

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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S.C. SUPREME COURT

Appeal from Aiken County

Honorable Robert E. Hood, Circuit Court Judge

ISAAC LARRY STARKE,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2016-002284

APPENDIX

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State of South Carolina)
) Court of General Sessions
County of Aiken) 2013-GS-02-00375,00406

State of South Carolina)
Plaintiff)
vs.) Transcript of Record
Isaac Starke)
Defendant)

May 13 & 15, 2013
Aiken, South Carolina

B E F O R E:

The Honorable Doyet A. Early, III, Judge.

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

**Ashley Agnew Hammack, Assistant Solicitor
Attorney for the Plaintiff**

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Official Court Reporter

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NO.	DESCRIPTION	ID	EVD
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(None offered)

1 (Whereupon, on May 13, 2013, the following
2 proceedings were held.)

3 ISAAC STARKE, after being duly sworn, testified
4 as follows:

5 THE COURT: All right. This is Indictment
6 13-GS-02-406, the State versus Isaac Starke. He is
7 indicted for criminal sexual conduct with a minor and,
8 also, Indictment 13-GS-02-375, an Indictment for criminal
9 sexual conduct with a minor in the third degree. Is that
10 correct, ma'am?

11 MRS. AGNEW HAMMACK: That's correct, Your Honor.

12 THE COURT: Tell me what Mr. Starke's record is,
13 please.

14 MRS. AGNEW HAMMACK: Your Honor, he's got a simple
15 assault and battery from 2008.

16 THE COURT: No recommendations?

17 MRS. AGNEW HAMMACK: No, Your Honor.

18 THE COURT: Do we have a victim here?

19 MRS. AGNEW HAMMACK: Your Honor, I believe the family
20 is here. I think they're actually here on his behalf, but
21 we do have the guardian ad litem for the victim.

22 THE COURT: Who is that?

23 MRS. AGNEW HAMMACK: She's also got a letter to send
24 up to Your Honor at the appropriate time. The only
25 negotiations in this case is the dismissal of three other

1 counts of criminal sexual conduct with a minor, third
2 degree, and that---

3 THE COURT: All right. There's three cases being
4 nolle prossed?

5 MRS. AGNEW HAMMACK: That's correct, Your Honor.

6 THE COURT: What were those?

7 MRS. AGNEW HAMMACK: Three counts of criminal sexual
8 conduct with a minor, third degree.

9 THE COURT: What were the allegations in those?

10 MRS. AGNEW HAMMACK: Your Honor, it is various
11 allegations -- him fondling her and kissing her and having
12 her sit on his lap in a dress with no underwear.

13 THE COURT: And that's sort of similar allegations in
14 Indictment 375?

15 MRS. AGNEW HAMMACK: That's correct, Your Honor.

16 THE COURT: And then in Indictment 406, that's an
17 Indictment for actual sexual battery?

18 MRS. AGNEW HAMMACK: That's correct.

19 THE COURT: Same child but when she was between the
20 ages of 11 and 14?

21 MRS. AGNEW HAMMACK: Yes, Your Honor. She was 11.

22 THE COURT: Any relationship between the Defendant
23 and the victim?

24 MRS. AGNEW HAMMACK: She's his biological daughter.

25 THE COURT: All right. Sir, you represent him?

1 MR. ANDERSON: Yes, Judge.

2 THE COURT: And have you explained to him, sir, the
3 charges contained in each of these Indictments?

4 MR. ANDERSON: I have, Your Honor.

5 THE COURT: And have you explained to him that in
6 Indictment 406 that that carries up to 20 years in the
7 State Department of Corrections?

8 MR. ANDERSON: I have, Your Honor.

9 THE COURT: And in Indictment 375 have you explained
10 to him that that carries up to 15 years in the Department
11 of Corrections?

12 MR. ANDERSON: Yes.

13 THE COURT: Have you explained to him that under --
14 is it not under both of these that's mandatory G.P.S.?

15 MRS. AGNEW HAMMACK: No, Your Honor. It's actually
16 discretionary for the second degree, oddly enough.

17 THE COURT: Have you explained to him that when he's
18 released from incarceration that he'll be required for
19 mandatory G.P.S. under Indictment 375?

20 MR. ANDERSON: I have, Your Honor, and, of course, he
21 will. He will be.

22 THE COURT: Have you explained to him that it will
23 require registration on the sex offender registry?

24 MR. ANDERSON: Yes.

25 THE COURT: As to Indictment 406, have you explained

1 to him that that is classified as violent and that may
2 have some effect on where and how he is housed in the
3 Department of Corrections?

4 THE ATTORNEY: I have, Your Honor.

5 THE COURT: Have you explained to him that that
6 particular offense is a no-parole, 85-percent sentence
7 which means he'll serve 85 percent of whatever sentence I
8 impose upon him?

9 MR. ANDERSON: Yes.

10 THE COURT: And when he's released from incarceration
11 he'll be released to a community supervision program?

12 MR. ANDERSON: Yes, Judge.

13 THE COURT: Have you further advised him that it is a
14 strike under our enhancement laws which means he now has a
15 strike for a most serious offense and that if he is
16 convicted or pleads guilty to another offense classified
17 as most serious that that would be two strikes and he
18 would be subjecting himself to the possibility of life in
19 prison without parole?

20 MR. ANDERSON: Yes, Judge, and I feel he understands
21 that.

22 THE COURT: And, likewise, if he was convicted of
23 offenses classified as serious two more times coupled with
24 this most serious offense, that, too, would also subject
25 him to the possibility of life in prison without parole?

1 MR. ANDERSON: I have, Judge.

2 THE COURT: In your opinion does he understand the
3 offenses?

4 MR. ANDERSON: Yes, sir.

5 THE COURT: And the potential sentences --

6 MR. ANDERSON: Yes, sir.

7 THE COURT: -- and the collateral of most serious and
8 strikes and the registration of the sex offender registry
9 and the G.P.S. requirement?

10 MR. ANDERSON: I feel he does, Judge.

11 THE COURT: Now, having explained all that to you,
12 sir, have you further advised him of his right to trial by
13 jury?

14 MR. ANDERSON: I have.

15 THE COURT: And how does he indicate to you he wishes
16 to plead: Guilty or not guilty?

17 MR. ANDERSON: Guilty.

18 THE COURT: Are you retained or appointed?

19 MR. ANDERSON: Retained.

20 THE COURT: I assume that you've shared with him all
21 the materials that you received from the Solicitor's
22 Office under discovery rules?

23 MR. ANDERSON: I have, Judge.

24 THE COURT: And you've discussed the case with him?

25 MR. ANDERSON: In detail, yes, sir.

1 THE COURT: And based on your discussions with him
2 and your review of the evidence and your research on the
3 law, are you in agreement with his decision to enter a
4 plea of guilty?

5 MR. ANDERSON: I am in agreement.

6 THE COURT: Mr. Starke, you stand before me on two
7 Indictments. Indictment 375 is criminal sexual conduct
8 with a minor in the third degree. That carries up to 15
9 years in the Department of Corrections. Do you understand
10 those charges and the potential sentence?

11 THE DEFENDANT: Yes, Your Honor.

12 THE COURT: Do you understand that once you're
13 released from incarceration you'll have mandatory G.P.S.
14 monitoring?

15 THE DEFENDANT: Yes, Your Honor.

16 THE COURT: You also understand that you'll be
17 required to register as a sex offender?

18 THE DEFENDANT: Yes, Your Honor.

19 THE COURT: As to Indictment 406, that is an
20 Indictment for criminal sexual conduct with a minor in the
21 second degree. That carries up to 20 years in the
22 Department of Corrections. Do you understand that?

23 THE DEFENDANT: Yes, Your Honor.

24 THE COURT: More importantly, that is what we call or
25 our legislature defines is a no-parole sentence which

1 means that whatever sentence is imposed that you'll do
2 85 percent of that sentence. Do you understand that?

3 THE DEFENDANT: Yes, Your Honor.

4 THE COURT: Once you're released from incarceration
5 you will be released to a community supervision program.
6 Do you understand that?

7 THE DEFENDANT: Yes, Your Honor.

8 THE COURT: Do you understand that it's classified as
9 violent and that may have some effect on where and how you
10 are housed in the Department of Corrections?

11 THE DEFENDANT: Yes, Your Honor.

12 THE COURT: Do you understand that it's classified as
13 a most serious offense which means now that you have one
14 strike under our two- or three-strike enhancement laws
15 which means that once you're released from incarceration
16 if you are convicted or plead guilty to a crime that's
17 classified as most serious that would be two strikes or
18 plead guilty or convicted of crimes classified as serious
19 two more times that would be three strikes in that
20 situation? Under either of those contingencies you would
21 be subjecting yourself to the possibility of life in
22 prison without parole. Do you understand that?

23 THE DEFENDANT: Yes, Your Honor.

24 THE COURT: Understanding what you're charged with,
25 the potential sentences, the fact that you'll be required

1 to register as a sex offender, the fact that you'll be
2 required to have G.P.S. monitoring, the fact that they
3 classified one as violent and most serious and it is a
4 no-parole sentence -- understanding all of that, how do
5 you wish to plead, not guilty or guilty?

6 THE DEFENDANT: Guilty, Your Honor.

7 THE COURT: Do you have any questions you want to ask
8 me about the classifications, what you're charged with,
9 and the potential sentences?

10 THE DEFENDANT: No, Your Honor.

11 THE COURT: If you plead guilty you'll give up your
12 right to remain silent. You'll have to admit to me your
13 involvement in these situations. Do you understand that?

14 THE DEFENDANT: Yes, Your Honor.

15 THE COURT: Do you realize by pleading guilty you'll
16 give up your right to trial by jury? Obviously, if you
17 asked or requested a trial by jury the state would provide
18 you one at which time you would have the right to confront
19 and cross examine everyone who testified against you. You
20 would have the right to present your own defense by
21 calling your own witnesses, introducing your own relevant
22 exhibits, and testifying in your defense. If you
23 exercised your constitutional right to remain silent, then
24 I would tell them and instruct the jury that they could
25 not hold the fact that you did not testify against you in

1 any manner whatsoever, and I would further instruct them
2 that they could not even consider the fact that you did
3 not testify when they deliberated your guilt or innocence.
4 You would be presumed innocent throughout the trial and
5 the State of South Carolina would have the burden of
6 proving you guilty beyond a reasonable doubt to a jury of
7 12 people, and in order for the jury to convict you all 12
8 jurors would have to unanimously agree that you were, in
9 fact, guilty, and even if you were found guilty you would
10 still have the right to an appeal. Now, do you understand
11 your rights to trial by jury?

12 THE DEFENDANT: Yes, Your Honor.

13 THE COURT: Understanding those rights, do you still
14 wish to plead guilty?

15 THE DEFENDANT: Yes, Your Honor.

16 THE COURT: Has anyone promised you anything, held
17 out any hope of reward, or threatened you in any manner in
18 order to make you plead guilty?

19 THE DEFENDANT: No, Your Honor.

20 THE COURT: Are you satisfied with your lawyer?

21 THE DEFENDANT: Yes, Your Honor.

22 THE COURT: In your opinion has your lawyer had
23 enough time to research the law, investigate the facts,
24 and spent enough time with you so that he can properly
25 defend you here today?

1 THE DEFENDANT: Yes, Your Honor.

2 THE COURT: Is there anything else you want him to do
3 for you today before we move forward other than speak up
4 on your behalf?

5 THE DEFENDANT: No, Your Honor.

6 THE COURT: And I ask you, again, are you totally and
7 completely satisfied with his representation?

8 THE DEFENDANT: Yes, Your Honor.

9 THE COURT: Sir, are you today under the influence of
10 alcohol, drugs, or prescription medication?

11 THE DEFENDANT: No, Your Honor.

12 THE COURT: Sir, are you today pleading guilty of
13 your own free will?

14 THE DEFENDANT: Yes, Your Honor.

15 THE COURT: As to Indictment 13-GS-02-375, did you,
16 sir, here in Aiken County between the dates of August 1 of
17 2010 and August 1 of 2012, at which time you were over the
18 age of 14, committed lewd or lascivious acts upon one

19 ■ Daughter 1 a child who was under the age of 16, with
20 the intent of arousing, appealing to, or gratifying your
21 lust, passions, or sexual desires?

22 THE DEFENDANT: Yes, Your Honor.

23 THE COURT: As to Indictment 406 did you, sir, here
24 in Aiken County between August 1 of 2010 and August 1 of
25 2012 at ■ ■ ■ commit the offense of criminal

1 sexual conduct with a minor in the second degree in that
2 you did commit sexual battery -- intercourse, ma'am?

3 MRS. AGNEW HAMMACK: Digital penetration.

4 THE COURT: Digital penetration upon Daughter 1
5 who is a minor of 14 or less, but at least 11 when it
6 happened?

7 THE DEFENDANT: Yes, Your Honor.

8 THE COURT: Are you pleading guilty to both
9 indictments because you are, in fact, guilty?

10 THE DEFENDANT: (No response.)

11 THE COURT: You're hesitating.

12 THE DEFENDANT: I'm sorry, Your Honor.

13 THE COURT: I understand. If you're not guilty,
14 you're not guilty. If you're guilty---

15 THE DEFENDANT: I didn't stick my finger in her
16 vagina, Your Honor.

17 THE COURT: All right. I am going to let the
18 Solicitor describe to me the events and you tell me if
19 that's what you're pleading guilty to.

20 Ma'am?

21 MRS. AGNEW HAMMACK: Your Honor, on October 17 of
22 2012 the Aiken County Sheriff's Office got called out---

23 THE COURT: Hold on a second.

24 (Whereupon, the attorney conferred with the client.)

25 THE COURT: Go ahead and talk to him. Please listen.

1 I am going to ask if this is what you're pleading guilty
2 to.

3 MRS. AGNEW HAMMACK: They got called out due to a
4 runaway from school. They talked with the girl who is the
5 victim in this case. She said she was scared to go home
6 which is why she ran away. When they asked her why, she
7 disclosed from the time she was 11 in 6th grade that the
8 Defendant, her father, would molest her at their home on
9 [REDACTED] [REDACTED] which is here in Aiken County. She said that
10 involved him fondling her breast underneath her clothes,
11 putting his mouth on her breast, as well as digital
12 penetration. At that time they did -- and she said that
13 he told her if she told anybody he would kill himself. So
14 at that time they did talk to the Defendant. They
15 *Mirandized* him. After *Miranda*, he did admit to that
16 behavior.

17 THE COURT: All right, sir. Is that what you're
18 pleading guilty to?

19 THE DEFENDANT: Yes, sir. Yes, Your Honor.

20 THE COURT: Pleading guilty because you are guilty?
21 Pleading guilty because you committed the acts as alleged
22 in the Indictment?

23 THE DEFENDANT: Yes, Your Honor.

24 THE COURT: Do you understand that if you doubt -- if
25 you deny doing that, all you have to do is tell me. We'll

1 set this case for trial. We'll bring in 12 individuals
2 from your community selected from a jury. They will
3 listen to the testimony -- listen to all the testimony
4 from you, from the victim, from whoever that's relevant,
5 and they will determine what the true facts are. Do you
6 wish to go through or -- do you want me to try the case?
7 I'll be glad to to if you're not guilty. If you're
8 guilty, I'll be glad to accept your plea, but I am not
9 going to accept your plea unless you tell me you are
10 guilty. Simple as that.

11 THE DEFENDANT: I'm guilty, Your Honor.

12 THE COURT: Thank you. I will accept your plea.
13 Anything else?

14 MRS. AGNEW HAMMACK: Your Honor, just the letter from
15 the guardian.

16 THE COURT: All right. Sir, you want to tell me---
17 (Whereupon, the letter is given to the Court.)

18 MR. ANDERSON: Judge, I can say that this young
19 man---

20 THE COURT: Hold on one second. I'm sorry. Go
21 ahead.

22 MR. ANDERSON: May it please the Court, Your Honor.

23 THE COURT: Yes, sir.

24 MR. ANDERSON: He is 47 years of age. He was born in
25 Virginia, of course, and raised here in Aiken County.

1 He's gotten his G.E.D. through the educational systems
2 here. Judge, I have been knowing this family for decades
3 since this young man was probably a very young minor, and
4 when his mother called me and apprised me of what had
5 happened, she sort of begged and insisted that our office
6 continue working for her and so we said yes. Two days
7 later she passed away.

8 This has just really been a substantial blow to the
9 family in so many ways. He's been incarcerated for close
10 to two hundred days over at the Aiken County Detention
11 Center. I am not going to say he's been a model prisoner.
12 He's been very frightful. Yes, he's talked about the
13 suicide. Judge, this is a sick young man. He knows that.
14 He's admitted that.

15 THE COURT: Well, has he been -- have you had him
16 evaluated?

17 MR. ANDERSON: Yes, sir. Dr. Joe Holt who is here in
18 the audience today is his psychologist, and, of course,
19 Mr. Starke has been very cooperative. He's been
20 voluntary. As a matter of fact, when I became involved in
21 this case the Department of Social Services was already
22 involved. The Sheriff's Department was involved.
23 Mr. Starke had already indicated his implication, his
24 involvement, and that he was guilty of several of the
25 offenses that are described on the various Indictments,

1 but he has -- the psychosexual assessment has been done.
2 There's been counseling that's been ongoing, not just with
3 Mr. Starke, but with his other family.

4 Judge, I think the Department of Social Services here
5 in Aiken County has done an immaculate job with this
6 matter. All of the kids -- there's five children that he
7 has. All of them were taken out of the home, placed in
8 foster care, and those -- the four boys are here today.
9 They are back home.

10 THE COURT: Four boys and a girl?

11 MR. ANDERSON: Yes, sir. And those children -- those
12 four boys are here today in support of their dad. The
13 Department of Social Services, of course, is still
14 involved and poor ^{Daughter 1} is -- young ^{Daughter 1} is in a foster
15 care situation.

16 Judge, again, the psychological help and the
17 treatment, the counseling -- this young man has done this
18 on his own out of his own pocket. His wife Beverly is
19 here today and would probably speak, also. They run a
20 heating and air conditioning company sort of situation.
21 He's a specialized mechanical contractor. He's a part of
22 the backbone of that business and as Dr. Holt would say to
23 you, Judge, and he's convinced me that at some point Isaac
24 Starke is going to be back into the public eye and
25 possibly back with his family, though certainly not around

Daughter 1

1 [REDACTED] for an extended period of time or any period of
2 time during which she's a minor, but we're all concerned
3 about how this man is going to sort of matriculate and
4 move back into the public at such time that he's released,
5 and, yes, he understands all of the questions that you've
6 asked with regard to the ankle bracelet and---

7 THE COURT: I forgot to ask you this. I assume with
8 these allegations that he could very well be considered a
9 criminal sexually violent predator and have to go through
10 that program before being released.

11 Is that correct Mrs. Agnew?

12 MRS. AGNEW HAMMACK: That's correct, Your Honor.

13 THE COURT: So that's a whole different -- another
14 ballgame to condition his release upon. Have you
15 explained to him that?

16 MR. ANDERSON: Yes, Judge. We've talked about those
17 issues in detail, and, also, again, with Dr. Holt, the
18 psychologist, and Isaac is ready to go with that. He is
19 going to agree. He's been voluntary, as I say, since the
20 beginning. He wants to continue that. He understands
21 that he's not going to have any opportunity to be around
22 his daughter or any other children, and, of course, any
23 detail that the Court might help to know about as far as
24 the sexual assessment that was done with Dr. Holt, I'll be
25 glad to respond to those.

1 THE COURT: Well, I just want to make sure he knows
2 that even if -- whatever I sentence him to, when he gets
3 ready to be released or maxes out his sentence that he
4 still could remain incarcerated under the Sexually Violent
5 Predator Act. Have you explained that to him?

6 MR. ANDERSON: We've discussed that, Judge, yes.

7 THE COURT: Hopefully, he'll avail himself of the
8 program up there, but, you know, a lot of people go
9 through the program and still remain incarcerated. I want
10 to make sure y'all all four squares with that.

11 MR. ANDERSON: Judge, yes, and Isaac Starke
12 understands that. He -- there is no word that he can say
13 that he's sorry or that you can apologize to the citizens
14 of Aiken County, but, yes, he does. As I said---

15 THE COURT: Well, what -- what's the rhyme or
16 reason -- what's the psychologist say is behind all of
17 this? What is the etiology of this behavior? What caused
18 it?

19 MR. ANDERSON: I would like to, Judge, at this point
20 invite Dr. Holt up here to make a statement to this Court.

21 THE COURT: I'll be more than happy to listen to him.
22 Dr. Holt, how are you today?

23 DR. JOE HOLT: Fine, sir, and you?

24 THE COURT: Fine, and, quickly, your background,
25 educational background?

1 DR. JOE HOLT: Ph.D in psychology. I have been in
2 practice in Aiken County for about 25 years.

3 THE COURT: That's for the record. Now you've had an
4 opportunity to examine the Defendant?

5 DR. JOE HOLT: I have.

6 THE COURT: And this would, I assume, be subsequent
7 to his arrest and incarceration?

8 DR. JOE HOLT: When I saw him, I saw him at the jail.

9 THE COURT: All right. What's going on?

10 DR. JOE HOLT: When I saw him one of the things we
11 were concerned about was the psychotic state and because
12 Isaac works for himself there is not a lot of what you and
13 I call community feedback to him like co-workers would
14 give you on bizarre behavior. Being that, it seemed to be
15 that we needed to -- as part of the report we recommended
16 that he go to the state system and be treated there.

17 THE COURT: Treated for -- I assume to have been
18 arrested, caught and he was---

19 DR. JOE HOLT: He was in incarceration. Anxiety was
20 heavy; bi-polar diagnosis, somatoform as far as a lot of
21 presenting illness kind of symptom features. Mr. Anderson
22 made me aware that they -- because one of our concerns was
23 at that point we didn't feel like it was appropriate to
24 release him on bail, but we felt that was medically driven
25 versus risk-only driven.

1 They sent him to what I call Bull Street -- the state
2 system. They put him on Risperdal, brought him back,
3 still noticed the anxieties. I have been working with him
4 on psychosexual treatment weekly and we collaborated with
5 the physicians there at the jail to increase his meds and
6 I feel like we have a safer Isaac now than we did when I
7 first met him. He's on 100 milligrams of Zoloft.

8 THE COURT: When you say safer, he is no longer a
9 danger to himself?

10 DR. JOE HOLT: True.

11 THE COURT: So your main concern initially was
12 getting him well, not -- getting him beyond suicidal
13 tendencies.

14 DR. JOE HOLT: Our primary concern was to get him
15 well, but also look at that and say how did that affect
16 his judgment in the acts against^{Daughter 1} --

17 THE COURT: All right.

18 DR. JOE HOLT: -- Because he was not being seen by
19 Aiken Barnwell Mental Health or any mental health provider
20 prior to being incarcerated.

21 THE COURT: When the alleged acts occurred.

22 DR. JOE HOLT: So the period of time between 2010 and
23 2012 he was not under any care or treatment with anyone.

24 THE COURT: Had he ever been diagnosed with mental
25 illness?

1 DR. JOE HOLT: Not prior to us, but he's got an
2 extensive family history of bi-polar --

3 THE COURT: I see.

4 DR. JOE HOLT: -- which would explain the sexual
5 acting out. Our diagnosis of Mr. Starke was bi-polar with
6 the family history of it as well as the somatoform.

7 THE COURT: So that would give some rhyme or reason
8 as to why the acting out, as you would say?

9 DR. JOE HOLT: Yes, sir.

10 THE COURT: All right. Anything else you want to
11 share with me?

12 DR. JOE HOLT: He's been very cooperative in what
13 we've done. He's acknowledged to me that he did the acts
14 that he's expressed to you; so he has been forthright in
15 that manner. I'm sure just the accountability to the
16 Judge would be somewhat intimidating, but he would sit
17 down with me and discuss it.

18 THE COURT: Well, it's certainly against our laws,
19 against nature.

20 DR. JOE HOLT: Yes, sir.

21 THE COURT: It is his own daughter. It is hard to
22 sit up here and try to understand it, but, unfortunately,
23 I see it day-in and day-out as well as you and everybody
24 involved in the criminal system. We just had a trial
25 here --

1 DR. JOE HOLT: I agree.

2 THE COURT: -- two or three weeks ago dealing with
3 young children, natural children, stepchildren. So,
4 unfortunately, it's out there. Unfortunately, it creates
5 a huge, huge, collateral effect on the victim.

6 DR. JOE HOLT: Don't disagree. We're working with
7 the family---

8 THE COURT: Not only the victim, but the entire
9 family.

10 DR. JOE HOLT: We're working with the family to
11 create what you and I call a safer environment.

12 THE COURT: And then, you know, my job is I have to
13 punish him for what he's done and that -- that becomes a
14 difficult task on my behalf is to protect his family,
15 citizens of the community. He has to be punished for
16 violating the law, breaking the law. I also realize it's
17 driven by his condition.

18 DR. JOE HOLT: Yes, sir.

19 THE COURT: So it's a tough balancing act. Did you
20 issue a written report?

21 DR. JOE HOLT: Yes, sir, I did. I provided a copy to
22 Mr. Anderson and I believe Ashley has a copy as well.

23 THE COURT: Thank you very much for your involvement
24 and your insight. Thank you for what you do for us.

25 MR. ANDERSON: I might want to add one thing, Judge,

1 too, at some point probation may get involved here --
2 certainly will be -- and we would ask that a condition of
3 that probation be that the services of Dr. Holt would
4 continue.

