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SC Court of Appeals

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STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Charleston County

Honorable William P. Keesley, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

DANIEL MAURICE FRASIER,

APPELLANT

APPELLATE CASE NO 2016-000607

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1 State of South Carolina
2 County of Charleston Court of General Sessions

3
4
5 State)
6)
7 v.) Transcript of Record
8 Daniel Maurice Frasier) 15-GS-10-5740
9 Defendant.)

10 March 17, 2016
11 Charleston, South Carolina

12
13 B E F O R E:

14 The Honorable William P. Keesley, Judge; and a
15 jury.

16
17 A P P E A R A N C E S:

18 Lauren Frierson, Assist. Solicitor
19 Edward R. Corvey, III, Assist. Solicitor
20 Attorneys for the State
21 William Ted Smith, Jr., Assist. Public Defender
22 Attorney for the Defendant
23

24 Stacy L. Sheppard, RPR
25 Circuit Court Reporter

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E X H I B I T S

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1 (The following proceedings were held on
2 March 17, 2016.)

3 (State's Exhibit Numbers 1 through 5 marked
4 for identification.)

5 **THE COURT:** Can I ask y'all some questions?
6 The court reporter indicated that some exhibits had
7 been marked -- premarked. Are those in evidence or
8 are those just for identification?

9 **MS. FRIERSON:** Your Honor, State's Exhibits 2,
10 3 and 4 have been entered by consent, and 1 and 5
11 are just marked.

12 **THE COURT:** Is that right?

13 **MR. SMITH:** That's correct, Your Honor.

14 (State's Exhibit Numbers 2 through 4
15 admitted into evidence.)

16 **THE COURT:** All right. The indictment alleges
17 this is more than a second offense.

18 **MS. FRIERSON:** That's correct, Judge.

19 **THE COURT:** Is that an issue for the jury or is
20 that something I decide, the offense number?

21 **MS. FRIERSON:** I'm sorry, I couldn't hear you,
22 Your Honor.

23 **THE COURT:** The offense number, that's not an
24 issue you submit to the jury, is it?

25 **MS. FRIERSON:** No, Your Honor.

1 **THE COURT:** Is there any disagreement over what
2 level or what offense it would be?

3 **MR. SMITH:** I believe it's a second, Your
4 Honor. I don't think there's any disagreement as to
5 that. I would ask the Court to consider just
6 referring to it as a failure to register.

7 **THE COURT:** Well, I'm not going to mention the
8 offense to the jury, offense number to the jury.
9 That's why I was asking because I didn't think that
10 was something -- I don't ever recall having tried
11 one of these cases. I don't -- I wouldn't have
12 thought that determining the first, second, third
13 offense would be an issue for the jury in this case
14 like some other cases.

15 All right. Y'all have answered my questions.
16 Thank you.

17 **MS. FRIERSON:** Thank you, Your Honor.

18 **MR. SMITH:** Thank you, Your Honor.

19 (Pause.)

20 **THE COURT:** Okay. I've got another issue. The
21 indictment cites section 23-4-430. I don't see a
22 section 23-4 -- I don't know if it's supposed to be
23 23-3-430 or not.

24 **MS. FRIERSON:** Your Honor, are you referring to
25 the second line of the indictment, 23-4-430?

1 **THE COURT:** Yes, ma'am.

2 **MS. FRIERSON:** Yes, Your Honor, I believe
3 that's a typo. It should be 3.

4 **THE COURT:** Is there any objection to amending
5 the indictment?

6 **MR. SMITH:** Not in this incident, Your Honor.

7 **THE CLERK:** Ready for the jury?

8 **THE COURT:** Yes, sir.

9 **THE CLERK:** Thank you.

10 (The jury panel enters the courtroom.)

11 **THE COURT:** Members of the jury panel, my name
12 is Billy Keesley. I live in Edgefield. I've been
13 assigned by the Chief Justice to preside over this
14 term of general sessions court here in Charleston.
15 General sessions court is commonly called criminal
16 court. It is court where people who are charged
17 with crimes are handled.

18 What we're going to do this morning is go
19 through a process of organizing you, potentially, to
20 serve as jurors in a case.

21 Now, I see some familiar faces from a previous
22 trial I've done. Those of you who have been in
23 court with me earlier this week, I want to encourage
24 you, please, to not think you've just already heard
25 all this. There will be a lot of repetition, but

1 every case is different. So sometimes there are
2 slight differences in what I tell juries because of
3 the differences in the cases, so don't tune me out
4 thinking you've already heard it.

5 The first thing I need to cover with you is
6 that if I go over some things that you've already
7 been told, you already know from other judges or
8 from the clerk's staff, I apologize to you, but I'm
9 not privy to what they may have told all of you, and
10 I want to make sure that certain basic things are
11 covered.

12 The first thing I want you to understand is
13 that you're under an oath. You have an obligation
14 to be completely truthful and honest with the Court.

15 I'll be asking you a series of questions and if
16 these questions apply to you or you have doubt about
17 whether they apply to you, you need to stand. If
18 you have any doubt about whether something applies
19 to you, please let me resolve the doubt; give me the
20 information and let me resolve the doubt.

21 If I ever ask you anything that you prefer to
22 discuss more privately, just let me know you want to
23 come down front and we'll talk about it over here on
24 the side.

25 You do need to understand that this is a court

1 of record. And Ms. Sheppard over there to my right,
2 she's taking down everything we say. Part of my job
3 requires making sure that she's able to take down an
4 accurate record, so I have to have the person who is
5 speaking identified. So if you're going to speak,
6 the first thing I'm going to have to have you do is
7 to tell us who you are and what your jury number is.
8 So please understand that.

9 Now, these questions that I'm going to be
10 directing to you, ladies and gentlemen, are designed
11 for a purpose. The purpose is that we want to find
12 out from you whether you've got any connection to
13 the case or anybody in it, whether there's anything
14 in your background or anything in the background of
15 someone close to you that because of the nature of
16 this particular case, you might be affected as far
17 as your ability to serve as a fair and impartial
18 juror in the case.

19 If there's a need to set you aside on the jury,
20 that's fine. That's why we don't just bring in 12
21 people; we bring in a larger number of people. I've
22 had 30 brought in here so that we can go through
23 this process, get a jury that's fair and impartial
24 and select 12 people and probably an alternate and
25 move on.

1 This case that you're going to be asked to try
2 today I understand is relatively short. That
3 doesn't mean it's any less important. Every case is
4 important. It just means it takes less time to try.

5 Now, the case that you've been called upon to
6 potentially serve as jurors is captioned as the
7 State versus Daniel Maurice Frasier. And
8 Mr. Frasier is charged in an indictment with the
9 offense of failing to register as a sex offender.

10 The indictment alleges that Daniel Maurice
11 Frasier, having been convicted of an offense for
12 which he is required to register as a sex offender
13 pursuant to South Carolina Code Section 23-3-430,
14 did, on or about May 1, 2015, in Charleston County,
15 South Carolina, fail to register as a sex offender
16 with the Charleston County Sheriff's Office and/or
17 fail to notify the Charleston County Sheriff's
18 Office of a change of address, change of employment
19 or of attendance, enrollment, employment, volunteer
20 status, intern status or vocation status at any
21 public or private school, which is alleged to be in
22 violation of code section cited in the indictment.

23 Now, upon his arraignment on this charge,
24 Mr. Frasier has entered a plea of not guilty. He is
25 presumed to be innocent. It is incumbent upon the

1 be Ms. Laribo. It can be any of the other 12.
2 Select who you want to serve as the foreperson and
3 then write that on a little piece of paper with the
4 juror name and number and give that to the bailiff,
5 if you would, please.

6 All right. Now follow the bailiff. Thank you.

7 (The jury retires to the jury room.)

8 **THE COURT:** Ladies and gentlemen, if you were
9 not selected on this jury, I'm told that you are
10 through with jury duty for the week.

11 Do you need to tell them anything, Mr. Clerk?

12 **THE CLERK:** Nothing. If you guys need work
13 excuses, April Dickerson is the juror coordinator
14 down on the first floor, she can get you one.
15 Remember one comes with your check that we'll send
16 sometime in the middle of next week, so if you don't
17 mind waiting. But if your employer is pushing for
18 it, we have one available on the first floor.
19 Thanks for your service.

20 **THE COURT:** Thank you.

21 (The remaining jury panel was excused.)

22 **THE COURT:** Are there any pretrial issues I'm
23 going to need to address?

24 **MR. SMITH:** The only thing that I'm aware of,
25 Your Honor, is there -- I believe the State has to

1 introduce evidence of what the initial crime was and
2 we would take an exception to that and ask that not
3 be a part of the State's case. We would agree to
4 stipulate that Mr. Frasier not only is on the
5 registry, but is required to register four times a
6 year.

7 **DEFENDANT:** Three.

8 **MR. SMITH:** I'm sorry. Three times a year,
9 Your Honor.

10 **THE COURT:** Solicitor.

11 **MS. FRIERSON:** Yes, Your Honor. The State
12 believes that the former conviction would be an
13 element as the res -- part of the res gestae. He's
14 classified as a sex offender and his classification
15 for that conviction determines what tier he is and,
16 therefore, how many times he needs to register.

17 The State has redacted -- well, we would enter
18 the old sentencing sheet which only lists the
19 conviction. It does not have any of the details of
20 the crime or anything more specific.

21 **THE COURT:** What was he convicted of?

22 **MS. FRIERSON:** Two counts of lewd act on a
23 minor.

24 **THE COURT:** Anything else need to be on the
25 record about this?

1 **MR. SMITH:** Judge, I would just say that our
2 objection is under -- we think the case of Old Chief
3 versus the United States is instructive on this, and
4 we would object to that language coming in under
5 that case.

6 **THE COURT:** It's been a long time since I read
7 that case. Do you have a copy with you?

8 **MR. SMITH:** I do, Your Honor.

9 (Mr. Smith hands document to the Judge.)

10 **THE COURT:** All right. Do I need to have a
11 Jackson versus Denno hearing or anything like that?

12 **MR. SMITH:** No, Your Honor.

13 **THE COURT:** Yes, ma'am.

14 **MS. FRIERSON:** Yes, Your Honor. The State
15 would just respectfully argue that Old Chief does
16 not apply to this case because we're not going into
17 the facts. It would just be the conviction that we
18 would seek to enter through the clerk and that would
19 be it.

20 **THE COURT:** All right. Let me review this.
21 I'll be back with you in a minute.

22 **MS. FRIERSON:** Thank you, Your Honor.

23 (Brief Recess.)

24 **THE COURT:** I reread the Old Chief opinion and
25 the dissent. I also read two cases I had my law

1 clerk look up, State versus Hamilton and State
2 versus Benton, B-e-n-t-o-n.

3 This appears to be an assertion that the court
4 should exclude the evidence under a Rule 403
5 analysis.

6 In my view, this situation is more akin to the
7 two South Carolina cases. It involves an element of
8 the offense that is more closely aligned with the
9 two South Carolina cases than Old Chief. Old Chief
10 was founded upon an element being that the person be
11 convicted of a prior offense that involved
12 imprisonment for a year or more.

13 If I evaluate this situation, it's clearly
14 relevant evidence. It goes to an element of the
15 offenses charged in the pending case before court
16 now. And the name of the offense itself is failing
17 to register as a sex offender. So the jury already
18 knows and has been questioned about it in voir dire.
19 The jury knows that the allegation is that the
20 defendant has previously been convicted of a sexual
21 offense, an offense that's sexual in nature.

22 Balancing all of the factors under a 403
23 analysis, it is the Court's ruling that that is not
24 unfair prejudice to have the State provide the
25 specific conviction that forms an element of the

1 offense charged in the pending case. Specifics of
2 the offense, I've been told, are not going to be
3 gone into.

4 Bare with me one second.

5 There would be a limiting instruction given to
6 the jury. And as I mentioned in voir dire, I asked
7 the specific question about whether the fact that it
8 is alleged that Mr. Frasier has previously been
9 convicted of any type of sexual offense could affect
10 the abilities of the jurors to be fair and impartial
11 in deciding the case. Balancing all the factors, it
12 appears to me that the motion to prevent the State
13 from presenting that evidence should be denied and
14 that the State is not required to accept the
15 stipulation. I note the defense's objection.

16 **MR. SMITH:** Thank you.

17 **THE COURT:** Anything y'all need to put on the
18 record?

19 **MS. FRIERSON:** Nothing from the State, Your
20 Honor.

21 **MR. SMITH:** Your Honor, just briefly, I don't
22 think I stated the grounds of 403, but the Court
23 obviously looked at that in its analysis. I just
24 wanted to put that on the record.

25 **THE COURT:** So you're raising it?

1 **MR. SMITH:** I am, Your Honor.

2 **THE COURT:** Okay. It's nearly 12 o'clock. How
3 do you wish to proceed? Do y'all want to go forward
4 with the case and break around 1:00 for lunch or do
5 you want to break for lunch now after I give the
6 jury some instructions?

7 **MS. FRIERSON:** Your Honor, the State is fine
8 with either. We anticipate our witnesses taking
9 about an hour total, and then closings would be
10 about ten minutes.

11 **MR. SMITH:** And I would anticipate one witness,
12 Your Honor, maybe 15 minutes.

13 **THE COURT:** Well, if it suits you, let's just
14 go until around 1:00 and break for lunch. Do you
15 think we can do that?

16 **MS. FRIERSON:** Yes, sir.

17 **THE COURT:** Your witnesses are available?

18 **MS. FRIERSON:** Yes, sir, they're here.

19 **THE COURT:** Okay. If y'all are ready, bring
20 the jury in, please.

21 (The jury returns to the courtroom.)

22 **THE COURT:** Who was selected as foreman? Your
23 name again, sir?

24 **FOREMAN:** 166, Kenneth Holloway.

25 **THE COURT:** Juror number 166, Mr. Holloway is

1 foreman of the jury.

2 Ladies and gentlemen, the first order of
3 business is that I must have you placed under the
4 oath of a trial jury. If you would, please stand
5 and raise your right hand. The clerk will
6 administer your oath.

7 (The jury was duly sworn by the clerk at
8 11:52 A.M.)

9 **THE CLERK:** If there is any juror that could
10 not adhere to this oath, please stand at this time.

11 Please let the record reflect that all jurors
12 are sworn.

13 **THE COURT:** It's so noted.

14 Ladies and gentlemen, what we're going to do is
15 I'm going to give you some instructions and then
16 we're going to hear the opening statements of the
17 attorneys. We're going to try to get some of the
18 witnesses presented to you. We'll break for lunch
19 about one o'clock. You'll be on your own for lunch.
20 We'll start back about 2:30, and my anticipation is
21 that you'll get the case today. I can't promise you
22 that, but that's the way it looks right now.

23 Now, I have to give you some instructions, and
24 I see some familiar faces from the prior trial,
25 again, please don't tune me out thinking you've

1 already heard this. Every case is different. The
2 instructions may be slightly different and certainly
3 the charge will be different when I get to the part
4 about the law.

5 Now, folks, what's going to happen is the case
6 is going to begin by the attorneys making their
7 opening statements. In these opening statements,
8 the attorneys are not permitted to engage in
9 argument. An opening statement is limited to being
10 an introduction, an outline, an overview.

