

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

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APPEAL FROM KERSHAW COUNTY  
Court of General Sessions  
Doyet A, Early, III, Circuit Court Judge

**SC Court of Appeals**

Court of Appeals Case No. 2015-001436

The State of South Carolina,..... Respondent

v.

Nakia Johnson,..... Appellant.

**RECORD ON APPEAL VOLUME II OF II**

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State's Exhibit No. 3 is a DVD that will be transported to the Court.

1 both meaning that's what you have to prove beyond a  
2 reasonable doubt. A lot of times they'll say a  
3 reasonable doubt is the kind of doubt that would  
4 cause a reasonable person to hesitate to act. The  
5 kind of doubt that would cause a reasonable person  
6 to hesitate to act.

7 Proof beyond a reasonable doubt is also known  
8 as proof that leaves you firmly convinced of the  
9 defendant's guilt. There are very few things that  
10 we deal with in the world today that we know with  
11 absolute certainty. And in criminal cases, the law  
12 does not require proof that overcomes every possible  
13 doubt. If based on your consideration of the  
14 evidence you are firmly convinced that the defendant  
15 is guilty of the crimes charged, then you must find  
16 him guilty. If, on the other hand, you think  
17 there's a real possibility that the defendant is not  
18 guilty, then you must give the defendant the benefit  
19 of the doubt and find him not guilty.

20 Now, ladies and gentlemen, as we first started  
21 out on Tuesday, and when I gave you some  
22 instructions on Wednesday at the start of the trial  
23 of the case, I told you that you and I have separate  
24 and distinct duties to perform during the trial of  
25 the case.

1           Obviously, my job is to rule on the  
2           admissibility of evidence -- we had very few  
3           objections during the trial of the case -- and my  
4           other job is to instruct you on the law in the case.  
5           And you've taken an oath to accept the law as I give  
6           it to you; therefore, if you believe the law should  
7           be something other than what I say or you have some  
8           preconceived idea about what the law is, you have to  
9           set that aside and accept the law as I give it to  
10          you.

11           Also, because I'm the judge of the law and  
12          you're the judges of the facts, I can have  
13          absolutely no opinion about the facts. That is your  
14          decision to find the true facts. So if at any time  
15          during the trial of the case you've looked over here  
16          and I was smiling or frowning or raising my eyebrows  
17          or doing whatever, and you thought I had an opinion  
18          about the facts, please disregard that. The law  
19          does not allow me to have any opinion about the  
20          facts. I sit in cases day in and day out, week  
21          after week, and sometimes I have to raise my  
22          eyebrows. I have no opinion about the facts.

23           You are the finders of the facts. And by doing  
24          that, obviously, you have the biggest job in the  
25          case because you've got to determine what the true

1 facts are. You're the finders of the facts, so you  
2 take those facts and apply them to the law as I give  
3 it to you, and you'll be in a position to render a  
4 true and just verdict at the conclusion of the case.

5 And in exercising your job as the judges of the  
6 facts, obviously you have to determine the  
7 credibility of the witness whose have testified in  
8 the case. Credibility simply means believability.  
9 Who do you believe? What evidence convinces you of  
10 its truth? You have to analyze and evaluate the  
11 evidence and determine what the true facts are.

12 Now, in exercising that job of determining what  
13 the true facts are and determining the believability  
14 of the witnesses who have testified in the case, you  
15 have the right to believe one witness over several,  
16 several over one; you can disregard everything a  
17 witness says, you can believe a portion and  
18 disregard the other. I ask that you use your common  
19 sense that you use on a daily basis dealing with  
20 family, friends, husbands, wives, children,  
21 employees, employers. You know when someone is  
22 telling the truth. And I ask that you use that  
23 common sense in performing your job here today in  
24 determining what witness was credible and what  
25 witness was not.

1           You also have the right to consider whether any  
2 witness has exhibited any interest, bias, prejudice,  
3 or any other motive in the case, and you can also  
4 consider the appearance and manner of a witness  
5 while on the witness stand. So use all of your  
6 skills that you've accumulated over the years in  
7 determining who's tell the truth, and from that you  
8 can make your decision of what the true facts are.

9           We've had a couple of witnesses who testified  
10 as experts. And normally our rules of evidence do  
11 not permit a witness to testify as to opinions  
12 and/or conclusions. We have an exception under our  
13 rules of evidence to that which we call the expert  
14 witness exception. A witness who by education and  
15 experience has become an expert in some art,  
16 science, or profession may state an opinion as to  
17 any relevant and material matter in which the  
18 witness claims to be an expert. And they may also  
19 state the reasons for their opinion.

20           You should consider any expert opinion received  
21 in evidence in this case and, like any other  
22 witness, give it the weight, if any, you think it  
23 deserves. If you decide that an opinion of an  
24 expert witness is not based on sufficient education  
25 and experience or if you conclude that the reasons

1 given in support of the opinion are not sound or  
2 that the opinion is outweighed by the other  
3 evidence, you may disregard the opinion entirely.

