAMSBURG COUNTY

STATE OF SOUTH CAROLINA)

COUNTY OF WILLIAMSBURG)

STATE OF SOUTH CAROLINA)

PLAINTIFF,)

VS.)

ROBERT TROY TAYLOR,)

DEFENDANT.)

IN THE COURT OF GENERAL SESSIONS

THIRD JUDICIAL CIRCUIT

INDICTMENT NO.: 06-GS-45-176

VOIR DIRE

A CERTIFIED TRUE COPY

Sharon W. Hickey

SHARON W. HICKEY

CLERK OF COURT

WILLIAMSBURG COUNTY

1. Have you or any member of your family, ever had any criminal charges handled by the Third Circuit Solicitor's Office?
2. Are you, or to your knowledge, any family members or close friend, related to or close friends with Assistant Solicitor's Ronnie Sabb or Kimberly Barr, their Assistants or their staffs?
3. Are you, or to your knowledge, any family member or close friend related to or are close friends with any law enforcement officer (federal, state or local)?
- ✓ 4. Would any member of the jury panel have any problem following law as the Judge cites it to you even if you believe that it is inappropriate or unfair?
5. Does any member of the jury panel have any personal, political or religious beliefs that would prevent him or her from being a fair and impartial juror?
- ✓ 6. Whether any member of the jury panel, or any member of their family by blood or marriage, is now employed or within the past five (5) years have been employed by the State of South Carolina?
- ✓ 7. Whether any member of the jury panel has had a relationship with the Williamsburg County Solicitor's Office as a victim or as a PTI applicant?

- ✓ 8. Whether any member of the jury panel have a family member, by blood or marriage, who is a security guard, probation officer or any type of law enforcement officer, local, state or federal?
- ✓ 9. Whether any member of the jury panel have a family member, by blood or marriage who has ever been a victim of a criminal offense relating to an assault and battery, or criminal sexual conduct.?
- ✓ 10. Whether any member of the jury panel has a family member, by blood or marriage who is employed by a social service agency?

STATE OF SOUTH CAROLINA)
)
COUNTY OF WILLIAMSBURG)
)
The State,)
)
Plaintiff,)
)
vs.)
)
Robert Troy Taylor,)
)
Defendant.)
_____)

IN THE COURT OF GENERAL SESSIONS
THIRD JUDICIAL CIRCUIT
INDICTMENT NO.: 06-GS-45-176

AMENDED
NOTICE OF MOTION AND
MOTION TO RECONSIDER
A CERTIFIED TRUE COPY
Shane W. Staggina
SHANE W. STAGGINA
CLERK OF COURT
WILLIAMSBURG COUNTY

07 JUL 20 04 PM 2:18

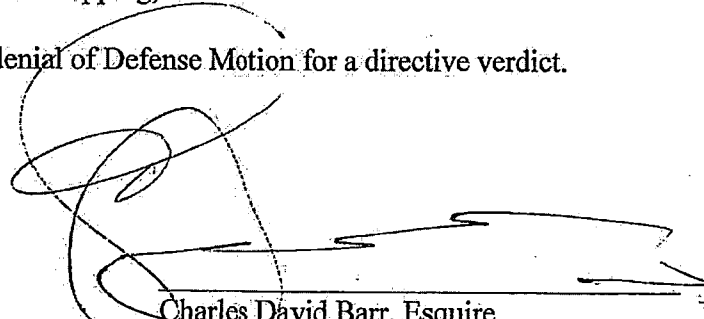
FILED

NOTICE IS HEREBY GIVEN that the undersigned attorney for the Defendant will move before the Circuit Judge George M. James, within ten (10) days of the date hereof or as soon thereafter as counsel may be heard, for the following relief:

- 1) Reconsideration of the Defense Motion for a new trial;
- 2) Reconsideration of the Courts ruling on July 12, 2007;
- 3) Reconsideration of the Courts decision to impose consecutive sentences of the offenses of CSC 2nd and Kidnapping; and
- 4) Reconsideration of the denial of Defense Motion for a directive verdict.