11 But once the opening statements are finished,
12 then I'll call upon the State to present its case.
13 The State brought this charge and the State has the
14 entire burden of proof and has to prove every
15 essential element of the offense charged against
16 Mr. Frasier beyond a reasonable doubt.

17 When the State finishes presenting its case in
18 chief, the Solicitor will advise me that the State
19 rests. At that point, I have to send you out of the
20 courtroom and I have to discuss some legal issues
21 with the attorneys. When you come back after that,
22 I'll tell you where we go from there.

23 Now, it's really important that you understand
24 some things. The first is that the oath you took
25 was one in which you've promised us that you're

1 going to decide the case based on the evidence and
2 the law. So you need to know where those things
3 come from:

4 The evidence comes from the sworn testimony of
5 the witnesses. Evidence can also come in the form
6 of exhibits. An exhibit can be anything tangible
7 marked in the record. It can be a photograph, a
8 map, a record, a chart, anything tangible that's
9 marked in the record.

10 If you have an exhibit marked in the record, it
11 will go back with you into the jury room when you
12 decide the case. I'm telling you that because it's
13 not unusual for lawyers to refer to an exhibit, you
14 see it from a distance or they hand it in the jury
15 box and ask you to look at it and circulate it
16 around while you're trying to pay attention to
17 what's going on on the witness stand. So just
18 understand that all the exhibits go back with the
19 jury when the jury decides the case.

20 What the lawyers say is not evidence. Pay
21 close attention to them, what they ask, but what
22 comes out of their mouths is not evidence. The
23 evidence comes from the witnesses and the exhibits.
24 There is an exception to that rule about what the
25 lawyers saying not being evidence. If we come upon

1 it, I'll tell you about it; otherwise, I won't
2 burden you with it.

3 Now, it's also important you understand there
4 are two judges in the courtroom. I'm the judge of
5 the law. It's my job to instruct the jury on the
6 law at the end of the trial, preside over the case
7 and maintain order, rule on objections as they
8 arise, rule on legal issues as they arise in a
9 trial.

10 You're the other judge. You're the only judge
11 of the facts. And only you are going to get to
12 decide such things as whether evidence is believable
13 or not and what weight, if any, to put on the
14 evidence. That's entirely your prerogative and I
15 will not invade your province.

16 So I'm the judge of the law. You're the judge
17 of the facts, and you're the only judge of the
18 facts.

19 Now, ladies and gentlemen, while you've
20 promised us that you're going to decide the case
21 based on the evidence and the law and you must do
22 that, I'm not telling you to leave your common sense
23 at home. Please use your sense of logic and reason
24 and good judgment.

25 It just makes good common sense that you keep

1 an open mind about the case, you don't make up your
2 mind until you've heard all of the evidence and you
3 know what the law is. So we have a rule that you
4 must follow and that is you're not to discuss this
5 case in any way among yourselves until I tell you
6 to. You're not to discuss it with family members or
7 friends or anybody else until the case is completely
8 over and you've been discharged from jury duty.

9 Now, that is hard to follow because you folks
10 have all been chosen on this jury and it's logical
11 that what you want to talk about is what just
12 happened in the courtroom or what you heard or saw.
13 You have to resist that temptation and not discuss
14 the case in any way among yourselves until I tell
15 you to. If anybody does attempt to contact you and
16 discuss the case with you, please report that to me
17 so that I can deal with it.

18 If there's any media attention -- or media
19 coverage of this trial, please don't let yourself be
20 exposed to it. If you are exposed to it, get away
21 from it and then report to me at the first
22 opportunity what you may have seen, heard or read
23 through the media.

24 Don't do any independent investigation, don't
25 look up law, don't do word searches on computers,

1 don't do anything to try to look up anything related
2 to this case or anybody in it. In a moment, I'm
3 going to read to you something that the Chief
4 Justice tells me I have to read to every juror in
5 each case. It's pretty much repetitious of what
6 I've just already told you.

7 While you're on the jury and until your jury
8 service is concluded, you're not to discuss the case
9 with others including other jurors except as
10 authorized by the Court. You're not to read or
11 listen to any news reports about the case. You're
12 not to use a computer, a cell phone or any other
13 electronic device with communication capabilities
14 while attending the trial or during your
15 deliberations. You may use such devices during
16 lunch breaks or extended breaks, but not to obtain
17 or disclose prohibited information.

18 You're not to use a cell phone, a computer or
19 any other electronic device with communication
20 capabilities, nor are you to use any other method to
21 obtain or disclose information about the case when
22 you're not in court. And information about the case
23 includes, but is not limited to, the following
24 things:

25 Any information about a party, a witness, an

1 attorney or a court officer, any news accounts of
2 the case, any information collected through juror
3 research on any topics raised or testimony offered
4 by a witness, any information collected through
5 juror research on any other topic that the juror
6 might think would be helpful in deciding the case.

7 Folks, I want to thank you very much for your
8 service. I'm going to shorten these opening
9 instructions somewhat from what I normally do in the
10 interest of time. I think I've covered all of the
11 essentials except the last thing and that is to
12 thank you. I know you have other places to be and
13 other things to do. I'm going to be constantly
14 mindful of the fact that you're waiting on us when
15 you are, and I'll do everything in my power not to
16 waste your time. There will be hurry up and wait.
17 My promise to you is that if you're waiting on us,
18 we're working. We're not going to be goofing off
19 while you're waiting on us.

20 I do appreciate your service. And to honor my
21 promise to you, I'm going to be quiet now. I'm
22 going to invite your close attention while you hear
23 the opening statements.

24 Solicitor, you're recognized for your opening
25 statement.

1 **MS. FRIERSON:** Thank you, Your Honor. May it
2 please the Court.

3 **THE COURT:** Yes, ma'am.

4 OPENING STATEMENT

5 **MS. FRIERSON:** Good morning, ladies and
6 gentlemen. We're here today because this defendant
7 is on the sex offender registry. He's been
8 classified by law as a sex offender and is required
9 to register four times a year as a result of that
10 classification. The law requires him to come in and
11 physically check in with the sheriff's office four
12 times a year. That is his responsibility and his
13 duty.

14 Now, this trial is not about the conviction
15 that placed him on the registry. It is specifically
16 about his duty to show up at the sheriff's office
17 and register as required by law. The registry comes
18 from our Legislature and they have made it
19 abundantly clear that while law enforcement
20 maintains the registry and is the place where the
21 offenders check in, it is the offenders'
22 responsibility, it is their legal duty, to make
23 themselves available and show up.

24 You'll hear from several witnesses in what will
25 probably be a short trial and you'll get some

1 background on the registry and you will hear how
2 abundantly clear those rules and those laws are.
3 And you will hear about the duties of law
4 enforcement versus duties of the offender when they
5 come in to register. And you'll also hear how here
6 in Charleston County, the sheriff's office takes an
7 extra step in trying to obtain that compliance,
8 because at the end of the day, compliance with that
9 is what their goal is.

10 I encourage you to listen to all of the
11 witnesses and you'll hear that despite all of that,
12 despite the rules, despite the laws, despite the
13 defendant's obligation and duties as a registered
14 sex offender, he failed to report in April of 2015.
15 And at the conclusion of this trial, I believe you
16 will be firmly convinced of the defendant's guilt
17 and will return a verdict of guilty. Thank you.

18 **THE COURT:** Thank you, Solicitor.

19 All right. Mr. Smith, you're recognized for
20 your opening statement.

21 **MR. SMITH:** Your Honor, at this time, we would
22 waive opening statement and reserve that right till
23 after the State's case.

24 **THE COURT:** Present your case, please,
25 Solicitor.

1 **MS. FRIERSON:** Thank you, Your Honor. The
2 State calls Robert Stober.

3 **THE COURT:** Come around, please.

4 ROBERT STOBBER,
5 having been duly sworn, testified as follows:

6 **THE CLERK:** Thank you, sir. You may be seated.
7 Sir, once seated, if you could, please, state your
8 first and last name and then spell your last loudly,
9 clearly into the microphone for the record.

10 **THE WITNESS:** Yes. My name is Robert Stober,
11 S-t-o-b-e-r.

12 DIRECT EXAMINATION

13 BY MS. FRIERSON:

14 **Q** Thank you, Mr. Stober. Could you please tell
15 the jury where you're employed?

16 **A** I'm employed by the Charleston County Sheriff's
17 Office.

18 **Q** And how long have you been with the sheriff's
19 office?

20 **A** About nine years.

21 **Q** Can you tell them a little bit about your prior
22 work experience and your background?

23 **A** As you can tell, I'm a little bit older than
24 some people in this courtroom. I had a career in
25 another industry, banking. I retired. The

1 sheriff's secretary called me and knew that I was
2 able to answer a couple questions for them and that
3 led to my current employment.

4 **Q** And what is your current assignment?

5 **A** I'm a civilian investigator assigned to the sex
6 offender registry. I've been in that position my
7 whole time in the sheriff's office.

8 **Q** And where is your office located?

9 **A** We're at 3691 Leeds Avenue. It's the corner of
10 Leeds Avenue and Azalea Drive in North Charleston.

11 **Q** And is that in Charleston County?

12 **A** Yes, ma'am, it is.

13 **Q** Now, can you please tell the jury what's
14 involved with your assignment, what kind of duties
15 you have day-to-day?

16 **A** We are involved day-to-day in registering sex
17 offenders who come in, in this case, quarterly. We
18 also administer the background details that the
19 state requires us to keep up with. We also go
20 beyond the scope of the law and send out reminders
21 to offenders who are due to register in the coming
22 months. We may make telephone calls to ensure that
23 they arrive. And we also stand ready at any time to
24 answer questions from the offenders or from the
25 general public.

1 Q How many people work in that unit?

2 A We have three employees in the registry.

3 Q And are you all -- how does it work? Is
4 everyone assigned specific cases or do you share the
5 caseload as the three of you?

6 A It's pretty much shared. We share the workload
7 pretty much equally. When a person comes in to
8 register, they're going to register with the first
9 available person who's free.

10 Q So all three of you, do you all have equal
11 access to the offender's file?

12 A Absolutely.

13 Q And how does your office track any contact with
14 a sex offender?

15 A We keep an internal log, a brief note as to
16 what is going on. If there's anything important,
17 that note will be expanded to ensure that -- that we
18 have an accurate record of what's going on. Our
19 goal is to ensure that people are compliant, and
20 frequently we need to know what's going on to help
21 them comply.

22 Q Now, before we go further, I'd kind of like to
23 explain to the jury what the registration process is
24 in general. So can you explain what happens when
25 someone comes in to register?

1 **A** When an offender comes in to register, we do a
2 background, a brief background investigation. We
3 run his criminal history just to make sure that at
4 that moment that there are no outstanding warrants
5 that need to be served. We also go through that
6 history during the day of registration to see if
7 there are any new offenses of a sexual nature that
8 need to be added to his sex offender record.

9 We then proceed to interview the offender. We
10 will go through -- pretty much we already know his
11 name, but will check his current weight, current
12 employment, current vehicles they might own, are
13 they attending any schools, do they have any other
14 vehicles, boats or airplanes. Basically, it's a
15 brief history of what that person is doing at the
16 moment.

17 **Q** How long does that process generally take?

18 **A** Typically, 15 minutes more or less. It's not
19 two hours. Most of the offenders have been with us
20 and know what we're going to ask and they're
21 prepared for the answers.

22 **Q** And are they required to verify any of the
23 information or do you verify who they are?

24 **A** We verify who they are. One, we know who they
25 are; we've got pictures of them. We have their

1 criminal history. We also ask them to bring any
2 state issued ID, driver's license, ID card with
3 them. So we have more than ample ways of knowing
4 who we're dealing with. In my case, I've been
5 assigned to the registry for ten years. I know most
6 of them by sight.

7 Q And during that registration process, is there
8 any paperwork that they go through?

9 A At the conclusion of the interview, we prepare
10 a printed summary of the results of the interview.
11 It shows their current information, age, date of
12 birth. All that stuff is repeated. It also has on
13 it a -- two pages of lines to initial that restate
14 the rules of the registry. And finally next to
15 their signature, there's a point that says, I
16 understand my next registration date will be in the
17 month of, whatever.

18 Q And that's done every single time?

19 A Every single time.

20 Q So just making sure I understand, each time
21 they come in, you go over their next registration
22 date with them?

23 A Absolutely.

24 Q And they sign a document?

25 A Yes, ma'am.

1 **Q** And are any of the registration times more
2 intensive than others?

3 **A** When we get to the birth month/year, there are
4 a few more papers to sign, but, essentially, we ask
5 the same questions. We just have them verify a
6 little more information.

7 **Q** And who decides how often as -- somebody who
8 has been classified as a sex offender needs to
9 report?

10 **A** That is set by law and not by us. And it's --
11 the nature of their conviction sets the parameter
12 for whether -- how often they register. Some
13 offenders only register twice a year; others
14 register four times a year.

15 **Q** And whose responsibility is it to register?

16 **A** It is, by statute, is entirely the registrant's
17 responsibility to appear on a timely basis. It is
18 not our requirement to notify them or do anything
19 else. Our job is to be there and register them when
20 they arrive.

21 **MS. FRIERSON:** Your Honor, may I approach the
22 witness?

23 **THE COURT:** Yes.

24 **BY MS. FRIERSON:**

25 **Q** Mr. Stober, I'd like to have you look at what

1 has been premarked as State's Exhibit Number 1.

2 **A** Thank you, ma'am.

3 **Q** Do you recognize that document?

4 **A** I do.

5 **Q** And what is that?

6 **A** That is a copy of the defendant's original
7 registration here in Charleston County. And it is
8 dated July 28th, '95. It is signed by the
9 defendant, the offender, and also by Detective
10 Wagener who was in the registry at that time.

11 **Q** And is that document kept in -- would that be
12 kept in the internal file of the defendant in your
13 office?

14 **A** Yes, ma'am.

15 **Q** And would that be just in the regular course of
16 your duties?

17 **A** Absolutely. We keep a record of -- like this
18 for every offender that we have. It's a normal
19 course of business.

20 **MS. FRIERSON:** Your Honor, at this time, the
21 State would submit to put State's Exhibit Number 1
22 into evidence and publish it to the jury.

23 **THE COURT:** Any objection to this?

24 (Pause.)

25 **MR. SMITH:** Your Honor, we would just have an

1 objection. It's based on our prior motion as to
2 something that was listed in the document.

3 **THE COURT:** May I see it?

4 **MS. FRIERSON:** Yes, Your Honor.

5 (Pause.)

6 **THE COURT:** All right. Subject to previous
7 objection, mark this in evidence, please.

8 **MR. SMITH:** Thank you, Your Honor.

9 (State's Exhibit Number 1, original
10 registration form, admitted into evidence.)

11 BY MS. FRIERSON:

12 **Q** Mr. Stober, I'd like to direct your attention
13 up to the monitor. There should be one in front of
14 you as well and you can mark on it. I just want to
15 go through -- is there not one in front of you?

16 **A** I'll point.

17 **THE COURT:** This courtroom is not equipped for
18 that. He has to use a pointer.

19 BY MS. FRIERSON:

20 **Q** Just like to show the jury what we discussed.
21 And feel free to just briefly explain this form that
22 we just went over.