4 An expert witness' testimony is to be given no  
5 greater weight than that of any other witness simply  
6 because the witness is an expert. Further, you're  
7 not required to accept an expert's opinion even  
8 though it's not contradicted.

9 I instruct and emphasize to you that the fact  
10 that the defendant did not testify is not a fact to  
11 be considered by you in any way during your  
12 deliberation and in your consideration on the  
13 question of the guilt or innocence of the defendant.  
14 It must not be considered by you in any manner  
15 whatsoever. A defendant has the constitutional  
16 right to remain silent, and the assertion of that  
17 right to remain silent must not be considered by you  
18 during your deliberations. Madam Forelady, that's  
19 one of your duties is to make sure that the fact he  
20 didn't testify is not part of your consideration,  
21 part of your deliberations, and is not to be  
22 mentioned in your deliberations, and no inferences  
23 are to be drawn from the fact that he did not  
24 testify. He's not required to prove his innocence.  
25 The burden of proof remains on the State to prove

1 his guilt to you beyond a reasonable doubt.

2 One of the witnesses who testified in the case  
3 had a past criminal record. A person who has a past  
4 criminal record is competent to testify during the  
5 trial. The past record does not affect the ability  
6 of that witness to testify. The past record may  
7 only be considered by you, if at all, in determining  
8 the witness' believability. Remember, you're the  
9 judges of the facts and the believability of any and  
10 all witnesses. So that was the only consideration you  
11 can give to the witness' past record.

12 All right. Madam foreman, ladies and  
13 gentlemen, that is sort of the general propositions  
14 of law. Let's turn to the three indictments in this  
15 case. And, really, it's the -- the elements of  
16 these three offenses is not that difficult. The  
17 first offense is criminal sexual conduct with a  
18 minor in the first degree.

19 The defendant is charged with first-degree  
20 criminal sexual conduct with a minor. The State  
21 must prove to you beyond a reasonable doubt that the  
22 defendant engaged in a sexual battery with the  
23 victim. Must prove to you beyond a reasonable doubt  
24 that the defendant engaged in a sexual battery with  
25 the victim. The statute under which this law is

1 defines sexual battery as sexual intercourse,  
2 cunnilingus, fellatio, anal intercourse, or  
3 intrusion, however slight, of any person's body or  
4 with any object into the genital or anal openings of  
5 another person's body. So you must prove that he  
6 engaged in sexual battery which is basically sexual  
7 intercourse, fellatio, cunnilingus, that sort of  
8 thing.

9 The State must also prove beyond a reasonable  
10 doubt that the victim was less than 11 years old at  
11 the time of the battery. Consent, willingness,  
12 indifference or ignorance on the part of the minor,  
13 if any, as to what was taking place does not in any  
14 way affect the charge of criminal sexual conduct  
15 with a minor, because a married woman under the age  
16 of 14 cannot legally consent to sexual intercourse.

17 The other indictment is -- or the second  
18 indictment is criminal sexual conduct with a minor  
19 in the second degree. The defendant is charged with  
20 second-degree criminal sexual conduct with a minor.  
21 The State must prove beyond a reasonable doubt that  
22 the defendant, once again, engaged in a sexual  
23 battery with the victim. And sexual battery is  
24 defined as the same as in the first degree, as  
25 sexual intercourse, cunnilingus, fellatio, anal

1 intercourse, or an intrusion, however slight, of any  
2 part of person's body or any object into the genital  
3 or anal openings of a person's body. And then the  
4 State must prove beyond a reasonable doubt that the  
5 victim was at least 11 but not more than 14 at the  
6 time of the battery or the intercourse.

7 Now, ladies and gentlemen, also, there's a law  
8 that our Legislature has enacted under Section  
9 16-3-657 which says: The testimony of the victim  
10 when someone is charged with criminal sexual conduct  
11 with a minor in the first or second degree need not  
12 be corroborated in these prosecutions.

13 The last indictment is what we call lewd act  
14 upon a child. The defendant is charged with  
15 committing a lewd act upon a minor. A minor is a  
16 person under the age of 18. The State must prove  
17 beyond a reasonable doubt that the defendant was  
18 over the age of 14. Next, the State must prove that  
19 the defendant willfully and lewdly committed or  
20 attempted a lewd or lascivious act on or with the  
21 body or its parts of a child under the age of 16  
22 with the intent to arouse, appeal to, or gratify the  
23 lusts, passions, or sexual desires of the defendant  
24 or the child.

25 That statute defines the terms willfully, that

1 means voluntarily, intentionally, and with specific  
2 intent to do something the law forbids. Lewd means  
3 obscene, lustful, indecent, or lecherous.