Kingstree, South Carolina

July 20th, 2007


Charles David Barr, Esquire
Attorney for the *Defendant*
319 W. Main Street
Kingstree, South Carolina 29556
Telephone: 843-355-8000
Facsimile: 843-355-8003

STATE OF SOUTH CAROLINA)
)
COUNTY OF WILLIAMSBURG)
)
The State,)
)
Plaintiff,)
)
vs.)
)
Robert Troy Taylor,)
)
Defendant.)
)

IN THE COURT OF GENERAL SESSIONS
THIRD JUDICIAL CIRCUIT
INDICTMENT NO.: 06-GS-45-176

CERTIFICATE OF SERVICE.

I HEREBY CERTIFY, that the NOTICE OF MOTION AND MOTION TO RECONSIDER has been served, by mailing a copy to the attorneys of record, in the United States mail, with sufficient postage affixed thereto, addressed to **them** at **their** address as shown below, on the 20th day of July 2007.

Ronnie A. Sabb, Solicitor
Third Judicial Circuit
125 West Main Street
Kingstree, South Carolina 29556

Kimberly Barr, Assistant Solicitor
Third Judicial Circuit
125 West Main Street
Kingstree, South Carolina 29556

Kingstree, South Carolina

July 20th, 2007


Gloria Wright, Secretary
BARR & BARR, P.A.
319 W. Main Street
Kingstree, South Carolina 29556
Telephone: 843-355-8000
Fax: 843-355-8003

DEFENDANT.

SHARON W. STAGGERS
CLERK OF COURT
WILLIAMSBURG COUNTY

852

DEFENDANT.

MOTION IN LIMINE

A CERTIFIED TRUE COPY
Sharon W. Stargers
 SHARON W. STARGERS
 CLERK OF COURT
 WILLIAMSBURG COUNTY

The Defendant moves to prohibit the State from seeking to impeach the Defendant with any prior convictions, in the event the Defendant decides to take the witness stand in his own defense.

STATE OF SOUTH CAROLINA)

COUNTY OF WILLIAMSBURG)

THE STATE,)

PLAINTIFF,)

vs.)

ROBERT TROY TAYLOR,)

DEFENDANT.)

IN THE COURT OF GENERAL SESSIONS

THIRD JUDICIAL CIRCUIT

INDICTMENT NO.: 2006-GS-45-176

MOTION IN LIMINE

The Defendant, moves to quash the State's Notice of Intent to Seek, upon conviction of the Defendant, a life sentence without the possibility of parole. []

A CERTIFIED TRUE COPY

Sharon W. Stearns
SHARON W. STEARNS
CLERK OF COURT
WILLIAMSBURG COUNTY

IN THE COURT OF GENERAL SESSIONS
THIRD JUDICIAL CIRCUIT
INDICTMENT NO.: 2006-GS-45-176

Plaintiff,

vs.

POTENTIAL WITNESSES

Defendant.

DREXA MIRON
TRACY PERITT

A CERTIFIED TRUE COPY
Sharon W. Strickland
 SHARON W. STRICKLAND
 CLERK OF COURT
 WILLIAMSBURG COUNTY

SOUTH CAROLINA VICTIM IMPACT STATEMENT

This form is designed to help protect the rights of crime victims in South Carolina's criminal justice system. It will become part of the Court record, and will follow the defendant through the criminal justice system. It is very important that victims fill out one form for each defendant as completely and neatly as possible in ink and return it within two weeks. Assistance in completing this form is available upon request.

OFFENDER INFORMATION

(FOR OFFICE USE ONLY)

Offender's Name Robert T. Taylor Date of Birth 11-3-69
Social Security No. 251-57-4004 County of Conviction Williamsburg
Sentence _____
Indictment No(s). 2006-GS-45-176
Victim Compensation Claim Filed _____ Date _____

Upon sentencing, the agency must forward a copy of this form to the SC Department of Corrections, SC Department of Probation, Parole, and Pardon Services, SC Attorney General's Office or to the SC Juvenile Parole Board.

PLEASE PRINT

STATE OF SOUTH CAROLINA vs. Robert Troy Taylor
CHARGE(s) Criminal Sexual Conduct with a Minor + Kidnapping WARRANT NO(s) K085100

NAME OF THE VICTIM Hugh Billy Causey

NOTE: If the victim is deceased, is a minor child, or is a business, please list the name of a responsible party below.