23 **A** This is a very early form, soon after the
24 registry started in South Carolina. It has the
25 registrant's name up here {indicating}, his address,

1 a little bit of personal information, date of birth,
2 social security number, et cetera, the offense he
3 was convicted of, where he is working, and down
4 below there -- if you can bring it up, please -- his
5 signature. And in here, he makes a statement that
6 he understands that he has a responsibility to
7 register. And it was witnessed by the sheriff's
8 office deputy in this case who was there at present
9 when this registration was accomplished.

10 **Q** And this was signed by the defendant?

11 **A** Yes, ma'am, just there {indicating}, Daniel
12 Frasier.

13 **Q** Thank you, Mr. Stober.

14 Now, you mentioned that there were additional
15 steps that you -- the sheriff's office takes in your
16 previous testimony. If you could go into what those
17 steps are that your office does to try and ensure
18 compliance.

19 **A** One of the things that we do is the -- during
20 the month prior to the registrant's month of
21 registration, we mail out a reminder. It's a
22 postcard. It says, A friendly reminder, your
23 registration is up for renewal in the month of April
24 2016.

25 It goes on down below and says, We will be

1 available on the following dates and times to
2 register you. And it's got our schedule for that
3 month. Typically, we register Tuesdays and
4 Wednesdays, morning and afternoon; Thursdays,
5 morning only.

6 And down at the bottom, If there's anything
7 special, we'll ask for it. And there's usually a
8 reminder, Bring your ID, bring your car
9 registration, bring whatever. And I sort of change
10 those every month.

11 And beyond that, if we get into the
12 registration month and a person has not appeared on
13 a timely basis, we will go forward with them, pull
14 the folder, take a look at it and reach out and try
15 and call that offender at the last known telephone
16 number. If we can't reach the offender himself, we
17 will reach out to what we affectionally call an
18 associate, somebody who they have indicated might
19 give them a message if we call them. Our favorite
20 one is mom because mom always passes messages on to
21 their kids.

22 And so in that way, we go -- there's no
23 requirement in the law to do this. We just feel
24 that in educating people to come in and register and
25 be accountable for the registry, protects not only

1 the registrant from further criminal action, but
2 also protects the community because we have a better
3 idea of where they are. We're holding them
4 accountable in this. We're holding -- holding that
5 accountability for the benefit of the citizens of
6 Charleston County.

7 **MS. FRIERSON:** May I approach the witness, Your
8 Honor?

9 **THE COURT:** Yes, ma'am.

10 BY MS. FRIERSON:

11 **Q** Mr. Stober, I'd like to show you what's been
12 entered by consent as State's Exhibit 2. Could you
13 take a look at that and tell me if you're familiar
14 with that?

15 **A** Yes, ma'am, I am.

16 **Q** And what is this?

17 **A** That is one of our -- it is a sample reminder
18 card that -- I know that name is just a made up
19 name, but it is typical of what we computer produce
20 each month for the coming month's registrations.

21 **MS. FRIERSON:** Your Honor, at this time, I
22 would request permission to publish it to the jury.

23 **THE COURT:** Yes, ma'am.

24 BY MS. FRIERSON:

25 **Q** Mr. Stober, was this the postcard you just

1 spoke of?

2 A Yes, ma'am, it is.

3 Q And, again, just briefly, where would you find
4 the information to address it to the offender?
5 Where would that come from?

6 A That comes out of our database in the office.
7 The sex offender registry is maintained in a
8 database by the State of South Carolina, SLED
9 maintained, and we have access to that. We use the
10 last known address of the offender to have the
11 computer print the card.

12 Q And is this the -- one side of it?

13 A That is side one. There is another side, if
14 you turn it over. There we go. If you can see
15 that, it says up at top, A friendly reminder, your
16 registration is expiring. You must reregister, this
17 one is, February 2016.

18 And, again, we have the schedule that we are
19 present during that particular month for this card,
20 just as I explained to you before.

21 And we added another bit, Please don't call us
22 telling us you're coming in.

23 We also say, Come in early in the month.
24 Because an awful lot of people defer it and we get a
25 backup at the end of the month.

1 And down here, as I said, Bring your federal,
2 state ID, registration for every vehicle. That's
3 what I used that month.

4 **Q** Thank you.

5 Now, do you keep any internal log of whether
6 you send these to defendants or not?

7 **A** Yes, we do.

8 **Q** And were you working in March of 2015?

9 **A** I was.

10 **Q** And do you -- do you know whether one was sent
11 to the defendant in March of 2015?

12 **A** Yes, ma'am, I do.

13 **Q** And do you have a record of those that are
14 returned?

15 **A** If a postcard is returned to us, we put it into
16 the offender's file. When they come in to register,
17 we question them as to why it was returned. We use
18 this as an additional way to verify the offender's
19 address.

20 **Q** And does your file indicate whether the
21 postcard sent to the offender at his last known
22 address was returned for this defendant?

23 **A** In this specific case, I have no record that it
24 was returned, so I presume that it was {sic}.

25 **Q** Now, shifting gears a little bit. What happens

1 if someone is supposed to register in April, let's
2 say, the month of April, May 1st rolls around and
3 you haven't heard from them and they call and they
4 say, I forgot, the days got away from me, what would
5 be your office's protocol?

6 **A** Our typical protocol is that we have a little
7 bit of leeway. If an offender is talking to us,
8 telling us what's happened, I've got a medical
9 emergency, I'm in the hospital, I've had a car
10 wreck, whatever the excuse is, we have a little bit
11 of leeway and we will set a new deadline to come in.
12 If you called on the first of the month, I might
13 say, good, I'm free on the 7th, can you come in on
14 the 7th? We've got a date. And we'll set a
15 deadline with the offender right then and there.

16 **Q** So would a warrant be issued immediately on May
17 1st if they hadn't shown up?

18 **A** No.

19 **Q** And at what point would you decide to get a
20 warrant?

21 **A** Again, we'd go back through the telephone
22 process, see if we could locate him. We also go
23 through a process of checking our local detention
24 center. We have access to the records of other
25 detention centers in South Carolina. We will see if

1 they've been locked up. We'll check with their
2 associates and see if they're in the hospital.
3 We'll do everything we can to avoid issuing a
4 warrant. Our goal is compliance not incarceration.

5 **MS. FRIERSON:** Thank you, Mr. Stober. I have
6 no further questions at this time. Please answer
7 any the defense may have.

8 **THE COURT:** Cross?

9 **MR. SMITH:** Your Honor, we have no questions of
10 this witness.

11 **THE COURT:** Thank you, sir. You may step down.
12 Call your next witness.

13 **MS. FRIERSON:** State calls Holly Bozard.

14 HOLLY BOZARD,

15 having been duly sworn, testified as follows:

16 **THE CLERK:** You may be seated. Ma'am, once
17 seated, if you could please state your first and
18 last name, and spell your last loudly and clearly
19 into the microphone for the record.

20 **THE WITNESS:** My name is Holly Bozard. It's
21 B-o-z-a-r-d.

22 **MS. FRIERSON:** Thank you.

23 May it please the Court, Your Honor.

24 **THE COURT:** Yes, ma'am.

25 ****

1 DIRECT EXAMINATION

2 BY MS. FRIERSON:

3 Q Ms. Bozard, could you please tell the jury
4 where you're employed?

5 A Sure. I work at Charleston County Sheriff's
6 Office..

7 Q And what is your title there?

8 A I'm a civilian investigator assigned to the sex
9 offender registry.

10 Q And were you working in January of 2015?

11 A Yes, ma'am.

12 Q Did you assist in registering the defendant,
13 Daniel Frasier, during that month?

14 A I did.

15 Q Can you please tell the jury how you became
16 involved in this case during that month?

17 A Okay. I registered the defendant on January
18 7th, 2015. We would have gone through the
19 registration process, made sure all of his
20 information was correct and accurate, and print out
21 the paperwork, would have him sign off. I would
22 have verbally told him he comes back in April. I
23 would have also written down April 2015, would have
24 signed off on it, he signs off on it. And that's
25 pretty much the process.

1 Q Ms. Bozard, I'd like to show you --

2 MS. FRIERSON: May I approach the witness, Your
3 Honor?

4 THE COURT: Yes, ma'am.

5 BY MS. FRIERSON:

6 Q -- what has been previously entered by consent
7 as State's Exhibit Number 3. Could you look at this
8 and tell me if you're familiar with this document?

9 A Yes, ma'am.

10 Q And what is that?

11 A This would be one of the forms that we fill
12 out. It tells you when you come back, in April of
13 2015 on this one. And he signs off on it. I sign
14 off on it.

15 Q And is that maintained in the defendant's file?

16 A Yes, ma'am.

17 MS. FRIERSON: Your Honor, at this time, I
18 would request to publish it to the jury.

19 THE COURT: Yes, ma'am.

20 BY MS. FRIERSON:

21 Q Now, Ms. Bozard, I know this isn't very, very
22 clear, so please feel free to stand up if you need
23 to to look at it, and just explain generally what it
24 is. And I can zoom in and we can go down the form.

25 A All right.

1 Q What is this? Let's start with that.

2 A Okay. This would be the form that would tell
3 you when you come back in April. And the top
4 checkmark is just the classification, which means
5 that he would come quarterly, four times a year.
6 First name. The address would be the current
7 address that we would have just found out was still
8 accurate. He would have confirmed that.

9 That's the list that tells you the months that
10 you come in. He would have been January, April,
11 July, October.

12 Q And let me pause you real quick.. There's a
13 bunch of small writing there, but, generally, what
14 does that part say?

15 A Pursuant to SC Code, Any person, regardless of
16 age, residing in the State of South Carolina who has
17 been convicted of, adjudicated delinquent for --

18 Q Ms. Bozard, I don't mean to interrupt you, but
19 what is your understanding of that, generally, is
20 what I was asking? I apologize.

21 A It's basically telling him what he needs to do,
22 that he needs to come in four times a year and
23 register with us.

24 Q Okay. I apologize for interrupting you. Going
25 back to this chart, explain that to the jury,

1 please.

2 **A** His birth month is in July. So he would come
3 in every three months after July. So it's July,
4 October, January, April.

5 This right here says when my next registration
6 will be, and it's April 2015. I wrote that in
7 there.

8 Then I would have said, You come back in April;
9 I just need you to sign here at the X. There's
10 {indicating} his signature at the X and that's my
11 signature underneath it.

12 **Q** And when did this happen?

13 **A** This would have been January 7th, 2015.

14 **Q** Thank you.

15 And where would that address have come from?

16 **A** He would have confirmed that it was still
17 accurate. We would have gone through it in the
18 registration process.

19 **Q** And using your office's protocol, would that
20 have been the address that the reminder postcard
21 would have been sent to in March?

22 **A** Yes, ma'am.

23 **Q** And on that form, does it acknowledge
24 specifically when he has to come in April or just
25 April in general?

1 **A** Just the month in April.

2 **Q** And --

3 **MS. FRIERSON:** Court's indulgence, Your Honor.

4 **THE COURT:** Yes, ma'am.

5 (Pause.)

6 BY MS. FRIERSON:

7 **Q** Briefly, on the chart that's on that form, is
8 that always the same chart?

9 **A** Yes, ma'am.

10 **Q** And so it's based on, you said, his birth
11 month?

12 **A** Uh-huh.

13 **Q** So his months of registration stay the same for
14 life?

15 **A** Right.

16 **MS. FRIERSON:** No further questions at this
17 time. Please answer any the defense may have.

18 **THE COURT:** Any cross-examination?

19 **MR. SMITH:** No questions for this witness, Your
20 Honor.

21 **THE COURT:** Thank you, ma'am. You may step
22 down.

23 Do you have another witness?

24 **MR. CORVEY:** Yes, Judge. The State calls
25 Deputy Colson.

1 ROBERT COLSON,
2 having been duly sworn, testified as follows:

3 THE CLERK: You may be seated. Sir, once
4 seated, if you could, please state your first and
5 last name, and spell your last loudly and clearly
6 into the microphone for the record.

7 THE WITNESS: It's Robert Colson, C-o-l-s-o-n.

8 DIRECT EXAMINATION

9 BY MR. CORVEY:

10 Q Good afternoon, Deputy. Where are you
11 employed?

12 A Charleston County Sheriff's Office.

13 Q How long have you been with the sheriff's
14 office?

15 A Roughly 12 years.

16 Q In the sheriff's office, could you just
17 describe for the jury what kind of assignments and
18 duties that you have ending with where you're
19 assigned now?

20 A Yeah. I'm currently assigned to the sex
21 offender registry with the Charleston County
22 Sheriff's Office. The registry is assigned to
23 criminal investigation division is where I currently
24 work.

25 Q How long have you been with the registry?

1 **A** Been with the registry two years. Been up in
2 investigations close to eight years.

3 **Q** And with your roles with the registry, what
4 kind of -- what are your day-to-day tasks, your
5 day-to-day duties?

6 **A** Pretty much the same as all three of us in the
7 office. We do the same thing redundant every day.
8 Tuesday, Wednesday and Thursday we're in the
9 register room. Mondays and Fridays we're usually
10 doing tons of paperwork, keeping up with these guys.

11 **THE COURT:** Can you slow down? She has to take
12 down what you say and you talk a mile a minute.
13 Slow down a little bit, okay?

14 **THE WITNESS:** So what we do is usually Tuesday,
15 Wednesday and Thursday we do all the
16 registrations --

17 **THE COURT:** You're still talking too fast.
18 Slow down a little bit, please.

19 **THE WITNESS:** Monday and Friday we'll do all
20 the paperwork, basically behind-the-scene's
21 paperwork keeping up with everybody, phone calls,
22 answering, return phone calls and e-mails. And plus
23 I'm law enforcement, so I have a little bit extra
24 stuff I have to do just to keep up with the
25 certifications.

1 But we usually will pull all the files at the
2 beginning of the month. So everybody's file for the
3 month of -- this month, we've already got them all
4 lined up ready to go. The next month we've got
5 everybody ready to go, and then everybody else.
6 It's a constant file of movements, we're constantly
7 moving files. All our desks are in rows. We're all
8 in the same room together doing pretty much the same
9 thing.

10 BY MR. CORVEY:

11 Q And were you working with the registry back in
12 May of 2015?

13 A Yes, I was.

14 Q And could you please describe for the jury how
15 you got involved in this case?

16 A The prior month of April, got the whole file of
17 everybody that's going to come see me in April. As
18 April goes, the files are emptying out, we're moving
19 them through.

20 Towards the end of April, I look, I start
21 seeing people who aren't showed {sic} up, start
22 getting on the phone, Where you at; Where you at?
23 Call them all, get them in, get them in. So I'm
24 starting to weed down the guys who aren't showing
25 up. And then by the end of April, I'm getting on

1 the phone a little bit harder.

2 Come May, in this case, I'm on the phone, they
3 haven't shown up, start checking jails, hospitals,
4 trying to locate and see where they're at. And
5 that's how I kind of got involved in this case.

6 Q And then did your efforts -- or did your office
7 make efforts to get in touch with Mr. Frasier?

8 A I did. I personally called all last given
9 phone numbers and last given associates of him,
10 whoever he listed and their phone numbers, which he
11 done in the prior registration would have been
12 correct, and all of that would have been given. And
13 I did all of that and I called them all.

14 Q And with regard to the information that you
15 have, do the offenders when they come in during a
16 quarterly registration, do they update that
17 information?