4 Lascivious means tending to excite, lust, lewd,  
5 indecent, obscene, or intending to deprave the  
6 morals in respect to such relations.

7 Ladies and gentlemen, those are the three  
8 indictments that you have to determine after you  
9 determine what the true facts as to whether or not  
10 the State has proven these cases to you beyond a  
11 reasonable doubt.

12 As I told you, you have to decide each one of  
13 them separate and apart from the other. You can  
14 find him guilty on one and not guilty on the others  
15 or not guilty on all three or guilty on all three,  
16 any combination thereof, depending on whether or not  
17 you determine the State has proven these elements to  
18 you beyond a reasonable doubt.

19 Madam Forelady, you'll have in the jury room a  
20 verdict form as to each indictment. It will simply  
21 say: As to the offense of criminal sexual conduct  
22 with a minor in the first degree, we the jury find  
23 the defendant not guilty or guilty. The same thing  
24 for second degree, criminal sexual conduct with a  
25 minor, the same thing with lewd act upon a child.

1 You'll have three that you'll have to decide all  
2 three separate and apart from the others. Your  
3 verdict has to be unanimous. All 12 of you have to  
4 agree as to the verdict on all three indictments.

5 Now, we're here participating in our criminal  
6 justice system. As I told you earlier, you have the  
7 most important job of anyone in the courtroom  
8 because you have to determine what the true facts  
9 are. And we're to determine that simply based on  
10 the evidence that you've heard in this courtroom,  
11 uninfluenced by anything on the outside. We have no  
12 enemies to punish, no friends to reward. You're  
13 under an oath to make a careful deliberation of the  
14 evidence that you've heard and determine whether or  
15 not the State has proven these indictments to you  
16 beyond a reasonable doubt.

17 If at any time during your deliberations you  
18 have a question that you need to ask me, the proper  
19 procedure is to write it out on a pad. You'll have  
20 a legal pad back there. Knock on the door and hand  
21 it to the bailiff. Sometimes I can answer it,  
22 sometimes I can't, depending on what your question  
23 is. But if I can't answer it, I'll do the best I  
24 can to tell you why at the conclusion of why I  
25 can't.

1           I'll ask you to step back into your jury room  
2           in just a second. I'll ask you not to start  
3           deliberating until -- I have to ask the lawyers if  
4           I've left anything out or if I need to delete  
5           anything or change anything. And then we have to  
6           gather up all of the evidence and bring it back to  
7           you. I think we have a couple of DVDs. If you want  
8           to look at those -- if you want to look at them,  
9           just knock on the door and tell us that. We'll  
10          bring the computer back there and there's a screen  
11          back there and you can look at it.

12          All right. I'll ask you to return your jury  
13          room. Don't start deliberating until I send word.  
14          I'll send the verdict forms and exhibits back to  
15          you.

16          Mr. Bailiff, please separate the alternates.

17          THE BAILIFF: All right, sir.

18          THE COURT: All right. Y'all go back to your  
19          jury room.

20          (The jury exits the courtroom at 11:48 AM.)

21          THE COURT: Any requested additions, deletions,  
22          objections, modifications to the charge by the  
23          State?

24          MS. SIMPSON: No, Your Honor, nothing from the  
25          State.

1 THE COURT: Mr. Johnson?

2 MR. JOHNSON: Nothing from the Defense, Your  
3 Honor.

4 THE COURT: Will y'all please come forward,  
5 review the evidence to make sure we have it all  
6 accounted for, view the verdict form, so we can send  
7 it back and the jury can start deliberating.

8 MS. SIMPSON: We're good.

9 THE COURT: Y'all want to come look at this  
10 verdict form?

11 Let the record reflect, please, that both sides  
12 have reviewed all of the evidence, all exhibits are  
13 accounted for, both sides reviewed the verdict form.  
14 There's no objection to the verdict form; is that  
15 correct Ms. Simpson?

16 MS. SIMPSON: No, Your Honor.

17 THE COURT: You do have an objection?

18 MS. SIMPSON: They're fine. I'm sorry.

19 MR. JOHNSON: No objection from the Defense.

20 THE COURT: All right. We'll stand at ease.

21 It's 11:50 a.m.

22 (The jury begins deliberations at 11:50 AM.)

23 (Court's Exhibit Nos. 2, 3 and 4 marked for  
24 identification.)

25 THE COURT: Is the State ready to receive the

1 verdict?

2 MS. SIMPSON: The State is ready.

3 THE COURT: Mr. Johnson, ready?

4 MR. JOHNSON: Yes, sir.

5 THE COURT: Everyone in the courtroom, please  
6 listen carefully. Y'all have all been a wonderful  
7 audience, y'all have behaved yourselves greatly.  
8 However, if you're unable to -- I don't know what  
9 the verdict is, obviously, not guilty or guilty. I  
10 will not allow any outbursts, any show of emotion.  
11 If you do, you'll be subject to contempt of court.  
12 So, fair warning, if you're unable to control your  
13 emotions, please leave now. Thank you.