5 THE COURT: I am not going to give him probation. I
6 am going to give him an active sentence and the way it
7 works is by being an 85-percent, no-parole, under that
8 20-year statute, if he gets through the Sexual Predator
9 Act and is released, he'll be released to a community
10 supervision program which will have a condition of
11 psychological/psychiatric counseling. I can't -- I mean,
12 they handle that at that particular period of time. It's
13 not like giving a probationary sentence. I just don't
14 give probation on these cases, but that would be
15 addressed. I may not be practicing when that happens.
16 Anyway, thank you very much.

17 DR. JOE HOLT: Thank you, sir.

18 THE COURT: Anything else, Mr. Anderson, you need to
19 share with me?

20 MR. ANDERSON: I would like to -- I would like to ask
21 if his wife Beverly Starke would like to make a statement
22 to the Court.

23 THE COURT: She certainly may. Bring her right here.
24 Mrs. Starke?

25 BEVERLY STARKE: Yes. Your Honor, I'd like to say

1 that he's a loving husband and a good father. He did go
2 wrong. He made this mistake, but I know he's real
3 sorrowful for it.

4 THE COURT: I'm sure he is.

5 BEVERLY STARKE: And the children has even seen
6 that -- the boys -- that he's real sorrowful for it. He's
7 brought a lot of shame on himself.

8 THE COURT: How is your daughter doing?

9 BEVERLY STARKE: She's doing good. I go and see her.
10 She might get to come back home. She's -- when I see her,
11 she cries about the situation about him. She said she
12 wants to get -- not now, but later when she's, you know,
13 go through her counseling or whatever, can talk back with
14 her daddy and she loves her daddy.

15 THE COURT: Is she the oldest child?

16 BEVERLY STARKE: No. She's fourth child.

17 THE COURT: Fourth out of five.

18 BEVERLY STARKE: Four boys and her, but he's -- I
19 know he truly loves his family.

20 THE COURT: Well, I don't doubt that at all. He
21 expressed his love in a manner that's against the laws of
22 nature and against the laws of man.

23 BEVERLY STARKE: Yes, sir.

24 THE COURT: He's admitted it. Now we have to hand
25 out the appropriate sentence, punishment, et cetera, and

1 protect your family, protects others, and punish him with
2 a degree of mercy attached to it because of what the
3 psychiatrist/psychologist testified for may be the reasons
4 behind it. I'm sure your daughter is going to have a
5 tough go down the road. I am hoping she'll do well.
6 Thank you.

7 MRS. AGNEW HAMMACK: And, Your Honor, I can speak to
8 her condition as well, if you'd like to know.

9 THE COURT: Yes, ma'am.

10 MRS. AGNEW HAMMACK: She's 13. She's been shuttled
11 between three different foster homes since she was taken
12 from the home. She also had to go through inpatient
13 counseling for trying to commit suicide herself. So
14 that's how she's doing.

15 THE COURT: It doesn't sound like she's doing very
16 well.

17 MRS. AGNEW HAMMACK: (Shakes head.)

18 THE COURT: And this all occurred during a two-year
19 period of time?

20 MRS. AGNEW HAMMACK: That's correct, Your Honor.

21 THE COURT: All right. Mr. Starke, anything you want
22 to tell me?

23 THE DEFENDANT: Yes, Your Honor. Your Honor, I'd
24 like to apologize to the victim, [REDACTED] Daughter 1. I'd like
25 to apologize to the Court for bringing such a case in

1 here. I'd like to apologize to the community, Your Honor,
2 and I'm very sorry for what I done and I also -- it's all
3 my fault and it'll never happen again, Your Honor. I am
4 very sorrowful for what's going on. I don't know -- I
5 don't understand it. I don't really understand why I done
6 it. I don't understand it. I am very sorrowful and I cry
7 -- I cry daily in my jail cell over my family and over
8 what I done and how it affected my family and how it
9 affected me. I apologize, Your Honor. I am very sorry.

10 THE COURT: I'm sure you are. All right. This
11 report from the guardian ad litem is a couple of pages.
12 How long is the doctor's report?

13 MR. ANDERSON: Sixteen.

14 THE COURT: Here is what I want to do. I want to
15 read the doctor's report and I want to read this report.
16 I am going to hold in abeyance the sentencing until --
17 Mr. Anderson, you've been waiting all morning. The jury
18 is coming in tomorrow morning at 9:30. It'll take us most
19 -- when would it suit you to come back?

20 MR. ANDERSON: Anytime that pleases the Court.

21 THE COURT: I am trying to work with your schedule.

22 MR. ANDERSON: This afternoon.

23 THE COURT: No, sir. I am going to have to leave a
24 little bit before four today. I got to swear in the new
25 mayor of Bamberg County -- City of Bamberg.

1 MR. ANDERSON: I got two---

2 THE COURT: How does tomorrow look?

3 MR. ANDERSON: I got two court appearances tomorrow:
4 One in the morning at 9 and one in the afternoon at 2:30.

5 THE COURT: How does Wednesday look?

6 MR. ANDERSON: Fine.

7 THE COURT: Let's set it for Wednesday morning at
8 9:30. That gives me an opportunity to review Dr. Holt's
9 report, review the guardian ad litem's report, and let me
10 reflect on this.

11 MR. ANDERSON: Judge, I'd like to offer to the Court
12 one other speaker.

13 THE COURT: Absolutely.

14 MR. ANDERSON: This is a very religious-oriented
15 family and when these circumstances arose and became known
16 to the family, there were some persons who tried to
17 rectify some things moving this man out of the marital
18 home and into a secondary place to try to sort of keep
19 things together and there are several people here. One
20 would like to speak from the church.

21 THE COURT: I'll be more than happy to hear anybody.
22 I am just not going to hear a sermon, now.

23 MR. ANDERSON: No, sir.

24 THE COURT: I don't mean that frivolously.

25 Yes, sir, your name?

1 MELVIN BILLINGS: Melvin Billings.

2 THE COURT: Nice to see you today.

3 MELVIN BILLINGS: Good to be here.

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

5 MELVIN BILLINGS: Yes, sir. I met Brother Starke, I
6 guess, somewhere like in 2004 and I have been knowing his
7 kids and know his wife. Real good people. As a matter of
8 fact, they gave me a car. I tried to pay them for it. No
9 money. They wouldn't charge me no money; let me drove on
10 it when I was down and out. I have been writing to him
11 trying to encourage him because I have been incarcerated;
12 so I know how it feels. So I am just trying to, you know,
13 get the brother back on the right track because everything
14 happens for a reason. There is a plan behind it all. So,
15 you know, I don't know, you know what I'm saying? I don't
16 know. All I know is he's a good man. I know his family
17 good. I know all of his kids and we all went to church
18 together.

19 THE COURT: I don't think anybody is saying he's a
20 bad man. He is probably a good man that's done an awful
21 thing.

22 MELVIN BILLINGS: Yes, sir, I understand. I am just
23 saying, you know, what I know about him.

24 THE COURT: I understand that. Thank you for coming.
25 You have a wonderful day.

1 MELVIN BILLINGS: Yes, sir.

2 MR. ANDERSON: That's all we have, Judge.

3 THE COURT: Thank you. We'll delay sentencing until
4 9:30 on Wednesday morning. Thank you.

5 (Whereupon, the proceedings were concluded for the
6 day and were reconvened on May 15, 2003 as follows:)

7 THE COURT: All right. Mr. Starke, anything you want
8 to tell me before I impose sentence?

9 THE DEFENDANT: No, Your Honor.

10 THE COURT: Mr. Anderson, anything else we need?

11 MR. ANDERSON: Nothing else, Judge.

12 THE COURT: All right. Since we took the plea on
13 Monday, I've had an opportunity to review the guardian ad
14 litem report -- very interesting report by Ms. Hoffman.
15 Basically, in that report she advises me as to the
16 difficulties that young ^{Daughter 1} is experiencing including,
17 as the solicitor's office told me, suicidal thoughts and
18 perhaps attempts. I further have reviewed the
19 psychosexual risk assessment and various battery of tests
20 that were administered to Mr. Starke and the results and
21 the final diagnosis. So, taking all of that into
22 consideration, I am -- I am taking all of that into
23 consideration.

24 You know, Mr. Starke, one of my main responsibilities
25 is to protect small children from criminal activities of

1 others, including their father, and what you've done in
2 this case with your daughter, not only have you violated
3 the laws of nature or the laws of man, but you have
4 destroyed the most trusting relationship that a young
5 child can have; that is, with their father. Obviously,
6 you have to be punished for that. I will give you some
7 consideration for your admission of guilt. Had you been
8 convicted by a jury and not admitted your guilt and put
9 the child through this, I would have given you the maximum
10 sentence. You probably deserve the maximum sentence
11 anyway, but I am going to temper justice with some mercy
12 and give you consideration for your admission of guilt and
13 acceptance of responsibility.

14 The sentence of the Court as to Indictment
15 13-GS-02-406 for criminal sexual conduct with a minor in
16 the second degree, you're to be committed to the State
17 Department of Corrections for a period of 15 years.
18 You'll be given credit for your time served. As to
19 Indictment 13-GS-02-375, the sentence of the Court is that
20 you be committed to the State Department of Corrections
21 for a period of 15 years. That sentence will run
22 concurrent to 13-GS-02-406. Good luck.

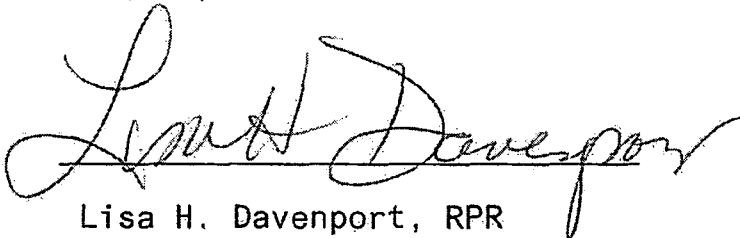
23 (End of Transcript of Record)
24
25

CERTIFICATE OF REPORTER1
2
3
4 State of South Carolina)5 County of Aiken)
6
7

8 I, Lisa H. Davenport, Official Court Reporter for the
9 Second Judicial Circuit of the State of South Carolina at
10 the time of this hearing, do hereby certify that the
11 foregoing is a true, accurate and complete Transcript of
12 Record of the proceedings had and evidence introduced in
13 the trial of the captioned case, relative to appeal, in
14 the Court of General Sessions for Aiken County, South
15 Carolina, on the 13th & 15th days of May, 2013.

16 I do further certify that I am neither of kin,
17 counsel nor interest to any party hereto.
18
19

20 June 14, 2014

21
22 
23 Lisa H. Davenport, RPR
24
25

2012A0210200 492
2012A0210200 496
FORM 5

2014-CP-02-00792 33
2013-GS-02-00375-00406

STATE OF SOUTH CAROLINA)
COUNTY OF AIKEN)
ISAAC STARKE, 355498)
Full name and prison number (if any) of Applicant.)

v.)

State of South Carolina)

IN THE COURT OF COMMON PLEAS)
County of Aiken)
Deputy Clerk:)
Trial Judge:)
Trial Atty:)
Court Reporter:)
Sec. PCR Petitioner:)
General Sessions Atty. Gen.)
Appointed Atty.)

APPLICATION FOR

POST-CONVICTION RELIEF

INSTRUCTIONS - READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention Perry Correctional Institution
2. Name and location of Court which imposed sentence General Session, Aiken County
3. Name(s) of co-defendant(s) (if any) n/a
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 2013-GS-02-00375 CSC 3RD
 - (b) 2013-GS-02-00406 CSC 2ND
 - (c) _____
5. The date upon which sentence was imposed and the terms of the sentence:
 - (a) May 15, 2013 15 years concurrent
 - (b) May 15, 2013 15 years concurrent

Revised 3/2003

- (c) _____
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty x
- (b) after a plea of not guilty _____
- (c) after a plea of nolo contendere _____
7. Did you appeal from the judgment of conviction or the imposition of sentence?
No
8. If you answered "yes" to (7), list:
- (a) the name of each Court to which you appealed:
- i. n/a
- ii. _____
- iii. _____
- (b) the result in each such Court to which you appealed:
- i. n/a
- ii. _____
- iii. _____
- (c) the date of each such result:
- i. n/a
- ii. _____
- iii. _____
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. n/a
- ii. _____
- iii. _____
9. If you answered "no" to (7), state your reasons for not so appealing:
- (a) A guilty plea is generally not appealable and my counsel failed to file notice of appeal in the case.
- (b) _____
- (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in

custody unlawfully:

(a) Ineffective assistance of trial counsel in the preparation, advice, and representation of the Applicant.

(b) Plea not free, voluntary, knowingly entered.

(c) State failed to produce all material required under rules of discovery and due process.

11. State concisely and in the same order the facts which support each of the grounds set out in (10):

(a) Counsel failed to properly conduct discovery, obtain experts, have a proper evaluation of the Applicant, have adequate information presented to the court during the plea process, investigate, research, prepare for the case, and advise the Applicant adequately on the facts and law involved in the case.

(b) The Applicant was not adequately advised as to the legal aspects of the plea and his rights to a trial. The Applicant was improperly coached and counceled as to what he was to say at the plea proceedings. The Applicant was misled by counsel as to the existence of an agreement on the sentence, or what sentence he would receive. The Applicant was misled by counsel or others as to what representations would be made on his behalf and the effect that such representations would have in the case. The Applicant was led to believe that he would receive a specific sentence or sentence less than the court imposed. The Applicant was not capable of fully understanding the process or to enter a plea.

(c) The State had information that it failed to disclose to the Defendant that it was obligated to disclose. The State further misled the defense as to what position it would take, the sentence that it would recommend or that the Defendant would receive.

12. Prior to this application have you filed with respect to this conviction:

(a) any petition in a State Court under South Carolina Law? No

(b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? No

(c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? No

(d) any other petitions, motions or applications in this or any other Court? No

13. If you answered "yes" to any part of (12), list with respect to each petition, motion or

application:

(a) the specific nature thereof:

- i. n/a
- ii. _____
- iii. _____
- iv. _____

(b) the name and location of the Court in which each was filed:

- i. n/a
- ii. _____
- iii. _____
- iv. _____

(c) the disposition thereof:

- i. n/a
- ii. _____
- iii. _____
- iv. _____

(d) the date of each such disposition:

- i. n/a
- ii. _____
- iii. _____
- iv. _____

(e) if known, citations of any written opinions or orders entered pursuant to each such disposition:

- i. n/a
- ii. _____
- iii. _____
- iv. _____

14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

No

15. If you answered "yes" to (14) identify:

- (a) which grounds have been presented:
- i. n/a
 - ii. _____
 - iii. _____
- (b) the proceedings in which each ground was raised:
- i. n/a
 - ii. _____
 - iii. _____
16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:
- (a) n/a
 - (b) _____
 - (c) _____
17. Were you represented by an attorney at any time during the course of:
- (a) your arraignment and plea? Yes
 - (b) your trial, if any? _____
 - (c) your sentencing? Yes
 - (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? n/a
 - (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? Yes
18. If you answered "yes" to one or more parts of (17), list:
- (a) the name and address of each attorney who represented you:
 - i. Guilty plea - George Anderson
Mr. George Allen Anderson
Anderson & Assoc. of Aiken, PA, PO Box 2261, Aiken, SC 29802
andersonlaw302@aol.com, (803) 648-0797, (803) 648-4728
 - ii. PCR - J. Falkner Wilkes, 114 Whitsett Street, Greenville, SC 29601
864-421-4618
 - iii. _____
 - (b) the proceedings at which each such attorney represented you:

- i. Guilty plea
- ii. The present Post Conviction Relief Action
- iii. _____

19. State clearly the relief you seek in filing this application:

Reversal of conviction and sentence.

20. Are you now under sentence from any other court that you have not challenged?

No

STATE OF SOUTH CAROLINA)

County of Aiken)

VERIFICATION

I, Isaac Starke, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

Isaac Starke

SWORN to and subscribed before me this 3rd
day of April, 2014.

Cory Halsig (L.S.)
Notary Public

My Commission Expires: 12/19/23

**APPLICATION TO PROCEED WITHOUT PAYMENT
OF COSTS AND AFFIDAVIT
IN SUPPORT THEREOF**

I, Isaac Starke, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

- (1) I am the applicant in this action and I believe I am entitled to redress.
- (2) Because of my poverty I am unable to pay the costs of said proceeding or give security thereof.


Applicant

SWORN or affirmed to and subscribed before me this
3rd day of April, 2011.


Notary Public

My Commission Expires: 12/19/23

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF AIKEN	)	FOR THE SECOND JUDICIAL CIRCUIT
	)	
Isaac Starke, #355498,	)	2014-CP-02-00792
	)	
Applicant,	)	
	)	
v.	)	RETURN
	)	
State of South Carolina,	)	
	)	
Respondent.	)	

The Respondent, making its Return to the application for post conviction relief (PCR) filed April 7, 2014, would respectfully show this Court:

I.

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Aiken County Clerk of Court. The Applicant was true bill indicted at the March 2013 term of the Aiken County Grand Jury for Criminal Sexual Conduct With a Minor – Second Degree (2013-GS-02-00406), Criminal Sexual Conduct With a Minor – Third Degree (2013-GS-02-00375). George Anderson, Esquire represented Applicant. On May 15, 2013, Applicant pled guilty as indicted before the Honorable Doyet A. Early, III. Judge Early sentenced Applicant without recommendations or negotiations to fifteen year term of imprisonment for Criminal Sexual Conduct With a Minor – Second Degree and fifteen year term of imprisonment for Criminal Sexual Conduct With a Minor, with all sentences running concurrently. The Applicant did not appeal his guilty plea or sentence.

Attached herewith and incorporated herein are the records of the Aiken County Clerk of Court regarding the subject conviction, the Applicant's records from the South Carolina

Department of Corrections, and the plea transcript. The Respondent reserves the right to amend this Return upon receipt of any relevant materials.

II.

In his current Application, the Applicant alleges that he is being held in custody unlawfully for the following reasons:

1. Ineffective Assistance of Counsel
 - a. "Counsel failed to properly conduct discovery, obtain experts, have a proper evaluation of the Applicant, have adequate information presented to the court during the plea process, investigate, research, prepare for the case, and advise the Applicant adequately on the facts and law involved."
2. Involuntary guilty plea
 - a. "The Applicant was not adequately advised as to the legal aspects of the plea and his rights to a trial. The Applicant was improperly coached and counseled as to what he was to say at the plea proceedings. The Applicant was misled by Counsel as to the existence of an agreement on the sentence, or what sentence he would receive. The Applicant was misled by counsel or others as to what representations would be made on his behalf and the effect that such representations would have in the case. The Applicant was led to believe that he would receive a specific sentence less than the court imposed. The Applicant was not capable of fully understanding the process or to enter a plea."
3. Brady Violation
 - a. "The State had information that it failed to disclose to the Defendant that it was obligated to disclose. The State further misled the defense as to what position it would take, the sentence that it would recommend or that the Defendant would receive."

Any claims not specifically enumerated in the PCR application or amendments will be opposed by the State at an evidentiary hearing, and the State will seek summary dismissal of vague or general claims at an evidentiary hearing. S.C. Code §17-27-50. All amendments should be made well in advance of an evidentiary hearing by counsel of record. Rule 11, SCRCP.

III.

The Respondent asserts the Applicant's allegation that his attorney was ineffective is without merit. The Respondent asserts the Applicant's attorney rendered effective assistance well within the standard of "reasonableness within professional norms" for a defense attorney.

Where ineffective assistance of counsel is alleged as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied on as having produced a just result." Strickland v. Washington, 466 U.S. 668, 686, 104 S. Ct. 2052, 2064 (1984); Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985).

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume counsel "rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment." Strickland, 466 U.S. at 690, 104 S. Ct. at 2066. The Applicant must overcome this presumption in order to receive relief. See Cherry v. State, 300 S.C. 115, 118, 386 S.E.2d 624, 625 (1989).

A two-pronged test is used in evaluating allegations of ineffective assistance of counsel. First, the applicant must prove counsel's performance was deficient. Under this prong, attorney performance is measured by its "reasonableness under prevailing professional norms." Cherry v. State, 300 S.C. at 117, 386 S.E.2d at 625 (quoting Strickland, 466 U.S. at 688, 104 S. Ct. at 2065). Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. "A reasonable probability is a probability sufficient to undermine confidence in the outcome of

trial.” Johnson v. State, 325 S.C. 182, 186, 480 S.E.2d 733, 735 (1997) (citing Strickland v. Washington, 466 U.S. 668, 104 S. Ct. 2052 (1984)).

The Respondent submits the Applicant cannot satisfy either requirement of the Strickland v. Washington test. However, the allegation of ineffective assistance of counsel probably raises questions of fact that cannot be conclusively refuted by the record. The Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 265, 305 S.E.2d 247, 248 (1983) (citing Norman v. State, 276 S.C. 278, 277 S.E.2d 707 (1981)).

IV.

The Applicant’s assertion that his guilty plea was involuntary is without merit. In post-conviction relief cases, an applicant asserting a constitutional violation must frame the issue as one of ineffective assistance of counsel. See Al-Shabazz v. State, 338 S.C. 354, 363, 527 S.E.2d 742, 747 (1999) (citing Drayton v. Evatt, 312 S.C. 4, 9, 430 S.E.2d 517, 520 (1993)). An Applicant who pleads guilty on the advice of counsel may collaterally attack the plea only by showing that (1) counsel was ineffective and (2) there is a reasonable probability that but for counsel’s errors, the Applicant would not have pled guilty and would have insisted on going to trial. Roscoe v. State, 345 S.C. 16, 20, 546 S.E.2d 417, 419 (2001) (citations omitted). An Applicant alleging his guilty plea was induced by ineffective assistance of counsel must prove that counsel’s advice was not “within the range of competence demanded of attorneys in criminal cases.” Hill v. Lockhart, 474 U.S. 52, 56, 106 S. Ct. 366, 369 (1985); Bennett v. State, 371 S.C. 198, 204, 638 S.E.2d 673, 675 (2006).

To find a guilty plea is voluntarily and knowingly entered into, the record must establish the applicant had a full understanding of the consequences of his plea and the charges against him. See Boykin v. Alabama, 395 U.S. 238, 243-44, 89 S. Ct. 1709, 1712 (1969). In Boykin,

the United States Supreme Court held that before a court can accept a guilty plea, a criminal defendant must be advised of the constitutional rights he is waiving. Id. at 243, 89 S. Ct. at 1712. Specifically, the accused must be aware of the privilege against self-incrimination, the right to a jury trial, and the right to confront one's accusers. Id. Moreover, a criminal defendant entering a guilty plea "must be aware of the nature and crucial elements of the offense, the maximum and any mandatory minimum penalty, and the nature of the constitutional rights being waived." Pittman v. State, 337 S.C. 597, 599, 524 S.E.2d 623, 624 (1999) (citation omitted). A criminal defendant's knowing and voluntary waiver of statutory or constitutional rights in a guilty plea "must be established by a complete record, and may be accomplished by colloquy between court and defendant, between court and defendant's counsel, or both." Roddy v. State, 339 S.C. 29, 34, 528 S.E.2d 418, 421 (2000).

When determining issues relating to guilty pleas, the court will consider the entire record, including the transcript of the guilty plea, and the evidence presented at the post-conviction relief hearing. Anderson v. State, 342 S.C. 54, 57, 535 S.E.2d 649, 657 (2000).

The Respondent submits the record fully supports the knowing and voluntary nature of the Applicant's plea. However, allegations regarding ineffective assistance of counsel and the voluntariness of the plea may raise a question of fact that is not conclusively refuted by the record. Accordingly, the Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. at 265, 305 S.E.2d at 248.

V.

The Applicant further alleges that the State withheld favorable evidence in violation of Rule 5, SCRCrimP and Brady v. Maryland, 373 U.S. 83, 83 S.Ct. 1194, 10 L.Ed. 2d 215 (1963). In evaluating post-trial Brady claims, the Applicant must show that (1) the prosecution

suppressed evidence, (2) the evidence would have been favorable to the accused, and (3) the suppressed evidence is material. United States v. Wolf, 839 F.2d 1387 (10th Cir. 1988). A Brady violation does not warrant reversal if the evidence is merely cumulative or impeaching. Clark v. State, 315 S.C. 385, 434 S.E.2d 266 (1993). "Impeachment or exculpatory evidence is material only if there is a reasonable probability that, had the evidence been disclosed to the defense, the result of the proceeding would have been different." Id., 434 S.E.2d at 268.

Respondent submits that this ground for relief is totally without merit. However, the allegation concerning a Brady violation probably raises questions of fact that are not conclusively refuted by the record. Respondent requests an evidentiary hearing on this ground for relief. Sharper, Id.

VI.

Each and every allegation contained within the application not hereinbefore either expressly admitted, qualified or explained is hereby denied.

[Signature block on following page]

VII.

WHEREFORE, having made its Return, the State requests that an evidentiary hearing be held.

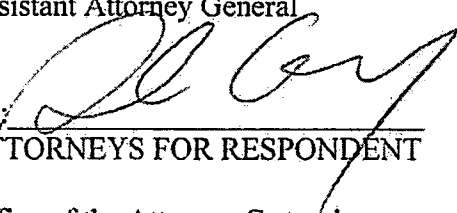
Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

KAREN C. RATIGAN
Senior Assistant Deputy Attorney General

DANIEL GOURLEY
Assistant Attorney General

By: 
ATTORNEYS FOR RESPONDENT

Office of the Attorney General
P.O. Box 11549
Columbia, SC 29211

August 6, 2014.

Feb 9, 2016 P.C.R. 2014-CP-02-792

TO: The Honorable: Aiken County
Liz Godard Clerk of Court
From: ISAAC STARKE #355498
P.C.R. 2014-CP-02-792

Ms. Godard, I wrote A Letter
Resently to Fire my Attorney —
J. Falkner Wilkes at.e.L. However
I Donot Want to Fire Him, Be-
cause He Has Ben Paid in Advance,
I Got Beat up Real Bad in prison,
and my Head was swelling Real-
Bad, and I was not thinking clear.