NAME OF RESPONSIBLE PARTY Wade + Pam Causey

Relationship to Victim Parents
(i.e., parent, sibling, or in case of business crime, manager, clerk, etc)

Home Address 1830 Volunteer Drive Work Address ARS - Service Express
Surfside Beach, SC 29575 Myrtle Beach, SC

Home Phone 843-215-3939 Work Phone _____ Other Phone 843-450-2589

Victim's Date of Birth 07/27/1987 Race White Sex Male

The above line may be used for additional information requested by the Victim Advocate.

PLEASE CHECK ONE OF THE FOLLOWING THREE STATEMENTS:

- ☒ I absolutely want to be present for a guilty plea or other proceeding concerning this case.
☐ I would like to be present if it is convenient, but this is not absolutely necessary.
☐ I will come if I am needed, but do not care to be present otherwise.

PLEASE CHECK ONE OF THE FOLLOWING TWO STATEMENTS:

- ☒ I want to be notified by the appropriate agencies for all post conviction sentencing events including appeals, probation, parole, release, or escape from prison.
☐ I do not want to be notified.

Please see reverse side.

STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
COUNTY OF WILLIAMSBURG) THIRD JUDICIAL CIRCUIT
State of South Carolina,) Indictment No: 2006-GS-45-176
v.)
Robert Troy Taylor,) **NOTICE OF INTENTION TO SEEK A**
) **SENTENCE OF LIFE WITHOUT PAROLE**
Defendant.)

TO: ROBERT TROY TAYLOR AND HIS ATTORNEY, CHARLES DAVID BARR

PLEASE TAKE NOTICE that at the trial of the above entitled action to be scheduled on a date at least ten (10) days from the date of this notice, of which you will be timely notified, the State will seek to have the defendant sentenced to a term of imprisonment for life without the possibility of parole, pursuant to South Carolina Code of Laws Section 17-25-45 (1995), as amended. The State intends to rely upon the defendant's prior conviction(s) of: criminal sexual conduct with a minor in the second degree (indictment number: 2006-GS-22-0361) to statutorily enhance his punishment. Attached is a copy of the indictment(s) and sentencing sheet(s) for aforementioned cases.

March 15, 2007.

**OFFICE OF THE SOLICITOR
THIRD JUDICIAL CIRCUIT**

Kimberly V. Barr
C. Kelly Jackson
Ronnie A. Sabb
Kimberly V. Barr

Kingstree, South Carolina

A CERTIFIED TRUE COPY
Shana W. Anderson
SHERIFF
CLERK OF COURT
WILLIAMSBURG COUNTY

FILED
07 MAR 15 PM 1:45
CAROLYN E. WILLIAMS
CLERK OF COURT
KINGSTREE, S.C.

857

STATE OF SOUTH CAROLINA	)	IN THE COURT OF GENERAL SESSIONS
	)	
COUNTY OF WILLIAMSBURG	)	THIRD JUDICIAL CIRCUIT
	)	
State of South Carolina,	)	Indictment No: 2006-GS-45-176
	)	
v.	)	
	)	NOTICE OF INTENTION TO SEEK A
Robert Troy Taylor,	)	SENTENCE OF LIFE WITHOUT PAROLE
	)	
Defendant.	)	
	)	

CERTIFICATE OF SERVICE

I, the undersigned employee of the Williamsburg County Solicitor's Office, hereby certify that on the 15th day of March 2007, I served the foregoing Notice of Intent to Seek a Sentence of Life Without Parole on counsel for the Defendant by mailing a copy to his attorney of record at the address at listed below:

Charles David Barr, Esquire
 Post Office Box 83
 Kingstree, South Carolina 29556

Linda S. Woods
 Linda S. Woods
 Administrative Assistant

A CERTIFIED TRUE COPY
Sharon W. Hester
 SHARON W. HESTER
 CLERK OF COURT
 WILLIAMSBURG COUNTY

FILED
 07 MAR 15 PM 1:45
 CAROLYN E. WILLIAMS
 CLERK OF COURT
 KINGSTREE, S.C.