14 (The jury enters the courtroom at 2:56 PM.)

15 THE COURT: Madam Forelady, have you reached a  
16 verdict?

17 THE FOREWOMAN: Yes, Your Honor.

18 THE COURT: Hand it to me, please.

19 Madam Clerk, you may publish the verdict,  
20 please.

21 THE CLERK: Thank you, Your Honor.

22 This is the State of South Carolina, County of  
23 Kershaw. The State of South Carolina vs. Nakia  
24 Karreim Johnson. On Indictment No. 2014-GS-28-419,  
25 as to the offense of criminal sexual conduct with a

1 minor in the first degree, we the jury find the  
2 defendant not guilty. Signed by Katinia B. Davis,  
3 Foreperson.

4 On indictment 2014-GS-28-420, as to the offense  
5 of criminal sexual conduct with a minor in the  
6 second degree, we the jury find the defendant  
7 guilty. We unanimously agree. Signed by Katinia B.  
8 Davis, Foreperson.

9 As to Indictment No. 2014-GS-28-910, as to the  
10 offense of lewd act on a minor child, we the jury  
11 find the defendant guilty. We unanimously agree.  
12 Signed Katinia B. Davis, Foreperson.

13 Madam Forelady, ladies and gentlemen of the  
14 jury, are these your verdicts? If so, please  
15 signify by raising your right hand.

16 THE COURT: Let the record reflect all have  
17 raised their hands.

18 Anything for the jury before I dismiss them by  
19 the State?

20 MS. SIMPSON: Nothing from the State, Your  
21 Honor.

22 THE COURT: By the Defendant.

23 MR. JOHNSON: Not at this time, Your Honor.

24 THE COURT: Madam Forelady, ladies and  
25 gentlemen, you've been a wonderful jury. I travel

1 all over the state and have juries everywhere.  
2 Y'all have just been a great jury. You have paid  
3 close attention, you've been attentive. And this is  
4 not an easy civic duty, particularly in these types  
5 of cases. And I thank you on behalf of the citizens  
6 of Kershaw, the judiciary, and the people in the  
7 state. You know, it's a tough job. But you  
8 performed it well and you can look at yourselves in  
9 the mirror and be proud of yourselves. I thank you.

10 That will conclude your services here this  
11 week. What I have left to do now, I have to  
12 sentence him, which will be done in the next few  
13 minutes. You're welcome to stay for that or you're  
14 welcome to leave.

15 Your wonderful clerk will send you a big check.  
16 We got Chairman of County Council up here; maybe we  
17 can agree to get him to up the checks. Seriously,  
18 you'll be getting a check. If you need a work  
19 excuse --

20 THE CLERK: Step across to my office and my  
21 staff will have them ready for you.

22 THE COURT: Thank you. I've enjoyed being with  
23 you. You're welcome to stay or welcome to go.

24 Okay. Prepare some sentence sheets for me,  
25 please. Ms. Simpson, what's the sentence range on

1 CSC second with a minor?

2 MS. SIMPSON: Zero to 20 years, Your Honor.

3 THE COURT: Lewd act?

4 MS. SIMPSON: Zero to 15.

5 THE COURT: Madam Forelady and ladies and  
6 gentlemen of the jury, there's a sentence sheet that  
7 I have to fill out, and it's taking them about two  
8 or three minutes to prepare it. And as soon as we  
9 get that, we'll complete the sentencing.

10 All right. Mr. Johnson.

11 NAKIA JOHNSON

12 being first duly sworn, testified as follows:

13 THE DEFENDANT: Yes.

14 THE CLERK: Thank you.

15 THE COURT: Ms. Simpson, as I understand from  
16 earlier --

17 MS. SIMPSON: Yes, Your Honor.

18 THE COURT: -- proceedings is that the  
19 defendant does not have a prior record.

20 MS. SIMPSON: That is correct.

21 THE COURT: Anything the State wishes to put on  
22 the record before I sentence him?

23 MS. SIMPSON: Your Honor, at the appropriate  
24 time, there is a statement from Child

25 Child is not going to read it, but our victim

1 advocate would like to present it to the Court.

2 THE COURT: All right. If you'll hand it up.  
3 Have you given it to Mr. Johnson?

4 MS. SIMPSON: No. It's a handwritten statement  
5 that she just did. I'll be happy to show it to him  
6 first.

7 THE COURT: All right. Anything else?

8 MS. SIMPSON: Other than that, Your Honor, no.  
9 I think the trial -- you heard the facts and they  
10 speak for themselves.