18 A Yes.

19 Q Do they have a duty to keep that information
20 current with your office?

21 A They do.

22 Q So, just kind of in sum, all of the information
23 that you had at the time should have been able to
24 reach to you getting in touch with Mr. Frasier?

25 A That's correct. And they can come in -- I know

1 we register Tuesday, Wednesday, Thursday. These
2 guys can come in Monday and Friday, if they need be,
3 and do a change form. The door's open. We just try
4 to only register them.

5 But if he comes in Monday or any of them come
6 in Monday, say, I've got to change a phone or I've
7 changed my address, they pull a clipboard off, they
8 can do it, sign it, and we'll sign it and we'll do
9 the change later. But they can come any time Monday
10 through Friday and make these changes and updates
11 not during just a registration month per se.

12 **Q** And it's your understanding -- I mean, it's a
13 requirement of theirs to keep that information
14 current?

15 **A** Yes. It is their responsibility to give it to
16 me. I just control it and monitor it.

17 **Q** And then did you end up swearing out a warrant
18 in this case?

19 **A** I did. I couldn't get in touch with him. I
20 couldn't locate him at all. I waited 15 days after
21 the 1st of May, which is not required. He's
22 technically in violation after the first day. He
23 has that full month.

24 After that, I gave him 15 more days, still
25 trying to look and still trying to make phone calls.

1 I do everything but got out and knock on your door
2 and tell you to come in, that's pretty much how I
3 operate. And then after that, I did the warrant for
4 his arrest.

5 Q So it would be fair to say that you were trying
6 to get in touch with him for 20, 30 days?

7 A Yes.

8 Q Before swearing out the warrant?

9 A Yes, I was.

10 Q And those efforts would have included phone
11 calls?

12 A (Witness nodded head.)

13 Q And then the mailing card which we've seen?

14 A That's correct.

15 Q Now, in your office, do you have a way that you
16 keep track of your office's contact with your -- I
17 guess, major contact with every offender?

18 A Yes. We have a rolling case note log on every
19 single person that comes in. We have a number --
20 their name and everything we've done and who did it
21 that day and time.

22 MR. CORVEY: Your Honor, may I approach the
23 witness?

24 THE COURT: Yes, sir.

25 BY MR. CORVEY:

1 **Q** I'm going to show you what's been entered as
2 State's Exhibit 4. Does this look familiar?

3 **A** Yes.

4 **Q** What's that a copy of?

5 **A** That's a copy of my sex offender registry case
6 notes for the defendant and everything we ever made
7 contact with him, verifications, quarterlies,
8 annuallies, address changes, movements, transfers
9 from one county to the other, all of the --
10 continuously rolled on this since the day he
11 arrived.

12 **Q** I just want to highlight a few points on this.

13 **MR. CORVEY:** Your Honor, may I just publish it?

14 **THE COURT:** Which one is this?

15 **MR. CORVEY:** State's Exhibit 4.

16 **THE COURT:** Yes, sir.

17 BY MR. CORVEY:

18 **Q** Now, if you could, just highlight the dates
19 that are available on this form for the jury.

20 **A** On October 21st, 2014, he had a quarter
21 registration, straight quarterly registration by
22 Mr. Stober.

23 12/16 of '14, we did a address verification via
24 me. I did it. I went to his house and verified who
25 lived there.

1 1/7 of '15, quarterly registration was done by
2 Holly Bozard. And then another address verification
3 of 4/8 of '15 by me.

4 And then looks like a 5/18 of '15 failed to
5 show. I put, Warrant. And that's my name at the
6 end.

7 **Q** Thank you.

8 I also want to show you Exhibit 3. Before
9 doing so, at each -- so at October registration,
10 would he have been aware that he needed to come in
11 January and April?

12 **A** Yeah. They're always aware of it because they
13 sign a form when they leave when they're going to be
14 coming in next time.

15 **Q** Now, I'm putting up Exhibit 3. And this is a
16 copy of his January form, but is it the same form
17 every time?

18 **A** Yes, they're identical.

19 **Q** And is the same chart indicating their
20 registration month always on the form they sign?

21 **A** On every form, that's right.

22 **Q** And the months they register is tied to their
23 birth month; is that --

24 **A** That's correct.

25 **Q** So those months never change?

1 **A** Never change.

2 **Q** So they're the same every single year?

3 **A** Everything is the same. We try to keep it as
4 simply redundant as possible. So these guys will
5 come in, they know they come in, they know what to
6 say, they know what to bring, they know what we're
7 gong to ask, and they know they get out. It's just
8 we're moving production.

9 **Q** And your guys -- would it be fair to say that
10 your main goal with the registry is trying to help
11 them comply, maintain compliance?

12 **A** Yes. We try to direct them to everything, to
13 get food stamps, to help them to stay -- permanent
14 jobs, housing, we do everything. I mean, that's
15 going beyond what we're supposed to do.

16 **MR. CORVEY:** No further questions, Your Honor.

17 **THE COURT:** Cross-examination?

18 **MR. SMITH:** Very briefly, Your Honor.

19 **THE COURT:** Yes, sir.

20 CROSS-EXAMINATION

21 BY MR. SMITH:

22 **Q** Deputy Colson, at least, according to your log,
23 do you keep a specific log of the calls that you
24 made?

25 **A** No, I don't.

1 Q So there's nothing that you have in paperwork
2 indicating how many times or what numbers you
3 attempted?

4 A The only numbers I would have called would have
5 been what was in his file I would have called.

6 Q But there's no log of when those were attempted
7 or anything like that?

8 A No.

9 Q In this particular case or in any case, do you
10 actually go out and arrest someone based on a
11 warrant?

12 A I'm sorry?

13 Q When there's a warrant drawn up for someone, do
14 you go out and effect the arrest?

15 A Not all of them, no.

16 Q But, in some instances, you do do that?

17 A (Witness nodded head.)

18 Q With Mr. Frasier, do you remember how he was
19 arrested?

20 A He came in to register.

21 Q And when did he come in to register; do you
22 remember?

23 A July, I believe.

24 Q About how many people are on your registry at
25 any one time?

1 **A** We're running about 824. We monitor 877.

2 **Q** And when someone comes in to register, how much
3 time do you spend with each person?

4 **A** About 15, 20 minutes.

5 **Q** And about how many do you do in a day?

6 **A** It ranges depending on slow days and busy days.
7 Average can vary. It's hard to say. On a monthly
8 average, probably 200 plus come in a month.

9 **Q** Okay. And so in July, Mr. Frasier came into
10 your office; is that correct?

11 **A** Yes.

12 **Q** Nobody had to go out and hunt him down?

13 **A** Nope.

14 **MR. SMITH:** No other questions, Your Honor.

15 **THE COURT:** Thank you.

16 Redirect?

17 REDIRECT EXAMINATION

18 BY MR. CORVEY:

19 **Q** And I just want to be clear with regard to the
20 registration month question in this case. Did he
21 come in in April?

22 **A** No.

23 **Q** Was he required to come in April?

24 **A** Yes, he was.

25 **Q** You made efforts to call him?

1 **A** I did.

2 **Q** Did he make any efforts to call your office?

3 **A** None that were recorded, no.

4 **MR. CORVEY:** No further questions, Your Honor.

5 **THE COURT:** Recross?

6 **MR. SMITH:** Nothing further, Your Honor.

7 **THE COURT:** Thank you, sir. You may step down.

8 Call your next witness.

9 **MS. FRIERSON:** Your Honor. The State would
10 call Sarah Lippe.

11 **THE COURT:** Come around, please, ma'am.

12 SARAH LIPPE,

13 having been duly sworn, testified as follows:

14 **THE CLERK:** Ma'am, once seated, if you could,
15 please state your first and last name, and then
16 spell your last loudly and clearly into the
17 microphone for the record.

18 **THE WITNESS:** Sarah Lippe, L-i-p-p-e.

19 **MS. FRIERSON:** Thank you, Your Honor. May it
20 please the Court?

21 **THE COURT:** Yes.

22 DIRECT EXAMINATION

23 BY MS. FRIERSON:

24 **Q** Ms. Lippe, where are you employed?

25 **A** The Charleston County Clerk's Office.

1 **Q** And how long have you been with the clerk's
2 office?

3 **A** It will be eight years in May.

4 **Q** Could you please tell the jury, specifically,
5 what your title is there and what your duties are?

6 **A** Sure. I'm the general sessions case management
7 supervisor. My duties include quality control,
8 auditing. I do some docketing and billing as well.

9 **Q** And can you explain to the jury just generally
10 what the clerk's office does, what their function
11 is?

12 **A** The clerk's office serves the family and
13 circuit courts. Their main responsibility is record
14 retention and maintenance for all court documents.

15 **Q** And do they handle the certification of
16 records?

17 **A** They do.

18 **Q** And can you explain to the jury what that
19 process is?

20 **A** Certification would be when one of the deputy
21 clerks attests a copy of an original document and
22 they are attesting that it is a true copy. So it's
23 a true copy of the original that's on file with the
24 clerk's office. They do that by signing their name
25 and then affixing a seal, the clerk's seal, over

1 their signature.

2 **MS. FRIERSON:** May I approach the witness, Your
3 Honor?

4 **THE COURT:** Yes, ma'am.

5 BY MS. FRIERSON:

6 **Q** Ms. Lippe, I'd like to show you what has been
7 premarked as State's Exhibit Number 5. If you could
8 take a look at that for a moment and tell me if
9 you're familiar with that document.

10 **A** Yes.

11 **Q** What is that?

12 **A** This is a sentencing sheet.

13 **Q** And explain to the jury what a sentencing sheet
14 is.

15 **A** A sentencing sheet is a document that's used to
16 record a conviction that would be resulting from a
17 plea or a trial.

18 **Q** And is -- what kind of information does it
19 provide?

20 **A** It would provide the defendant's name,
21 identifiers, such as date of birth. It would also
22 include the sentencing information and the names,
23 such as the judge -- the judge, possibly attorneys.

24 **Q** Is that document a certified copy?

25 **A** It is.

1 **Q** How do you know?

2 **A** It has the deputy clerk's stamp and signature
3 on the side.

4 **Q** And, again, what does that certification mean?

5 **A** It means that it is a true copy of the original
6 that would be on file with our office.

7 **Q** And that original would be kept and filed and
8 maintained by your office?

9 **A** It would.

10 **Q** And is that maintained in the regular course of
11 business every day?

12 **A** Yes.

13 **MS. FRIERSON:** Your Honor, at this time, the
14 State would like to enter State's Exhibit Number 5
15 and publish it to the jury.

16 **MR. SMITH:** Your Honor, we would just state our
17 previous grounds of objection under 403.

18 **THE COURT:** May I see it?

19 (Ms. Frierson hands document to the Judge.)

20 **THE COURT:** Subject to previous objection, mark
21 it in the record as an exhibit.

22 (State's Exhibit Number 5, sentencing sheet,
23 admitted into evidence.)

24 **THE COURT:** All right. Ladies and gentlemen of
25 the jury, give me your attention, please. There's

1 been admitted into the trial of this case evidence
2 related to a prior criminal conviction of the
3 defendant, Mr. Frasier. At this point, I'm going to
4 give you what is known as a limiting instruction,
5 which means that this evidence was admitted for a
6 limited purpose. And if you use this evidence of a
7 conviction for any purpose, you can only consider it
8 within the limited purpose for which it was
9 admitted.

10 I charge you that evidence of other crimes,
11 wrongs or acts is not admitted to prove the
12 character of an accused in order to show action in
13 conformity with that character. In other words, the
14 fact that someone may have been involved in a prior
15 bad act cannot be used to prove that he had the
16 character to commit another bad act.

17 This evidence was admitted for a limited
18 purpose. And if you conclude it to be true, you can
19 only use it for the limited purpose of determining
20 whether the defendant has previously been convicted
21 of a crime that required that he register as a sex
22 offender, which is one of the elements of the crime
23 that the State must prove in the case that's pending
24 before you. You may not use this evidence for any
25 other purpose.

1 All right. Solicitor, you may continue.

2 **MS. FRIERSON:** Thank you, Your Honor.

3 BY MS. FRIERSON:

4 **Q** Ms. Lippe, if I could draw your attention to
5 the monitor, I would just like to go through what we
6 just discussed with the jury. Is the pointer still
7 up there, Ms. Lippe?

8 **A** Yes.

9 **Q** If you could explain to the jury, now that they
10 have something visual to attach with it, what this
11 is and what it tells you.

12 **A** This is a sentencing sheet. And what it tells
13 us is that the defendant, indicated Daniel Frasier,
14 was convicted of and sentenced --

15 **Q** You can walk through there just a little bit to
16 point.

17 **A** Okay. So the case information would be on the
18 top right-hand side which would just tell you the
19 case number and the defendant's identifiers, as well
20 as the charge. The middle section is going to be
21 the sentence, the sentencing information. And then
22 the judge's name would be at the bottom. And then
23 on the far side would be the stamp attesting the
24 document.

25 **Q** And what is the charge on this document?

1 **A** The charge is committing or a lewd act upon a
2 child under 14.

3 **Q** And where is the certification?

4 **A** The certification is here at this stamp
5 {indicating}.

6 **Q** And the defendant's name is where?

7 **A** Here {indicating}, Daniel Frasier.

8 **Q** Thank you.

9 **MS. FRIERSON:** Court's indulgence.

10 **THE COURT:** Yes, ma'am.

11 **MS. FRIERSON:** I have no further questions,
12 Ms. Lippe. Please answer any the defense may have.

13 **THE COURT:** Cross?

14 CROSS-EXAMINATION

15 BY MR. SMITH:

16 **Q** Can you tell the jury what year this was?

17 **A** The date would be here {indicating}. It's
18 October 17th. The year is 1985.

19 **MR. SMITH:** No further questions, Your Honor.

20 **THE COURT:** Thank you.

21 Any redirect?

22 **MS. FRIERSON:** None from the State, Your Honor.

23 **THE COURT:** Thank you, ma'am. You may step
24 down.

25 Any other witnesses for the State?

1 **MS. FRIERSON:** No, Your Honor. The State
2 rests.

3 **THE COURT:** All right. Ladies and gentlemen,
4 as I told you, when the State rests, I have to
5 discuss some legal issues with the attorneys. So
6 I'm going to stay here and talk to them. You folks
7 can go on to lunch. I need you back in the jury
8 room at 2:30. I know that's a little extended
9 break, but you can either be waiting back there
10 while I'm dealing with this or you can be out at
11 lunch break.

12 Do not discuss the case with anyone, don't let
13 anyone discuss it with you. Remember all of those
14 admonitions I gave you, please. If you have some
15 true emergency that prevents you from being here,
16 please let me know.

17 Now, when you come back, you won't come into
18 the courtroom. You'll come directly to this jury
19 room. The bailiff will show you how to report.
20 Some of you already know that.

21 But I need you back in the jury room, please,
22 at 2:30. And if you want to get the case today, I
23 need you on time, 2:30. Thank you.

24 (The jury was excused for lunch.)

25 **THE COURT:** Motions?

1 **MR. SMITH:** Judge, we would just make a motion
2 for a directed verdict at this time. We believe
3 even with looking at the evidence in the light most
4 favorable to the State, the State's failed to
5 establish Mr. Frasier's guilt. We'd also renew all
6 prior objections and motions at this time.

7 **THE COURT:** Where are y'all getting that he has
8 to register four times a year?