However, I Do Doubt my ~~Att~~
Attorney's Loylty to Me, But,
I was told By A Volunteer —
Chaplain to Let Him (my Attorney)
Take it to court as plained, and
Trust GOD to Help my P.C.R. case.

Please Reinstate my current Attorney.
Thank you! Isaac Starke #355498

P.S. My first Attorney Done me Very Wrong Feb. 9, 2016

d. K. Sells
Liz Godard
Liz Godard

P.S. I need Copies to send my current
 Atel. He will not Return me Copies
 SO I must send them to You first. July 3, 2016

TO: Her Honor, Liz Godard ^{Aiken}
 From: ISAAE. Starke S.C.D.C. # 355 498 ^{clerk of court}
 P.C.R. civil case No. 2014-CP-02-00792
 Your Honor, I want to fire my

Attorney, J. Falkner Wilkes Atel.
 Who was paid \$5,000.00 Be For He
 would ever Come to Prison to
 even Talk to me about my Case.

My X-Wife (Then Wife, Now Remarried),
 and AN Elder Church Member
 Friend of mine Paid Him the
 Money! My wife and kids got
 everything in our Divorce.

My current ~~Att~~ Attorney asked
 For \$2,500 More Dollars After
 He Give His Word For \$5,000.00 Total
 I Have 15¢ to my name! Please Ask
 The Judges or Court to give me an
 Indigent Defense Attorney Public-
 Defender that will Gather evidence!
 MY P.C.R. Has (4) Four Absolute Merit's

TO Reverse my Conviction and Sentence.
 I think my current Atel. is Destroying what I send
X Please ~~Send~~ Him!

FILED July 8 2016
 1225
 Liz Godard
 DCCP & GS

~~Sandra S. Wilkes~~
 Deputy Clerk

APPLICATION TO PROCEED WITHOUT PAYMENT
OF COSTS AND AFFIDAVIT
IN SUPPORT THEREOF

I, Isaac Starke, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

- (1) I am the applicant in this action and I believe I am entitled to redress.
- (2) Because of my poverty I am unable to pay the costs of said proceeding or give security thereof.

Isaac Starke
Applicant

SWORN or affirmed to and subscribed before me this
3rd day of April, 2011.

Camy Holman
Notary Public

My Commission Expires: 12/19/23

PLEASE COPY and RETURN Promptly?

South Carolina Department of Labor, Licensing and Regulation

South Carolina Contractor's Licensing Board

110 Centerview Dr. • Columbia • SC • 29210

P.O. Box 11329 • Columbia • SC • 29211

Phone: 803-896-4686 • Contact.CLB@llr.sc.gov • Fax: 803-896-4814

www.llronline.com/POL/Contractors/



5/24/16

ISAAC STARKE 355498
PERRY CORR INST 3-A-214
430 OAK LAWN ROAD
PELZER SC 29669

Mr. Starke,

Dr. E. J. Holt IS NOT A
Doctor, He is An Impostor!
A-QUACK! Note: IKE
He Has Worked in 50 cases
in and out of court in
The C.S.R.A. Aiken - Augusta.
He was paid \$6,000.00 to be
my Doctor attending my
Court Trial

You will need to complete this application and attach your financial information on the balance sheet I enclosed. You need to reinstate your license by 10/31/17 or you will have to take your test again. You can only stay inactive for 4 years.

As for E.J. Holt, he is licensed as a Counselor with the state Counselors Board. If you have a complaint with him, you should write to the Counselors Board and send them a copy of any paperwork you might have.

Thank you,

Carol Paquet

Carol Paquet
Admin. Asst.
Carol.paquet@llr.sc.gov
SC Contractors Board
PO Box 11329
Columbia, SC 29211-1329

Brady material
child-AD-Items
Letter.

civil P.C.R.
~~Civil~~ Case No. 2014-CP-02-792
Note: E.J. Holt told the Aiken
County Detention Center
That I needed Zolof, and
They thought he was a Real
Doctor and prescribed it to me!
NOTE: Debtramental Rellane!
False Representation!
E.J. Holt was hired by
my Attorney Goerge A.
Anderson - in-effective
Assistance of atel.
counsel.

Please Copy and Return? Promptly?

32 - ~~DK~~ PCR. civil case No. ~~2014~~ 2014-CP-02-1792
 ThiesSeeZ of termination

NOTICE OF Seperation June, 30, 2016

TO: ATTORNEY, J. Faulker Wilkes

From: Inmate, 114 Whitsett Street
 ISAAC Starke 353498 Greenville, S.C. 29601
 Perry Corrinst. B-X-12

430 oak Lawn RD.

Pelzer, S.C. 29669

-NOTICE-Seperation of
Employment

NOTE: See: S.E.L.R. Letter included!

Dear Mr. Wilkes, I AM SORRY
 TO Inform you, That you Are Fired.
 ① You Lied to my X-Wife By Pretending
 To Be Neutral With my Charges, and then
 Excepted The \$5,000.00 That you Demanded
 Before you would ever meet with me
 Face to Face or Communicate With me.
 ② You Told me, you was not Prejudiced
 Against my Charges, But then Asked
 For \$2,500.00 To my A Private Detective
 To investigate, After you told me
 and my X-Wife, The Total Cost
 ③ would Be \$5,000.00 When you Saw their
 was no more money to Milk us for,
 ④ you changed your Attitud towards
 ⑤ me, By Saying, "Well, Your Guilty,
 Anyway!", on one of Your visits
 ⑥ with me, To make me Dispondant,
 crushed, Hopeless, And Destitute!
 ⑦ Then you Developed Systematic
 -Selective- AM Nisias.

Page ①
of
②

Note: See: 95
 ThiesSeeZ of
 Martin Luther
 Worm's Germany

Notice of Seperation (Continued)

- ⑧ you never Knew Any thing From your Previous Visits with Me.
- ⑨ you never Produced Evedence except, my Disiplinary Record From S.C.D.C. That could and - would make me ~~Discharged~~, and Harm me in the Court Room.
- ⑩ you Refused to order my - Mental Records, From S.C.D.C. By Reasurring me, That you had All of my Records.
- ⑪ When I, told you, That "you do-not" Have my mental Records From S.C.D.C. - You Stubernly, Re-Asured me That you did Have "A-L-L" of my Records From S.C.D.C.
- ⑫ Health Information Resources
South Carolina Dept. of Corrections
Central Office Annex - 4592 Broad River Road
Columbia, South Carolina 29216

Page ② of ③ [↑] \$15.00 - 20.00 Dollars cost fee

Notice of Separation (Continued)

(13) You had knowledge that I was on the wrong medication [was discovered At S.C.D.C. Reseption ^(Kirkland RHE) and evaluation] And my Mental Records would prove this Fact, and this Fact Proves the Menaughty-Doctrine That my ~~the~~ Guilty Plea was Not-Voluntary, Knowingly, and intelegently made!

∴ Note I was on Zoloft and Resperidol when I went to Trial ^(and sentencing) ~~(Plea hearing)~~ And I was Having A Sever Advers Reaction. And this is Also in my Federal Case that was Dismissed for me practicing Law without A License. [My Daughter was in it]

Starke V. SCDSS Civil Action NO. 1:15-2621-Jmc-SVH
1:15-2621-Jmc-SVH

(14) You Re Fused to Return Copies of All Documents Sent to you - ~~Ad items~~ ~~Letter etc~~

Notice of Separation (Continued)

- ⑮ Less than two months Before the P.C.R. Hearing is to be held, You tell me in A Letter the Police cannot locate my two friendly witnesses, However you talk to Pastor: David Belton JR. on the Phone!
- ⑯ Two months Before the P.C.R. - Hearing you Make My Questions to you Impossible to Answer with ARC AIN Language.
- ⑰ Because you never Have Facts About my case When you come See me, you Just ASK Questions and Never know nothing I Told or wrote to you - You Blocked my Phone Number AT Perry Prison S.C.P.C. - Where I am Housed!

continued on next Page
Page ④ of ⑧

Notice of Separation (Continued)

- (18) When I wrote and Ask You About the Child-Ad-Litem's Letter Form My Victim, that was only Given to the Judge The Day after My Plea ^(Sentencing) ~~Hearing~~ ^(Sentencing) That the Presiding Judge used in my Sentencing, That would Reverse my Conviction, Because it is Brady (Brady) Material, you Acted, As if it Did NOT Exist. Note: This was Less than two Months before the P.C.R. Hearing was to be Held, even though you had Full Knowledge of it!
- (19) You Refused to Give Me A Written Outline of Your Plan of Attack, in my P.C.R. Hearing. etc, etc, etc, etc!

Notice of Separation (Continued)

- (20) You wrote me (4) Four Letters in The Month of May 2016 when I was striped Naked with No way to Respond in A C.I. (Crisses intervention cell) - See (Sueiside watch) at the
- (21) Very Last Minut Befor trial, To Make You Record's Look
- (22) Like You are Working Dilegently, and keeping in Touch with Your Client. But your Letters Never
- (23) Never, Never, Never, Never! out-Line "A-Plan-of-Attack!"
- (24) You are not Serious in the Facts! The-facts! "of My Defense!"
- (25) But simply Go Threw the Motion's and Anticks of An Attorney, But with No-Real Substance or Crucial
- (26) Facts, (At Least Four exist) That will overturn MY conviction and sentence.

Notice of Separation (Continued)

- (27) You Produce "Great ORAtions"!
IN Verbal & Speech But NO-
Substance or Facts! (See "ARCain")
- (28) You ARE "Bound-And-Determined"
To Take Me in, to Court With-
only ADVersS Witnesses!
- (29) YOU ARE "NON-Shalant" and of
"Little Concerned" of My "Freedom",
and it is Very A Parent!
- (30) E.J. Holt ^{Phd.} is not AN S.C. Licensed-
Doctor at All! He is AN S.C. Licensed
~~Family~~ Counselor. Yet He Was
introduced By My then Attorney,
to the Judge as "The Good-Doctor",
in the Sentencing and Plea Court
Trial Hearing. He also said He
was A S.C. Parole Board Member!
There is NO Record of that!
- (30-1) This Can Reverse my Case.

Notice of Separation (Continued)

(31) When I complained to you about the lack of substance or facts, that you had gathered, you bluntly told me, IF YOU DON'T LIKE THE WAY I HANDLED YOUR CASE, YOU CAN COMPLAIN TO THE SOUTH CAROLINA ATOL. BARR ASSOCIATION! IT WAS LIKE YOU! WERE THE VIKER-OF-CHRIST ON EARTH, AND ALL I COULD DO WAS APPEAL TO GOD IN HEAVEN! Note: I DID PRAY TO GOD, AND HE GAVE ME THE NOTICE TO FIRE YOU! Note: God ALSO provided PROOF THAT E. J. HOLT "IS NOT A DOCTOR AT ALL, and His Ph.D. ~~Has Not Been~~ CANNOT BE CONFIRMED!

(32) You did not want me to talk to the Judge!
Page 8 of 8
At my Last Hearing!

J. FALKNER WILKES*Attorney at Law*114 Whitsitt Street
Greenville, South Carolina 29601Telephone: (864) 282-1292
Facsimile: (864) 271-6035

July 8, 2016

Liz Godard,
Clerk of Court
PO Box 583
Aiken, SC 29802-0583

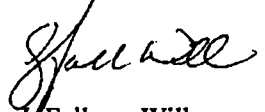
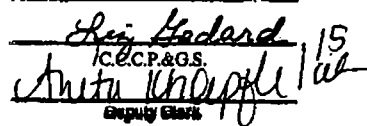
2014CPO 200792

Re: Isacc Starke, 00355498 v. State of South Carolina

Dear Clerk,

I have received the letter you sent by email in which my client complains again of my services. He has fired me once before and unfired me before I even knew he had fired me. I have responded to his letter and informed him that I will be out of the office July 13th through July 30th, and that I will communicate with him further when I return. If, once I return, our conflict can not be resolved I will make a motion to be relieved, motion to appoint Mr. Starke a guardian ad litem, or other appropriate action.

Sincerely,


J. Falkner Wilkesc:
Isaac Starke, 355498
Perry Correctional Institution
430 Oaklawn Road
Pelzer, SC 29669Julie A. Coleman
Assistant Attorney General
S.C. Attorney General's Office
Rembert C. Dennis Building
Post Office Box 11549
Columbia, South Carolina 29211FILED 7.11.16

Liz Godard
C.C.P. & G.S.
Deputy Clerk

1 STATE OF SOUTH CAROLINA

CIRCUIT COURT

2 COUNTY OF AIKEN

2014-CP-02-00792

3
4
5 ISAAC LARRY STARKE,
Applicant,

6 -vs-

TRANSCRIPT OF RECORD

7 STATE OF SOUTH CAROLINA,
8 Respondent.

9
10 Post-Conviction Relief Hearing
11 Heard on Tuesday, September 20, 2016
12 & Friday, September 23, 2016
Aiken, South Carolina

13
14 BEFORE:

15 THE HONORABLE ROBERT E. HOOD

16
17 APPEARANCES:

18 Counsel on Behalf of the Applicant:
J. Falkner Wilkes, Esq.

19
20 Counsel on Behalf of the Respondent, State of SC:
Julie A. Coleman, Esq.

21
22
23 Cheri L. Young, RPR
24 Circuit Court Reporter
P O Box 5232
25 Aiken, SC 29803-5232

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1 ON TUESDAY, SEPTEMBER 20, 2016 AT 11:30 A.M.:

2 MS. COLEMAN: This is Isaac Starke versus the
3 State of South Carolina, Docket Number 2014-CP-
4 02-792.

5 The Applicant is presently confined in the
6 South Carolina Department of Corrections pursuant
7 to orders of commitment of the Aiken County Clerk
8 of Court. Applicant was true-bill indicted at the
9 March 2013 term of the Aiken County Grand Jury for
10 criminal sexual conduct with a minor second degree,
11 criminal sexual conduct with a minor third degree.
12 George Anderson, Esquire, represented the
13 Applicant.

14 On May 15th, 2013, Applicant pled guilty as
15 indicted before the Honorable Doyet A. Early the
16 Third. Judge Early sentenced Applicant without
17 recommendations or negotiations to a 15-year term
18 of imprisonment for criminal sexual conduct with a
19 minor second degree, and a 15-year term of
20 imprisonment for CSC with a minor. All sentences
21 running concurrently.

22 The Applicant did not appeal his guilty plea
23 or sentence.

24 Applicant filed a timely application for
25 post-conviction relief on April 7th, 2014, alleging

1 that he was being held in custody unlawfully based
2 on the following allegations: Ineffective
3 assistance of counsel; involuntary guilty plea; and
4 Brady violations.

5 The State filed its return August 6th, 2014.
6 He's present today and represented in this matter
7 by Jeff Wilkes.

8 THE COURT: All right. And, Mr. Wilkes, are
9 you prepared to go forward?

10 MR. WILKES: I am, Your Honor.

11 THE COURT: You may call your first witness.

12 MR. WILKES: And before I start off, I'll
13 just give the Court an update on where we are with
14 other witnesses.

15 THE COURT: Okay.

16 MR. WILKES: George Anderson was supposed to
17 come Friday because he was traveling. And we had a
18 witness subpoenaed today, Mr. Freddie Foos. I just
19 spoke with him. He is recovering from surgery.
20 He's very elderly, said he can't drive because of
21 medications but he can be here Friday.

22 THE COURT: Okay. Great.

23 MR. WILKES: He was told to come Friday
24 morning.

25 THE COURT: Okay.

1 MR. WILKES: And we should, hopefully, be
2 able to wrap this up Friday.

3 THE COURT: So, Mr. Starke, we're going to
4 start your hearing today and then we're going to
5 finish it on Friday. Is that okay?

6 THE APPLICANT: Yes, Your Honor.

7 THE COURT: And that way this Freddie
8 individual that somebody's -- you've subpoenaed
9 through your attorney?

10 THE APPLICANT: Yes, Your Honor.

11 THE COURT: That way he'll have the
12 opportunity to be here. Mr. Anderson will have the
13 opportunity. Instead of continuing the case to a
14 future term, we're just going to split it up so we
15 can get it all done this week. Is that okay?

16 THE APPLICANT: Yes, Your Honor.

17 THE COURT: And is that okay with you,
18 Mr. Wilkes?

19 MR. WILKES: It's perfect.

20 THE COURT: All right. You may call your
21 first witness.

22 MR. WILKES: Thank you. We'll call Isaac
23 Starke to the stand.

24 THE COURT: Mr. Starke, come on up.

25 ISAAC LARRY STARKE, having been duly sworn,

ISAAC LARRY STARKE - DIRECT BY WILKES

1 was examined and testified as follows:

2 THE CLERK: Please take a seat and state your
3 full name for the Court.

4 THE APPLICANT: My full name is Isaac Larry
5 Starke.

6 DIRECT EXAMINATION

7 BY MR. WILKES:

8 Q. Mr. Starke, Mr. George Anderson represented
9 you in the case in which you pled guilty on May
10 13th of 2013?

11 A. Yes, sir.

12 Q. Tell me how you came about hiring
13 Mr. Anderson. When did you do that in relationship
14 to the plea?

15 A. Well, I was arrested on October the 17th,
16 2013. And George Anderson told the Court that my
17 mother called him a day or so later and asked him
18 would he represent me.

19 THE COURT: Hold on. When did you say you
20 were arrested? I'm sorry.

21 THE APPLICANT: I was arrested on October
22 17th -- I'm sorry. October 17th, 2012. I'm sorry.

23 THE COURT: Okay. That's okay.

24 THE APPLICANT: I made a mistake.

25 THE COURT: I thought said '13. That's why I

ISAAC LARRY STARKE - DIRECT BY WILKES

1 was confused.

2 THE APPLICANT: I'm sorry.

3 THE COURT: Go ahead, Mr. Wilkes. I
4 apologize.

5 BY MR. WILKES:

6 Q. And after your arrest, how soon after you
7 were arrested did Mr. Anderson begin representing
8 you?

9 A. I'm thinking maybe, I'm thinking maybe two
10 months later.

11 Q. Okay. And how did you come to meet him?
12 Tell me -- were you incarcerated at the time?

13 A. I was incarcerated in the Aiken County
14 Detention Center at the time, sir.

15 Q. Okay. And did you ever make bond or get
16 released from the detention center prior to the
17 plea?

18 A. No, sir.

19 Q. Okay. Now, Mr. Anderson came to visit you
20 about how long before the plea?

21 A. He came to visit me a couple of times but he
22 never discussed my case.

23 Q. Okay. And, tell me how you came to decide to
24 plead guilty. What did you talk about with
25 Mr. Anderson as far as reaching that conclusion or

ISAAC LARRY STARKE - DIRECT BY WILKES

1 that decision point?

2 A. Okay. First of all, I must tell the Court
3 here in handing me that, that I got to use the
4 things, the language that we used. I got to just
5 say what was said. Okay?

6 THE COURT: Okay. As long as you're quoting
7 somebody. I don't want you just spewing out
8 profanity.

9 THE APPLICANT: No, no, nothing like that.

10 THE COURT: But if you're quoting a
11 conversation.

12 THE APPLICANT: Yes, Your Honor.

13 THE COURT: That will be perfectly
14 acceptable. Okay?

15 THE APPLICANT: Yes, Your Honor.

16 On -- George Anderson, George Anderson,
17 attorney-at-law, came to see me in the county
18 jail. And at first he was supportive. He was
19 positive. He never talked about my case to amount
20 to anything. He just said, "You're guilty and
21 you're a child molester". And he kept telling me
22 that I was a child molester and he couldn't take me
23 to open court. "I can't take you to open court. I
24 can't take you to open court, you're a child
25 molester." And he said, "I can't take you to open

ISAAC LARRY STARKE - DIRECT BY WILKES

1 court because your wife will go to prison. Your
2 wife will go to prison. I can't take you to open
3 court. I got to get you a plea deal. I got to get
4 you a plea deal."

5 And then he charged \$7,500 to represent me
6 and then he said, "Your wife's going to go to
7 prison if you don't give me \$5,500 to represent
8 her, and then your daughter's going to go to
9 reformatory if you don't give us \$3,500 for me to
10 represent her."

11 So he represented all three of us at the same
12 time and then he told me I had a deal. He said,
13 "You got a deal. You got a deal. You got a deal.
14 You got a deal for" --

15 THE COURT: Okay. Now, listen. Hang on with
16 me one second. Okay. I want to make sure I'm
17 getting everything you're saying.

18 THE APPLICANT: Yes, sir.

19 THE COURT: You see this young lady sitting
20 right in front of you?

21 THE APPLICANT: Yes, Your Honor.

22 THE COURT: She's typing down everything that
23 you say.

24 THE APPLICANT: Yes, Your Honor.

25 THE COURT: I want to make sure that she gets

ISAAC LARRY STARKE - DIRECT BY WILKES

1 it right, too.

2 THE APPLICANT: Yes, Your Honor.

3 THE COURT: So if you can slow down --

4 THE APPLICANT: I'm sorry.

5 THE COURT: -- just one whole level for us.

6 You don't need to apologize, but I want to make
7 sure that we get it all down accurately so that I
8 can fully process everything that you're saying and
9 that, so she has an accurate record of it. Okay?

10 THE APPLICANT: Yes, sir. I'm anxious. I
11 have anxiety. I'm sorry.

12 THE COURT: That's okay. Just take a deep
13 breath. If you need some water we can get you some
14 water. I just want to make sure we are able to
15 take down everything that you say correctly.

16 So you were talking about Mr. Anderson's
17 representation and that he ended up representing
18 you, and your wife, and your daughter. That's the
19 last I got from you. Okay?

20 THE APPLICANT: Okay. I'll say that part
21 again if it's okay.

22 THE COURT: Sure. Just don't speak too fast.
23 Okay?

24 THE APPLICANT: I'm sorry, Your Honor.

25 MR. WILKES: Ready, Judge?

ISAAC LARRY STARKE - DIRECT BY WILKES

1 THE COURT: Yes, sir.

2 MR. WILKES: May I approach?

3 THE COURT: You may.

4 BY MR. WILKES:

5 Q. If you take a look at this document and tell
6 me what that is. Do you recognize that?

7 A. Okay. Hold on a minute.

8 SC DSS, South Carolina Department of Social
9 Services versus Beverly Starke, that's my wife, and
10 Isaac Starke, that's me, and defendants is my four
11 minor children at the time.

12 Q. Okay. Do you recognize that document?

13 A. Let me see. I know what it is because I got
14 tons of these papers.

15 Q. Okay.

16 A. I know what they are.

17 Q. And what does that represent?

18 A. This right here represents the DSS
19 investigation on our daughter and me and my wife.
20 My wife was my co-defendant. And this right here
21 appears to be -- and I'm positive -- it's the DSS
22 reports where it went to family court.

23 Q. Okay. Did, does that indicate -- do you
24 believe that's an indication that Mr. Anderson was
25 representing you and your wife, at least you and

ISAAC LARRY STARKE - DIRECT BY WILKES

1 your wife in the DSS matter of --

2 A. He was representing me and my wife in the DSS
3 matter simultaneously with me criminally and with
4 my wife criminally and with my daughter --

5 Q. Okay.

6 A. -- all at the same time. That's why he told
7 me he couldn't take me to a open court of law.

8 Q. Okay. May we mark this as Applicant's 1 for
9 ID?

10 THE COURT: Absolutely.

11 THE APPLICANT: I would like to explain more,
12 Your Honor.

13 THE COURT: We're going to let you. Just
14 hold on one second. Okay?

15 THE APPLICANT: Yes, Your Honor.

16 MR. WILKES: Judge, where do you want these
17 things?

18 THE COURT: If you want me to see them, you
19 can just hand them to me.

20 MR. WILKES: There won't be many, but I'll --

21 THE COURT: Okay. Just give them to
22 Ms. Anita right here and I'll be happy to look at
23 them.

24 Thank you, ma'am.

25 THE CLERK: Yes, sir.

ISAAC LARRY STARKE - DIRECT BY WILKES

1 (Applicant's Exhibit No. 1, DSS order to
2 relieve counsel, marked for identification.)

3 BY MR. WILKES:

4 Q. Was Mr. Anderson meeting with you and your
5 wife during the time that you were charged with
6 this offense?

7 A. No, sir, Attorney Wilkes. I was arrested, as
8 the Judge corrected me, on October the 17th, 2012,
9 or maybe like 7:30 in the afternoon or p.m. I had
10 went to the church in Trenton, South Carolina, and
11 they called me from there. I was opening up the
12 mission there in Trenton, South Carolina, called
13 Piedmont Christian Tabernacle. And so I came back
14 to the house, dropped off the kids, and drove to
15 the police station, the Aiken County Sheriff's
16 Department. That's the one uptown.

17 Q. Hold on one second.

18 A. I'm off track.

19 Q. Hold on. My question was: Was Mr. Anderson
20 representing you and your wife during the time that
21 you were charged with this offense --

22 A. Yes. Yes, sir.

23 Q. -- in DSS?

24 A. He, he represented me in a criminal matter.

25 Q. Okay.

ISAAC LARRY STARKE - DIRECT BY WILKES

1 A. And my wife in a criminal matter, and DSS
2 matter and my daughter all simultaneously in two
3 courthouses. As a matter of fact, that blonde-
4 haired judge in the courthouse said, "Don't you
5 think this is a conflict of interest,
6 Mr. Anderson." And he said, "No, Your Honor. No,
7 Your Honor --

8 MS. COLEMAN: Objection, Your Honor.
9 Hearsay.

10 THE APPLICANT: -- I've been doing this for
11 40 years."

12 THE COURT: When she says, "objection," --

13 THE APPLICANT: I'm sorry, sir.

14 THE COURT: -- you have to stop talking.
15 Your objection is overruled. So I'll allow the
16 answer.

17 Go ahead, Mr. Wilkes.

18 BY MR. WILKES:

19 Q. Mr. Starke, so when did Mr. Anderson begin
20 representing you, your wife and you together?

21 A. Simultaneously. Because when he picked up
22 the case from me he said, "I got to represent your
23 wife or she's going prison too. Do you want your
24 wife to go to prison." I said no. "Do you want
25 your daughter to go to reformatory." I said no.