11 THE COURT: Mr. Johnson?

12 MR. JOHNSON: Your Honor, may it please the  
13 Court. That's all I can say. You've heard the  
14 whole trial, you've heard the facts, you've seen  
15 everything. The only thing I can ask, Your Honor --  
16 you know, our position and the decision has been  
17 made. We'd just ask that --

18 THE COURT: That you were amazed?

19 MR. JOHNSON: No, sir. I said the decision has  
20 been made. And all I ask is that you show as much  
21 mercy as you possibly can.

22 THE COURT: Mr. Nakia Johnson, anything you  
23 want to tell me?

24 THE DEFENDANT: Yes. I'm still -- I'm sticking  
25 to the story --

1 THE COURT: I can't hear you.

2 THE DEFENDANT: I'm innocent of all these  
3 charges. That's all I have to stay at this time.

4 THE COURT: Well, Mr. Johnson, I've listened to  
5 all of the evidence, and I concur with the jury's  
6 decision. I think the case was proven beyond a  
7 reasonable doubt. There's no reason in this whole  
8 wide world this child would come in here and relay  
9 the story that she relayed, other than the fact that  
10 it happened.

11 Madam, you want to read this so we can have it  
12 in the record?

13 VICTIM ADVOCATE: Yes, sir.

14 June 26th, 2015. I truly hope my prayers will  
15 be answered. Even though the acts were brought to  
16 attention, I still can see terrible and disgusting,  
17 sickening things happening all over again. My whole  
18 life was affected by Mr. Key. My first day back to  
19 school after the event was published to the world  
20 was the worst day of my life. Everyone was looking  
21 at me, some stopped to asked questions. At that  
22 moment, I wanted to be locked in a bottle floating  
23 at sea. That's where mostly peace is found.

24 I was very highly ashamed. I had to talk to  
25 people I barely knew. I was so nervous and

1           embarrassed to tell what happened to me. I vomited  
2           everything time I thought about it. I thought if I  
3           tried putting it out of my mind, I would do great.  
4           But things just did not happen that way. I was  
5           still afraid and could vision in my mind things that  
6           you did to me and how sickening it made me feel.

7                    I hated you. I wanted bad things to happen to  
8           you. I wanted you to hurt and cry and to be taken  
9           advantage of the way you took advantage of me. You  
10          made my life a living hell. You violated me,  
11          abusive and used me, physically and mentally. I  
12          trusted you because I felt you were someone who  
13          protected people from bad things and bad people.  
14          But you did not, because you were the monster who  
15          hides in light and did bad things.

16                   I did what you asked me to do because I was  
17          afraid of you. You said you would take away my mom,  
18          the only person then in my life who I felt loved me  
19          and I would then be alone. I didn't think of  
20          myself, but how it would affect my two sisters and  
21          brother.

22                   But I'm stronger now and I know that I did not  
23          do anything to cause the hurt and shame you brought  
24          into my life. I can look in your face and tell you  
25          that I'm not afraid of you anymore. There's nothing

1           you can do to me to feel to make me feel bad about  
2           myself. On the other hand, now I look at you as a  
3           sick person who harmed a little girl who never did  
4           anything to you but accepted you as a stepfather and  
5           trusted you with love and respect.

6           What you did to me did not make you a big man,  
7           Mr. Key, it only made you a man with no respect for  
8           yourself and nobody else. I'm stronger, much  
9           stronger now, and I want to grow up to be a lawyer  
10          or a child protector so I can protect innocent kids  
11          from big, bad monsters like you.

12          I really thank my support team who helped me.  
13          With that being said, I rest my case.

14          THE COURT: Let's make that part of the record,  
15          please, ma'am.

16          (Court's Exhibit Nos. 2, 3 and 4 marked for  
17          identification.)

18          THE COURT: Anything else, Mr. Virgin Johnson?

19          MR. JOHNSON: No. You've heard the facts.

20          THE COURT: Mr. Nakia Johnson, obviously one of  
21          my biggest responsibilities in this job is to  
22          protect innocent children. And somebody in your  
23          position, being a stepfather to this child, it's  
24          just despicable the way you took advantage of her.

25          The jury has given you a lot of mercy not

1 finding you guilty for first degree, which would  
2 have subjected yourself to a minimum of 25 years to  
3 life. On the criminal sexual conduct with a minor  
4 in the second degree, I have the discretion to  
5 sentence you anywhere from zero to 20 years, and on  
6 the lewd act, I have the discretion to sentence you  
7 to zero to 15 years.

8 As to Indictment 2014-GS-28-00420, the  
9 indictment for criminal sexual conduct with a minor  
10 in the second degree, the sentence of the Court is  
11 that you be committed to the state department of  
12 corrections for a period of 20 years.

13 As to Indictment -910 of lewd act, sentence of  
14 the Court is that you be committed to the state  
15 department of corrections for a period of 15 years.  
16 They'll run concurrent. Good luck.