9 **MS. FRIERSON:** Your Honor, that's based on his
10 classification, the tier III offender, because there
11 was -- my understanding, there was skin-to-skin
12 contact. So he has to register by law four times a
13 year. The charge put him under the classification
14 of a tier III offender. And tier III offenders, I
15 can look up the statute, have to register four times
16 a year.

17 **THE COURT:** Tier III under the Adam Walsh Act?

18 **MS. FRIERSON:** Yes, sir.

19 **THE COURT:** All right. Now, there was a case
20 or cases, weren't there, that indicate when the
21 changes are made to the statute, there has to be
22 notification to the defendant? And I haven't read
23 those cases yet, and I know you had testimony that
24 he was notified as to when he had to report, but I
25 may need to look at those cases. It's like one of

1 them is Binnar, B-i-n-n-a-r, I believe. Are y'all
2 familiar with those?

3 **MS. FRIERSON:** Your Honor, I don't think I'm
4 understanding the issue or the question.

5 **THE COURT:** Changes to section 23-3-460 that
6 require additional registration requirements have to
7 be -- the additional requirements, the changes --
8 the offender has to be given actual notice of the
9 changes.

10 **MS. FRIERSON:** What would be an additional
11 requirement?

12 **THE COURT:** When was -- wasn't this amended
13 after 1985?

14 **MS. FRIERSON:** Your Honor, he was convicted in
15 1985. His registry came about in 1994 and then was
16 amended in 2000. What we introduced into evidence
17 was his registration from 1995 wherein he came in
18 and that was his initial registration with the
19 office.

20 What we believe happened is he was arrested on
21 an unrelated offense in 1984, which was adjudicated
22 in 1985, 12 days prior to that registration. And so
23 during that incarceration or during the adjudication
24 of that case, he received a notification that he was
25 -- needed to register pursuant to this. And since

1 1995 when he checked in that office, I believe it
2 was State's Exhibit Number 1, he's been registering
3 with Charleston County.

4 And the paperwork that he signs each time, for
5 example, State's Exhibit Number 3 puts in there the
6 statutory language from 23-3-430 requiring him to
7 register pursuant to 23-3-460. At the top of that,
8 it explains -- it has the checkmark for an adult
9 tier III.

10 (Pause.)

11 **THE COURT:** I guess my question is -- I told
12 you all I have never tried one of these cases. They
13 have always been pleas. So I don't have anything in
14 my old materials that I can pull up and look at, so
15 I'm trying to look at this on the fly. And as you
16 all know, this is a very quick case.

17 I see that this statute was amended in 1994,
18 1998, 2001, 2005, 2006 and 2010. And I cannot tell,
19 from what I've been able to pull up, what the
20 versions were in each of those instances.

21 I've got editors' notes that are somewhat
22 limited. It states that the 2006 amendment
23 substituted biannually for annual registration, and
24 then the 2010 note just said the amendment rewrote
25 this section. So I don't know what it rewrote. I

1 don't know when the Adam Walsh Protection Act was
2 passed.

3 **MS. FRIERSON:** In 2006, Your Honor.

4 And arguably, if I may, I believe it's a notice
5 issue. It wasn't raised pretrial. But I believe
6 there's ample evidence in the record that since 2006
7 on -- he has been -- he has been registering.
8 That's not the issue. It's the -- the issue is
9 April 2015.

10 But on this form that he signed in January to
11 say he was to come back, it specifically says, All
12 offenders must register biannually or quarterly for
13 life depending upon his or her classification under
14 23-3-460. It also gives them the 23-3-430 language
15 and identifies him as an adult tier III offender.

16 And this would have been the paperwork that he
17 would have been filling out since the amendment. So
18 the State would argue that the notice was there, he
19 knew about it, he was showing up prior to April of
20 2015.

21 **THE COURT:** I need to see those exhibits,
22 please. Can somebody give them to me?

23 (Ms. Frierson hands exhibits to the Judge.)

24 **MS. FRIERSON:** Your Honor?

25 **THE COURT:** Yes, ma'am.

1 **MS. FRIERSON:** Additionally, the State would
2 argue that his prior failure to register, which was
3 in 2005 he was convicted of, was also -- could also
4 be used to --

5 **THE COURT:** That's not in evidence.

6 **MS. FRIERSON:** No, I understand. This was a
7 pretrial issue that wasn't raised, but I just wanted
8 to bring that to the Court's attention.

9 (Pause.)

10 **THE COURT:** All right. There's sufficient
11 evidence in the record for the case to go forward.
12 The motion for a directed verdict is respectfully
13 denied.

14 Mr. Frasier, I have to go over some things with
15 you now. I have to go over these things with
16 everybody who's on trial. I need you to raise your
17 right hand.

18 DANIEL MAURICE FRASIER,
19 having been duly sworn, testified as follows:

20 **THE COURT:** Mr. Frasier, we've reached the
21 stage of the trial where the State has rested. And
22 the next thing that would happen is that your side
23 is given the opportunity, if you wish to do so, to
24 present evidence for the jury to consider. Do you
25 understand where we are in the trial?

1 **DEFENDANT:** Yes, sir.

2 **THE COURT:** Now, that doesn't change the burden
3 of proof. The burden's entirely on the State to
4 prove all of the essential elements of the offense
5 beyond a reasonable doubt. But you are allowed to
6 present evidence for the jury to evaluate in
7 deciding whether the State has met its burden of
8 proof or has failed to meet its burden of proof.
9 You understand?

10 **DEFENDANT:** Yes, sir.

11 **THE COURT:** Now, in that regard, if you wish to
12 testify, you may. If you wish not to testify,
13 you're not required to do so. No one can make you
14 testify. You have an absolute right to remain
15 silent. If you do not wish to testify, I'm going to
16 tell the jury they cannot hold your silence against
17 you in any way at all. You understand that?

18 **DEFENDANT:** Yes, sir.

19 **THE COURT:** Now, if your side offers no
20 evidence at all, that is neither you nor anybody
21 else testifies on your behalf, no written exhibits
22 are put in the record, no exhibits are put in the
23 record on your behalf, then your lawyer gets to make
24 the last argument to the jury; otherwise, the State
25 makes the last argument. You understand that?

1 **DEFENDANT:** Yes, sir.

2 **THE COURT:** This decision about whether you
3 testify or not is your decision to make and yours
4 alone. You understand?

5 **DEFENDANT:** Yes, sir.

6 **THE COURT:** You may consult with family
7 members, friends, anyone whose opinion you value on
8 important decisions, including your attorney, but
9 ultimately it's your call. You're the one who has
10 to decide whether you testify or do not testify.
11 You understand that?

12 **DEFENDANT:** Yes, sir.

13 **THE COURT:** To this point, has anybody
14 exercised any type of improper influence over you,
15 threatened you, forced you, done anything at all
16 improper to get you to choose to testify or not
17 testify?

18 **DEFENDANT:** No, sir.

19 **THE COURT:** Does he have a prior record that
20 would subject him to impeachment?

21 **MS. FRIERSON:** Your Honor, the only thing the
22 State would introduce would be the 2005 conviction
23 for his failure to register first offense.

24 **THE COURT:** What does that carry?

25 **MS. FRIERSON:** The first offense carried 90

1 days.

2 **THE COURT:** So how do you get it in? It's more
3 than ten years old and it's 90 days.

4 **MS. FRIERSON:** If he were to take the stand and
5 say that he has always registered.

6 **THE COURT:** You mean if he opened the door in
7 some way?

8 **MS. FRIERSON:** Yes, Your Honor, if he opened
9 the door.

10 **THE COURT:** All right. Mr. Frasier, it does
11 not appear that you have any prior convictions they
12 would be able to ask you about on the stand, if you
13 took the stand, unless you, in some way, opened the
14 door to it.

15 You have a little unusual case here because if
16 you take the stand, they'll be able to ask you about
17 your notice, what you knew, and that seems to bleed
18 over into some of these convictions possibly because
19 of the way of necessity the thing would develop, the
20 process of notice would develop. You can talk to
21 your lawyer about all of that. If there's a
22 question about what you can be asked, that can be
23 raised to me and I can rule upon it before the jury
24 would consider it or hear it.

25 So whatever decision you make about testifying

1 or not testifying, are you telling me it's going to
2 be your own decision, made of your own free will?

3 **DEFENDANT:** Yes, sir.

4 **THE COURT:** Okay. Well, I'm going to find,
5 Mr. Frasier, at this point, that you understand you
6 a right to testify, you have a right not to testify.
7 You understand that if you choose not to testify,
8 I'm going to tell the jury they cannot hold your
9 silence against you in any way at all.

10 **DEFENDANT:** Yes, sir.

11 **THE COURT:** You understand the decision about
12 whether you testify or not is your decision to make
13 and yours alone. You understand about the last
14 argument to the jury if no evidence of the defense
15 is presented, and that you've made your decision,
16 whatever it may be, freely, knowingly, voluntarily
17 and intelligently. And I'm going to maintain that
18 finding, so if anybody does attempt to improperly
19 influence you or you have any questions, you let me
20 know right away. Understand?

21 **DEFENDANT:** Yes, sir.

22 **THE COURT:** All right. Thank you.

23 Do y'all need to talk a minute?

24 **MR. SMITH:** Yes, Your Honor, if we could. Can
25 I have a few moments?

1 **THE COURT:** Well, what time did I tell the
2 jury, 2:30?

3 **MR. SMITH:** We could come back a little early,
4 Your Honor.

5 **THE COURT:** Yeah, come back at 2:20.
6 All right. Thank you. We're in recess until
7 2:20.

8 (Whereupon, there was a luncheon recess.)

9 **THE COURT:** All right. Mr. Smith, are you
10 going to offer any evidence?

11 **MR. SMITH:** No, Your Honor.

12 **THE COURT:** Mr. Frasier, your lawyer tells me
13 you're not going to testify; is that correct?

14 **DEFENDANT:** Yes, sir, that's correct.

15 **THE COURT:** Is that your own decision, made of
16 your own free will?

17 **DEFENDANT:** Yes, sir.

18 **THE COURT:** They're still short one juror. Did
19 y'all have any request on the charge?

20 **MS. FRIERSON:** No additional request from the
21 State, Your Honor.

22 **MR. SMITH:** Nothing other than the standard
23 charge, Your Honor.

24 **THE COURT:** Thank you.

25 All right. Well, I don't have one. I've asked

1 for some of the other judges to send me one. A
2 couple of them have sent it, so I've got to go back
3 here and work on it a little bit. I'll be back out
4 as quickly as I can. We're at ease.

5 (Brief Recess.)

6 **THE COURT:** I'm going to need some help from
7 y'all, and I apologize to you. I'm just struggling
8 with this.

9 The old law that required sex offender
10 registry, 23-3-430, had under subsection (C), a list
11 of offenses that qualify. And the one listed as
12 subsection (11) was for committing or attempting a
13 lewd act upon a child under 16. That statute has
14 been repealed, the 16-15-140.

15 The statute that lists who is required to
16 register as a sex offender has been modified and it
17 doesn't have a lewd act listed. It has a reference
18 later on in that list to any crime that falls within
19 the Adam Walsh Child Protection Act, whatever the
20 precise name of it is.

21 And so I've been trying to look up stuff about
22 that. And what I found is that tier III is the most
23 serious level. And it involves sex offenders who
24 are convicted of an offense that is punishable by
25 more than one year in prison and is comparable or

1 more severe than one of the following federal crimes
2 or conspiracy to attempt to commit one of them:
3 Aggravated sexual abuse, sexual abuse, or abusive
4 sexual contact against the minor under age 13, or if
5 it involves kidnapping the minor, unless the actor
6 is a parent or guardian, or if it occurs after the
7 offender became a title -- I'm sorry -- after the
8 offender became a tier II sex offender.

9 A tier III sex offender has to register for
10 life unless he is a juvenile delinquent, in which
11 case, registration is 25 years if he maintains a
12 clear clean record.

13 The sentencing sheet that's marked as State's
14 Exhibit 5 indicates a date of birth of July 1st,
15 1964. So the conviction was October the 17th, 1985.
16 The indictment number is an '85 indictment. I don't
17 know when the offense allegedly occurred, but it
18 would not appear he was a juvenile at that time.

19 And I've got State's Exhibit Number 3 that
20 lists him as an adult tier III. My question is how
21 do I know that?

22 Have your people left that were the ones who
23 run this?

24 **MS. FRIERSON:** Yes, Your Honor.

25 Let me make sure I understand your question.

1 You want to know how he's tier III?

2 **THE COURT:** Yes.

3 **MS. FRIERSON:** Under SORNA, the part you just
4 read, the abusive act upon a child under the age --
5 I don't remember the specific language, he was
6 charged with a lewd act on a minor under the age of
7 14. The tier III, as I understand it, Mr. Stober
8 told me, comes from the actual -- there was physical
9 contact between him and the 14 year old -- or,
10 excuse me, between him and the six year old of a
11 minor under 14, and that is what requires the tier
12 III registration under SORNA.

13 **THE COURT:** So the minor was six years of age?

14 **MS. FRIERSON:** That's my understanding, yes,
15 Your Honor.

16 **THE COURT:** And it involved sexual abuse?

17 **MS. FRIERSON:** There was sexual contact, yes,
18 Your Honor.

19 **THE COURT:** Well, is it equivalent to a federal
20 law, aggravated sexual abuse, sexual abuse or
21 abusive sexual contact against a minor under 13?

22 **MS. FRIERSON:** I'll have to look up the federal
23 law.

24 **THE COURT:** See what you can find because I
25 mean this -- the way I'm reading it is it's a

1 mandatory prison term. And he registered in July,
2 which would have been within six months of the prior
3 registration. If he's not a tier III, I don't know
4 how he can be convicted. Look up the federal law so
5 I can have some comparison to make, please.

6 **MS. FRIERSON:** Yes, Your Honor.

7 **THE COURT:** Thank you. Ask those people if
8 they -- if you can get them on the phone, if they
9 have more knowledge, having to deal with it every
10 day, how they're so certain it's a tier III offense.

11 We're at ease.

12 **MS. FRIERSON:** Thank you, Your Honor.

13 (Brief Recess.)

14 **THE COURT:** Were you able to find out anything?

15 **MS. FRIERSON:** Yes, Your Honor.

16 **THE COURT:** What did you find out?

17 **MS. FRIERSON:** The 16-15-140, which is what the
18 defendant was charged with, a lewd act upon a child
19 under 16, when that was repealed, it was replaced
20 with CSC third with a minor, which is 16-3-655(C).
21 And it discusses in subsection (C), a lewd or
22 lascivious act upon a body. The language there
23 almost mirrors the indictment that the defendant is
24 charged under.

25 Further, Your Honor, SORNA requires tier III

1 offenders to register quarterly. And if you look at
2 the SORNA National Guidelines in Subsection V, the
3 classes of sex offenders, it says that tier III is
4 required if it involves -- if the offense involves a
5 sentence of more than one year. But the sexual
6 assault involving --

7 **THE COURT:** It involves, what, more than a year
8 -- a sentence of more than one year?

9 **MS. FRIERSON:** The sentence is more than one
10 year. And also if there's a sexual assault
11 involving a completed or attempted sexual act,
12 which, again, is also what the indictment alleges in
13 the language of that statute.

14 **THE COURT:** What does the indictment allege?