WITNESSES:

GEORGETOWN COUNTY
SHERIFF'S OFFICE

ARREST WARRANT NUMBER:

H-750363

0396 § 16-03-655(2)

D/L#:

DOI: On or about August 5, 1999 through
August 7, 1999

SID:

ACTION OF GRAND JURY

Date

Foreman of Grand Jury

VERDICT

Foreman of Petit Jury

DUCKET NO. 06-0522-301A7

The State of South Carolina,

County of Georgetown

21166

RBB

COURT OF GENERAL SESSIONS

APRIL TERM 2006

THE STATE

VS.

ROBERT TROY TAYLOR,
412 Adare Court
Murrells Inlet, S.C. 29576

DOB: 11-03-69
SS#: 251-57-4004

J. GREGORY HEMBREE, SOLICITOR

INDICTMENT FOR

CRIMINAL SEXUAL CONDUCT
WITH A MINOR IN THE
SECOND DEGREE

FILED

07 MAR 15 PM 1:45

CAROLYN E. WILLIAMS
CLERK OF COURT
KINGSTREE, S.C.

DEFENDANT WAIVES PRESENTMENT
TO THE GRAND JURY

CERTIFIED TRUE COPY
Sharon W. Williams
SHEPARD
CLERK OF COURT
WILMINGTON COUNTY

STATE OF SOUTH CAROLINA

FILED

IN THE COURT OF GENERAL SESSIONS

COUNTY OF
STATE

Georgetown

07 MAR 15 PM 1:45

INDICTMENT

SE#

361

AKA:

Race: W Sex: M Age:

DOB: 11-03-69 SS#: 251-57-4004

Address: 412 Adare Court

City, State, Zip: Murrells Inlet SC 29576

DL# SID#

CAROLYN J. WILLIAMS
CLERK OF COURT
KINGSTREE

Date of Offense:

S.C. Code §:

CDR Code #:

GS- 22
H- 750312

On or about

16-3-65

0

CASE RES

SENTEN

PLEA

5-99 through 8-7-97

1 9 1 6

RED

RIAL

In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEA TO: Criminal Sexual Unlawful 2nd degree

In violation of § 16-3-655 of the S.C. Code of Laws, bearing CDR Code # 013.916

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS

☐ 17-25-45

The charge is: ☐ As Indicted, ☐ Lesser Included Offense, ☒ Defendant Waives Presentment to Grand Jury
The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation

ATTEST:

Solicitor

Defendant

Attorney for Defendant

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Jail or a determinate term of 8 days/months/years or ☐ under the Youthful Offender Act not to exceed and/or to pay a fine of \$; provided that upon the service of 5 days/months/years and/or payment of \$; plus costs and assessments as applicable; the balance is suspended with probation months/years and subject to South Carolina Department of Probation, Parole and Pardon Services and which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 04-44, 05-523

☐ 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.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Heard, ☐ Waived, ☐ 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 \$100.00
14-1-211(A)(2) (DUI Surcharge)	\$100 \$
56-5-2995 (DUI Assessment)	\$12 \$
35.13 (Public Def/Prob)	\$500 \$
73.3, 1B TP (Law Enforce. Funding)	\$25 \$25.00
33.7, 1B TP (Drug Court Surcharge)	\$100 \$
50-21-114(BUI Breath Test Fee)	\$50 \$
56-5-2942(J) (Vehicle Assessment)	\$40/ea \$
% to County (if paid in Installments)	\$ 3.75
TOTAL	\$129.75

Clerk of Court/Deputy Clerk

Court Reporter: Linda McCall

PTUP A CERTIFIED TRUE COPY

days/hours Public Service Employment

Obtain GED

Attend Voc. Rehab. or Job Con.

May serve W/E beginning

Substance Abuse Counseling

Random Drug/Alcohol Testing

Fine may be paid in equal installments

pmts. of \$ 10.00 beginning

\$ paid Public Defender Fund

Other: Must register as sex offender

☐ Appointed PD or appointed other counsel, \$35.13 TF
Requires \$500 be paid to Clerk during probation.