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1 Then he said, "Then you all got to pay me money for
2 all."

3 That's when this gentleman back here came in
4 place, and brother Fred loaned \$11,000. The church
5 loaned half the money. My wife come up with the
6 other half of the money.

7 Q. And you're referring to the fellow in the
8 courtroom. Who would that be?

9 A. His name is Pastor David Belton, Jr., and
10 he's been knowing me for many, many years. And
11 I've attended his church and we've worked together
12 on contracting jobs. He's a professional plumber,
13 licensed, licensed by the State of South Carolina.
14 And I'm a HVAC licensed by -- 26 years senior by
15 the State of South Carolina, sir.

16 Q. Okay. And, during the time that you were
17 incarcerated, did you have discussions with Pastor
18 Belton?

19 A. When I was incarcerated I talked to Pastor
20 Belton possibly on the telephone in the Aiken
21 County Detention Center.

22 Q. Uh-huh.

23 A. I think that's possible.

24 Q. Okay. All right. And did you have
25 discussions with him about your belief that your

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1 attorney had worked out a plea deal for you?

2 A. Absolutely. My attorney told me, he said
3 "Child molesters don't get to go to court. You
4 have to just go to prison." He said, "So,
5 therefore, you're just going to go in there and say
6 you're guilty and everything the judge says, you
7 got to say 'Yes, Your Honor, I'm guilty, I'm sorry
8 for this crime,' and we got you a deal with the
9 prosecutor."

10 Now I ask everybody to listen very closely
11 and I want to say this slowly so the record gets
12 it. It's important. Here's the way it went down.
13 George A. Anderson and Dr. Joe Holt, Dr. Joe Holt,
14 he was hired on by Dr. -- by George A. Anderson,
15 attorney-at-law as an expert psychiatrist.

16 Q. Uh-huh.

17 A. He said that he could administer psychosexual
18 therapy to me and that right there was a
19 prerequisite for a four deal {sic} with greatly-
20 reduced charges and -- a four-year deal with
21 greatly-reduced charges. They was going to reduce
22 the charges and give me four years. A four-year
23 deal.

24 So that's when Brother Fred Foos and also the
25 Pastor Belton was -- Pastor Belton was contacted

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1 after the fact. After George -- after Brother Fred
2 Foos was contacted and he said, "Well, if this is
3 going to help Brother Isaac," he said, "I'll pay
4 the extra money." And he had already paid -- we
5 paid, the church and my wife combined paid Dr. EJ
6 Holt 6,000 total dollars. And the last \$2,500 was
7 for the psychosexual therapy that was a
8 prerequisite for the four-year deal with greatly-
9 reduced charges.

10 Q. Okay. And you did whatever you were supposed
11 to with Dr. Holt, correct?

12 A. Not only did I do everything at first with
13 Dr. Holt which was \$2,800 which was an evaluation,
14 but I also went through the 18 sessions of
15 psychosexual therapy which was a prerequisite for
16 my four-year deal with greatly-reduced charges with
17 the prosecutor.

18 Q. Okay. And going into the plea, what do you
19 recall leading up to the plea about the deal or
20 your discussions with Mr. Anderson?

21 A. Mr. Anderson and Dr. Joe Holt came to the
22 county jail. Dr. Joe Holt came to the county jail
23 many, many times because he done the -- he done the
24 mental evaluation called some kind of
25 psychosis-something evaluation and that was \$2,800,

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1 and then he done 18 sessions of the psychosexual
2 therapy. Now check this out.

3 Q. Right.

4 A. Both of them came in which is my attorney,
5 George A. Anderson, and Dr. Joe Holt came in. We
6 used Nurse Penny's office. Nurse Penny is a nurse
7 practitioner at the Aiken County Detention Center.

8 Q. Okay.

9 A. And that's the office that they used to let
10 me use and what he said was, he said, George
11 A. Anderson said, "We have a deal. We have a
12 deal. We have a deal. We have a deal. I come to
13 give you good news. We have a deal, yes."

14 And Dr. Anderson -- Dr. Joe Holt said, "Yes
15 we met with the prosecutor. We have a deal. We
16 have a deal. Matter of fact, we've met with the
17 prosecutor on three different occasions." And
18 that's what he was paid extra money to do; to get
19 me a deal.

20 And that's when, that's when the church came
21 up and paid the additional \$2,500 for Joe Holt.
22 And that is when -- when he said we had a deal, he
23 said, "We have a deal of greatly-reduced charges
24 and four years or less. You don't have to worry
25 about it." Joe Holt said, "I'm a member of the

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1 South Carolina Parole Board. You won't -- after
2 four years you won't do but one month, one year and
3 three months and you'll make parole because you
4 ain't never had no prior convictions."

5 Q. All right. So at that point did you believe
6 that there would be a four-year deal if you entered
7 a guilty plea?

8 A. Absolutely.

9 Q. Okay. And, what happened after that?

10 A. After that, after that Dr. Joe Holt continued
11 coming to the prison because my, my 18 sessions of
12 psychosexual therapy that was a prerequisite for
13 the four-year deal was not complete yet. It won't
14 complete --

15 Q. Did you complete it?

16 A. I completed it.

17 Q. Okay. So after you completed it, did you
18 believe there would be -- that you had done
19 whatever you thought Mr. Anderson wanted you to do
20 for your deal?

21 A. Absolutely.

22 Q. And -- okay. Now, so, how long before the
23 plea is this when you had completed the therapy?

24 A. From when he told me about the plea?

25 Q. Uh-huh. No. I'm saying after you finally

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1 completed the 18 sessions or whatever you had to do
2 with Dr. Holt, how far from the plea was that?

3 A. You mean when I went to court?

4 Q. Yeah. From when you went to --

5 A. Well, not very long when I finished his
6 sessions.

7 Q. Okay. So after the sessions were
8 completed --

9 A. Maybe two weeks.

10 Q. Okay. And did you meet with Mr. Anderson
11 again before court?

12 A. No, sir, I did not. But I did want to talk
13 to my attorney because when the judge said on the
14 13th day of May, 2013, when we went to court he
15 said -- Dr. Joe Holt said, "Your Honor, in the
16 event that he was parole --

17 MS. COLEMAN: Objection. Hearsay.

18 THE APPLICANT: Wait a minute. I'm
19 testifying what went on in the courtroom.

20 THE COURT: Ssssshhhhhhhhh. Go ahead,
21 Mr. Wilkes.

22 BY MR. WILKES:

23 Q. Yes, Your Honor. I believe recalling what
24 was said in Court, it should be on the transcript.
25 I'm not sure why we're there yet. If I can

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1 redirect him?

2 THE COURT: Okay. You may.

3 THE APPLICANT: I'm sorry.

4 BY MR. WILKES:

5 Q. Now I'm trying to get to the point before you
6 walk in the courtroom. You said you didn't see
7 Mr. Anderson again until the day of court; is that
8 right?

9 A. I didn't see Mr. Anderson again until the day
10 of court and right back in the court when we went
11 to walk out there.

12 Q. Okay. So, did you have a discussion with him
13 about the deal before -- at the courthouse before
14 you walked up to the podium, did you have any
15 conversation with him, yes or no?

16 A. Yes.

17 Q. And what did he say?

18 A. In the courtroom he told me, "Remember your
19 deal. Get your deal. Get your deal." He
20 whispered to me, said, "Get your deal. Get your
21 deal. Get your four-year deal."

22 Q. Okay. And how did he explain that that was
23 going to happen?

24 A. He told me that -- he told everything what to
25 do in the courtroom. He said, "You must go in the

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1 courtroom. You must agree to everything the judge
2 says. 'Yes, Your Honor, I'm guilty; Yes, Your
3 Honor, I'm sorry for this offense and it will never
4 happen again; Yes, Your Honor, I'm very sorry and
5 this is a shame and a reproach on my family and the
6 community; Yes, Your Honor.'"

7 And then he said at the end of it, it would
8 go all the way through and the judge would discuss
9 things with the prosecutor and the prosecutor would
10 discuss things with the judge. And after the end
11 the judge would say, "Okay, does anybody have
12 anything else to say in the courtroom."

13 And, he said, "The prosecutor will stand up
14 and say, 'Your Honor, we have a four-year deal. We
15 have made this arrangement and we have a four-year
16 deal with greatly-reduced charges.'"

17 Well, they did reduce my charges but they
18 only took the minor charges off. They never give
19 me the deal at all.

20 And, Your Honor, I didn't know that they
21 didn't take the CSC in the second degree off. They
22 took the CSC in the third degree off and I didn't
23 know what the difference in the two of them was.
24 One of them's got parole and one of them don't have
25 parole.

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1 And, Your Honor, how I can make parole if I
2 never got parole. That's wrong, Your Honor.

3 Q. Okay.

4 A. I'm sorry, sir.

5 Q. Just listen to my question.

6 A. Yes, sir.

7 Q. At the time leading up to the guilty plea,
8 were you on medication?

9 A. Yes, sir. I was on medication because I
10 started seeing visions in the county jail.

11 Q. Were you on Risperdal?

12 A. Yeah. I was on Risperdal and I was on
13 Zoloft, sir.

14 Q. And if I may mark it?

15 A. But I had never seen a psyche before except
16 for, except for my county -- except for my family
17 court, my family doctor but I was supposed to. I
18 tried to check into the Aiken Barnwell Bamberg
19 Mental Health facility and they refused me.

20 MR. WILKES: May I approach, Your Honor?

21 THE APPLICANT: I'm sorry.

22 THE COURT: Yes, sir. You're fine.

23 BY MR. WILKES:

24 Q. You pled guilty on May 13th, correct?

25 A. Yes.

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1 Q. On May 11th you missed your Risperdal
2 medication, correct?

3 A. I must have, sir. I missed it a lot of times
4 but I didn't remember exactly that particular day,
5 sir. I know I missed it because George Anderson
6 said, "Are you okay, are you okay," because I was
7 really bad in the back of the courtroom. I was,
8 like --

9 Q. Stop, stop, stop.

10 A. I'm sorry, sir.

11 MR. WILKES: Your Honor, if I could admit the
12 sheet out of the detention center's medical
13 records. I've shared it with the Attorney
14 General.

15 THE COURT: All right. Any objection?

16 MS. COLEMAN: No objection, Your Honor.

17 THE COURT: All right. That's Plaintiff's
18 Number 2.

19 THE CLERK: Yes, sir.

20 MR. WILKES: It is, Your Honor.

21 THE COURT: All right. Admitted without
22 objection.

23 (Plaintiff's Exhibit No. 2, medical record,
24 received into evidence.)

25 BY MR. WILKES:

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1 Q. What effect do you think it has on you when
2 you miss your Risperdal?

3 A. When I miss my medications -- I'm going to be
4 honest with you. I just got to be honest. I don't
5 have no common sense. I'm a mechanical person.
6 And I'm -- a God-given gift. I have a God-given
7 gift for mechanical things, but I have no common
8 sense about nothing. And the truth is when I
9 missed that medication I was already under an
10 extreme amount of pressure from being in prison --
11 I mean, in jail, county jail. I was on 24-7
12 lock down, and I was freaking out. And even George
13 Anderson said, "Do you need me to get the doctor."

14 Q. Hold on one second.

15 A. I'm sorry, man. I'm sorry, Your Honor.

16 THE COURT: Stop apologizing. You're fine.

17 THE APPLICANT: I'm nervous. I ain't never
18 been in Court like this to do this.

19 THE COURT: You're fine.

20 THE APPLICANT: I ain't never spent the night
21 in jail before except for this.

22 BY MR. WILKES:

23 Q. Mr. Starke -- may I approach, Your Honor?

24 THE COURT: Yes, sir.

25 BY MR. WILKES:

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1 Q. I'm going to back up just a little bit.

2 A. I know what these things are. I don't need
3 to put my glasses on.

4 Q. Are those the -- are those the billing
5 statements Mr. Anderson sent you for representing
6 Ms. Starke and yourself?

7 A. Yes, sir, but not all of them.

8 Q. Of course. But are those representative of
9 the bills he was sending you?

10 A. Yes, sir. They are. And I understand
11 these. I can explain almost everything except for
12 the bills that he put on there after I was, went to
13 court because he put on 600-some more dollars. I
14 don't know why.

15 Q. Would you like to explain what that is?

16 A. Oh, I'd love to explain some of that there,
17 sir.

18 Q. Yes, sir.

19 A. Yes, sir. This right here is -- this right
20 here is where he was representing me, the
21 Defendant, Isaac Starke, and he was representing my
22 wife, Beverly Starke, simultaneously, and he was
23 representing Daughter 1 and our other children.
24 And I don't know why he had to have, why other of
25 the dependents had, you know, minor children had to

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1 have him but they did because they had to, you
2 know, they was in the court documentation.

3 So, he represented us and he would go to both
4 courts. He would go to criminal court, like, for
5 the hearings. I don't know what they was all
6 about, something about me doing something. I don't
7 know. It was a bunch of them, Your Honor, and,
8 like, I don't know what was going on but something
9 was going on. We had to show up and he had to say
10 something to the Court, the judge, and things like
11 that with me.

12 But after I come out of the county jail and
13 then he had to go with me and my wife, my ex-wife,
14 she's now divorced. We was married for 21 years.
15 And he represented both of us.

16 Q. Okay.

17 A. And he represented both of us because DSS was
18 prosecuting her and the State was going to
19 prosecute her, was prosecuting her for my charges.
20 And he said he had to represent both of us. So he
21 got paid for me, my wife and my daughter, all three
22 simultaneously. Separate monies.

23 Q. That's good. Thank you.

24 A. Sorry.

25 Q. We'd move to introduce --

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1 THE COURT: Any objection?

2 MS. COLEMAN: No objection.

3 THE COURT: Number 3 without objection.

4 MR. WILKES: Thank you, Your Honor.

5 (Applicant's Exhibit No. 3, billing
6 statements, marked for identification.)

7 THE APPLICANT: But they're not complete.
8 There's more of them. He won't release them
9 because he --

10 THE COURT: No, no, no. Don't talk unless
11 your lawyer asks you a question, please.

12 THE APPLICANT: I'm sorry. I'm sorry. I'm
13 sorry. I'm sorry.

14 Could you pour me some water, please? I'm
15 sorry for asking.

16 THE COURT: Just stay right there.

17 THE APPLICANT: Yes, sir.

18 (Off-the-record discussion.)

19 MR. WILKES: Your Honor, can we take a few
20 minutes' break?

21 THE COURT: Sure.

22 MR. WILKES: We've got a document that I'd
23 probably like him to look at.

24 THE COURT: Okay. All right. Let's take --
25 how long do you want?

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1 MR. WILKES: About 10 minutes would be
2 great.

3 THE COURT: Let's take about a 10-minute
4 break. Mr. Starke, you can go back down to counsel
5 table. Do not discuss your testimony. You can
6 look at that document. No other discussion about
7 your testimony.

8 MR. WILKES: Thank you.

9 (Break taken at 12:00 p.m., until 12:10 p.m.,
10 and the hearing resumed:)

11 THE COURT: Mr. Starke, come on back up.

12 THE APPLICANT: Yes, Your Honor. Thank you,
13 Your Honor.

14 THE COURT: You're very welcome.

15 All right. Mr. Wilkes?

16 MR. WILKES: Thank you, Your Honor.

17 Your Honor, I'd like to move the Guardian ad
18 litem letter in as Exhibit Number 4 that we
19 received from the solicitor.

20 MS. COLEMAN: No objection from the State.

21 THE COURT: Plaintiff's Exhibit Number 4
22 admitted without objection.

23 (Plaintiff's Exhibit No. 4, GAL letter,
24 received into evidence.)

25 MR. WILKES: May I approach, Your Honor?

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1 THE COURT: Yes, sir.

2 MR. WILKES: Thank you.

3 Q. Mr. Starke, you read this letter from the
4 guardian ad litem for your daughter that was
5 presented during the guilty plea. You read that
6 just a few minutes ago, correct?

7 A. Yes, yes, yes, sir.

8 Q. Now, did you ever see that before the plea?

9 A. Oh, absolutely not.

10 Q. And do you recall whether your attorney had
11 it or discussed it with you or the existence of it
12 before the plea?

13 A. He did not have it. As a matter of fact, he
14 told me he only received a copy of it the day after
15 my -- the day after I pled guilty and the whole
16 deal was done. And that would be the, that was
17 done on the 15th.

18 Q. Okay.

19 A. And he said he received it the day after and
20 I received it after I was in prison, after I had
21 been transferred from Aiken County to the prison
22 system, SCDC.

23 Q. And you've read that letter. Now, would
24 that -- if you would have known that the guardian
25 ad litem on behalf of your daughter was going to

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1 give that statement to the judge in the middle of
2 the plea, would that have affected your decision to
3 plead guilty?

4 A. Absolutely. Because my attorney clearly told
5 me that they won't say nothing bad about me in a
6 court of law and I won't going to have to say
7 anything about anybody else because we had a deal,
8 a four-year deal. He even whispered to me in the
9 trial, during the trial. He said, "Get your deal.
10 Get your deal."

11 And that's when it shows it on the
12 transcript. And the judge said, "Yes, please talk
13 to your client." Well, he confirmed to me that I
14 had the deal.

15 Q. Okay. And --

16 A. And that's called -- that's called Brady
17 material and that's called exculpatory according
18 to -- I went to, had a class at the prison. It's
19 called legal dialogue. They said that's Brady
20 material, stuff like that that's not in the
21 courtroom. It's called Brady material and it's
22 called something about exculpatory. And I just
23 heard that blonde-haired lady say exculpatory back
24 there, so I knew that word.

25 Q. Just one question. If you knew that that was

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1 going to be given to the judge and the judge was
2 going to read that, would you still have pled
3 guilty?

4 A. Absolutely not because it slammed me.

5 Q. Okay. Now --

6 A. And my attorney told me that wouldn't happen.

7 Q. During -- well, let me ask you about
8 Miranda. Did you talk to your attorney about the
9 events after your arrest or right around the time
10 of your arrest? Did you describe what happened to
11 your attorney?

12 A. What happened to my attorney. I didn't have
13 no attorney. I didn't have no attorney at all when
14 I was arrested.

15 Q. Hold on one second. I asked a bad question.

16 A. I'm sorry, sir.

17 Q. Let me rephrase that.

18 A. Yes.

19 Q. When you met -- at any time when you were
20 talking to Mr. Anderson after he was representing
21 you, did you explain to him what the police did to
22 get a statement from you?

23 A. Absolutely. I went into great details about
24 this and I even put it in my federal action that
25 they kicked out, said I was practicing law without

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1 a license. Absolutely.

2 Q. And what did you tell Mr. Anderson the police
3 did, or how they went about getting a statement
4 from you?

5 A. What I told him is exactly what they done.
6 When I went to the Aiken County Sheriff Department
7 there was an investigator there, his name was Chris
8 Evensen. Chris Evensen. And I didn't know none of
9 that stuff beforehand. I only got that out of the
10 information out of the court stuff. Okay.

11 He said, "Mr. Starke, we just want to ask you
12 a few questions and get this thing cleared up real
13 quickly, real quickly." And I said okay. He said,
14 he started asking me questions about the situation.
15 I said, I said, "Well, look," I said. I said,
16 "Look," I said, I said, "I don't know a lot about
17 law. I never spent the night in jail or anything
18 like that, but," I said, "ain't I supposed to be
19 able to get an attorney, have an attorney with
20 me." He said, "You got a high -- you got a GED or
21 a high school diploma, don't you." I said,
22 "Yeah." He said, "You're a man of faith. You're a
23 man of faith." I said, "Yeah, but, I supposed to
24 be able to get an attorney in here." He said, then
25 he had Barbara Brightharp in there and she started

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1 nailing me. Her -- no, it was Williams,
2 Ms. Williams. It was either Barbara Brightharp or
3 Ms. Williams, yes, it was. This is a God's honest
4 truth now. The blonde-haired lady, she just looked
5 up like I said something wrong and give me a bad
6 look but I'm telling it anyway.

7 She had the DSS person in there when I got
8 there with Christopher Evensen, the Investigator
9 Chris Evensen. And she was bombarding me with
10 questions and he walked out to cross-examine my
11 wife because he was going to arrest her in another
12 room. He took her separate from me. And she
13 started bombarding me with questions. Da-da-da-da-
14 da. "You got a GED. You got a GED. Answer his
15 questions. You're a man of faith. Answer these
16 questions." I said, "I want to talk to my
17 lawyer." "You ain't getting no lawyer. You got a
18 GED. You ain't getting no lawyer."

19 So then Chris Evensen come back in the room.
20 And he said, "Confess it. Confess it. Confess
21 it. Get it." Then he had this little tiny
22 recorder, looked like the same recorder of that
23 woman right there. I'm sorry for calling her a
24 lady. This lady, blonde-haired lady that's writing
25 this stuff down. Just like that little recorder

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1 she's got right there. It looked like a little
2 recorder like that. And he would turn it on and
3 he'd say, "Now say you done it. Say you done it.
4 You're a religious man. You're a man of faith --

5 MS. COLEMAN: Objection, Your Honor. All of
6 this is hearsay.

7 THE APPLICANT: No, I got to tell this.

8 THE COURT: Let me rule.

9 THE APPLICANT: I'm sorry, sir.

10 THE COURT: Overruled. You can say what they
11 said. Go ahead.

12 MR. WILKES: Mr. Starke.

13 THE APPLICANT: I'm sorry, man.

14 THE COURT: You don't need to apologize. I'm
15 letting you answer the question. Go ahead.

16 MR. WILKES: You just need to go a little
17 slower.

18 THE APPLICANT: I'm sorry, Your Honor.

19 BY MR. WILKES:

20 Q. I need to know --

21 A. This is the way it happened though.

22 Q. I don't care how it happened. I need to know
23 what you told your lawyer. This is how you told
24 your lawyer --

25 A. I told him.

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1 Q. -- that's what we need to hear, okay?

2 A. I told him everything, yes.

3 Q. Okay. Keep going.

4 A. I told him everything and I said -- then,
5 then the -- Chris Evensen came back in the room and
6 I said, "I want to talk to a lawyer. I know
7 there's something about a lawyer. I got to be able
8 to talk to a lawyer." He said, "You want a lawyer,
9 you want a lawyer," he grabbed a telephone, you
10 know the kind you dial that you can sit on the
11 desk, and he slammed it in front of me on the
12 table. And he said, "Here's a telephone. Call
13 your lawyer. You got the money, you got the money
14 on you now. If you ain't got the money on you now
15 you got to answer these questions. Call him if you
16 got them." I said, "My wife control all the money
17 because I don't have no common sense. She controls
18 all the money."

19 He had her separate and they'd already
20 blackmailed her and told her if she helped me she
21 was going -- he was going to put her in prison for
22 it, too. So she wouldn't say nothing.

23 Q. Okay. So you told all of that to your
24 attorney, correct?

25 A. I told him. All he said --

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1 Q. Okay.

2 A. -- "That don't mean nothing. Only thing
3 they're going to do is go back and re-arrest you.
4 That don't mean nothing. You're a child molester."

5 Q. Okay. Did he ever talk to you about
6 challenging the admissibility of the statements
7 that you subsequently made?

8 A. No, because he told me all they would do is
9 re-arrest me.

10 Q. All right. Now --

11 A. He said, "that don't mean nothing. They'll
12 just re-arrest you." That's his very words.

13 Q. Okay. Now, Mr. Starke, I have asked you and
14 you have testified about the deal that you believe
15 you had, the impact of the guardian ad litem
16 letter, and how it would have affected your
17 decision to plead guilty, the issue about whether
18 or not your attorney advised you properly on being
19 able to challenge the statements that you gave the
20 police, and you talked about the conflict between
21 Mr. Anderson's representation of you, your wife,
22 and maybe your children in the DSS matter and
23 criminal matters.

24 Is there any issue that I have missed or
25 overlooked?

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1 A. Well, you haven't asked me about Dr. Joe Holt
2 swearing up and down he was a South Carolina Parole
3 Board member and guaranteeing me that I was only
4 going to get, after court in prison, one year and
5 three months and make parole because I had no prior
6 convictions.

7 Q. Now, you testified to that.

8 A. Okay.

9 Q. Okay. Is there anything else that I have
10 overlooked as far as the issues that we discussed
11 raising for the Court?

12 A. One thing. Because he told me to agree with
13 the judge on everything and confess to everything
14 and the only thing I disagree with the judge was on
15 CSC in the second degree because he said something
16 that I didn't do.

17 Q. Okay.

18 A. And that's why I said it. And that's when he
19 called me up there and he said, "He has to talk to
20 you." The judge said, "Yes, please talk to your
21 attorney." He come him up there and he grabbed me,
22 he said, "Get your deal. Get your deal. Get your
23 four-year deal. Confess to it."

24 Q. Hold on.

25 A. I'm sorry.

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1 Q. All right. You went up and you began the
2 plea process, correct?