15 **MS. FRIERSON:** The indictment, Your Honor, says
16 that the 12th of January 1985, the defendant
17 willfully and lewdly commit or attempted to commit a
18 lewd and lascivious act, to wit: Vaginal rubbing and
19 touching with the hands, as well as rubbing and
20 touching other parts of the body with the hands upon
21 and with the body of one April Frasier, a child
22 under the age of 14 years, with the intent of
23 arousing, appealing to and gratifying the lust,
24 passions and sexual desires of himself and such
25 child in violation of South Carolina Code of Laws

1 Section 15 -- 16-15-140.

2 **THE COURT:** Is there any issue or anything you
3 need to be putting on the record, Mr. Smith?

4 **MR. SMITH:** No, Your Honor. I think that this
5 offense is covered, as I looked into it. And even
6 under the federal definitions, I think it would
7 cover it.

8 **THE COURT:** Well, my preference is that I print
9 out a charge and give it to you, but I don't have
10 one yet. And if we're going to move on, we need to
11 be moving.

12 So if y'all are ready to argue, I'll just bring
13 the jury out, let you make your arguments, and then
14 as soon as I've got the charge put together, I'll
15 give it. And then if you have any issues with the
16 charge, you can address them after I give it, and if
17 I agree with you, I'll instruct the jury
18 differently. Are we okay with that?

19 **MS. FRIERSON:** Yes, Your Honor.

20 **MR. SMITH:** Yes, Your Honor.

21 **THE COURT:** All right. So the State's going to
22 go first and the defense go last?

23 **MR. CORVEY:** Yes, sir.

24 **THE COURT:** If both sides are ready, I'll bring
25 in the jury.

1 (The jury returns to the courtroom.)

2 **THE COURT:** All right. Ladies and gentlemen, I
3 apologize for the length of that delay. I've been
4 working the whole time. A legal issue came up that
5 I had to address, and, unfortunately, it involved
6 some stuff we had to look up, so it took us a while.

7 I need to give you an instruction now that you
8 must follow. I instruct you and emphasize to you
9 that the defendant -- the fact that a defendant
10 elects not to testify is not a factor to be
11 considered by you in any way in your deliberation
12 and in your consideration on the question of whether
13 he is guilty or not guilty. His decision not to
14 testify should not be considered by you in any
15 manner whatsoever against him. An accused has the
16 constitutional right to remain silent and the
17 assertion of that right cannot and must not be
18 considered by you in your deliberations.

19 Under your oath, you are to reach no inference
20 and draw no conclusion whatsoever from the fact that
21 the defendant elected not to testify. His decision
22 not to testify should not be discussed by you in the
23 jury room, it should not enter into your minds in
24 making your decision.

25 The burden of proof, as I've told you, is

1 entirely on the State to prove every reason --
2 excuse me -- to prove every essential doubt -- I
3 apologize -- to prove every essential element of the
4 offense charged against this defendant beyond a
5 reasonable doubt. He is not required to prove
6 anything at all.

7 As you can guess by that instruction, ladies
8 and gentlemen, you now have all of the evidence that
9 you're going to have to decide the case. There are
10 two stages that remain, the closing arguments and
11 the charge.

12 Now, the way this will work in this case is
13 that the State will make the first closing argument
14 and then the defense will make the final closing
15 argument. After that, I'll take a break, and as
16 soon as I've got everything lined up, I'll bring you
17 back out here and give you the law. I invite your
18 close attention.

19 Solicitor, you're recognized.

20 **MR. CORVEY:** Thank you, Your Honor. May it
21 please the Court.

22 **THE COURT:** Yes, sir.

23 **MR. CORVEY:** Mr. Smith.

24 CLOSING ARGUMENT

25 **MR. CORVEY:** Good afternoon, ladies and

1 gentlemen. Thank you for bearing with us. Today I
2 know, for some of you, it's been a longer week than
3 for others, and believe me, I appreciate it,
4 Ms. Frierson appreciates it and your community
5 appreciates it. It's -- I understand -- I echo the
6 Court's understanding, like he mentioned at the
7 beginning, it's not the easiest thing to do out of
8 your lives, come in here and do this, but we
9 sincerely appreciate it.

10 And it's interesting, we talk about community
11 because that's exactly what the sex offender
12 registry is designed for. The Legislature did that
13 for the protection of the community. It's not to
14 punish Mr. Frasier for his past conviction. It's
15 designed to ensure that we're keeping tabs on a
16 subsection of people who have been shown and deemed
17 by the Legislature to be a high risk degree
18 offender.

19 **MR. SMITH:** Objection, Your Honor.

20 **THE COURT:** Yes, sir.

21 **MR. SMITH:** Facts not in evidence.

22 **THE COURT:** Disregard the last statement,
23 ladies and gentlemen.

24 **MR. CORVEY:** And so, as I was saying, the
25 registry acts as a protection for our community.

1 And in creating the act, they put certain duties and
2 responsibilities on those who it covers, in this
3 case, Mr. Daniel Frasier.

4 South Carolina Code 23-3-450 states, The
5 offender shall register with the sheriff of each
6 county in which he resides. An offender shall not
7 be considered to have registered until all
8 information prescribed by SLED has been provided to
9 the sheriff.

10 Further than that, SC Code 23-3-470 explains,
11 It is the duty of the offender to contact the
12 sheriff in order to register. If an offender fails
13 to register or provide notification of the change in
14 address, then he is guilty for failing to register
15 as a sex offender.

16 Now, the Judge is going to charge you in a
17 little bit on the law that you must decide this case
18 under. So just keep this in mind, it's just my
19 interpretation of what I just read. To me, that
20 says the State must prove two things: First, that
21 Mr. Frasier was on the sex offender registry and
22 thus required to register with the sheriff's office,
23 and, two, that he failed to do so.

24 So we'll go into the evidence that you've seen
25 so far in this case and that's what you have to

1 decide the case under. That's part of the duty you
2 took, and that's a part of proving those facts that
3 are in evidence to you is my duty.

4 Speaking of duties, it was Mr. Frasier's duty
5 to go to the sheriff's office, it was his duty to
6 check in in April of 2015, and it was a duty that he
7 failed to uphold.

8 Now, talking about the evidence in this case,
9 as to the first thing that we have to prove, we have
10 to prove that Mr. Frasier was listed on the sex
11 offender registry. He was placed on that registry
12 by being convicted of committing or attempting a
13 lewd act on a child under 14 and pled guilty to that
14 offense on October 17th, 1985. After that point and
15 after the sex offender registry was initiated, he
16 first started checking in with the sheriff's office
17 in 1995. The exact date was actually July 28th,
18 1995.

19 And in some form or fashion, he has been under
20 the duty and the requirement to register with the
21 sheriff's office in Charleston County or any other
22 sheriff's office in the state in which he lives to
23 register. It's been going on since 1995; it's now
24 2015. It's an ongoing duty.

25 You heard testimony from the three individuals

1 who are employed by the sheriff's office to manage
2 the sex offender registry. You heard about the
3 steps they take to ensure compliance. And, really,
4 I think you heard from them that their main goal in
5 this is to make sure that everyone under their care
6 as offenders in Charleston County maintain compliant
7 and complete their registration as required.

8 You heard that Mr. Frasier was registered as a
9 tier III offender, so he has to register quarterly,
10 four times a year. You heard about how he met with
11 Mr. Bob Stober in October of 2013. You then heard
12 how he met with Ms. Bozard in January of 2015. And
13 in January of 2015, they went through their usual
14 registration process. He provided them all the
15 information he needed to.

16 And not only that, they went over this form.
17 They went over this form that provides a schedule of
18 the months in which he's required to register for
19 2015, one of those included April.

20 Not only was that schedule there, you'll see
21 right there down there towards the bottom, right
22 near his signature where he acknowledged his
23 understanding in all of this that his next
24 registration date was in the month of April of 2015,
25 the month he failed to show up, the month he failed

1 to not make contact with the sheriff's office to let
2 them know why he was unable to do it, where he was.

3 You heard from the sheriff's office about how
4 they keep tabs on everybody, how they go about their
5 processes on a monthly basis of getting everyone
6 compliant, of making sure that everyone registers,
7 making sure that this was all completed and before
8 moving on to the next month.

9 But most importantly, you also heard about the
10 great efforts that they take to help out those who
11 are required to register with them in order to keep
12 them compliant. They make calls, repeated calls,
13 home checks. They send these reminders, which will
14 be in evidence, with the full schedule of when they
15 can come and how they can go about it to make sure
16 that it is -- is less of a burden on their life as
17 it could possibly be. You heard them, the process
18 takes 15 minutes once every four months.

19 And so we then get back to the intent of the
20 article. We're not here, as I said, to punish
21 Mr. Frasier for what he was convicted of in 1985.
22 We're here today because it was his duty to go in
23 April of 2015 to the sheriff's office and complete
24 his quarterly registration, a date he knew about, a
25 date he was advised of not just in January when he

1 signed the paper, but also in October when he had
2 the same schedule on the paperwork that he would
3 have filled out with Mr. Stober at that time at his
4 annual birth month registration that sets the
5 quarterly schedule for the months that they need to
6 register.

7 This wasn't a surprise. This wasn't something
8 that he didn't know about. This was a willful
9 choice that he made to not uphold his duties in
10 registering with the Sheriff of Charleston County.

11 Now, ladies and gentlemen, I won't take up too
12 much more of your time, but the evidence in this
13 case is clear. You'll have it back there with you.
14 The paperwork clearly documents the efforts that the
15 sheriff's office took to get in touch with him.
16 They clearly document what his responsibilities were
17 with this. And when you combine all of those
18 things, two things are clear: That he was on the
19 sex offender registry and that he failed to register
20 in April of 2015. And thus I ask you to find him
21 guilty. Thank you.

22 **THE COURT:** Thank you, Solicitor.

23 Okay. Mr. Smith, you're recognized for your
24 closing argument.

25 **MR. SMITH:** Thank you, Your Honor.

1 This charge happened back in 1985. We heard a
2 lot today about the calls the sheriff's office made,
3 We called multiple times; we called multiple
4 numbers. But they didn't have anything to suggest
5 that those calls were made. There was no log
6 presented to you, there was no verification done.
7 No one was able to testify, we made this call, we
8 didn't get an answer; we made this call, the number
9 was disconnected; or even, we made this call and
10 talked to someone, but maybe he didn't get the
11 message.

12 You heard Detective Colson -- or Deputy Colson
13 say, I would have called all those numbers. But,
14 again, there's no proof that he did. He talked to
15 you about the number of people that they deal with,
16 almost 900 people. They spend 15 or 20 minutes a
17 piece, but they say it gets busier as the month go
18 -- as the month goes on. So there's not a lot of
19 time that they spend with each individual --
20 individual person.

21 But let's talk, what is really at the crux of
22 today's case, about my client, Daniel Frasier.
23 Mr. Frasier did not act like someone who had avoided
24 a meeting, who was trying to run from the police.
25 What did he do and where was he arrested? He walked

1 into the office in July. He walked in, he was
2 arrested there, and he had gone there to register in
3 his birth month.

4 What I would say to you is that's not the
5 action of someone who is running from law
6 enforcement, trying to get away from law
7 enforcement. Because it would have been easy, if
8 this had happened and he didn't come in for two
9 years, three years, had they had to go out and get
10 him, that's one thing, but they didn't. He walked
11 into their office and he registered in July.

12 I'm going to ask you to find Mr. Frasier in
13 this case not guilty. Thank you.

14 **THE COURT:** Thank you, Mr. Smith.

15 All right. Ladies and gentlemen, I'm going to
16 have to send you back to the jury room again. It's
17 going to be a little while, but as soon as I can,
18 I'll bring you out here and give you the
19 instructions on the law. Don't discuss the case
20 yet. Follow the bailiff, please.

21 (The jury retires to the jury room.)

22 **THE COURT:** Do any of you have any information
23 about the element of whether criminal intent is
24 required, and if so, what?

25 **MR. CORVEY:** I'm not aware of any intent

1 requirement.

2 **THE COURT:** Do you know of anything, Mr. Smith?

3 **MR. SMITH:** I do not, Your Honor. I don't
4 believe the statute addresses it in any way.

5 **THE COURT:** All right. As soon as I can, I'll
6 be back out here. We're at ease.

7 (Brief Recess.)

8 **THE COURT:** During the charge, please stay
9 still and stay quiet. Don't do anything to distract
10 the jury. Don't be moving about absent an
11 emergency.

12 Bring the jury in, please.

13 (The jury returns to the courtroom.)

14 CHARGE OF THE COURT

15 **THE COURT:** Members of the jury, all of the
16 evidence has been presented, you've heard the
17 arguments of counsel and now it's time for me to
18 instruct you on the law that applies to the case.
19 Please continue to pay close attention during the
20 next stage.

21 Now, first, you need to understand some basic
22 ground rules. You, the jury members, are the sole
23 judges of the facts. You decide all of the issues
24 of fact. You alone determine the truth of the
25 evidence, its effect, its value and its weight. You

1 alone judge the credibility of witnesses, in other
2 words, whether or not a witness' testimony is
3 believable.

4 In evaluating the testimony of the witnesses,
5 you may believe all that a witness said or none of
6 it. You may believe part of what a witness said and
7 not believe the balance. You may believe one
8 witness against many or many against one. You may
9 consider any interest, bias or prejudice that you
10 feel that a witness has in the case. You may
11 consider the demeanor and the appearance of the
12 witness and the opportunity for knowledge that the
13 witness had. You may consider whether a witness has
14 been consistent or inconsistent.

15 But you're not to exercise these considerations
16 arbitrarily. What I want you to do is to use your
17 common sense, use your sense of logic and reason and
18 your good judgment.

19 It's not proper for me to give you a charge on
20 the facts of the case. I cannot discuss the facts
21 with you. I'm not permitted to convey to you an
22 impression as to what, if any, personal opinions I
23 may have about the facts. So if, during any stage
24 of this trial, you develop an impression that I have
25 a personal opinion about the facts, you must remove

1 that totally from your mind. You're the sole judges
2 of the facts.

3 I am the judge of the law that applies to the
4 case and you're bound by your oath to accept and
5 apply the law as I give it to you. That means if
6 you have conflicting ideas about what the law is or
7 what it should be, you have to abandon those. I
8 give you the law, you apply it to the facts as you
9 determine them to be, and in that way, you reach
10 your verdict.

11 It's also my job to decide what evidence is
12 admissible. If I've ruled something inadmissible or
13 told you to disregard something, you're not to
14 consider those things in arriving at your verdict.
15 Base your verdict on the competent evidence before
16 you, consider the testimony of the witnesses and the
17 exhibits admitted in the trial.

18 I remind you of the limiting instruction that
19 there has been admitted into the trial of this case
20 evidence related to a prior criminal conviction of
21 Mr. Frasier, that evidence was admitted for a
22 limited purpose. And if you use it, you can only
23 consider it within the limited purpose for which it
24 was admitted.

25 I charge you that evidence of other crimes,

1 wrongs or acts is not admitted to prove the
2 character of an accused in order to show action in
3 conformity with that character.. In other words, the
4 fact that someone may have been involved in a prior
5 bad act cannot be used to prove that he had the
6 character to commit another bad act.