PRESIDING JUDGE

Judge Code:

Sentence Date:

01

4-20-02

2141

2

White - Clerk

Green - Corrections

Canary - Probation

Pink - Defendant

SCCA 217 (7/2/03)

STATE OF SOUTH CAROLINA)

INDICTMENT FOR

COUNTY OF GEORGETOWN)

CRIMINAL SEXUAL CONDUCT WITH A MINOR
IN THE SECOND DEGREE

At a court of General Sessions, convened on _____, the Grand Jurors present upon their oath:

That Robert Troy Taylor, born November 3, 1969, did in Georgetown County on or about August 5, 1999 through August 7, 1999, willfully and unlawfully commit the offense of Criminal Sexual Conduct With a Minor in that he did sodomize Hugh Billy Causey, date of birth July 27, 1987, who was twelve years of age at the time. This in violation of §16-03-061(2) South Carolina Code of Laws (1976), as amended.

CERTIFIED TRUE COPY

Sharon W. Williams

SHARON W. WILLIAMS

CLERK OF COURT

WILLIAMSBURG COUNTY

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

FILED
07 MAR 15 PM 1:45
CAROLYN F. WILLIAMS
CLERK OF COURT
KINGSTREE, S.C.

J. Murray Neal
SOLICITOR

Barr & Barr, P.A.
ATTORNEYS AND COUNSELORS AT LAW
Post Office Box 83
319 W. Main Street
Kingstree, South Carolina 29556
E-mail: barrandbarr@fjc-i.net

FILED

07 JAN 10 AM 11:45

CAROLYN F. WILLIAMS
CLERK OF COURT
KINGSTREE, S.C.
TELEPHONE: 843-355-8000
FACSIMILE: 843-355-8003

CHARLES DAVID BARR
VERDELL BARR

January 8, 2007

The Honorable Carolyn F. Williams
WILLIAMSBURG COUNTY CLERK OF COURT
125 W. Main Street
Kingstree, South Carolina 29556

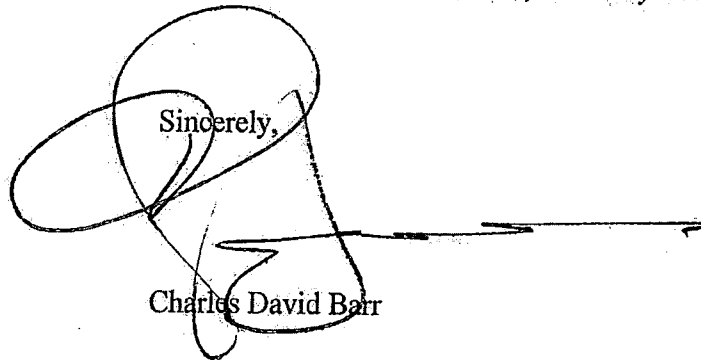
RE: State vs. Robert Troy Taylor
Indictment No.: 2006-GS-45-176
BAB File No.: 06-516 CRcdb

CERTIFIED TRUE COPY
Charles D. Barr
SEALED BY STATE ATTORNEY
CLERK OF COURT
WILLIAMSBURG COUNTY

Dear Ms. Williams:

Enclosed please find an original and one (1) copy of a **MOTION FOR DISCOVERY AND INSPECTION** and a **MOTION FOR SPEEDY TRIAL**, together with a **CERTIFICATE OF SERVICE** in the above-referenced. I would appreciate it very much if you would file the originals, clock and certify the copies and return them to me in the pre-addressed, metered envelope, which I provided for your convenience.

By copy of this letter, I am herewith serving the Assistant Solicitor, Kimberly V. Barr.

Sincerely,

Charles David Barr

CDB/db

Enclosure(s)

cc: Ms. Kimberly V. Barr, Assistant Solicitor
Mr. Robert Troy Taylor

IN THE COURT OF GENERAL SESSIONS
THIRD JUDICIAL CIRCUIT
INDICTMENT NO.: 2006-GS-45-176

Plaintiff,

|vs.

**MOTION FOR DISCOVERY
AND
INSPECTION
A CERTIFIED TRUE COPY**

Defendant.