3 A. Yes, sir.

4 Q. And at that time when you started that you
5 thought you had a four-year deal, right?

6 A. Absolutely.

7 Q. And when the judge asked you if you're
8 pleading guilty to both indictments because you are
9 in fact guilty --

10 A. Guilty.

11 Q. -- you then stopped?

12 A. I did, because the God's honest truth,
13 because I weren't guilty of the CSC in the second
14 degree. I didn't do that. I didn't put my finger
15 in her vagina. I didn't touch her vagina. And
16 that's why -- because my attorney said, "You got to
17 agree to everything." I said, "Well, I didn't do
18 that." He said, "You got to get your deal. Get
19 your deal. Get your four-year deal." I had to
20 confess to it to get my four-year deal. I had to.

21 Q. Okay.

22 A. That's what he told me to do.

23 Q. Mr. Starke, when that happened, and the judge
24 said, "Hold on a second." He let you talk to
25 Mr. Anderson?

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1 A. Yes.

2 Q. Okay. That was off the record?

3 A. Off the --

4 Q. Whatever you said to Mr. Anderson, whatever

5 he said to you is not in the transcript, which it's

6 not supposed to be, but it's not. And you have to

7 tell the judge exactly what you said to

8 Mr. Anderson, and exactly what he said to you.

9 Now, when this happened, where were you standing

10 with Mr. Anderson? Were you standing up at the

11 podium?

12 A. I was standing --

13 Q. Was it this courtroom or another courtroom?

14 A. Oh, I don't know if it was this one or not.

15 I was so nervous.

16 Q. Okay. You were standing with Mr. Anderson up

17 at the microphone?

18 A. Yes, sir. Yes, sir.

19 Q. Is that right?

20 A. Yes, sir.

21 Q. And when he said, "Talk to your lawyer," what

22 did y'all do?

23 A. He come up and got me by the arm and started

24 pulling me, nudging me back away from the counter

25 and the attorney and the judge, the Honorable Judge

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1 Early said, "Yes, please talk to your client.

2 Please talk to your client."

3 And George Anderson leaned over to me and he
4 whispered like in a hissing voice, he said, "Get
5 your deal. Get your deal. Get your four-deal.
6 Get your deal. You got to confess to get your
7 deal. Get your deal. Get your deal."

8 Q. And then after that, what happened? Is that
9 when you, it picked back up again?

10 A. That's when I went back up and when the
11 questioning continued. That's when I said, "Yes,
12 Your Honor, I'm guilty," because he told me that's
13 the way I'm going to get my deal.

14 Q. Okay. Very good.

15 Now, Mr. Starke, this is very important. Do
16 you understand that in a PCR the judge has the
17 power to do, essentially most of the time, one
18 thing. And that is to over -- or set aside the
19 conviction in a case. Do you understand that?
20 That's what you're seeking to have happen, correct?

21 A. I do understand that but in class they said
22 that they can stop the malicious prosecution by the
23 prosecutor by him saying that they can't malicious
24 prosecute me.

25 Q. Okay. Mr. Starke, do you understand that

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1 when you pled guilty the State dismissed or nolle
2 prossed three charges?

3 A. They were minor charges. It was a lie what
4 they told me. All I'm saying is they didn't do
5 what they told me.

6 Q. Okay. Mr. Starke, will you give me a yes or
7 no answer?

8 A. Yes, they did dismiss --

9 Q. Okay.

10 A. -- three CSCs in the third degree.

11 Q. Okay.

12 A. But not the second.

13 Q. Okay. And, if this case were overturned --
14 what's your sentence now?

15 A. Fifteen years violent, 85 percent, without
16 parole and I stay in PC, protective custody, and
17 I've been in it 30 times and I stay in PC because
18 they torture me in prison so I can't get no time.
19 That means I'm going to max it out unless they take
20 me out two years early because the law says I have
21 to do two years parole or probation or something
22 like that.

23 Q. Mr. Starke, you're doing a 15-year sentence,
24 two concurrent 15-year sentences?

25 A. But they say on the --

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1 Q. Mr. Starke, you got 15 years, right?

2 A. Yes, sir.

3 Q. Now, do you realize that if the judge were to
4 overturn your case that it is possible that the
5 State could prosecute the three that it nolle
6 prossed as well as the two you pled guilty to and
7 any other charges that it has? Do you understand
8 that?

9 A. Yes, but the feds say they won't do it
10 because my daughter was raped in DSS custody and
11 they said they got to negotiate because she was
12 raped in DSS custody by two Mexicans and given
13 chlamydia. Then on the day I was transferred from
14 the prison -- from the county jail to the prison,
15 sir, the prosecutor Bill Watkins, the federal
16 prosecutor, he volunteers in the prison, he said,
17 "Ain't no way --

18 MS. COLEMAN: Objection, Your Honor.
19 Hearsay.

20 THE APPLICANT: Ain't no hearsay. I got
21 record of it right in there, Your Honor. I got the
22 police report of her rapes.

23 THE COURT: That's hearsay. Sustained.

24 THE APPLICANT: I'm sorry, sir.

25 THE COURT: Do you understand that if you win

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1 this hearing and I start your case over, you're
2 back to facing every single charge you previously
3 were and back to facing the maximum possible
4 punishments consecutive?

5 THE APPLICANT: Yes. Consecutive.

6 THE COURT: Do you understand that?

7 THE APPLICANT: I do understand that.

8 THE COURT: Okay. All right.

9 MR. WILKES: Thank you.

10 Q. Mr. Starke --

11 THE APPLICANT: That's just a risk I got to
12 take.

13 THE COURT: I understand. That's why
14 Mr. Wilkes is asking you that question to make sure
15 that you understand that risk. That's all.

16 THE APPLICANT: Yes, Your Honor.

17 BY MR. WILKES:

18 Q. All right. And, Mr. Starke, we have Mr. Foos
19 who we believe should be here Friday with
20 Mr. Anderson, if he's healthy enough. Tell me
21 before we conclude today what will Mr. -- what was
22 your interaction with Mr. Foos leading up to the
23 plea?

24 A. Mr. Fred Foos, we call him Brother Foos, he's
25 been my best friend since 1999. And he's loaned me

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1 money in time past on business adventures.

2 And when they said, when they come and they
3 said they had a plea with the prosecutor, a deal
4 with the prosecutor of greatly-reduced charges and
5 four years or less for greatly-reduced charges, we
6 told -- me and my ex-wife called him and said, "I
7 got to have 2,500 extra dollars for Dr. Joe Holt.
8 That is prerequisite for the psychosexual therapy.
9 That is a prerequisite for the four years deal with
10 greatly-reduced charges."

11 He said, "Well, whatever I can do to help."
12 So he raised half of it. My ex-wife raised half.
13 The church paid total \$11,000 and my ex-wife paid
14 the rest of it. Then my wife, ex-wife sold all my
15 farm equipment. So I couldn't fight my case no
16 more so she could nail me in prison because I
17 didn't know that she was always against me and set
18 it up. That's the God's honest truth and I didn't
19 know it. And I was taking her -- my attorney said
20 I had to talk to her and she --

21 Q. Mr. Starke.

22 A. -- would talk to him. He wouldn't even talk
23 to me directly.

24 Q. Mr. Starke, is there anything else that
25 Mr. Foos did in relationship to your decision to

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1 pleading guilty? Did he talk to you leading up to
2 the time?

3 A. Brother Freddie Foos talked to me one time on
4 the phone but it weren't then because he could only
5 accept it one time. And that was maybe two months
6 before the plea deal went down. And then, and then
7 I was hearing from -- my wife was telling all these
8 people this stuff. My attorney told me contact him
9 through my wife and my wife was relaying messages
10 back to me, Your Honor.

11 That's the way it went.

12 Q. Okay. Do you believe that Mr. Foos would
13 have knowledge of this plea deal?

14 A. He knows that I had a deal. He knows that
15 with the extra money but --

16 Q. Okay.

17 A. -- the actual, he didn't talk to the
18 attorney, no.

19 Q. Okay.

20 A. That I know of.

21 Q. Okay. Very good. Now, Mr. Starke, have I
22 missed any major issues?

23 A. Well, just, just that my attorney, George
24 Anderson, he never talked to me really about my
25 case. He always told me to call my wife and she

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1 would talk to him and come to find out she was
2 double-crossing me.

3 Q. Well, wasn't she represented by him at the
4 same time?

5 A. She was but the problem was she was lying to
6 me and I didn't know it.

7 Q. I understand.

8 A. But he told me personally himself that I had
9 a deal and Dr. Joe Holt told me personally I had a
10 deal, four years or less with greatly-reduced
11 charges.

12 Q. Mr. Starke, the last question. Have I done
13 everything that we need to do? Is there anything
14 that I have not done that I should be doing that
15 would make this clearer that I can do now?

16 A. The only thing that I know of you never
17 called that document that came up here Brady
18 material.

19 Q. Okay. Mr. Starke --

20 THE COURT: Are you talking about this letter
21 from the guardian ad litem?

22 THE APPLICANT: Absolutely.

23 THE COURT: What you've testified to that is
24 your attorney didn't see this prior to the plea.
25 Just answer the question.

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1 THE APPLICANT: Yes, sir.

2 THE COURT: And neither did you?

3 THE APPLICANT: Neither, no, sir.

4 THE COURT: Okay. I got it. No, I
5 understand. I understand where Mr. Wilkes is going
6 with that issue.

7 THE APPLICANT: I did not see it.

8 THE COURT: And I've read that document.
9 That's Plaintiff's Exhibit Number Four. And I've
10 read it and I understand --

11 THE APPLICANT: Okay.

12 THE COURT: -- why that was introduced.

13 THE APPLICANT: Yes, Your Honor.

14 THE COURT: Okay.

15 MR. WILKES: If I can ask who keeps the
16 exhibit list.

17 THE CLERK: I do.

18 THE APPLICANT: May I have a sip of water,
19 Your Honor?

20 THE COURT: Sure.

21 THE APPLICANT: Thank you, Your Honor.

22 Your Honor, mechanical things I handle them
23 very well but nothing else.

24 THE COURT: Okay.

25 MR. WILKES: Your Honor, just for the record,

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1 we'd -- just to make sure I did, we'd just move all
2 four exhibits into evidence instead of ID so that
3 they're in evidence.

4 THE COURT: All four are in evidence without
5 objection.

6 MR. WILKES: Thank you, Your Honor.

7 (Applicant's Exhibit No. 1, DSS order; No. 2,
8 medical record; No. 3, billing statements; and No.
9 4, GAL letter, received into evidence.)

10 THE APPLICANT: One last thing, Attorney
11 Wilkes, that you didn't mention.

12 BY MR. WILKES:

13 Q. Yes, sir.

14 A. I told you that my attorney, George
15 A. Anderson, refused to give me those other
16 receipts that he sent me in the county that they
17 give to my ex-wife and she will not give them to
18 me, period. And he told me I owed him more money
19 which was not in the agreement, not in the
20 contract.

21 And in my class they said it's illegal but he
22 says he don't have to do it.

23 THE COURT: Okay.

24 BY MR. WILKES:

25 Q. And that is in response to -- I had asked you

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1 earlier, I think, about the documents that I
2 introduced and I actually introduced some of the
3 receipts to show that he represented both of you.

4 A. Absolutely. Conflict of interest.

5 Q. You're saying there was many, many more?

6 A. Many, many, many more.

7 Q. Now, Mr. Starke, have we covered it?

8 A. Yes, sir.

9 Q. Okay. Now I asked that for a reason.

10 A. Yes.

11 Q. In the court record you have mailed several
12 things to the clerk of court. You have hired me,
13 fired me, hired me back before I even knew I was
14 fired and fired me again and hired me.

15 A. Absolutely.

16 Q. Several times.

17 A. Because I was tricked so many times by my
18 first attorney and that's why you told me, "You
19 don't know you're accusing me of being a crook."
20 That's not your words but that's what they meant,
21 Your Honor.

22 Q. Yeah. Those weren't exactly my words.

23 But now that we have done this, are you
24 comfortable that I've covered your issues?

25 A. I am. I am.

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1 Q. Very good.

2 A. I just don't want to be tricked again.

3 Q. No, I'm going to try not to trick you and I
4 won't let anyone else. You stay right there. The
5 Attorney General's going to ask you some questions.

6 A. Okay.

7 CROSS-EXAMINATION

8 BY MS. COLEMAN:

9 Q. Good morning. How are you?

10 A. Good morning, Attorney General. Yes, ma'am.

11 Q. Did you testify earlier that your attorney,
12 George Anderson, was retained about two months
13 after your arrest; is that right?

14 A. I think that's best, best to my knowledge.
15 My mama called him four days -- according to his
16 word in court, my mama called him four days after I
17 was arrested. She knows him. She's known him ever
18 since I was 12 years old. I've known him ever
19 since I was 19 years old.

20 Q. Okay.

21 A. Or 20.

22 Q. So he's a family friend?

23 A. Oh, no. He's not a family friend. My mom
24 knew him personally and they was probably friends
25 because she worked at the Waffle House and she

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1 waited on him at the Waffle House for, like, 20
2 years. And she worked here at Rose and she knew
3 him ever since I was 12 years old. I'm now 50
4 years old. I didn't even live in South Carolina.
5 I lived in Virginia, Richmond, Virginia, ma'am.

6 Q. Did you say that you met with him just a
7 couple times before the trial?

8 A. I met with him a couple times but he never
9 had nothing to say but he called me a child
10 molester, "You're a child molester. You're a child
11 molester and child molesters don't get trials."

12 Q. Did you give him any possible defenses for
13 your case?

14 A. He never asked me any defenses.

15 Q. But you didn't tell him anything, any --

16 A. He never asked me. I never even seen -- I've
17 never even seen what my daughter even said about
18 me. He never even showed me that.

19 Q. Did you give him any leads or witnesses to
20 investigate?

21 A. Leads or witnesses to investigate. Yes, I
22 did. I think I did. I told him that in Virginia
23 they fired me because I broke down mentally on a
24 job. And that's after I tried to be a minister for
25 four years and had a mental breakdown and went to

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1 Virginia. I came back to my family and I went back
2 to Virginia for three months to try to get my mind
3 straight and that's when they fired me but he said,
4 "That don't mean nothing. You're a child
5 molester. You got to confess."

6 Q. Okay. Do you remember waiving your
7 constitutional rights at the guilty plea, like,
8 your right to a jury trial and your right to remain
9 silent?

10 A. I, I only done it because my attorney told me
11 that I couldn't do nothing about what they done to
12 me when they arrested me. But now I know that's
13 called, that's called Miranda versus Arizona
14 because we had it in law class at school.

15 Q. Do you remember telling the plea judge that
16 you were satisfied with your attorney's services?

17 A. Because that's what he told me to tell him.
18 He coached me and told me to tell the judge --

19 Q. But -- I'm sorry. Go ahead. Finish.

20 A. He said, "The judge is going ask you, are you
21 completely satisfied." I said, "Yes, completely
22 satisfied."

23 "Then he's going to ask you, did you make any
24 deals. Did anybody make any deals. But you got to
25 tell him no. So the prosecutor will stand up at

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1 the end of it and say, Your Honor, we have a deal."

2 Q. Okay.

3 A. But my attorney said that sounded like
4 something coming out of Mars somewhere. That
5 sounds crazy.

6 Q. So you were lying when you told the judge
7 that you were satisfied?

8 A. He told me to say this. He's an attorney.
9 He said I had a deal.

10 Q. And you also told him that you were, you were
11 not promised or threatened anything to plead
12 guilty, correct?

13 A. That's exactly right because my attorney and
14 Dr. Joe Holt sit together in Nurse Penny's office
15 in the county jail and told me to say those things.

16 Q. Okay. So when Judge Early asked you if you
17 were promised you said no, you were not promised
18 anything, correct?

19 A. That's exactly what I said because I was told
20 to.

21 Q. You told the judge that you were guilty; is
22 that right?

23 A. I done that after my attorney said, "Get the
24 deal. Get the deal. Get your four-year deal."

25 Q. And the judge read the facts to you in this

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1 case and you agreed you were guilty of those
2 things?

3 A. He did read the facts to me and I did agree
4 to that but I done it because to get the deal.

5 Q. Okay. You apologized to your daughter, the
6 victim in this case, right?

7 A. Apologized to her. It was completely settled
8 five months earlier with that pastor back there. I
9 moved across town and stayed out of the home five
10 months and she's the one that asked me to move back
11 home. We -- my daughter and my wife went through
12 counseling and that's the reason my attorney
13 wouldn't let me come to court because they said
14 they'd put my wife in prison for just as long
15 because my wife told me at the end, "Why don't you
16 just have sex with her." I said, "Are you crazy.
17 I love my daughter."

18 And that's when I got Dr -- that's when I got
19 Reverend Belton back there and I said, "Something's
20 wrong in my home." And that's when I moved out of
21 the home and bought a travel trailer across home
22 and lived across home (sic) and got the receipts
23 and everything from the landlord over there and
24 never came home when my daughter was home. I only
25 come home when they was at school to get, to get

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1 tools.

2 And that's the God's honest truth and that's
3 what my attorney did not want coming out in this
4 court. And I'm saying it right now. And that
5 minister right back there, even though he don't
6 have to testify because the South Carolina law says
7 he's protected and I understand that. I read it in
8 the law myself, Title 16 and Title 63, that bishops
9 and preachers they don't have to tell because he
10 done all the counseling. And he's sitting right
11 back there and that's why my attorney said, "I
12 can't take you. You're a child molester. I got to
13 take and get you a deal, get you a deal."

14 He tricked me, Your Honor. That's wrong.
15 I'm sorry, sir, but that's wrong. That's wrong,
16 Your Honor.

17 Q. Do you have a copy of the transcript up
18 there?

19 A. No. No, ma'am, Your Honor.

20 MS. COLEMAN: May I approach the witness?

21 THE COURT: You may.

22 BY MS. COLEMAN:

23 Q. I'm looking at page 26 of the guilty plea
24 transcript at line 23. Would you please read this
25 out loud?

ISAAC LARRY STARKE - CROSS BY COLEMAN

1 A. Yes, I will. Yes, ma'am, I will.

2 Q. I'll flip to the next page.

3 A. Let me read this right here. It says, line
4 23, "The Defendant," and I think that's me, Your
5 Honor. "Yes, Your Honor. Your Honor, I'd like to
6 apologize to the victim." That's what my attorney
7 told me to do. "The victim," -- blotted out right
8 here. That means redacted. "I'd like to apologize
9 to the Court for bringing such a case in" -- next
10 page -- "here. I'd like to apologize to the
11 community, Your Honor, and I'm very sorry for what
12 I done and I also -- it's all my fault."

13 That's exactly what Joe Holt told me to say
14 word for word. Verbatim. Verbatim. He trained me
15 that. Time and time again. Every time when he
16 came to the county jail, 18 times. That's what
17 Dr. Holt told me to say. Exactly. "I'm very sorry
18 for what I done and I also," blank blank, pause, it
19 means. "It's all my fault and it will, it will
20 never happen again." That's exactly what Dr. Joe
21 Holt told me to say, verbatim.

22 "Your Honor, I am very sorry for what's going
23 on. I don't know -- I don't, I don't understand
24 it. I don't really understand why I done it. I
25 don't understand it. I am very sorrowful and I

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1 cry, I cry daily in my jail cell over my family and
2 over what I done and how it affected my family and
3 how it affected me. I apologize."

4 That's exactly word for word verbatim what
5 Dr. Joe Holt told me to say and trained me to say
6 verbatim.

7 Q. Thank you very much.

8 A. And I did say that, Your Honor. That's the
9 God -- what she's saying right there, that's what I
10 said in that courtroom. That's because that
11 attorney tricked me, Your Honor. That's why me and
12 my attorney here have so many falling outs, because
13 every time he does something, I say, "What's going
14 on. Are you trying to trick me again."

15 That's exactly the God's honest truth. May
16 God strike me dead.

17 Q. Your wife testified, too, didn't she?

18 A. She didn't testify. She only said -- she did
19 not testify against me. She just said, "Your
20 Honor, this is my husband and he's a good husband,"
21 or something like that.

22 Q. Yes, sir.

23 A. She did.

24 Q. She apologized, didn't she, on your behalf?

25 A. I don't know.

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1 Q. Would you like to read it?

2 A. Yeah. I would like to see that.

3 Q. On page 25 line five.

4 A. Because, like I say, I thought she was my, my

5 helper at the time. Come to find out she was my

6 adversary. I did not know it at the time until

7 after, nine months after I was arrested -- when in

8 prison.

9 Q. If you could just read these few lines,

10 starting at line five.

11 A. I will. Yes, ma'am. Line five on page 25.

12 Beverly Starke. That's my ex-wife. We was married

13 21 years. And it says, "And the children, and the

14 children has even seen that, the boys, that he's

15 real sorrowful for it. He's brought a lot of shame

16 on himself."

17 Q. Okay. Thank you.

18 A. Yeah.

19 Q. And is this your wife talking how sorrowful

20 you were and how you were upset about this crime?

21 Is that right?

22 A. No, that is not right.

23 Q. Okay.

24 A. She's sorrowful about how it went down and

25 how it came out. Because the problem at that time

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1 was not even between me and my daughter. My
2 daughter and my wife got into it over a pair of
3 Spandex blue jeans at school. I weren't really
4 accused of anything and the Court also lied.
5 Ms. Agnew, if I ain't mistaken and I don't know why
6 they don't say this, but it's -- she said it. She
7 said, "Yes, Your Honor. They tried to do
8 counseling and it failed."

9 That's a lie from the pits of hell and that
10 man right there, the -- Pastor Belton can confirm
11 that I moved out of the home across town and was
12 not in the home. It did not continue. That's a
13 lie from the pits of hell.

14 Q. Okay. So --

15 A. But I am not guilty of CSC in the second
16 degree. And I told the judge no until my attorney
17 made me change it and say, "Get your deal. Get
18 your deal. Get your four-year deal."

19 Q. Okay. So you were lying to Judge Early when
20 you told him that you were guilty?

21 A. I was instructed by two professionals,
22 Dr. Joe Holt and Anderson, my attorney, and, yes,
23 that's exactly what I done because I was instructed
24 to do it by corrupt counsel. That's called
25 ineffective assistance of counsel and erroneous

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1 advice of counsel and -- something. It's bad.

2 That's all I know.

3 Q. Do you remember Judge Early telling you that
4 you had 10 days to file an appeal from this guilty
5 plea? And I can point that out if you'd like to
6 see it.

7 A. An appeal?

8 Q. Yes.

9 A. How in the world can I make an appeal? My
10 attorney swore up and down there was nothing I
11 could do once I made this statement. He swore up
12 and down, "There's nothing you can do. There's
13 nothing you can do." Even when I was in the county
14 I contacted him and said, "Why didn't you do
15 something." He said, "There's nothing you can do.
16 There's no recourse on a guilty verdict. Whenever
17 you say you're guilty that's it. It's finished.
18 You're stuck. Get used to it."

19 That was a lie from the pits of hell, Your
20 Honor.

21 Q. So you did not ask your attorney to file an
22 appeal from this?

23 A. Because I didn't know to.

24 Q. Okay. Now, you were evaluated for
25 competency?

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1 A. Oh, wait a minute. I need to interrupt
2 something here. It's important, Your Honor.

3 THE COURT: You need to answer the question.

4 THE APPLICANT: I'm sorry. I'm sorry.

5 BY MS. COLEMAN:

6 Q. You were found competent to stand trial,
7 correct?

8 A. A fake doctor with no state license, Joe
9 Holt. He does have a PhD. He does not have a
10 South Carolina license and I have the proof in my
11 folders by the South Carolina Labor License
12 Regulatory Commission. He does not have a
13 license. He is a licensed family counselor and not
14 a psychiatrist, forensic psychiatrist like he
15 professed. Respectfully, Your Honor, that's the
16 law and I got proof of it.

17 Q. Okay. You also testified earlier about the
18 medications that you were taking. Was it
19 Risperdal?

20 A. Risperdal and Zoloft and the SCDC, the prison
21 system found out both of them was wrong medication
22 and they took me off of it. I was having adverse
23 effects. They made me cry and jerk all the time.
24 And I have the mental reports from the prison with
25 me; however, the South Carolina Department of

ISAAC LARRY STARKE - CROSS BY COLEMAN

1 Social Services contacted the prison and had them
2 taken out of my file and I got the files to prove
3 it.

4 Q. Okay. So you're not on this medication
5 today?

6 A. I am not. I am on Paxil and, believe it or
7 not, Paxil is the better thing that works on me.
8 That other stuff that made me jerk like this right
9 here (demonstrating) and cry all the time and they
10 said, the doctor said that's something called
11 seratobins or something, it's doing something to my
12 brain. And they didn't know it was wrong. They
13 had me on the wrong medication. That's what was
14 happening to me when my attorney seen at the back
15 of the courthouse, he said, "Mr. Starke, are you
16 okay." He said, "Do you want me to get the
17 doctor." That was right before I came out to
18 testify, Your Honor.

19 And, also, that also probably has something
20 to do with me missing the medication 24 hours
21 before and I did not know that that happened until
22 my attorney investigated and found out that fact.

23 Q. And you testified earlier that when you
24 missed that medication that made you lose your
25 common sense. Is that what you said?

ISAAC LARRY STARKE - CROSS BY COLEMAN

1 A. Well, no, I ain't never had no common sense.
2 That's just the God's honest truth. God blessed me
3 with a mechanical ability that's unsurpassed. I'm
4 very blessed with mechanical things. I have no
5 common sense and never had none.

6 Q. Have you ever been diagnosed with any kind of
7 mental illness?

8 A. Yes. But it's against our religion to take
9 medication for psychosis. It's called pharmacia.
10 In a religious movement, it's called pharmacia and
11 it's devil worship. Okay.

12 THE COURT: All right.

13 THE APPLICANT: That's the God's honest
14 truth. Pentecostal Holiness normally don't take
15 it. And that pastor back there, even though he
16 probably don't agree with that himself but that is
17 a thought that's in the Pentecostal Holiness
18 movement. I was raised like that and I stayed away
19 from it but I needed it for years.