7 This evidence was admitted for a limited
8 purpose, and if you conclude it to be true, you can
9 only use it for the limited purpose of determining
10 whether the defendant has previously been convicted
11 of a crime which required that he register as a sex
12 offender, which is one of the elements of the crime
13 that the State must prove in this case. You may not
14 use this evidence for any other purpose.

15 I need to explain to you that there are two
16 types of evidence generally presented during a
17 trial, direct evidence and circumstantial evidence.
18 Direct evidence proves the existence of a fact and
19 does not require deduction. Circumstantial evidence
20 is proof of a chain of facts and circumstances
21 indicating the existence of a fact. Crimes may be
22 proven by circumstantial evidence.

23 The law makes no distinction between the weight
24 or value to be given to either direct or
25 circumstantial evidence; however, to the extent that

1 the State relies on circumstantial evidence, all of
2 the circumstantial evidence has to be consistent
3 with each other, all the circumstances have to be
4 consistent with each other, and when taken together,
5 they have to point conclusively to the guilt of the
6 accused beyond a reasonable doubt. If circumstances
7 merely portray a defendant's behavior as suspicious,
8 then the proof has failed.

9 The State has the burden of proving the
10 defendant guilty beyond a reasonable doubt and that
11 burden rests with the State throughout the trial
12 regardless of whether the State relies on direct
13 evidence, circumstantial evidence or some
14 combination of the two.

15 I need to explain to you that the defendant in
16 this case, Mr. Frasier, is presumed to be innocent.
17 This is no mere legal theory. It's been described
18 as being like a robe of righteousness that's placed
19 around an accused and remains with him through every
20 stage of the trial. It is a fundamental and
21 substantial right to which everyone is entitled.
22 That robe of righteousness cloaks him so that he is
23 presumed to be innocent unless and until you, the
24 jury, determine that the State has proven him guilty
25 beyond a reasonable doubt.

1 The presumption of innocence continues after
2 you go into your jury room. And he remains innocent
3 unless and until you determine that the State has
4 proven him guilty beyond a reasonable doubt.

5 I remind you that the fact that Mr. Frasier
6 elected not to testify is not a factor to be
7 considered by you in any way in your deliberations
8 and in your consideration on the question of whether
9 he is guilty or not guilty. That decision must not
10 be considered by you in any manner whatsoever
11 against Mr. Frasier. An accused has a
12 constitutional right to remain silent and the
13 assertion of that right cannot and must not be
14 considered in any way against him.

15 Under the oath you have entered, you are to
16 reach no inference, you are to draw no conclusion
17 whatsoever from the fact that the defendant elected
18 not to testify. His decision not to testify should
19 not be discussed by you in the jury room, it should
20 not enter into your minds in making your decision.

21 The burden of proof is on the State, and it's
22 entirely upon the State to prove beyond a reasonable
23 doubt every essential element of the offenses
24 charged.

25 A defendant is not required to prove his

1 innocence. He's not required to prove anything.
2 The burden is on the State to prove the guilt of the
3 defendant beyond a reasonable doubt. And it's
4 required that every essential element of the offense
5 charged be proven by the State beyond a reasonable
6 doubt. That does not mean that the State has to
7 prove the case beyond all doubt or beyond every
8 doubt, the appropriate standard is proof beyond a
9 reasonable doubt.

10 Some of you may have served as jurors in civil
11 court, and if you have, you know that the burden of
12 proof there is a lesser standard; it's called the
13 greater weight or preponderance of the evidence. In
14 civil court, you just have to prove that something
15 is more likely than not, but not in criminal court.
16 In criminal court, which we're in now, the standard
17 is much higher and the proof must be much stronger
18 than what is required in civil court. I've told you
19 repeatedly the burden of proof is proof beyond a
20 reasonable doubt.

21 So what do I mean by that term? Proof beyond a
22 reasonable doubt is proof that leaves you firmly
23 convinced of the defendant's guilt.

24 There are few things in the world that we know
25 with absolute certainty and in criminal cases, the

1 law does not require proof that overcomes every
2 possible doubt. If, based on your consideration of
3 the evidence, you are firmly convinced that the
4 defendant is guilty of the crime charged, you are to
5 find him guilty of the crime. If, on the other
6 hand, you think there's a real possibility that he
7 is not guilty, you are to give him the benefit of
8 the doubt and find him not guilty.

9 There's no obligation on the part of the
10 defendant to raise any doubt or any other
11 possibility, he is presumed innocent. The State has
12 the entire burden of proof and has to prove to you
13 that the defendant is guilty of the charge made
14 against him to the exclusion of any other real
15 possibility.

16 All right. Let's turn now to the specific
17 charge in this case. The indictment was read to you
18 at the beginning of the trial. I caution you again
19 that an indictment has no evidentiary value.

20 The indictment alleges that on or about May 1,
21 2015, in Charleston County, South Carolina, Daniel
22 Maurice Frasier, having been previously convicted of
23 an offense for which he is required to register as a
24 sex offender pursuant to code section 23-3-430,
25 failed to register as a sex offender with the

1 Charleston County Sheriff's Office.

2 Now, the law in South Carolina is this: A
3 person who has been convicted of certain offenses is
4 required to register as a sex offender.

5 In this case, the offense of committing or
6 attempting a lewd act upon a minor under the age of
7 14 years is an offense that triggers the requirement
8 to register as a sex offender. The offenses are
9 divided into tiers. And I charge you that the
10 offense of committing a lewd act in this case falls
11 into tier III under that setup, and it requires
12 registration and reregistration every 90 days. The
13 law requires that the defendant be informed and
14 provided notice as to when he must register.

15 The statute provides that any person,
16 regardless of age, residing in the State of South
17 Carolina who has been convicted of an offense for
18 which the person is required to register shall be
19 required to register under the sex offender
20 registry. A person who remains in this state for a
21 total of 30 days during a 12-month period is
22 considered to be a resident of this state. It is
23 the duty of the offender to contact the sheriff in
24 order to register and to provide certain updated
25 information. The person required to register shall

1 register and must reregister at the sheriff's
2 department in each county where he resides, owns
3 real property, is employed or attends any public or
4 private school.

5 So to prove the defendant guilty of this
6 offense, the State has to prove to you beyond a
7 reasonable doubt that the defendant was convicted of
8 an offense that required him to register as a sex
9 offender; that the defendant was a resident of
10 Charleston County, South Carolina, or owned property
11 in this county at the time alleged in the
12 indictment; that the defendant was required to
13 register with the Charleston County Sheriff's Office
14 during the timeframe alleged in the indictment; that
15 the defendant was provided notice of when he must
16 register or reregister; and that the defendant
17 knowingly failed to register or reregister as a sex
18 offender during the required time period.

19 Now, ladies and gentlemen, a defendant is
20 entitled to every reasonable doubt arising in an
21 entire case. If upon any issue of fact essential to
22 a conviction, you have a reasonable doubt as to how
23 that issue should be resolved, you must resolve that
24 doubt in the defendant's favor. If upon reviewing
25 the entire case, you have a reasonable doubt as to

1 whether he has been proven guilty, the defendant is
2 entitled to that doubt and a verdict of not guilty.

3 On the other hand, if you find that the State
4 has proven every essential element of its case
5 against the defendant beyond a reasonable doubt,
6 it's equally your duty to find the defendant guilty.

7 Mr. Foreman, ladies and gentlemen of the jury,
8 when you go back to the jury room, you'll have the
9 exhibits that have been admitted in the trial and
10 you'll have this verdict form. On this form, you're
11 going to tell us your decision in the case. I think
12 it's self-explanatory. You have two options in this
13 case. It reads: We, the jury, unanimously find the
14 defendant, your first option listed here is not
15 guilty; the second option is guilty of failure to
16 register as a sex offender.

17 I'm supposed to tell you that you're not to
18 infer by the order in which I stated those that I'm
19 trying to suggest one over the other; I've got to
20 list one first and one second. So you may find him
21 not guilty or you may find him guilty of failure to
22 register as a sex offender.

23 Folks, how you go about your deliberations and
24 taking your votes is all in your discretion subject
25 to this requirement: The verdict has to be

1 unanimous. All 12 of you must agree for the Foreman
2 to write your verdict.

3 When you've reached your verdict, knock on the
4 door, the bailiff will respond to your knock.

5 Now, ladies and gentlemen, I have to cover with
6 the attorneys what I just told you. We don't want
7 you back there deciding the case using the wrong
8 law. If I misstated something, I'll bring you back
9 out and correct it; however, this is the signal you
10 need to be looking for:

11 If I'm satisfied with what I told you, I will
12 have the bailiff bring the exhibits and the verdict
13 form into your room, the bailiff will bring the
14 alternate out. When the door's closed and it's just
15 the 12 of you in there with the exhibits and the
16 verdict form and the alternate's out, you don't have
17 to wait one more second, you may talk about the case
18 then, but don't talk about it until that point.

19 Thank you so much for your attention. You may
20 retire to your jury room.

21 (The jury retires to the jury room.)

22 **THE COURT:** Please state for the record
23 exceptions, additions, objections to the charge,
24 from the State?

25 **MS. FRIERSON:** None from the State, Your Honor.

1 **THE COURT:** Defense?

2 **MR. SMITH:** None, Your Honor.

3 **THE COURT:** Thank you.

4 It's been a pleasure trying the case with you
5 folks. Check the verdict form please, check the
6 exhibits. When you're satisfied, give them to the
7 bailiff.

8 Mr. Frasier, you're going to have to go into
9 custody right now until the verdict is reached, all
10 right?

11 **DEFENDANT:** Okay.

12 **THE COURT:** Thank you, sir.

13 Bring in the alternate.

14 (The alternate enters the courtroom.)

15 **THE COURT:** Is your name pronounced Laribo?

16 **JUROR:** Laribo.

17 **THE COURT:** Ms. Laribo, we made it through the
18 case without having to use an alternate for the
19 jury. I do wind up using an alternate in about half
20 the cases I try. So I hope you don't feel like you
21 were over there for nothing. But you're through
22 with your jury duty.

23 I had to have an alternate because once the
24 jury gets sworn, jeopardy attaches under the double
25 jeopardy clause and we have to continue with the

1 trial. So you're through with jury duty. The clerk
2 may wish to tell you something before you go about
3 your paycheck and work excuses and things, but I
4 appreciate your service very much. You're free to
5 go.

6 **JUROR:** All right. Thank you.

7 **THE COURT:** Thank you.

8 (The alternate was excused.)

9 **THE COURT:** We're at ease pending a verdict.

10 (The jury commences its deliberations at
11 4:20 P.M.)

12 (A recess transpired.)

13 **THE COURT:** I've been informed the jury has a
14 verdict. I have no way of knowing what it is.

15 Please stay still and stay quiet, don't show signs
16 of approval or disapproval with the verdict.

17 Bring in the jury, please.

18 (The jury returns to open court to report
19 its verdict at 4:50 P.M.)

20 **THE COURT:** Mr. Clerk.

21 **THE CLERK:** It's our understanding that you all
22 have reached a verdict?

23 **FOREMAN:** Yes, sir.

24 **THE CLERK:** If you would, please hand that to
25 the bailiff.

1 (The bailiff hands the verdict to the
2 Judge.)

3 **THE COURT:** All right. It's in proper form.
4 Publish the verdict.

5 **THE CLERK:** Thank you, Your Honor.

6 VERDICT OF THE JURY

7 **THE CLERK:** State of South Carolina, County of
8 Charleston, in the Court of General Sessions, State
9 of South Carolina versus Daniel Maurice Frasier,
10 case number 2015-GS-10-05740.. As to the charge of
11 failure to register as a sex offender, we, the jury,
12 unanimously find the defendant guilty of failure to
13 register as a sex offender, signed Mr. Foreperson,
14 March 17th of 2016.

15 (Brief interruption in proceedings.)

16 **THE COURT:** Go ahead, Mr. Clerk.

17 **THE CLERK:** Mr. Foreperson and ladies and
18 gentlemen of the jury, if this is your verdict,
19 please indicate so by raising your right hand.

20 Please let the record reflect that all jurors
21 have raised their right hand. Thank you.

22 **THE COURT:** Thank you.

23 All right. Ladies and gentlemen, thank you
24 very much for your service. That's going to
25 conclude your jury service. If you'll wait back in

1 the jury room, the clerk will come back there and
2 talk to you and explain to you about mailing your
3 checks to you and anything about getting a slip for
4 work.

5 I have to confer with the attorneys about some
6 issues, but you're through with jury duty once the
7 clerk releases you. Thank you so much.

8 (The jury was excused.)

9 **THE COURT:** Any motions?

10 **MS. FRIERSON:** Nothing from the State, Your
11 Honor.

12 **THE COURT:** Any motions?

13 **MR. SMITH:** Your Honor, at this time, we'd make
14 a motion for a new trial based on all previous
15 objections and motions already ruled on.

16 **THE COURT:** The motion's respectfully denied.
17 Do y'all have a sentence sheet?

18 **MS. FRIERSON:** Yes, Your Honor. May I
19 approach?

20 **THE COURT:** Sure.

21 (Pause.)

22 **THE COURT:** All right. Do y'all have anything
23 related to sentencing?

24 **MS. FRIERSON:** Your Honor, the sentence for
25 this is 366 days is my understanding. The statute

1 does not allow for any suspension or probation.

2 Would you like his prior record?

3 **THE COURT:** That's fine, yes, ma'am.

4 **MS. FRIERSON:** In 1985, he had the lewd act on
5 a child. In 1991, he had a possession of cocaine.
6 In 1994, he had a possession of cocaine. 2001, he
7 had a disorderly conduct and a resisting arrest.
8 And in 2005, he had a failure to register first
9 offense.

10 **THE COURT:** Okay. Mr. Smith, do you want to
11 tell me anything about sentencing?

12 **MR. SMITH:** Just to be brief, Your Honor, we
13 understand what the sentence would be. I can tell
14 you that Mr. Frasier wanted me to relay to the Court
15 that during the past few years, he has obtained his
16 associate's degree. He continues to go to school.

17 He was working two jobs, one at Walmart and one
18 for a cleaning service. There were a number of
19 people that were here on his side earlier, Your
20 Honor, they had to leave, that was the owner of the
21 cleaning company, as well as a couple employees that
22 work there with him. They felt highly enough of him
23 to come down to all his court dates.

24 His girlfriend's here. His sister is here.
25 His mother was here. She suffers from dementia and

1 I think that's part of the issue she had earlier.

2 And Mr. Frasier's sister was here.

3 So I don't -- there's nothing else -- we
4 understand what the sentence will be at the
5 conclusion of this, Your Honor.

6 **THE COURT:** Do you want to say anything,
7 Mr. Frasier?

8 **DEFENDANT:** No, sir.

9 **THE COURT:** You have a right to appeal this.
10 If you wish to file an appeal, it has to be done in
11 writing. There's a very narrow timeframe in which
12 to file an appeal. So if you have any desire
13 whatsoever to file an appeal, you have to let your
14 lawyer know right away so he can file the written
15 notice.

16 **DEFENDANT:** It's being done.

17 **THE COURT:** Sir?

18 **DEFENDANT:** It's being taken care of already.

19 **MR. SMITH:** I've spoken to him about that
20 already, Your Honor.

21 **THE COURT:** Okay. I just want to make sure you
22 understand.

23 **DEFENDANT:** Yes, I do.