SHAW
CLERK OF COURT
WILLIAMSBURG COUNTY

1. Any written or recorded statements made by this defendant or co-defendant, and any audio or video recording of the alleged offense or any element thereof, or copies thereof, within the possession, custody or control of the State, the existence of which is known, or by the exercise of due diligence may become known, to the attorney for the State;

3. Any prior criminal record or record of misconduct of this defendant;

5. The result or reports of physical or mental examinations, of scientific tests or experiments, to include, but not limited to polygraph exams, or copies thereof, as to this defendant, the alleged victim and any other potential witnesses, which are within the possession, custody or

control of the State, in accordance with the South Carolina Rules of Criminal Procedure, the existence of which is known, or by the exercise of due diligence may become known to the attorney for the State;

6. All evidence favorable to the defendant, or which would be helpful in the preparation of a defense or in mitigation of punishment. This includes, but is not limited to, the following:

- a. All information relevant to the credibility of any State witness;
- b. All information concerning the conduct, character and reputation of such witnesses which is relevant to his or her truthfulness or untruthfulness;
- c. The criminal record of such witness, including specifically, any prior conviction of a crime punishable by death or imprisonment in excess of one (1) year or which involved dishonesty or false statements;
- d. The substance of any agreement, or proposed agreement, either oral or written, made in the name of the State as to any State witness, the subject of which deals either directly or indirectly with the promise of immunization from prosecution, of favored treatment or leniency in return for either pleas of guilty, nolo contendere or favorable testimony in this case or in any other criminal or civil litigation or sentencing procedure;
- e. All evidence tending to show that any acts or conduct by the defendant were done without criminal intent;
- f. This request specifically includes any information, which could show that at the time of any alleged act, that the defendant was neither present, mentioned nor involved directly or indirectly;
- g. All names and present addresses of persons who have any knowledge of the existence of any evidence which might be relevant to acts charged as a crime in the indictment against the defendant, including all persons who (a) will be witnesses for the State upon the trial of this case, or (b) will not be called as witnesses by the State;

h. The transcript of testimony of any and all persons who testified before the Grand Jury in this case; and

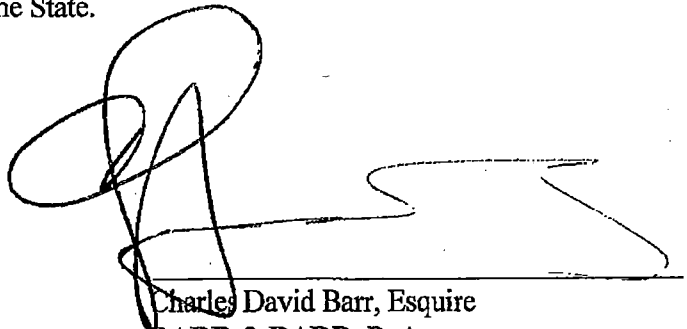
i. All evidence or information which may be favorable to the defendant and discoverable pursuant to Brady vs. Maryland, 373 USC 83 (1976).

7. All statements of witnesses producible under the South Carolina Rules of Criminal Procedure.

8. Copies of all NCIC reports concerning prospective jurors, provided such information has been made available to the State.

Kingstree, South Carolina

January 8, 2007

A large, stylized handwritten signature in black ink, appearing to read 'Charles David Barr', is written over a horizontal line.

Charles David Barr, Esquire

BARR & BARR, P. A.

Attorneys and Counselors At Law

319 W. Main Street *Post Office Box 83

Kingstree, South Carolina 29556

IN THE COURT OF GENERAL SESSIONS
THIRD JUDICIAL CIRCUIT
INDICTMENT NO.: 2006-GS-45-176

Plaintiff,

|vs.

MOTION FOR SPEEDY TRIAL

Defendant.

AND FURTHER the Defendant hereby demands an immediate trial or the dismissal of any related indictment which may be pending against him.

January 8, 2007

Charles David Barr, Esquire
Attorney for the Defendant
319 W. Main Street *P.O. Box 83
Kingstree, South Carolina 29556
843-355-8000 Fax #: 843-355-8003

IN THE COURT OF GENERAL SESSIONS
THIRD JUDICIAL CIRCUIT
INDICTMENT NO.: 2006-GS-45-176

Plaintiff,

VS.

CERTIFICATE OF SERVICE

Defendant.

**Ms. Kimberly V. Barr, Assistant Solicitor
Williamsburg County Solicitor's Office
3rd Judicial Circuit
125 West Main Street, 3rd Floor
Kingstree, South Carolina 29556**

January 8, 2007

Lauren Bower

Davonna Brown, Secretary

BARR & BARR, P. A.

Attorneys and Counselors At Law

319 West Main Street*P.O. Box 83

Kingstree, South Carolina 29556