20 I'm sorry, sir. I had to tell the truth.

21 THE COURT: All right.

22 MS. COLEMAN: That's all the questions I
23 have. Thank you.

24 THE APPLICANT: It's pharmacia and they say
25 it's the Devil.

DAVID BELTON, JR. - DIRECT BY WILKES

1 THE COURT: Hey, I got you. You can step
2 down.

3 THE APPLICANT: I'm sorry, Your Honor.

4 THE COURT: All right.

5 THE APPLICANT: May I take my water with me?

6 THE COURT: Now, Mr. Wilkes, you're not
7 resting your case?

8 MR. WILKES: No.

9 THE COURT: You still have some more witnesses
10 to call, correct?

11 MR. WILKES: Yes. I have Pastor Belton
12 here. He is a very short witness.

13 THE COURT: Let's go ahead and do him.

14 MR. WILKES: If we could.

15 THE COURT: Come on up, pastor.

16 DAVID BELTON, JR., having been duly sworn,
17 was examined and testified as follows:

18 THE WITNESS: David Belton, Jr.

19 DIRECT EXAMINATION

20 BY MR. WILKES:

21 Q. Mr. Belton, how long have you known
22 Mr. Starke?

23 A. Actually we met around 2006.

24 Q. Okay. And leading up to the time when he
25 went to Court and entered a guilty plea, did you

DAVID BELTON, JR. - DIRECT BY WILKES

1 have contact with him or family members during that
2 time?

3 A. Leading up to that?

4 Q. Yes.

5 A. Yes.

6 Q. And, in particular, did you have
7 conversations with Mr. Starke and he talked to you
8 about the upcoming potential guilty plea?

9 A. Well, actually on the guilty plea, no.

10 Q. Okay. Did he at any time talk to you about
11 or lead you to believe that he had worked out or
12 his attorney had worked out some sort of deal for
13 him?

14 A. Actually, first of all, it was kind of a
15 shock to me --

16 Q. Uh-huh.

17 A. -- on that arrest.

18 Q. Uh-huh.

19 A. And from there, not to my knowledge of him.

20 Q. Okay. And did you have any conversations
21 with anyone, Mr. Anderson or anybody else, that
22 might lead you to believe that there could be a
23 deal in this case?

24 A. Yes. Leading up to the day of the hearing --

25 Q. Uh-huh.

DAVID BELTON, JR. - DIRECT BY WILKES

1 A. -- he, Mr. Anderson spoke with myself and
2 Isaac's ex-wife outside.

3 Q. Outside of the courtroom?

4 A. Yes.

5 Q. And what did Mr. Anderson say about --

6 A. He led us to believe that if he'd get him to
7 plead guilty that he will have a better, a lesser
8 sentence.

9 Q. Uh-huh. Okay. And did anybody talk about or
10 use the term of a plea deal to your recollection?

11 A. Not to my knowledge. Like I say, it was a
12 shock to me, the whole thing. So.

13 Q. And did you have conversations with
14 Mr. Starke prior to the actual entry of the guilty
15 plea in any way, either by telephone or personal
16 conversations?

17 A. No.

18 Q. And, did any -- did his wife at any time
19 indicate or make you believe that there was a deal?

20 A. She did.

21 Q. Okay. If I could have just a second, Your
22 Honor.

23 THE COURT: Sure.

24 (Pause.)

25 BY MR. WILKES:

1 Q. Mr. Belton, you were in the courtroom at the
2 time of sentencing, I believe?

3 A. Yes.

4 Q. And based on what you had heard up to that
5 point, what was your reaction with the sentence,
6 did you find that inconsistent with what you
7 expected?

8 A. Well, I guess I wouldn't say inconsistent
9 because I didn't know the amount of time that would
10 have been the deal. So I couldn't -- didn't know.

11 Q. Very good.

12 No further questions of Mr. Belton.

13 THE COURT: Thank you.

14 MS. COLEMAN: I have no questions.

15 THE COURT: Have a nice day.

16 THE WITNESS: You too.

17 THE COURT: Next.

18 MR. WILKES: Thank you, Mr. Belton. Thank
19 you very much for coming. If we may leave our case
20 open with testimony --

21 THE COURT: Okay.

22 MR. WILKES: -- of Mr. Foos and hopefully
23 he'll make it Friday. Okay. If his health allows.

24 THE COURT: And who do you want to call?

25 MS. COLEMAN: I've got Ashley Hammack. We

1 could probably get her done before one o'clock.

2 THE COURT: Okay.

3 MS. COLEMAN: We can probably do that.

4 THE COURT: Would that be the last witness in
5 this case?

6 MS. COLEMAN: I'm going to call Mr. -- I'm
7 going to call Nick as well.

8 THE COURT: Who?

9 MS. COLEMAN: Nicholas McCarley.

10 THE COURT: Okay. How long do you think it
11 will take to do both of them?

12 MS. COLEMAN: We can probably do it by one or
13 less.

14 THE COURT: Do y'all want to push through and
15 finish it or come back at three?

16 (Off-the-record discussion.)

17 MS. COLEMAN: The State calls Ashley Hammack.

18 ASHLEY HAMMACK, having been duly sworn, was
19 examined and testified as follows:

20 THE COURT: For the record, the Petitioner's
21 leaving their case open to continue with witnesses,
22 further witnesses on Friday. And that's done with
23 the State's consent and acknowledgment. And they,
24 we've all known that since the beginning of the
25 week so that's not a surprise to anybody nor is

ASHLEY HAMMACK - DIRECT BY COLEMAN

1 that Mr. Wilkes being unprepared. That was always
2 the plan from the beginning of the week to try to
3 get the case finished this week.

4 Is that an accurate statement, Mr. Wilkes?

5 MR. WILKES: You can always draw my
6 preparedness into question, but we were prepared
7 for this.

8 THE COURT: Well, I mean, it wasn't, it
9 wasn't something that just came up this morning.

10 MR. WILKES: Oh, no. Although Mr. Foos was
11 quite a surprise to me. He had told me two months
12 ago when I had subpoenaed him that he had surgery
13 scheduled.

14 THE COURT: Okay.

15 MR. WILKES: I knew that, but he said he
16 figured he'd be better by now. I don't think it
17 went quite as well as he thought.

18 THE COURT: Okay. Ms. Hammack, thank you.

19 DIRECT EXAMINATION

20 BY MS. COLEMAN:

21 Q. Ms. Hammack, how were you involved in this
22 case?

23 A. I was the prosecutor assigned to this case.

24 Q. Okay. Did trial counsel file a Rule Five or
25 Brady motions in this case?

ASHLEY HAMMACK - DIRECT BY COLEMAN

1 A. They did. The Defendant was arrested on
2 October 18th of 2012. Our office received a Rule
3 Five and notice of representation from George
4 Anderson on October 25th of 2012.

5 Q. Okay. And did you turn over all of the
6 discovery material they requested?

7 A. Yes, we did. All of the discovery was
8 initially turned over on November 7th of 2012.
9 Later in 2013 we met with George Anderson at his
10 office, went through the file to make sure that he
11 had everything that we had.

12 Q. Okay. Was there anything that they requested
13 from you that you did not provide them?

14 A. No.

15 Q. Was there -- can you just go over the
16 time line of this case for me, please?

17 A. Sure. As I stated, the Defendant was
18 arrested on October 18th of 2012. Our Office
19 received a notice of representation the very next
20 week. We got the file in from law enforcement.

21 After reviewing the case I started preparing
22 the case for trial. It was a pretty straight
23 forward case, and actually placed it on the trial
24 docket in March of 2013.

25 At that time Mr. Anderson's office notified

ASHLEY HAMMACK - DIRECT BY COLEMAN

1 us that he was protected for that Court term and
2 asked if he could meet with myself and Nick
3 McCarley who at the time was employed with our
4 office as an assistant solicitor. He was trying
5 the case with me.

6 We met with George Anderson at his office on
7 April 17th of 2013. When we arrived we were
8 informed that Dr. Joe Holt who had evaluated the
9 Defendant would also be present for that meeting.
10 At that time we went through the file page by page
11 to make sure that Mr. Anderson had everything that
12 we had, let him know that we intended to try the
13 case at the next available Court term.

14 He asked us at that time if there was any
15 type of offer that we could make in lieu of going
16 to trial. At that point we made an offer to
17 Mr. Anderson.

18 And let me back up just briefly. The
19 Defendant was originally charged with one count of
20 criminal sexual conduct with a minor in the second
21 degree and four counts of criminal sexual conduct
22 with a minor in the third degree. All of those
23 were indicted and true billed.

24 When we met with Mr. Anderson in April we
25 told him at that time that we would be willing to

ASHLEY HAMMACK - DIRECT BY COLEMAN

1 have the Defendant plead to one count of criminal
2 sexual conduct with a minor second degree, and one
3 count of criminal sexual conduct with a minor third
4 degree. As a result we would dismiss the other
5 three criminal sexual conduct with a minor in the
6 third degree charges.

7 We informed Mr. Anderson that we would not be
8 making any recommendations or negotiations as to
9 sentence. And at that point we told him that if
10 the Defendant did not accept the State's offer that
11 we would intend to go forward as planned with the
12 trial on all five charges.

13 Q. Okay. The Applicant has alleged that there
14 was a promise, he was promised a four-year deal if
15 he pled guilty and did the psychosexual therapy.
16 Was there any discussion of that at any point in
17 time in this case?

18 A. Never.

19 Q. Okay.

20 May I approach, Your Honor?

21 THE COURT: Yes, ma'am.

22 BY MS. COLEMAN:

23 Q. Would you look over this document, please?

24 A. (Complies.)

25 Q. Can you describe to us what this document is?

ASHLEY HAMMACK - DIRECT BY COLEMAN

1 A. Sure. I do a, what I kind of call my notes
2 for every case that I plead. It just gives me a
3 chance to have all of my thoughts collected as far
4 as exactly what a Defendant is pleading to, what
5 the indictment numbers are in the case, the
6 Defendant's exposure, things of that nature. And I
7 use this to reference when I am presenting a plea
8 to the judge. This is my, as I titled it, guilty
9 plea information sheet that I used in this case.

10 Q. Okay. May I have that back? I apologize. I
11 forgot to show this to Mr. Wilkes.

12 Is this your handwriting on this form?

13 A. It is.

14 Q. Does this accurately depict your notes from
15 the discussions here?

16 A. It does.

17 MS. COLEMAN: State moves to admit this as
18 State's Exhibit Number 1.

19 MR. WILKES: Without objection.

20 MS. COLEMAN: Thank you.

21 (State's Exhibit No. 1, handwritten notes,
22 received into evidence.)

23 BY MS. COLEMAN:

24 Q. And can you tell us again what these notes --
25 and I'll show you again, what the notes read about

ASHLEY HAMMACK - DIRECT BY COLEMAN

1 your discussion from this meeting?

2 A. Sure. It's got the Defendant's name; how
3 many days he had served in the detention center,
4 and the days that he would get credit for; his
5 criminal history; the indictment numbers to the
6 charges he pled guilty to as well as the fact that
7 they were true billed; the exposure that he had on
8 those two charges; the fact that three counts of
9 criminal sexual conduct with a minor in the third
10 degree were dismissed as part of this plea; that he
11 was not eligible for a Youthful Offender Act
12 because he was over the age of 25; that there were
13 no other pending charges that were being left
14 pending as a result of this plea; and then
15 significantly under -- whether there was any
16 recommendations or negotiations. There is an arrow
17 pointing upward. That's my notation for a
18 straight-up plea which means without negotiations
19 or recommendations.

20 Q. Okay. Thank you. As far as the State's
21 evidence in this case, was there ever a confession
22 from the Applicant?

23 A. There was. During the course of the
24 investigation law enforcement interviewed the
25 Defendant at the sheriff's office. They audio

ASHLEY HAMMACK - DIRECT BY COLEMAN

1 recorded this interview with the Defendant. And
2 that was Rule 5'd in the initial discovery to
3 George Anderson back in November of 2012. Also
4 part of that was a written Miranda waiver that the
5 Defendant filled out and was witnessed by law
6 enforcement. That was also Rule 5'd to
7 Mr. Anderson back in November of 2012. So, the
8 contents of whatever the Defendant said and
9 whatever law enforcement said were memorialized in
10 that recording and given to the defense.

11 Q. Now you were present at the guilty plea,
12 correct?

13 A. I was.

14 Q. Did the Applicant act unusual or out of the
15 ordinary at the plea?

16 A. He acted extremely different from his
17 demeanor today, both in the -- from his tone of
18 voice in the recording with his interview with law
19 enforcement but also at the plea.

20 Q. In your opinion, was there ever any issue at
21 the plea about his mental competency?

22 A. No. There was significant testimony from
23 Dr. Holt about all the things that they had done to
24 address that and to look into that before the plea.
25 The Defendant was responsive to the judge's

ASHLEY HAMMACK - DIRECT BY COLEMAN

1 questions. When he had a question, he was allowed
2 to step back and talk to his attorney or the judge
3 repeated the question. At no time did he appear
4 confused or disoriented or in any way not
5 understanding what was going on.

6 Q. Is there anything else about this plea that
7 you thought was unusual or worth noting?

8 A. One of the things was having the guardian ad
9 litem present. Typically -- and I'm our criminal
10 sexual conduct prosecutor so all of these cases are
11 mine. Typically we don't necessarily have a
12 guardian ad litem present if there is a supportive
13 caregiver in the home for the victim.

14 In this case the Defendant's wife was
15 extremely non-cooperative with law enforcement and
16 with the solicitor's office in trying to resolve
17 this case. She at no point was ever investigated
18 or charged criminally as part of this case, but she
19 refused to meet with the solicitor's office or talk
20 with us at any point. And at the time of the plea
21 she actually came to Court to speak on the
22 Defendant's behalf. Because of that the guardian ad
23 litem was present and prepared the letter that's
24 been introduced here today to be presented to the
25 Court. She gave that to me the morning of the

ASHLEY HAMMACK - DIRECT BY COLEMAN

1 plea.

2 The plea was actually done on May 13th of
3 2013. And with the guardian ad litem's letter
4 passed up as well as Dr. Holt's report, Judge Early
5 held sentencing in abeyance until May 15th so that
6 he could review those documents and so Mr. Anderson
7 could be available for sentencing.

8 When the guardian ad litem gave me that
9 letter before the plea, we don't actually have a
10 copier here in the courtroom but right through that
11 door is the holding cells and probation has an
12 office and they have a copier in that office. I
13 went in probation's office and made copies of the
14 guardian ad litem's letter, gave a copy to
15 Mr. Anderson. He asked me for a moment before we
16 called the case for plea so that he could show it
17 to his client. I also made a copy to hand up to
18 the judge and retained a copy for my file.

19 Q. You just testified that the Applicant's wife,
20 ex-wife now, was never charged criminally in this
21 case; is that correct?

22 A. That's correct. She was never -- to my
23 knowledge she was never even investigated for
24 purposes of criminal charges.

25 Q. Okay. So do you know if trial counsel,

ASHLEY HAMMACK - CROSS BY WILKES

1 George Anderson, was representing both the
2 Defendant and his wife in any cases involved with
3 this charge?

4 A. There was no capacity for him to represent
5 the Defendant's wife because she had no charges.

6 Q. Okay. Thank you. No further questions.

7 THE COURT: Mr. Wilkes?

8 MR. WILKES: If it please the Court.

9 CROSS-EXAMINATION

10 BY MR. WILKES:

11 Q. Are you aware of whether or not Mr. Anderson
12 represented Beverly Starke and Mr. Starke in the
13 family court together?

14 A. I am not aware, no.

15 Q. Okay. And was the plea offer, the plea deal
16 that you spoke of resulting in the dismissal of the
17 three CSC thirds, was that in writing?

18 A. It was given orally to Mr. Anderson when we
19 met with him that day. As I said, we had intended
20 on calling the case for trial. So I wasn't even
21 thinking in a plea posture.

22 It may have been memorialized in an e-mail;
23 I'm not sure. But, like I said, I have my notes,
24 but I didn't mail Mr. Anderson a letter with that
25 offer, no.

NICHOLAS MCCARLEY - DIRECT BY COLEMAN

1 Q. What was the date that, of that meeting where
2 he was given that offer?

3 A. April 17th, 2013.

4 MR. WILKES: No further questions. Thank
5 you.

6 MS. COLEMAN: Nothing further.

7 THE COURT: Thank you.

8 MS. COLEMAN: The State calls Nick McCarley.

9 NICHOLAS MCCARLEY, having been duly sworn,
10 was examined and testified as follows:

11 THE CLERK: Please have seat in the witness
12 box. State your full name for the Court.

13 THE APPLICANT: Yes, ma'am. Nick McCarley.

14 M-C-C-A-R-L-E-Y.

15 DIRECT EXAMINATION

16 BY MS. COLEMAN:

17 Q. Hi, Mr. McCarley. How are you?

18 A. I'm okay.

19 Q. Were you present at the meeting on April
20 17th, 2013, that she just testified about?

21 A. I was.

22 Q. Okay. And, would you say -- can you just
23 describe to us a little bit about what happened at
24 this meeting?

25 A. Ms. Hammack -- well, Ms. Agnew at the time,

NICHOLAS MCCARLEY - DIRECT BY COLEMAN

1 Hammack now -- and I went to this meeting. I was
2 her second chair. In the solicitor's office where
3 I worked at the time the usual practice is when a
4 case gets to a trial posture that you ask somebody
5 to be your second chair. I was Ms. Hammack's
6 second chair. She and I went to this meeting
7 expecting to meet with just Mr. Anderson in regards
8 to this case, essentially to prepare for trial, to
9 make sure that he had everything that the State
10 had.

11 We went to this meeting. We were waiting.
12 We were made aware that Dr. Joe Holt was going to
13 be joining us. And we met with Dr. Joe Holt and
14 Mr. Anderson. During that meeting Mr. Anderson
15 asked if there was a plea offer. Ms. Hammack made
16 a plea offer to dismiss three counts of criminal
17 sexual conduct in the third degree upon a guilty
18 plea to one count of criminal sexual conduct in the
19 second degree and one count of criminal sexual
20 conduct in the third degree with no recommendation
21 as to time.

22 Q. Okay. And do you have a file with notes in
23 it from this case?

24 A. Ms. Hammack has a file. All of the second
25 chair's notes go in the file of the notes of the

NICHOLAS MCCARLEY - DIRECT BY COLEMAN

1 first chair.

2 Q. Okay. And if you would, please, look at this
3 document. Is this your handwriting?

4 A. It absolutely is.

5 Q. Did you prepare this?

6 A. I did write this.

7 Q. And are these your notes from this meeting?

8 A. These are my notes. When Mrs. Hammack made
9 the offer, part of the job of second chair is to
10 write things down that the first chair says. So I
11 wrote down what her plea offer was.

12 Q. Okay. And has this been materially altered
13 or changed since this meeting?

14 A. Not at all.

15 MS. COLEMAN: The State moves at this time to
16 admit this as State's Exhibit Number 2.

17 MR. WILKES: Without objection.

18 THE COURT: State's 2 without objection.

19 (State's Exhibit No. 2, notes, received into
20 evidence.)

21 BY MS. COLEMAN:

22 Q. And if you would, please, read this out to us
23 and kind of explain what these notes mean.

24 A. Okay. I'll just, I guess, read it verbatim.
25 It is notes so this might be embarrassing.

1 Offer, colon, CSC second with minor zero to
2 20; third, zero to 15. Old lewd act. Dismiss
3 thirds. Violent on second. Third, GPS. Appeal
4 after 10. Registry SVP.

5 What that means obviously is initially the
6 plea offer to dismiss the three CSC thirds upon the
7 plea to the second and the third. What I wrote
8 down was the time that those carry. Also that one,
9 the CSC second was violent which impacts the time
10 somebody would have to serve were they to plead to
11 that and some of the other ramifications which are
12 GPS monitoring and when they can appeal that after
13 sex offender registry and sexually-violent
14 predator.

15 These are the things that we like to go over
16 with defense attorneys to make sure they know
17 exactly what the offer is and the ramifications of
18 that offer.

19 Q. Okay. Thank you. The Applicant in this case
20 has alleged that he was promised a four-year deal
21 in exchange for his guilty plea. Was this ever
22 discussed?

23 A. This was never discussed.

24 MS. COLEMAN: Okay. No further questions.
25 Thank you.

1 MR. WILKES: No questions, Your Honor.

2 THE COURT: Have a good one.

3 THE WITNESS: Thank you, sir.

4 THE COURT: All right. Any further witnesses
5 on this matter today?

6 MS. COLEMAN: Not today.

7 MR. WILKES: Not today.

8 THE COURT: All right. So you're good. So,
9 Mr. Starke, we'll see you back on Friday. Okay.
10 We're going to start court a little bit later
11 Friday than we did the rest of this week. Friday
12 let's plan on starting, we're going to start at
13 10:30 on Friday. I'm coming in -- I have a funeral
14 on Thursday out of state so I'm going to be coming
15 in real late Thursday night. So we're going to
16 start at 10:30 on Friday and make sure Mr. Anderson
17 is here.

18 MS. COLEMAN: Yes, Your Honor.

19 THE COURT: And then the other witness that
20 you have.

21 MR. WILKES: Mr. Foos.

22 THE COURT: And we're going to have you back
23 over so you'll be able to be present for all of
24 that. Okay, Mr. Starke?

25 THE APPLICANT: Thank you, Your Honor.

1 THE COURT: You're welcome. Is he going back
2 to Perry?

3 THE OFFICER: Yes, sir.

4 THE COURT: We'll see you Friday. There's no
5 need to have him here before 10 on Friday. So
6 y'all don't need to wake up super early and
7 transport him to be here right at nine. Ten will
8 be fine. If you can let them know that --
9 Lieutenant, is that right?

10 THE OFFICER: Yes, sir.

11 THE COURT: Thank you, Lieutenant.

12 MS. COLEMAN: Your Honor, may I approach?

13 THE COURT: Yes, ma'am.

14 (Off-the-record discussion concerning
15 exhibits.)

16 END OF DAY'S PROCEEDINGS: 1:26 P.M.

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1 ON FRIDAY, SEPTEMBER 23, 2016 AT 10:15 A.M.:

2 MS. COLEMAN: Your Honor, we're starting with
3 Isaac Starke which we began on Tuesday. We're
4 going to wrap it up today.

5 THE COURT: Great. How are you doing,
6 Mr. Starke?

7 THE APPLICANT: Hey, sir.

8 THE COURT: Are you doing okay? Where's
9 Mr. Wilkes?

10 MS. COLEMAN: He was here just a moment ago.

11 THE COURT: Okay.

12 (Pause.)

13 MR. WILKES: I'm sorry, Your Honor.

14 THE COURT: Are you ready to go?

15 MR. WILKES: My client just started talking
16 to me about some --

17 THE COURT: Go ahead.

18 MR. WILKES: -- thing I'm not familiar with.

19 MS. COLEMAN: If we need to do another one
20 first.

21 MR. WILKES: It won't take but just a second.

22 THE COURT: Okay.

23 (Mr. Wilkes conferring with the Applicant.)

24 THE COURT: Ready?

25 MR. WILKES: Ready, Judge.

1 THE COURT: Okay. Who's called -- do you want
2 to call your witness?

3 MR. WILKES: I have spoken to my witness
4 outside of the courtroom. Mr. Starke has been
5 informed of what that witness would say and
6 Mr. Starke has authorized me to release that
7 witness.

8 THE COURT: Is that correct, Mr. Starke?

9 THE APPLICANT: Yes, Your Honor.

10 THE COURT: Good morning. How are you?

11 THE APPLICANT: Doing great, Your Honor.

12 THE COURT: Good, good. Good to have you
13 back.

14 So you communicated with Mr. Wilkes about
15 what this witness would potentially say. And at
16 this point you're choosing not to go forward with
17 that witness; is that correct?

18 THE APPLICANT: That is correct, Your Honor.

19 THE COURT: Okay.

20 THE APPLICANT: I have one question. My
21 attorney told me, no, that my document that I
22 brought in might not be good, but the statements
23 that I were making on the witness stand, the
24 Attorney General was saying that it's hearsay,
25 hearsay, hearsay.

1 THE COURT: Right.

2 THE APPLICANT: And I wanted to submit the
3 document that would go into more detail.

4 THE COURT: Which -- now which factual
5 scenario are you referring to?

6 THE APPLICANT: Concerning my interrogation.

7 THE COURT: By the police?

8 THE APPLICANT: Yes, sir

9 THE COURT: Right. Okay. I believe I let
10 all of that testimony in.

11 THE APPLICANT: Okay.

12 THE COURT: Yeah. So, no, I let the majority
13 of that testimony in, so --

14 THE APPLICANT: Okay.

15 THE COURT: -- you got to remember we're --
16 the objection for hearsay, you know, I don't know
17 that you're, you weren't offering all of that
18 necessarily for the truth of it as much as you were
19 to explain the different things that happened to
20 you.

21 THE APPLICANT: Yeah.

22 THE COURT: And why you believe you have a
23 claim for ineffective assistance of counsel.

24 THE APPLICANT: And that's --

25 THE COURT: That's why I let that in. So

1 I've taken that for its face value for what you
2 said.

3 THE APPLICANT: Okay.

4 THE COURT: So I don't need any further
5 documentation on that. Does that make sense?

6 THE APPLICANT: Yes, Your Honor.

7 THE COURT: I'm not saying that you don't have
8 the documentation or anything else, but I let the
9 majority of that testimony in because I want you to
10 be able to heard be the issues that you believe are
11 important and that you want fully taken into
12 consideration under these circumstances within the
13 rules of evidence and the rules of procedure.
14 Okay?