17 MS. SIMPSON: Thank you, Your Honor.

18 MR. JOHNSON: Thank you, Your Honor.

19 THE COURT: Everybody remain seated, please.

20 Madam Forelady, ladies and gentlemen of the  
21 jury, let me explain a little bit about that.  
22 Criminal sexual conduct in the second degree, I have  
23 discretion between zero and 20 years. It's  
24 classified as a most serious offense, which means a  
25 number of things. We have a three-strike law in

1 South Carolina, so if he gets out and gets in  
2 trouble again for these types of activities, he can  
3 go to jail for the rest of his life.

4 The more important thing is that's what we call  
5 a no-parole sentence, so he'll have to serve 85  
6 percent of that before he can get out. He will not  
7 be eligible for parole, so he'll do 17 years. I ran  
8 them concurrent, at the same time, but he's -- he'll  
9 be there for a while.

10 Thank you very much for your service, and I've  
11 enjoyed working with you. I'll let y'all go now.  
12 Thank you.

13 (The jury is excused at 3:15 PM.)

14 THE COURT: Mr. Johnson, I'll give you ten days  
15 to make any posttrial motions.

16 MR. JOHNSON: Thank you, Your Honor.

17 THE COURT: Young lady, you're a great girl. I  
18 hope everything is going to work out for you. Okay?

19 MISS FORD: Yes, sir.

20 THE COURT: Good luck.

21 (Court's Exhibit No. 5 marked for  
22 identification.)

23 -- END OF TRANSCRIPT OF RECORD --

24

25

## C E R T I F I C A T E

STATE OF SOUTH CAROLINA

COUNTY OF LEXINGTON

I, the undersigned, Bethanie K. Creppon, Circuit Court Reporter for the Second Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete transcript of record of all the proceedings had and the evidence introduced in the trial of the captioned cause, relative to appeal in the Criminal Court for Kershaw County, South Carolina, on the 23rd - 26th days of June, 2015.

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

December 1, 2015

*s/Bethanie K. Creppon*

Bethanie K. Creppon  
Circuit Court Reporter

COUNTY OF Kershaw  
 STATE VS.  
Nakia Karreim Johnson  
 AKA:  
 Race: BLACK Sex: M Age: 40  
 DOB: SS#:                       
 Address:  
 City, State, Zip: Fairfax, SC 298276150  
 DL#: 011281165 SID#:                     

**ROA 524**

INDICTMENT/CASE#: 2014GS2800420  
 A/W#: 2014GS2800420  
 Date of Offense: 10/11/2011  
 S.C. Code §: 16-03-0655(B)(1)  
 CDR Code #: 0396

**SENTENCE SHEET**

\*CDL Yes  No  CMV Yes  No  Hazmat Yes  No   
 In disposition of the said indictment comes now the Defendant who was  CONVICTED OF or  PLEADS  
 TO: Sex / Criminal sexual conduct with minor, or Attempt - victim 11 to 14 yrs of age inclusive - Second deg

in violation of § 16-03-0655(B)(1) of the S.C. Code of Laws, bearing CDR Code # 0396  
 NON-VIOLENT  VIOLENT  SERIOUS  MOST SERIOUS  Mandatory GPS(CSC  §17-25-45  
 w/minor 1st or Lewd Act)

The charge is:  As Indicted,  Lesser Included Offense,  Defendant Waives Presentment to Grand Jury. (defendant's initials)  
 The plea is:  Without Negotiations or Recommendation,  Negotiated Sentence,  Recommendation by the State.

ATTEST: [Signature] 77500  
SIMPSON, NICOLE SC Bar#                      Defendant Attorney for Defendant SC Bar#                     

WHEREFORE, the Defendant is committed to the  State Department of Corrections,  County Detention Center,  
 for a determinate term of 20 days/months/years or  under the Youthful Offender Act not to exceed                      years  
 and/or to pay a fine of \$                     ; provided that upon the service of                      days/months/years and/or payment  
 of \$                     ; plus costs and assessments as applicable\*; the balance is suspended with probation for                     

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of  
 probation, which are incorporated by reference.  
 CONCURRENT or  CONSECUTIVE to sentence on:  
 The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied  
 by the State Department of Corrections.  
 The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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

**SPECIAL CONDITIONS:**

RESTITUTION:  Deferred  Def. Waives Hearing  Ordered PTUP                       
 Total: \$                      plus 20% fee: \$                                           days/hours Public Service Employment  
 Payment Terms:                      Obtain GED   
 Set by SCDPPPS                      Attend Voc. Rehab. or Job Corp.                       
 Recipient:                      May serve W/E beginning                       
 Substance Abuse Counseling