24 SENTENCE OF THE COURT

25 **THE COURT:** Okay. If there's nothing further,

1 the sentence of the Court is that you be committed
2 to the South Carolina Department of Corrections for
3 366 days, plus pay the costs and assessments as
4 applicable. You are to pay your costs and
5 assessments within six months of being released from
6 maximum incarceration in prison. And you're given
7 credit for any jail time you may have served under
8 section 24-13-40 to be calculated and applied by the
9 department of corrections.

10 You understand your sentence, sir?

11 **DEFENDANT:** Yes.

12 **THE COURT:** Good luck to you.

13 **MR. SMITH:** Thank you, Your Honor.

14

15 END OF PROCEEDINGS

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C E R T I F I C A T E

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

I, the undersigned, Stacy L. Sheppard, Circuit Court Reporter for the Ninth 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 Charleston County, South Carolina, on the 17th of March, 2016.

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

April 13, 2016

s/Stacy L. Sheppard

Stacy L. Sheppard, RPR
Circuit Court Reporter

SEX OFFENDER REGISTRY INFORMATION FORM

To be completed by convicted sex offender (Section A, B, C, D)
SECTION A: Personal Information

FRASER Last Name DANIEL First Name MAURICE Middle
Address at which offender may be located (residence):
[REDACTED] Street CHARLSTON SC 29405 City Zip Code
[REDACTED] Residence Telephone Number B Race M Sex 510 Height 165 Weight BCK Hair Color BRN Eye Color
[REDACTED] Date of Birth 511111 Social Security Number [REDACTED] SC Drivers License Number SC ID 10-18-95 Exp. Date
Identifiable Scars, Marks, Tattoos (Describe in Detail)

CHARGE: Lewd Act on a minor BLOOD TYPE: unk COMPLEXION: DARK / ROUGH

SECTION B: Next of Kin

WILLIE MAE FRASER Name mother RELATIONSHIP [REDACTED] CHARLSTON SC 29403 Complete Address

Telephone Number

SECTION C: Offenders Employer

Omni Hotel Complete Name of Business 139 Market St. CHARLSTON SC 29401 Complete Address
722-4900 Telephone Number

SECTION D: Offender Vehicle Information (Vehicle registered to offender or vehicle most often driven by offender)

N/A Make Model Year Style Color
A Vehicle Identification Number License Plate Number License State

SECTION E: TO BE COMPLETED BY SHERIFF'S DEPARTMENT

SC0047792 STATE ID NUMBER 585744DA9 FBI NUMBER OTHER ID NUMBER

FINGERPRINTS OBTAINED (EXP) KA

PHOTOGRAPH OBTAINED (EXP) KA

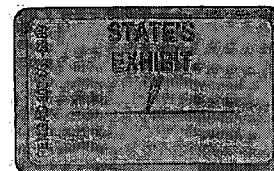
I AM PROVIDING THIS INFORMATION IN ACCORDANCE WITH SECTION 23-3-450 OF THE SOUTH CAROLINA STATE CODE OF LAWS, WHICH REQUIRES ALL INDIVIDUALS CONVICTED OF CRIMINAL OFFENSES SET FORTH IN SECTION 23-3-400. I UNDERSTAND THIS INFORMATION WILL ONLY BE DISSEMINATED TO LAW ENFORCEMENT, INVESTIGATIVE AGENCIES AND THOSE AUTHORIZED BY THE COURT IN ACCORDANCE WITH SECTION 23-3-490. I FURTHER UNDERSTAND THAT I AM REQUIRED TO RE REGISTER ANNUALLY FOR A PERIOD OF LIFE. (SEE BACK OF FORM FOR MORE SPECIFIC INSTRUCTIONS REGARDING REGISTRATION.)

Daniel Fraser SIGNATURE OF OFFENDER

Det. Key L. Wagon SIGNATURE OF PERSON RECEIVING INFORMATION

7-28-95 DATE

7-28-95 DATE



CCSO
Registration Services
3691 Leeds Avenue
N. Charleston, SC 29405

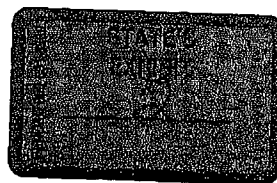
Return Service Requested

REGISTER EARLY
AVOID LONG
WAIT TIMES

If you have registration
questions you can call our
team members at the
following numbers:

J.. Bowen - (843) 308-7322
R. Stober - (843) 308-7321

CID/SOR 3799-8
JAMES SMITH
123 MAIN ST
MT PLEASANT, SC 29464



A friendly reminder — your registration is expiring, you must reregister in February, 2016.
Our staff will be available on the following days and times:

Day	Date	Morning	Afternoon
Tuesday	02-09-2016	9 AM to 11:30 AM	1:30 PM to 4:00 PM
Wednesday	02-10-2016	9 AM to 11:30 AM	1:30 PM to 4:00 PM
Thursday	02-11-2016	9 AM to 11:30 AM	
Tuesday	02-16-2016	9 AM to 11:30 AM	1:30 PM to 4:00 PM
Wednesday	02-17-2016	9 AM to 11:30 AM	1:30 PM to 4:00 PM
Thursday	02-18-2016	9 AM to 11:30 AM	
Tuesday	02-23-2016	9 AM to 11:30 AM	1:30 PM to 4:00 PM
Wednesday	02-24-2016	9 AM to 11:30 AM	1:30 PM to 4:00 PM
Thursday	02-25-2016	9 AM to 11:30 AM	

Speed Your Registration – Use this schedule

Do NOT call -- No appointment is necessary.

Please plan to register on one of the days above – do NOT call for an appointment.

Bring Federal or state ID and the registration(s) for every vehicle you operate.

Bring the registration and description for all boats.

South Carolina Law Enforcement Division
Subsequent Registration Affidavit Form

BI-ANNUAL

ADULT TIER III

JUVENILE TIER III

PREDATOR

Date: 1/7/2015

DANIEL

FRASIER

0000002171

First Name

Last Name

Sex-Offender Registration Number

Address

N CHARLESTON

SC

29405

City

State

Zip Code

Pursuant to S.C. Code Ann. §23-3-430, "Any person, regardless of age, residing in the State of South Carolina, who has been convicted of, adjudicated delinquent for, pled guilty or nolo contendere to an offense described below, or who has been convicted, adjudicated delinquent, pled guilty or nolo contendere in any comparable court in the United States, or who has been convicted, adjudicated delinquent, pled guilty or nolo contendere in the United States federal courts of a similar offense, or who has been convicted of, adjudicated delinquent for, pled guilty or nolo contendere to an offense for which the person was required to register in the state where the conviction or plea occurred, shall be required to register pursuant to the provisions of this article. In addition, upon conviction, adjudication of delinquency, guilty plea, or plea of nolo contendere of a person of an offense not listed in this article, the presiding judge may order as a condition of sentencing that the person be included in the sex offender registry if good cause is shown by the solicitor."

All offenders must register bi-annually or quarterly for life depending upon his/her classification. (S.C. Code Ann. §23-3-460)

Birth Month	2nd Quarter	3rd Quarter	4th Quarter
January	April	July	October
February	May	August	November
March	June	September	December
April	July	October	January
May	August	November	February
June	September	December	March
July	October	January	April
August	November	February	May
September	December	March	June
October	January	April	July
November	February	May	August
December	March	June	September

The sheriff's office will be collecting the required \$150.00 registration fee. The \$150.00 fee must be paid within the current year or at the designated time of your registration during the current year; otherwise you will be deemed unregistered and a warrant may be issued for your arrest.

MY NEXT REGISTRATION WILL BE IN THE MONTH OF

April 2015

I understand I must provide written notification in person within three (3) business days of any change in my information to the sheriff's office of my county of primary registration. Under penalty of perjury, I certify that to my knowledge all the information I have provided this agency is true, current, and accurate.

Offender Signature:

Daniel Frasier

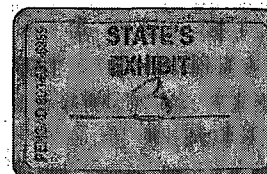
Date: 1/7/2015

S.O.R. Personnel Signature:

[Signature]

Date: 1/7/2015

(CJ-091)-(6/2013)



1/13/2016
Page 1 of 2



SEX OFFENDER REGISTRY CASE NOTES

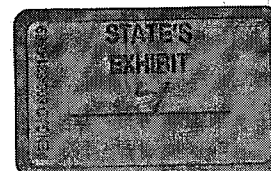
OFFENDER NAME	SRS NUMBER
FRASIER, DANIEL MAURICE	2171

☐ Warrant ☐ Incarcerated ☐ Inactive ☐ Dead

F/P Due
7/1/2016

NOTES

DATE	EVENT	ENTERED BY
[REDACTED]		
05-18-2015	FAIL TO SHOW WARRANT	COLSON
04-08-2015	ADDRESS VERIFIED	COLSON
01-07-2015	QUARTERLY REG	BOZARD
12-16-2014	ADDRESS VERIFIED	COLSON
10-21-2014	QUARTERLY REGISTRATION	STOBER
[REDACTED]		



STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

THE STATE

VS

DANIEL FRASIER
defendant

COURT OF GENERAL SESSIONS

INDICTMENT NO. 85-GS-10-0825

WARRANT NO. B099844

RACE B DOB 7-1-64

CHARGE: CTS. 1, 2 COMMITTING OR ATT
LEWD ACT UPON CHILD UNDER 14

VERDICT: PLEAD GUILTY TO CT. 1

IT IS THE SENTENCE OF THE COURT THAT PURSUANT TO SECTION 5 (C) OF THE YOUTHFUL OFFENDER ACT,
THE DEFENDANT DANIEL FRASIER, IS COMMITTED TO THE CUSTODY OF THE
DEPARTMENT OF CORRECTIONS, YOUTHFUL OFFENDER DIVISION, FOR AN INDETERMINATE PERIOD OF TIME.

NOT TO EXCEED SIX (6) YEARS. ATTEND SEXUAL OFFENDER PROGRAM.

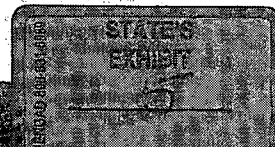
DATE: OCT. 17, 1985

ATTEST: A TRUE COPY
HOWARD A. TAYLOR (SEAL)
CLERK, C.P. & G.S.

BY _____
DEPUTY CLERK

S/ PAUL M. MOORE
PRESIDING JUDGE

ATTEST: A TRUE COPY
JULIE L. ARMSTRONG (SEAL)
CLERK, C.P. & G.S.
By _____
DEPUTY CLERK



LBM/0306930
WITNESSES

Charleston County Sheriff Office

AGENCY CASE NUMBER

2015-007593

ARREST WARRANT NUMBER

2015A1011400018

DATE OF ARREST

07/16/2015

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

07 19 2015
Date:

VERDICT

Guilty
Foreperson of Petit Jury

3/17/2016
Date:

DOCKET NO. 2015-GS-10-05740

The State of South Carolina

County of Charleston

COURT OF GENERAL SESSIONS

OCTOBER TERM 2015

THE STATE

VS.

DANIEL MAURICE FRASIER

Indictment for

FAILURE TO REGISTER AS A SEX
OFFENDER

SC Code: § 23-03-0470(A)
CDR Code: 2607

BY

JULIE A. ARMSTRONG
CLERK OF COURT

2016 MAR 21 PM 1:43

FILED

STATE OF SOUTH CAROLINA

INDICTMENT

COUNTY OF CHARLESTON

At a Court of General Sessions, convened on October 8, 2015, the Grand Jurors of Charleston County present upon their oath:

FAILURE TO REGISTER AS A SEX OFFENDER

The defendant, Daniel Maurice Frasier, having been convicted of an offense for which he is required to register as a sex offender pursuant to SC Code Section 23-^{3*}430, did on or about May 1, 2015, in Charleston County, South Carolina, fail to register as a sex offender with the Charleston County Sheriff's Office and/or fail to notify the Charleston County Sheriff's Office of a change of address, change of employment, or of attendance, enrollment, employment, volunteer status, intern status, or vocation status at any public or private school, such being a second offense. This is in violation of Section 23-3-470 of the South Carolina Code of Laws (1976) as amended.

BY

JULIE L. ANSTRONG
CLERK OF COURT

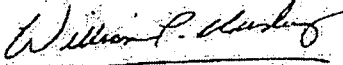
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FILED

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

* AMENDED WITHOUT OBJECTION
PRIOR TO TRIAL TO CORRECT
A SCRIVENER'S ERROR REGARDING
THE CODE SECTION.


LAUREN B. MULKEY
ASSISTANT SOLICITOR

 MARCH 17, 2016
WILLIAM P. KEESLEY
JUDGE

COUNTY OF CHARLESTON

STATE VS.

DANIEL MAURICE FRASIER

AKA: Daniel Maurice Frazier

Race: [REDACTED] Sex: [REDACTED]

DOB: [REDACTED] SS#: [REDACTED]

Address: [REDACTED]

City, State, Zip: [REDACTED]

DL#: [REDACTED] SID#: [REDACTED]

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

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

TO: **Failure To Register As A Sex Offender**

In violation of § 23-03-0470(A) of the S.C. Code of Laws, bearing CDR Code # 2607

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45The charge is: ☐ As indicted, ☐ Lesser Included Offense,The plea is: ☒ Without Negotiations or Recommendation,

ATTEST:

☒ CONVICTED OF or ☐ PLEADS

INDICTMENT/CASE#: 2015-GS-10-05740

A/W: 2015A1011400018

Date of Offense: 05/01/2015

S.C. Code §: 23-03-0475(A)

CDR Code #: 2609

SENTENCE SHEET

Lauren M. Frierson, Assistant Solicitor SC Bar # 77023 Defendant Attorney for Defendant 70744 SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections ☐ County Detention Center, for a determinate term of 366 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 Service 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.

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 _____ days/hours Public Service Employment

Total: \$_____ plus 20% fee: \$_____ Obtain GED: ☐

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	\$
§56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§14-1-212 (Law Enforce. Funding)	\$25	\$ 25.00
§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	\$ 5.00
3% to County (if paid in installments)	\$	\$ 3.40
TOTAL		\$ 133.40

Clerk of Court/Deputy Clerk: _____

Court Reporter: _____

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

pmis. of \$_____ Beginning _____

\$_____ Paid to Public Defender Fund

Other: PAY COURT COSTS WITHIN 6 MONTHS
OF BEING RELEASED FROM COURT
CONF. NAME IN PRISON

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

Presiding Judge: _____

Judge Code: 2050

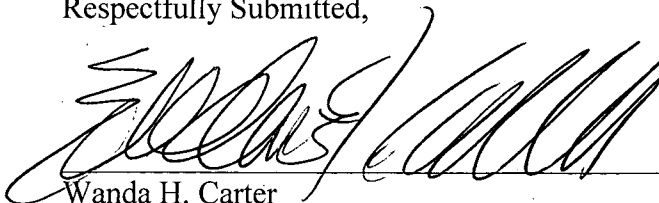
Sentence Date: MARCH 17, 2016

FILED
 2016 MAR 21 PM 1:43
 CLERK OF COURT

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,



Wanda H. Carter
Deputy Chief Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S.C. 29211-1589

ATTORNEY FOR APPELLANT

This 28th day of November, 2016.

RECEIVED

NOV 28 2016

SC Court of Appeals