15 THE APPLICANT: Yes, Your Honor. Thank you.

16 THE COURT: Okay. Great. Thank you.

17 Anything else, Mr. Wilkes --

18 MR. WILKES: No, sir.

19 THE COURT: -- before we go to Mr. Anderson?

20 MR. WILKES: No, sir.

21 THE COURT: Do you want to call
22 Mr. Anderson?

23 MS. COLEMAN: Yes. The State calls
24 Mr. George Anderson.

25 THE COURT: Mr. Anderson, come on up.

GEORGE ANDERSON - DIRECT BY COLEMAN

1 GEORGE ANDERSON, having been duly sworn, was
2 examined and testified as follows.

3 THE CLERK: Take a seat on the witness
4 stand. State your name for the Court, please.

5 THE WITNESS: Good morning.

6 THE COURT: Good morning, Mr. Anderson. Go
7 ahead.

8 DIRECT EXAMINATION

9 BY MS. COLEMAN:

10 Q. Good morning, Mr. Anderson. Thank you for
11 being here.

12 How long have you been practicing law?

13 A. I'm in my 51st year.

14 Q. Do you recall whether you were appointed or
15 retained in this case?

16 A. I was retained.

17 Q. How many times did you meet with the
18 Applicant prior to his guilty plea?

19 A. I'd say approximately eight to 10 times.

20 Q. Did you file any Rule Five or Brady motions?

21 A. No.

22 Q. Did you discuss the Applicant's version of
23 the facts?

24 A. Indeed. Yes.

25 Q. And can you tell us a little bit about the

GEORGE ANDERSON - DIRECT BY COLEMAN

1 facts of this case?

2 A. Well, I got a call from the Defendant's
3 mother and indicated some circumstances were
4 developing with regard to some probable charges to
5 be brought against him in this court. She's a very
6 well-known lady here and I undertook to -- yes, I
7 will represent his interests. A few days after
8 that she passed away.

9 But the Defendant and his mother {sic} came
10 to the office on numerous occasions and of course
11 wrote hundreds of pages of information with regard
12 to what was going on in their family. They had
13 five children, four boys and a girl. And of course
14 he was accused of sexually molesting the girl over
15 a period of a couple of years. And, the essence of
16 those discussions were that once the Defendant had
17 admitted that -- the circumstances and the facts.
18 I said, "Well, fine. We're headed to let the Court
19 know that. In other words, offer a plea to the
20 Court that I'll represent you. If you want me to
21 try this case before a jury based upon the
22 information you've already given me, I will not
23 participate in that. I don't handle those kinds of
24 cases on a trial basis."

25 Q. Did you discuss any defenses with the

GEORGE ANDERSON - DIRECT BY COLEMAN

1 Applicant?

2 A. No.

3 Q. Did you discuss the elements of the charges
4 and the potential punishments for these charges?

5 A. Yes. On numerous occasions.

6 Q. Did the Applicant give you any potential
7 leads or witnesses to investigate?

8 A. I would say yes; persons who were familiar
9 with his religious background, ministers, persons
10 with whom he worked or employed, yes.

11 Q. And can you briefly describe the evidence
12 that the State had against the Applicant in this
13 case?

14 A. Well, I suspect most of the evidence that
15 they had was based upon the information that had
16 been related through a guardian ad litem from his
17 daughter and of course his own statements of
18 involvement.

19 Q. Before the guilty plea, did you review the
20 Applicant's constitutional rights that he would be
21 waiving?

22 A. Yes, we did.

23 Q. Did the Applicant ever tell you that he did
24 not understand something?

25 A. I guess my answer would be no. He fully

GEORGE ANDERSON - DIRECT BY COLEMAN

1 understood it and of course that's the basis on
2 which the hearing judge asked him several questions
3 also.

4 Q. And was he evaluated in this case for mental
5 competency?

6 A. Yes.

7 Q. And he was found competent?

8 A. Yes.

9 Q. Did you explain the differences between a
10 straight-up plea, a recommendation and a negotiated
11 sentence?

12 A. Well, not too much that -- we explained the
13 differences because there was no opportunity or
14 offer from the prosecution. He was going to offer
15 to plead to it and of course the best that he would
16 get would be based upon what the judge felt was
17 appropriate.

18 Q. And did you enter into plea negotiations on
19 behalf of the Applicant?

20 A. No, no specific negotiations. Yes, we
21 thought that the young man had sufficient
22 psychological, if not psychiatric problems. And,
23 yes, we did mention a probationary sentence to the
24 prosecution which was of course denied and not
25 discussed further.

GEORGE ANDERSON - DIRECT BY COLEMAN

1 Q. Was there a meeting between you and the
2 solicitors on this case, Ashley Hammack and
3 Nicholas McCarley, I believe, on April 17th of
4 2012? I believe, and correct me if I'm wrong. Do
5 you recall a meeting with the solicitors?

6 A. Yes, there were at least two meetings with
7 the representatives of the solicitor's office. I
8 don't recall the dates involved.

9 Q. Was there ever any offer of a four-year deal
10 if he pled guilty in this case?

11 A. No. There wasn't any offer of any kind of
12 deal with regards to years. I mean, the statute
13 spoke for itself. This young man read the
14 statute. He understood it. I explained it to him.
15 And of course the Court reviewed it in the
16 transcript that was provided.

17 Q. Okay. And did you discuss the lack of a plea
18 offer from the State with the Applicant?

19 A. Yes.

20 Q. Do you believe he fully understood that
21 discussion?

22 A. I certainly do.

23 Q. Ultimately whose decision was it to plead
24 guilty?

25 A. It was the decision of the Defendant.

GEORGE ANDERSON - DIRECT BY COLEMAN

1 Q. Did the Applicant ever indicate that he
2 wanted to go to trial?

3 A. No.

4 Q. Was there ever any question about the
5 Applicant's mental capacity to plead guilty?

6 A. Well, I suspect that there were some, based
7 on the pages of written information from the
8 Defendant to my office. We wanted to be sure of,
9 so that's when the Department of Corrections became
10 involved and we hired with the assistance of the
11 Defendant and his wife a psychologist to interview
12 him and work with him and counsel him and that was
13 done.

14 Q. Was there every any -- excuse me. Strike
15 that.

16 Did you ever represent the Applicant's wife
17 on criminal charges related to this matter?

18 A. I represented the wife and of course the
19 husband in the family court. The idea there was
20 that the Defendant was very, very concerned and
21 interested in those children who were all by that
22 time in foster care dating back to mama's home.
23 And of course this situation goes back a couple
24 years, as you know, as far as the daughter is
25 concerned. And the Defendant had moved out of the

GEORGE ANDERSON - CROSS BY WILKES

1 marital home so that there wouldn't be any further
2 contact between he and his daughter. And so the
3 effort was, was to get those kids back into the
4 home and we accomplished that.

5 MS. COLEMAN: No further questions. Thank
6 you.

7 THE COURT: Cross-examination?

8 CROSS-EXAMINATION

9 BY MR. WILKES:

10 Q. Mr. Anderson, you say you were representing
11 the wife and Mr. Starke at the same time, correct?

12 A. Yes.

13 Q. And the wife was being represented for the
14 family court case?

15 A. Yes.

16 Q. And Mr. Starke as well, I believe?

17 A. Exactly. They were both parties to that
18 action.

19 Q. Okay. And did that in your mind create any
20 kind of conflict at that time?

21 A. No, indeed.

22 Q. Were the parties, Mr. Starke and Mrs. Starke,
23 aligned in their goals at that time?

24 A. Very much so, yes.

25 Q. During your conversations with Mr. Starke,

GEORGE ANDERSON - CROSS BY WILKES

1 obviously you said that there was some concern as
2 to his competency and thus the competency
3 evaluation?

4 A. Yes.

5 Q. Is it possible that something that was said
6 during your discussions with him, not as a promise
7 of an amount of time but just discussing the
8 possible time that he could get or your experience
9 in such cases, is there anything that you said that
10 could have possibly led him to believe that he had
11 a four-year deal?

12 A. Nothing that I would have said, no. And of
13 course nothing that the psychologist would have
14 said. Because I heard most of those discussions.
15 And, of course, I met with the Defendant at least
16 three times, maybe four, at the detention center.

17 And of course my only recollection would be
18 that if we were talking about the possibility under
19 the statute of a 20-year sentence, that anywhere
20 from zero, that is probation, to 20 years would be
21 the decision of the Court, of the hearing judge.

22 And I think the Defendant well understood that.

23 MR. WILKES: Excuse me. Just a second, Your
24 Honor.

25 THE COURT: Yes, sir.

GEORGE ANDERSON - CROSS BY WILKES

1 (Off-the-record discussion.)

2 BY MR. WILKES:

3 Q. Now during the plea -- and have you had an
4 opportunity to review the plea transcript?

5 A. I did.

6 Q. Okay. During the plea there was a point
7 where Mr. Starke denied an essential allegation of
8 the most-serious charge. And the judge said --
9 because he was hesitating once he said that, the
10 judge said, "Do you need to talk to your lawyer?
11 Talk to your lawyer."

12 Can you recall what was said when you talked
13 to him off the record?

14 A. Specifically, and I've thought about that, I
15 don't recall that. I think it was about a
16 30-second discussion. But the independent
17 recollection that I may have would be that the
18 Defendant said to me, what should I do or what
19 should I say.

20 And my response most probably was: If you're
21 offering a plea and you're guilty of the charges,
22 then you need to indicate that to the judge.

23 Q. Okay. But 30 seconds would be a short period
24 of time, though, to reconcile the conflict between
25 him just on the record outright denying the

GEORGE ANDERSON - CROSS BY WILKES

1 essential elements of the first and most serious
2 charge, wouldn't it? And at that point he has
3 denied on the record committing the offense or at
4 least the most important part of the offense and in
5 30 seconds we get back to him pleading guilty.

6 How did that work?

7 A. What I -- my response would have to be that
8 out of the hundreds of pages that this young man
9 would write, he had admitted and then would deny
10 and then would ask me to destroy the paperwork
11 which of course I did not. So, again, my memory
12 would say that I told him that if you're guilty of
13 the charges that's what you need to tell the
14 judge. Then if not, then there will be a trial.

15 No, I don't have any recollection that he
16 denied the pertinent elements of the charge to
17 which he was pleading guilty.

18 Q. Okay. And you say during your representation
19 he would occasionally write letters to you denying
20 the offense and then changing that story back and
21 forth?

22 A. I guess if I went through those several
23 hundred pages I might find a couple instances where
24 he denied but then he would come back and with a
25 different personalty and a different penmanship and

1 indicate that I'm sorry, I admit everything.

2 Q. Okay.

3 MR. WILKES: If I could have one second,
4 Judge.

5 THE COURT: Yes, sir.

6 (Pause.)

7 MR. WILKES: Nothing further.

8 THE COURT: Redirect?

9 MS. COLEMAN: Nothing further.

10 THE COURT: Have a nice day.

11 THE WITNESS: Thank you.

12 THE COURT: Any further witnesses,
13 Mr. Coleman?

14 MS. COLEMAN: No further witnesses.

15 THE COURT: Mr. Wilkes?

16 MR. WILKES: My client would like to testify
17 briefly in reply.

18 THE COURT: Do you understand what the word
19 briefly means?

20 THE APPLICANT: Yes, Your Honor.

21 THE COURT: I was real, real, real patient
22 with you --

23 THE APPLICANT: Yes, Your Honor.

24 THE COURT: -- earlier in the week. We're
25 going to answer the questions directly and

ISAAC LARRY STARKE - DIRECT BY WILKES

1 precisely.

2 THE APPLICANT: Yes, Your Honor.

3 THE COURT: Do you want to object on the
4 record just to say you object?

5 MS. COLEMAN: I object, Your Honor.

6 THE COURT: I'm going to allow him to come
7 back up, okay, but we're going to listen to Judge
8 Hood. Right?

9 THE APPLICANT: Yes, Your Honor.

10 THE COURT: Okay. Briefly. Come back up.
11 Swear him in again.

12 ISAAC LARRY STARKE, having been duly sworn,
13 was examined and testified as follows:

14 THE CLERK: Will you please have a seat up
15 there and state your full name?

16 THE COURT: All right. Mr. Wilkes.

17 MR. WILKES: Thank you, Your Honor.

18 REBUTTAL EXAMINATION - DIRECT

19 BY MR. WILKES:

20 Q. Mr. Starke, you heard Mr. Anderson testify
21 that he did in fact represent you and your wife
22 simultaneously through the family court and you in
23 the criminal court. Tell me why you believe that
24 created a conflict of harm in the defense of your
25 case.

ISAAC LARRY STARKE - DIRECT BY WILKES

1 A. I believe it harmed the defense of my case
2 because the interest of me going to court in an
3 open court of law and testifying would have
4 incriminated my then wife. And that is precisely
5 the reason he told me he could not take it to open
6 court. And he also said that up here on the
7 stand. He said if they was going to take it the
8 court I didn't want the case at all but if it was a
9 plea I'd take the case.

10 Q. Okay. Now, Mr. Anderson testified that to
11 his recollection the intermission or break that you
12 took in the plea proceedings to talk to him after
13 you denied the allegations to the judge took about
14 30 seconds. Is that your recollection?

15 A. That is my recollection except the difference
16 is in the 30-second period is when he said, "Get
17 your deal. Get your deal. Get your four-year
18 deal."

19 As a matter of fact that's worth about 30
20 seconds. Not an explanation about incrimination or
21 changing my plea because I in fact told the judge
22 that I was not guilty of that charge. It just
23 automatically, I popped up because it was the
24 truth. And that is what he told me during that
25 30-second interval. "Get your deal. Get your

1 deal. Get your four-year deal. Remember your
2 deal." That's the 30 seconds.

3 Q. And was that instrumental in you changing
4 your mind and continuing --

5 A. Absolutely.

6 Q. -- from your plea.

7 A. As something like that, "Get your deal. Get
8 your deal. Get your four-year deal." Absolutely.

9 In 30 seconds nothing else could have done it.

10 Q. Very good. That's all the questions I have.

11 THE COURT: Okay. Cross-examination?

12 MS. COLEMAN: No cross-examination.

13 THE COURT: Thank you, Mr. Starke. Good to
14 see you again.

15 THE APPLICANT: Thank you, Your Honor.

16 THE COURT: You're very welcome. Anything
17 further, Ms. Coleman?

18 MS. COLEMAN: Nothing further, Your Honor.

19 THE COURT: Mr. Wilkes?

20 MR. WILKES: Nothing, Your Honor.

21 THE COURT: I'll let y'all know my decision
22 by the end of next week.

23 MR. WILKES: Thank you, Your Honor.

24 THE COURT: Thank you very much.

25 END OF CASE: 10:40 a.m.

1 ***

2 CERTIFICATE OF REPORTER

3 STATE OF SOUTH CAROLINA)

4 COUNTY OF AIKEN)

5 I, Cheri L. Young, Registered Professional
6 Reporter and Official Court Reporter for the
7 State of South Carolina, Second Circuit-At Large,
8 do hereby certify that the foregoing proceedings
9 were written stenographically by me using
10 computer-aided translation; further, that the
11 foregoing is a true, accurate and complete
12 record, to the best of my skill and ability, of
13 all the proceedings had and evidence introduced
14 in the hearing of the captioned case, relative to
15 appeal, in the Court of Common Pleas for Aiken
16 County, on the 20th and 23rd days of September,
17 2016.

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

20 I have hereunder set my hand this Thursday,
21 the 12th day of January, 2017.

22 
23 _____
24 Cheri L. Young, RPR
25 Official Court Reporter

RECEIPT FOR EXHIBITS

Case No. 2014 - CP-02-00792

Judge: Hood

Plaintiff: Isaac Starke

State/Plf. Atty J Falkner Wilkes

. 45 .

Defendant: State

Def's Atty. Julie Coleman

Trial Date: 9.20.16 / 9.23.16

Received of Cheri Young, Court Reporter for the above case, these exhibits:

STATE /PLF

State
DEFENDANT

COURT

[illegible]

This 23 day of September 2016.

Page 1 of 1

By: [Signature]
Aiken County Clerk of Court

exhibit form 1
10'01'07 csw

FILED 9/23 copy court reporter 9/23/16
Date

17-00 Deputy Clerk

STATE OF SOUTH CAROLINA)
COUNTY OF AIKEN)

IN THE FAMILY COURT
SECOND JUDICIAL CIRCUIT

SCANNED

SCDSS,

PLAINTIFF,

-vs-

BEVERLY STARKE,
ISAAC STARKE,

DEFENDANTS,

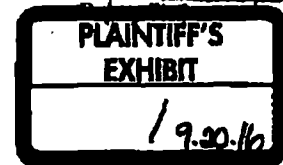
IN THE INTERESTS OF:

Son 2 (DOB: /1997)
Daughter 2 (DOB: /2000)
Daughter 1 (DOB: /1999)
Son 1 (DOB: /1995)
Minors Under the Age of 18

CONSENT MOTION AND ORDER
TO RELIEVE COUNSEL

Docket No: 2012-DR-02-16869 / 23 / 16

George A. Anderson
C.C. PRESS
William M. Kane



IT APPEARING THAT the Defendants, Beverly Starke and Isaac Starke, and George A. Anderson Attorney, are in agreement that George A. Anderson should be relieved of the responsibility of any further representation with respect to the instant matter; now,

THEREFORE, IT IS ORDERED, that George A. Anderson, Attorney, be, and hereby is, as of the date of this Order, relieved of any further responsibility in the above matter.

Presiding Judge
Family Court, Second Judicial Circuit

Aiken, South Carolina
September __, 2013

[Signature page only follows]

I SO CONSENT:

Beverly Starke
Defendant

Isaac Starke
Defendant

Witness as to Isaac Starke

I SO CONSENT:

George A. Anderson
Attorney

[Signature page only follows]

**PLAINTIFF'S
EXHIBIT**

ECCP:QS

Medication Administration Record

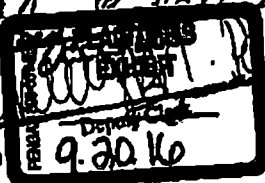
Medication	Rate				
Zantac 150mg i bid	XA Rp				
Risperidal 1mg i bid	XA Rp				
Zofit 100mg po qd.	XA				
Allergies:	Charting For	Physician Name:	Classification		
Cipro, EES, Ceflor	May 2013	Muruz			
NAME:	D.O.B.	Sex	Cell Location	Social Security #	Intake Date
Starko, Isaac	[REDACTED]	m	6789		

Anderson & Associates of

Aiken, P.A., Attorneys

PO Box 2261

Aiken, SC 29802



Billing

SCANNED

Date

9/21/2013

To:

Mr. Isaac L Starke

Mrs. Beverly Starke

Amount Due

\$263.19

Date	Services	Amount	Balance
06/10/2013	Balance forward		-128.31
07/17/2013		29.00	-99.31
	From Client		
	--- Correspondence, 0.1 @ \$290.00 = 29.00		
07/18/2013		29.00	-70.31
	Document from B. Starke (Request for visiting privileges)		
	--- Review, 0.1 @ \$290.00 = 29.00		
08/08/2013		72.50	2.19
	From client		
	--- Correspondence, 0.25 @ \$290.00 = 72.50		
08/20/2013		43.50	45.69
	from client		
	--- Correspondence, 0.15 @ \$290.00 = 43.50		
08/21/2013		217.50	263.19
	To client		
	--- Correspondence, 0.75 @ \$290.00 = 217.50		
08/21/2013	Amount Due		263.19

Anderson & Associates of
 Aiken, P.A, Attorneys
 PO Box 2261
 Aiken, SC 29802

Billing

Date
8/21/2013

To:
Ms. Beverly Starke Mr. Isaac Starke

Amount Due
\$659.33

Date	Services	Amount	Balance
07/22/2013	Balance forward		78.67
07/25/2013		72.50	151.17
	From SCDSS (via email); Review of Ex Parte Order to Transport for Defendant, Isaac Starke		
	--- Correspondence, 0.25 @ \$290.00 = 72.50		
07/29/2013		29.00	180.17
	Notice of Hearing from Aiken County Clerk of Court		
	--- Review, 0.1 @ \$290.00 = 29.00		
08/07/2013		217.50	397.67
	Preparation for attendance at Hearing 8/08/2013		
	--- File Review, 0.75 @ \$290.00 = 217.50		
08/08/2013		145.00	542.67
	--- Court Appearance, 0.5 @ \$290.00 = 145.00		
08/08/2013		43.50	586.17
	To clients		
	--- Correspondence, 0.15 @ \$290.00 = 43.50		
08/08/2013		0.66	586.83
	--- Postage and Delivery, 1 @ \$0.66 = 0.66		
08/09/2013		72.50	659.33
	Proposed Order from 8/08/2013 Hearing		
	--- Review, 0.25 @ \$290.00 = 72.50		

Anderson & Associates of
Aiken, P.A., Attorneys
PO Box 2261
Aiken, SC 29802

Billing

Date
7/23/2013

To:
Ms. Beverly Starke
Mr. Isaac Starke

COPY

Amount Due
\$78.67

Date	Services	Amount	Balance
05/21/2013	Balance forward		-7.25
05/22/2013		12.50	5.25
	To Client (w/ Motion and Order Dismissing Parties)		
	--- Correspondence, 0.1 @ \$125.00 = 12.50		
05/22/2013		0.46	5.71
	--- Postage and Delivery \$0.46		
06/03/2013		43.50	49.21
	To client (B. Starke)		
	--- Correspondence, 0.15 @ \$290.00 = 43.50		
06/03/2013		0.46	49.67
	--- Postage and Delivery, 1 @ \$0.46 = 0.46		
07/01/2013		29.00	78.67
	Supplemental Order for Custody		
	--- Review, 0.1 @ \$290.00 = 29.00		
07/23/2013	Amount Due		78.67

Anderson & Associates of
Aiken, P.A., Attorneys
PO Box 2261
Aiken, SC 29802

Billing

Date
8/21/2013

To:
Mr. Isaac L Starke Mrs. Beverly Starke

Amount Due
\$263.19

Date	Services	Amount	Balance
06/10/2013	Balance forward		-128.31
07/17/2013		29.00	-99.31
	From Client		
	--- Correspondence, 0.1 @ \$290.00 = 29.00		
07/18/2013		29.00	-70.31
	Document from B. Starke (Request for visiting privileges)		
	--- Review, 0.1 @ \$290.00 = 29.00		
08/08/2013		72.50	2.19
	From client		
	--- Correspondence, 0.25 @ \$290.00 = 72.50		
08/20/2013		43.50	45.69
	from client		
	--- Correspondence, 0.15 @ \$290.00 = 43.50		
08/21/2013		217.50	263.19
	To client		
	--- Correspondence, 0.75 @ \$290.00 = 217.50		
08/21/2013	Amount Due		263.19

Anderson & Associates of
Aiken, P.A., Attorneys
PO Box 2261
Aiken, SC 29802

Billing

SCANNED

Date
8/21/2013

To:
Ms. Beverly Starke
Mr. Isaac Starke

Amount Due
\$659.33

Date	Services	Amount	Balance
07/22/2013	Balance forward		78.67
07/25/2013		72.50	151.17
	From SCDSS (via email); Review of Ex Parte Order to Transport for Defendant, Isaac Starke		
	--- Correspondence, 0.25 @ \$290.00 = 72.50		
07/29/2013		29.00	180.17
	Notice of Hearing from Aiken County Clerk of Court		
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08/07/2013		217.50	397.67
	Preparation for attendance at Hearing 8/08/2013		
	--- File Review, 0.75 @ \$290.00 = 217.50		
08/08/2013		145.00	542.67
	--- Court Appearance, 0.5 @ \$290.00 = 145.00		
08/08/2013		43.50	586.17
	To clients		
	--- Correspondence, 0.15 @ \$290.00 = 43.50		
08/08/2013		0.66	586.83
	--- Postage and Delivery, 1 @ \$0.66 = 0.66		
08/09/2013		72.50	659.33
	Proposed Order from 8/08/2013 Hearing		
	--- Review, 0.25 @ \$290.00 = 72.50		

Anderson & Associates of
Aiken, P.A, Attorneys
PO Box 2261
Aiken, SC 29802

Billing

Date
7/23/2013

To:
Ms. Beverly Starke
Mr. Isaac Starke

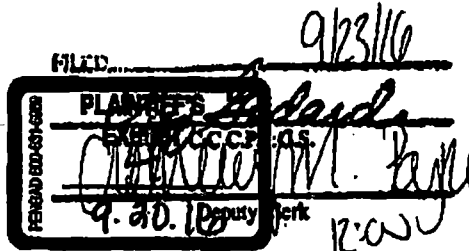
COPY

Amount Due
\$78.67

Date	Services	Amount	Balance
05/21/2013	Balance forward		-7.25
05/22/2013		12.50	5.25
	To Client (w/ Motion and Order Dismissing Parties)		
	--- Correspondence, 0.1 @ \$125.00 = 12.50		
05/22/2013		0.46	5.71
	--- Postage and Delivery \$0.46		
06/03/2013		43.50	49.21
	To client (B. Starke)		
	--- Correspondence, 0.15 @ \$290.00 = 43.50		
06/03/2013		0.46	49.67
	--- Postage and Delivery, 1 @ \$0.46 = 0.46		
07/01/2013		29.00	78.67
	Supplemental Order for Custody		
	--- Review, 0.1 @ \$290.00 = 29.00		
07/23/2013	Amount Due		78.67

May 13, 2013

Honorable Doyet A. Early



Case Name: Isaac Starke, SR DOB
 Law Enforcement Case: 1261032
 Indictment: 0000GS02

IN THE INTEREST OF:

Son 1	DOB	/1995
Son 2	DOB	/1997
Daughter 1	DOB	/1999
Daughter 2	DOB	/2000

(Family Court Docket Number 12-DR-02-1686)

As the Court appointed Guardian *ad Litem* for the above named children, I would appreciate the opportunity to offer some observations, as well as relaying several of the sentiments from the victim, I am not minimizing the impact of Mr. Starke's actions on his entire family; I believe his sons and his wife, Beverlie, and extended family, have all been profoundly impacted by this sad chain of events.