*Fine:		\$	
§ 14-1-206 (Assessments 107.5 %)		\$	
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$	<u>100.00</u>
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$	
§ 56-5-2995 (DUI Assessment)	\$12	\$	
§ 56-1-286 (DUI Breath Test)	\$25	\$	
Proviso 47.9 (Public Def/Prob)	\$500	\$	
§ 14-1-212 (Law Enforce. Funding)	\$25	\$	<u>25.00</u>
§ 14-1-213 (Drug Court Surcharge)	\$150	\$	
§ 50-21-114(BUI Breath Test Fee)	\$50	\$	
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$	
Proviso 90.5 (SCCJA Surcharge)	\$5	\$	<u>5.00</u>
3% to County (if paid in installments)		\$	<u>3.90</u>
TOTAL		\$	<u>133.90</u>

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

Clerk of Court/ Deputy Clerk: Joyce M. Donald Presiding Judge: [Signature]  
 Court Reporter: Bethanie Cuppon Judge Code: 2136  
 Sentence Date: 6/26/15

COUNTY OF Kershaw  
 STATE VS.  
Nakia Karreim Johnson  
 AKA: \_\_\_\_\_  
 Race: BLACK Sex: M Age: 40  
 DOB: \_\_\_\_\_ SS#: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 City, State, Zip: Fairfax, SC 298276150  
 DL#: 011281165 SID#: \_\_\_\_\_

**ROA 525**

INDICTMENT/CASE#: 2014GS280910  
 A/W#: DP00112  
 Date of Offense: 10/11/2011  
 S.C. Code § : 16-15-0140  
 CDR Code #: 2468

**SENTENCE SHEET**

\*CDL Yes  No  CMV Yes  No  Hazmat Yes  No   
 In disposition of the said indictment comes now the Defendant who was  CONVICTED OF or  PLEADS  
 TO: Sex / Lewd Act, committing or attempting lewd act upon child under 16 (June 4, 1996)

in violation of § 16-15-0140 of the S.C. Code of Laws, bearing CDR Code # 2468  
 NON-VIOLENT  VIOLENT  SERIOUS  MOST SERIOUS  Mandatory GPS(CSC  §17-25-45  
 w/minor 1st or Lewd Act)

The charge is:  As Indicted,  Lesser Included Offense,  Defendant Waives Presentation to Grand Jury. \_\_\_\_\_ (defendant's initials)  
 The plea is:  Without Negotiations or Recommendation,  Negotiated Sentence,  Recommendation by the State.

ATTEST: \_\_\_\_\_ 77500 Defendant \_\_\_\_\_ Attorney for Defendant \_\_\_\_\_ SC Bar# \_\_\_\_\_  
 SIMPSON, NICOLE

WHEREFORE, the Defendant is committed to the  State Department of Corrections,  County Detention Center,  
 for a determinate term of 13 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: 14-65-28-420  
 The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied  
 by the State Department of Corrections.  
 The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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

**SPECIAL CONDITIONS:**

RESTITUTION:  Deferred  Def. Waives Hearing  Ordered PTUP \_\_\_\_\_  
 Total: \$ \_\_\_\_\_ plus 20% fee: \$ \_\_\_\_\_  
 Payment Terms: \_\_\_\_\_  
 Set by SCDPPPS \_\_\_\_\_

Recipient: \_\_\_\_\_

*Fine:		\$
§ 14-1-206 (Assessments 107.5 %)		\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ <u>100.00</u>
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$ <u>25.00</u>
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114(BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCCJA Surcharge)	\$5	\$ <u>5.00</u>
3% to County (if paid in installments)		\$ <u>3.90</u>
TOTAL		\$ <u>133.90</u>

\_\_\_\_\_ days/hours Public Service Employment  
 Obtain GED   
 Attend Voc. Rehab. or Job Corp. \_\_\_\_\_  
 May serve W/E beginning \_\_\_\_\_  
 Substance Abuse Counseling   
 Random Drug/Alcohol testing   
 Fine may be pd. in equal, consecutive weekly/monthly  
 pmts. of \$ \_\_\_\_\_ beginning \_\_\_\_\_  
 \$ \_\_\_\_\_ paid to Public Defender Fund  
 Other: \_\_\_\_\_  
 Appointed PD or appointed other counsel,  
 § 47.12 requires \$500 be paid to Clerk  
 during probation.

Clerk of Court/ Deputy Clerk: Debra M. Conrad  
 Court Reporter: Bethanne Creppin

Presiding Judge: W. E. Carley  
 Judge Code: 2136  
 Sentence Date: 6/26/15

ROA 526

**WITNESSES**

(S) Inv. R. Bailey  
- KCSD

**DOCKET NO. 2014-GS-28-0420**

**The State of South Carolina**

County of

**Kershaw**

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

Defendant

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

**COURT OF GENERAL SESSIONS**

**JUNE TERM 2014**

**116**

**ARREST WARRANT NUMBER**

**DP00083**

Defendant

**THE STATE  
vs.**

Witness:

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

**ACTION OF GRAND JURY  
TRUE BILL**

**Nakia Karreim Johnson**

reperson of Grand Jury  
ite: **MAY 28 2014**

**VERDICT**

**Indictment for  
CRIMINAL SEXUAL CONDUCT WITH A  
MINOR, 2ND DEGREE (AGE 11-14)**

SC Code: 16-03-0655(B)(1)  
CDR Code: 0396

reperson of Petit Jury  
ite:

**FILED FOR RECORD  
2014 MAY 28 PM 2:47  
JOYCE McDONALD  
CLERK OF COURT  
KERSHAW COUNTY, S.C.**

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF KERSHAW )

## INDICTMENT

At a Court of General Sessions, convened on May 28, 2014, the  
 Grand Jurors of Kershaw County present upon their oath:

**CRIMINAL SEXUAL CONDUCT WITH A MINOR**  
**2<sup>ND</sup> DEGREE (AGE 11-14)**

That Nakia Karreim Johnson did in Kershaw County, State of South  
 Carolina, on or between October 16, 2010 and \_\_\_\_\_, 2011, willfully,  
 unlawfully and feloniously engage in sexual battery with a minor who was  
 fourteen (14) years or less but who was at least eleven (11) years of age, to wit:  
 Child \_\_\_\_\_, in violation of Section 16-03-655(B) [formerly Section 16-3-  
 655(2)], S. C. Code of Laws, (1976, as amended).

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

  
 DAN JOHNSON, SOLICITOR

ROA 528

**WITNESSES**

(S) Inv. R. Bailey - KCSD

**ARREST WARRANT NUMBER**

**DP00112**

**ACTION OF GRAND JURY  
TRUE BILL**

Person of Grand Jury  
e:

**AUG 20 2014**

**VERDICT**

Person of Petit Jury  
e:

**DOCKET NO. 2014-GS-28-0910**

**The State of South Carolina**

**County of**

**Kershaw**

**COURT OF GENERAL SESSIONS**

**AUGUST TERM 2014**

**79**

**THE STATE  
vs.**

**Nakia Karreim Johnson**

**Indictment for  
LEWD ACT ON A MINOR CHILD**

SC Code: 16-15-0140

CDR Code: 2468

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

Defendant

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

Defendant

Witness:

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

**FILED FOR RECORD  
2014 AUG 20 PM 2:46  
JOYCE McDONALD  
CLERK OF COURT  
KERSHAW COUNTY, S.C.**

STATE OF SOUTH CAROLINA)

INDICTMENT

COUNTY OF KERSHAW )

At a Court of General Sessions, convened on August 20, 2014, the

Grand Jurors of Kershaw County present upon their oath:

LEWD ACT ON A MINOR CHILD

That Nakia Karreim Johnson, being over fourteen years of age, did in Kershaw County on or between January 1, 2007 and 2011, willfully and lewdly commit a lewd or lascivious act upon or with the body of a child, less than sixteen (16) years of age, to wit: with the intent of arousing, appealing to, or gratifying the lust or passions or sexual desires of said defendant or of the victim. All in violation of Section 16-15-0140, S. C. Code of Laws, (1976, as amended).

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



DAN JOHNSON, SOLICITOR

**RECEIVED**

SEP 23 2016

SC Court of Appeals

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

---

APPEAL FROM KERSHAW COUNTY  
Court of General Sessions  
Doyet A, Early, III, Circuit Court Judge

---

Court of Appeals Case No. 2015-001436

---

The State of South Carolina,..... Respondent

v.

Nakia Johnson,..... Appellant.

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**Rule 210(g), SCACR Certification**

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

Respectfully Submitted,

By 

E. Charles Grose, Jr.  
The Grose Law Firm, LLC  
404 Main Street  
Greenwood, SC 29646  
(864) 538-4466

*Attorney for Appellant*

September 19, 2016  
Greenwood, South Carolina

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

---

APPEAL FROM KERSHAW COUNTY  
Court of General Sessions  
Doyet A, Early, III, Circuit Court Judge

---

**RECEIVED**

SEP 23 2016

SC Court of Appeals

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Court of Appeals Case No. 2015-001436

---

The State of South Carolina, ..... Respondent

v.

Nakia Johnson, ..... Appellant.

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CERTIFICATE OF SERVICE

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I certify that I have served the Record on Appeal by placing a copy in the United States Mail, postage prepaid, on the date reflected below, addressed as follows:

William M. Blitch, Jr., Esquire  
Office of the Attorney General  
P.O. Box 11549  
Columbia, SC 29211



E. Charles Grose, Jr.  
The Grose Law Firm, LLC  
404 Main Street  
Greenwood, SC 29646  
(864) 538-4466

September 19, 2016  
Greenwood, South Carolina