I've visited with Mrs. Starke and her sons at their Aiken home monthly since January, 2013. The children were briefly removed from the home, placed at Helping Hands, then with their maternal uncle and aunt, Charles and Penny Carroll, in Blackville. The sons were returned to Mrs. Starke shortly thereafter. The visits have been pleasant; and attend High, and at

Middle School. They have visited with their dad while he has been incarcerated. Discussion regarding him has been minimal.

remained with her aunt and uncle from October 2012-April 2013. She is an articulate bright girl, and had little difficulty verbalizing what led to her removal from her home. She related painful details of her father's sexual assaults on her, his threat of suicide if she divulged his behavior to anyone, and felt her mother suspected what was happening. They strictly adhered to the teaching of the Holiness Pentecostal religion; she felt ostracized by having to wear long skirts-no jeans or slacks allowed- and did not participate in physical education or sports for this reason. vehemently denied in the beginning, of a desire to return home, for fear of seeing her father again, and worried if there was a choice to be made her mom would chose her dad over her. She was hospitalized at Aurora Pavilion, Aiken 3/22/2013-4/03/2013 for treatment of depression and anxiety. She inflicted a number of cuts to her been thinking about possibly having to go to court and see her father. She returned to her aunt and uncle's home. Another incident of cutting on her arm with a razor blade while in school (Middle School) resulted in expulsion, and Mr. and Mrs. Carroll's realization they could no longer provide the type of care she required. Custody was returned to SCDSS, and she was placed in emergency foster care on April 11, 2013, and was transferred to a therapeutic foster home April 15, 2013, in Orangeburg. She was enrolled in School in Calhoun County. On 4/25 she walked away from the foster home, and was again placed in the North Augusta foster home, where she remains. is hopeful at this time that she will return to her mother's home. She frequently relates some positive stories about her relationship with her mother; they have recently begun joint therapy sessions with Dr. Holt, of North Augusta. She recently stated, "I know my mama and brothers will want to see my dad, and I can't stop

that, but I don't want to have him at the house." She has apprehension about returning to the house, because of memories, but will work on these issues with her mother and therapist.

Though the sexual advances and assaults by Mr. Starke on his daughter are over, healing has barely begun. has had five placements, three school transfers and a hospitalization since leaving her home. She could easily have 70 years to live with the realization that one of the people she loved and trusted the most in her life destroyed her childhood and impacted her family with his selfish and devious crimes. It's my hope that Mr. Starke's sentence will be compatible with his behavior. Daughter 1
has had more than enough undeserved punishment in her short life.

Respectfully submitted,

Pamela J. Hoffman, Volunteer Guardian ad litem

FILED

9/23/16

STATE'S
EXHIBIT**GUILTY PLEA INFORMATION SHEET**Date: 5/13/17Name of Defendant: 13994 Stark 9.20.16 Time Served Already (Days): 208 daysPrior Conviction(s): No Yes A+B (2008)

- (I) Indictment No: 2013G50200406 ☒ True Bill ☐ Waiver
 Offense: CSC w/ Minor 2nd Penalty Range: 0-20
 Dismissed Any Charges: No ☒ Yes: CSC w/ Minor 3rd x 3
 Offense to which Defendant is pleading if different: _____
 If penalty range is different than indicated offense, list Penalty Range: _____
 Victim Name: _____ Restitution: No Yes Amount: \$ _____
- (II) Indictment No: 2013G50200775 ☒ True Bill ☐ Waiver
 Offense: CSC w/ Minor 3rd Penalty Range: 0-15
 Dismissed Any Charges: ☒ No Yes: _____
 Offense to which Defendant is pleading if different: _____
 If penalty range is different than indicated offense, list Penalty Range: _____
 Victim Name: _____ Restitution: No Yes Amount: \$ _____
- (III) Indictment No: _____ True Bill ☐ Waiver
 Offense: _____ Penalty Range: _____
 Dismissed Any Charges: No Yes: _____
 Offense to which Defendant is pleading if different: _____
 If penalty range is different than indicated offense, list Penalty Range: _____
 Victim Name: _____ Restitution: No Yes Amount: \$ _____

Plea: Open: _____ Recommendation: _____

Negotiated: ↑ _____Plea Nolo? Alford? Currently On Probation? Plea Violation of Supervision?YOA: Eligible Ineligible Due To: ☒ Age (over 25) Convicted Violent CrimeAny pending charges not being resolved? N/A

Name of Solicitor _____

Solicitor's Signature _____

Name of Defendant's Attorney _____

Attorney's Signature _____

Retained: _____ Appointed: _____

Sentence Imposed: _____

Offer: CSC Ind w/ minor 20 →

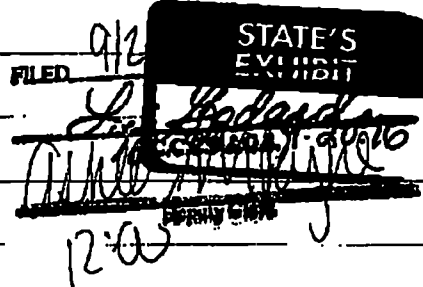
3rd 0-15 (old Lewal Act)
 ↳ dismiss 2 3rds ↳ missing

violent on 2nd

3rd GPS (appd after 10)

Register

SUP



STATE OF SOUTH CAROLINA
COUNTY OF AIKEN

Isaac Starke, #355498,

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS
SECOND JUDICIAL CIRCUIT

~~2014~~
~~2015~~-CP-02-00792

ORDER OF DISMISSAL

FILED 11.7.16

Leif Hedard
C.C.P. & G.S.
Ample 830
da

This matter comes before the Court by way of a post-conviction relief (PCR) application filed on April 7, 2014. Respondent submitted its Return on August 6, 2014. An evidentiary hearing into the matter was convened on September 20, 2016, and finished on September 23, 2016, at the Aiken County Courthouse. Applicant was present at the hearing and was represented by J. Faulkner Wilkes, Esquire. Respondent was represented by Assistant Attorney General Julie A. Coleman of the South Carolina Attorney General's Office.

I. PROCEDURAL HISTORY

The records before this Court indicate that Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Aiken County Clerk of Court. Applicant was true bill indicted at the March 2013 term of the Aiken County Grand Jury for one count of Criminal Sexual Conduct With a Minor – Second Degree (2013-GS-02-00406), and one count of Criminal Sexual Conduct With a Minor – Third Degree (2013-GS-02-00375). George Anderson, Esquire represented Applicant. On May 15, 2013, Applicant pled guilty as indicted before the Honorable Doyet A. Early, III. Judge Early sentenced Applicant without recommendations or negotiations to a fifteen year term of imprisonment for each charge, with all sentences to run concurrently. The Applicant did not appeal his guilty plea or sentence.

Applicant filed a timely application for post-conviction relief on April 7, 2014.

II. ALLEGATIONS

In his current application, Applicant alleges that he is being held in custody unlawfully for the following reasons:

1. Ineffective Assistance of Counsel
 - a. "Counsel failed to properly conduct discovery, obtain experts, have a proper evaluation of the Applicant, have adequate information presented to the court during the plea process, investigate, research, prepare for the case, and advise the Applicant adequately on the facts and law involved."
2. Involuntary guilty plea
 - a. "The Applicant was not adequately advised as to the legal aspects of the plea and his rights to a trial. The Applicant was improperly coached and counseled as to what he was to say at the plea proceedings. The Applicant was misled by Counsel as to the existence of an agreement on the sentence, or what sentence he would receive. The Applicant was misled by counsel or others as to what representations would be made on his behalf and the effect that such representations would have in the case. The Applicant was led to believe that he would receive a specific sentence less than the court imposed. The Applicant was not capable of fully understanding the process or to enter a plea."
3. Brady Violation
 - a. "The State had information that it failed to disclose to the Defendant that it was obligated to disclose. The State further misled the defense as to what position it would take, the sentence that it would recommend or that the Defendant would receive."

III. SUMMARY OF RELEVANT TESTIMONY PRESENTED

At the PCR hearing, Applicant testified on his own behalf. Applicant also presented testimony from Pastor David Belton, Jr. Respondent presented testimony from Assistant Solicitor Ashley Hammack, Assistant Solicitor Nicholas McCarley, and Plea Counsel George Anderson (hereinafter "Plea Counsel").

Applicant

At the evidentiary hearing, Applicant testified that he met with Plea Counsel a couple of times prior to his guilty plea. He stated that Plea Counsel never asked him about possible defenses for them to pursue, but he gave Plea Counsel leads and potential witnesses to investigate. Applicant stated that he recalled waiving his constitutional rights at the guilty plea, but he did it because Plea Counsel told him to. He recalled telling the plea judge that he was satisfied with his attorney's services, that no one was promising anything or threatening him to plead guilty, and that he wished to plead guilty because he was indeed guilty. However, he stated that he only said these things because Plea Counsel forced him to in order to get a four year deal. Applicant testified that he was not actually guilty of this crime.

Applicant testified that Plea Counsel was supportive of him at first, but then he told him that he was a child molester and he could not take him to open court because he was guilty. He stated that Plea Counsel told him that his wife would be arrested and his daughter would be taken away from him if he did not pay Plea Counsel money. Applicant testified that Plea Counsel represented him and his wife simultaneously on their criminal charges and in their DSS case in the Family Court, and that this was clearly a conflict of interest.

Applicant testified that Plea Counsel hired Dr. Joe Holt as a psychoanalyst to mentally evaluate him and give him psychosexual therapy. He stated that Plea Counsel promised him that the State would give him a four year sentence if he completed this psychosexual therapy, and he completed all eighteen sessions prior to his guilty plea. Applicant testified that he was supposed to be on medication at the time of the plea, but he did not take it the day of the plea, and missing his medication made him feel like he had no common sense. He stated that he no longer takes this medication and was not on the medication at the evidentiary hearing.

Applicant presented as an exhibit a letter written by the guardian ad litem who represented his daughter, the victim. He stated that this was exculpatory evidence, it was not given to him by the State, and if he had known this was going to be presented at the plea, he would not have pled guilty.

Pastor David Belton Jr.

Pastor David Belton Jr. testified that he met Applicant in 2006 when he joined his church. He stated that he was present before the plea, and though he did not talk directly to Applicant, Applicant's wife talked to him and made him believe that Applicant was offered some sort of deal to plead guilty. He stated that Plea Counsel told him that Applicant would receive a lesser sentence if he pled guilty.

Assistant Solicitor Ashley Hammack

Assistant Solicitor Ashley Hammack testified that she was the solicitor who prosecuted this case. She stated that Applicant was arrested on October 18, 2012, he had hired representation by the following week, and he was given all the discovery on November 7, 2012. She stated that this included an audio and video recorded statement of Applicant's confession to law enforcement. Ms. Hammack testified that she met with Plea Counsel on April 17, 2013 to discuss the case, and Nicholas McCarley and Dr. Joe Holt were present at the meeting. She stated at, at this meeting, she told Plea Counsel that she intended to try the case, and he asked her for a plea offer.

Ms. Hammack testified that Applicant was true bill indicted for one count of Criminal Sexual Conduct second degree and four counts of Criminal Sexual Conduct third degree. She stated that she agreed with Plea Counsel to drop three of the charges if Applicant pled guilty, and he pled to one count of CSC second degree and one count of CSC third degree with no

recommendations. She stated that there was never any discussion or offer of a four year deal. Ms. Hammack stated that Applicant confessed his guilt to law enforcement, and there was no need to offer a plea deal because this was a very strong case.

Ms. Hammack explained that there was never any question of Applicant's mental competency. She stated that he acted completely competent at the plea, which was very different from his behavior at the PCR evidentiary hearing. Ms. Hammack explained that she was given the guardian ad litem's letter for the first time right before the guilty plea. She stated that Applicant's wife was never charged with any criminal charges in relation to this case.

Assistant Solicitor Nicholas McCarley

Assistant Solicitor Nicholas McCarley testified he was present at the meeting with Ms. Hammack and Plea Counsel on April 17, 2013. He stated that Plea Counsel asked for a plea offer, and Ms. Hammack agreed to dismiss three of the charges against Applicant in exchange for his guilty plea. He stated that there was never any offer or discussion of a four year deal at this meeting.

Plea Counsel

Plea Counsel testified that he had been practicing law for fifty-one years. He stated that he met with Applicant between eight and ten times prior to his guilty plea. He stated that they discussed Applicant's version of the facts and that he admitted that he had sexually abused his sixteen-year-old daughter. Plea Counsel stated that he had Applicant evaluated for mental competency and he was found to be competent. He stated that Applicant never told him that he did not understand something at the plea, and he believed that Applicant fully understood what he was doing. At the plea, Applicant denied to the judge an element of the crime, and they had a brief discussion off the record to discuss his decision. Plea Counsel testified that during that

discussion, he told Applicant, "If you are offered a plea and you are guilty of the charge, then you should accept the plea."

Plea Counsel testified that there was never any offer or discussion of a four year deal. He stated that Applicant understood their discussion about the lack of a plea offer. He said he did not tell Applicant anything to lead him to believe there was a four year deal. He explained that the statute allows a sentence of anywhere from zero to twenty years imprisonment, and Applicant well understood that.

Plea Counsel testified that he represented Applicant and his wife in Family Court, but it did not create any conflict of interest because they were both aligned in their goals at that time. He stated that he never represented Applicant's wife on criminal charges.

IV. APPLICABLE LAW

In a post-conviction relief action, the applicant has the burden of proving the allegations in the application. Rule 71.1(e), SCRPC; Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where ineffective assistance of counsel is alleged as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, (1984); Butler, 286 S.C. 441, 334 S.E.2d 813 (1985).

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Butler, 286 S.C. 441, 334 S.E.2d 813 (1985). The applicant must overcome this presumption to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

Courts use a two-pronged test in evaluating allegations of ineffective assistance of counsel. First, the Applicant must prove that counsel's performance was deficient. Under this prong, attorney performance is measured by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 385 S.E.2d at 625 (citing Strickland). Second, counsel's deficient performance must have prejudiced the applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. With respect to guilty pleas, the Applicant must show that there is a reasonable probability that, but for counsel's alleged errors, he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 106 S.Ct. 366 (1985).

V. FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has had the opportunity to review the record in its entirety and has heard the testimony at the post-conviction relief hearing. This Court has further had the opportunity to observe the witnesses presented at the hearing, closely pass upon their credibility and weigh their testimony accordingly. Set forth below are the relevant findings of facts and conclusions of law as required pursuant to S.C. Code Ann. §17-27-80 (1985).

As a matter of general impression, this Court finds Applicant's testimony and assertions to be not credible. In contrast, this Court finds Counsel's testimony to be credible and persuasive. These credibility findings have been applied to the Court's findings and conclusions set forth below.

INEFFECTIVE ASSISTANCE OF COUNSEL

Applicant alleges Counsel was ineffective in his advice surrounding his guilty plea. In post-conviction relief cases, an applicant asserting a constitutional violation must frame the issue

as one of ineffective assistance of counsel. See Al-Shabazz v. State, 338 S.C. 354, 363, 527 S.E.2d 742, 747 (1999) (citing Drayton v. Evatt, 312 S.C. 4, 9, 430 S.E.2d 517, 520 (1993)). An applicant who pleads guilty on the advice of counsel may collaterally attack the plea only by showing that (1) counsel was ineffective and (2) there is a reasonable probability that but for counsel's errors, the applicant would not have pled guilty and would have insisted on going to trial. Roscoe v. State, 345 S.C. 16, 20, 546 S.E.2d 417, 419 (2001) (citations omitted). An applicant alleging his guilty plea was induced by ineffective assistance of counsel must prove that counsel's advice was not "within the range of competence demanded of attorneys in criminal cases." Hill v. Lockhart, 474 U.S. 52, 56, 106 S. Ct. 366, 369 (1985).

Applicant has failed to meet his burden in proving Plea Counsel was ineffective in any regard. This Court finds that Plea Counsel properly relayed the State's plea negotiations and went over the discovery with Applicant, as well as fully explained the possible outcomes in sentencing.

The record and the testimony clearly show that Plea Counsel represented Applicant well beyond the minimum standards of professional norms. Applicant admitted both to Plea Counsel and to law enforcement that he was guilty of the crime, and Plea Counsel actively negotiated to get some kind of bargain on Applicant's behalf. Plea Counsel succeeded in having the State drop three of the charges against him in exchange for Applicant's guilty plea. This Court finds very credible Plea Counsel's testimony that he never made any indication that Applicant would receive a four year sentence in exchange for his guilty plea.

Furthermore, this Court finds that Applicant has not shown that he was prejudiced by any of Plea Counsel's actions as he has failed to show that he would not have pled guilty but would have gone to trial but for Plea Counsel's actions. Accordingly this allegation must be dismissed.

Because Applicant has failed to meet his burden of proof for both prongs on the Strickland test, this allegation is denied and dismissed with prejudice.

INVOLUNTARY GUILTY PLEA

Applicant argues his plea was not given freely and voluntarily. This Court finds otherwise and concludes that Applicant's plea was entered freely and voluntarily. To find a guilty plea is voluntarily and knowingly entered into, the record must establish the defendant had a full understanding of the consequences of his plea and the charges against him. Boykin v. Alabama, 395 U.S. 238, 89 S. Ct. 1709, 23 L.Ed.2d 274 (1969). Defendant's knowing and voluntary waiver of statutory or constitutional rights must be established by a complete record, and "may be accomplished by colloquy between court and defendant, between court and defendant's counsel, or both." Roddy v. State, 339 S.C. 29, 34, 528 S.E.2d 418, 421 (2000) (citing State v. Ray, 310 S.C. 431, 437, 427 S.E.2d 171, 174 (1993)). A guilty plea is a solemn, judicial admission of the truth of the charges against an individual; thus, a criminal inmate's right to contest the validity of such a plea is usually, but not invariably, foreclosed. Dalton v. State, 376 S.C. 130, 137-38, 654 S.E.2d 870, 874 (Ct. App. 2007) (citing Blackledge v. Allison, 431 U.S. 63, 97 S. Ct. 1621, 52 L.Ed.2d 136 (1977)). Therefore, statements made during a guilty plea should be considered conclusive unless a criminal inmate presents valid reasons why he should be allowed to depart from the truth of his statements. Crawford v. United States, 519 F.2d 347 (4th Cir.1975).

Applicant claims his plea was given involuntarily because Plea Counsel misled him as to the sentence he would receive in exchange for his guilty plea. Applicant claims he was promised a four year sentence by Plea Counsel which he did not receive. This Court finds that this allegation is untrue. Applicant was never promised or offered a four year deal in exchange for his guilty plea, and there is absolutely no evidence in the record or the testimony presented to

support his reliance on this idea. This Court finds that the record reflects that Applicant was fully advised of the rights he was giving up by pleading guilty. Applicant presented no credible evidence as to why he should be able to depart from his statements at the plea hearing. This Court finds very credible Plea Counsel's testimony that he advised Applicant of all facts and risks of pleading guilty, including the potential length of his sentence. Furthermore, there is no credible evidence to support Applicant's claim that he was not mentally competent to waive his rights by pleading guilty.

The record reflects Applicant fully admitted his guilt to the plea court. "A guilty plea constitutes a waiver of nonjurisdictional defects and claims of violations of constitutional rights." Jamison v. State, 410 S.C. 456, 467, 765 S.E.2d 123, 129 (2014) (citing State v. Rice, 401 S.C. 330, 331-32, 737 S.E.2d 485, 485-86 (2013); Hyman v. State, 397 S.C. 35, 44, 723 S.E.2d 375, 379 (2012)). Notably the South Carolina Supreme Court has held "[a] guilty plea represents a break in the chain of events which has preceded it in the criminal process." Id. (citations omitted). "When a criminal defendant has solemnly admitted in open court that he is in fact guilty of the offense with which he is charged, he may not thereafter raise independent claims relating to the deprivation of constitutional rights that occurred prior to the entry of the guilty plea." Id. (citing Rice, 401 S.C. at 332, 737 S.E.2d at 486). Therefore, this Court finds the plea judge correctly found Applicant's plea was freely, voluntary, and intelligently made. Accordingly, this allegation must be denied and dismissed with prejudice.

BRADY VIOLATION

This Court finds that Applicant has failed to present any credible evidence on his allegation of a Brady violation.

Brady v. Maryland, 373 U.S. 83 (1963), requires the State to disclose evidence in its possession favorable to the accused and material to guilt or punishment. Clark v. State, 315 S.C.385, 388, 434 S.E.2d 266, 268 (1993). A Brady claim is based upon the requirement of due process. Such a claim is complete if the accused can demonstrate (1) the evidence was favorable to the accused, (2) it was in the possession of or known to the prosecution, (3) it was suppressed by the prosecution, and (4) it was material to guilt or punishment. Gibson v. State, 334 S.C. 515, 524, 514 S.E.2d 320, 324 (1999). Impeachment or exculpatory evidence is material only if there is a reasonable probability that, had the evidence been disclosed to the defense, the result of the proceeding would have been different. Clark, 315 S.C. at 388, 434 S.E.2d at 268 (citing U.S. v. Bagley, 473 U.S. 667 (1985)).

The State provided Applicant and Plea Counsel with all discovery materials on November 7, 2012, well before his trial. Applicant has not shown that they withheld any exculpatory evidence or misled him in any manner. The State offered no plea deal and Applicant knowingly pled guilty to the charge without negotiations or recommendations.

Applicant alleged that the State withheld the letter from the guardian ad litem from him and that this letter was exculpatory, and if he had it would be presented at the guilty plea, he would not have pled guilty but would have gone to trial. This allegation is meritless because it fails to meet any of the elements required of Applicant's burden of proof as listed in Gibson. The letter was not exculpatory; if anything, it was inculpatory evidence. It was not in the State's possession and the solicitor did not know about it until right before the plea, at the same time Applicant learned of its existence. This letter was not suppressed in any manner by the State. Finally, under the definition of materiality in Clark, the letter was not material to Applicant's guilt and punishment because it was not the sole piece of evidence proving his guilt and would

not have changed the outcome of the proceeding. The letter was used against him at the sentencing, but it was properly admitted and there was no way to keep the letter out. Therefore, the admission of this letter was not a Brady violation.

Applicant has failed to meet his burden of proof, and this allegation is denied and dismissed with prejudice.

ALL OTHER ALLEGATIONS

As to any and all allegations that were raised in the application or at the hearing in this matter and not specifically addressed in this Order, this Court finds the Applicant failed to present any testimony, argument, or evidence at the hearing regarding such allegations. Accordingly, this Court finds the Applicant has abandoned any such allegations.

VI. CONCLUSION

Based on all the foregoing, this Court finds and concludes that the Applicant has not established any constitutional violations or deprivations that would require this court to grant his application. Therefore, this application for post-conviction relief must be denied and dismissed with prejudice.

This Court notes that Applicant must file and serve a notice of appeal within thirty days from the receipt by counsel of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453 (1991), an Applicant has a right to an appellate counsel's assistance in seeking review of the denial of post-conviction relief. Rule 71.1(g), SCRCP, provides that if the applicant wishes to seek appellate review, post-conviction relief counsel must serve and file a Notice of Appeal on the Applicant's behalf. Applicant is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

IT IS THEREFORE ORDERED:

1. That the application for Post-Conviction Relief is denied and dismissed with prejudice; and
2. The Applicant must be remanded to the custody of the Respondent.

AND IT IS SO ORDERED this 1st day of NOV, 2016.

Re Hood

ROBERT E. HOOD
Presiding Judge
Second Judicial Circuit

Columbia, South Carolina

STATE OF SOUTH CAROLINA)
)
COUNTY OF AIKEN)
)

INDICTMENT FOR
CRIMINAL SEXUAL CONDUCT WITH A
MINOR THIRD DEGREE

§ 16-03-0655(C)

At a Court of General Sessions, convened on March 11, 2013, the Grand Jurors of Aiken County present upon their oath:

That ISAAC STARKE, being over the age of fourteen (14) years, did in Aiken County, at _____, on or between August 1, 2010 and August 1, 2012, wilfully and lewdly commit or attempt to commit a lewd or lascivious act upon or with the body of _____ a child under the age of sixteen (16) years, with the intent of arousing, appealing to, or gratifying the lust, passions and sexual desires of himself or such child. All in violation of §16-03-0655 of the Code of Laws of South Carolina (1976), as amended.

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


J. STROM THURMOND, SOLICITOR

WITNESSES

Aiken County Sheriff

Kristopher Evensen

Law Enforcement Case #: 12-061032

ALA

ARREST WARRANT NUMBER

FILED 7 March 2013
2012A0210200492
Liz Goddard
J.C.C.P. & G.S.
Shannon W. Roan
Deputy Clerk

ACTION OF GRAND JURY

True Bill
Ronnie M. Hall

Foreperson of Grand Jury

Date: March 7, 2013

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2013GS0200375

The State of South Carolina

County of Aiken

COURT OF GENERAL SESSIONS

MARCH TERM 2013

THE STATE

vs.

ISAAC STARKE

CDR #: 3681

Indictment for

**CRIMINAL SEXUAL CONDUCT WITH A
MINOR THIRD DEGREE**

§ 16-03-0655(C)

J. STROM THURMOND, SOLICITOR

STATE OF SOUTH CAROLINA)
COUNTY OF AIKEN)

INDICTMENT FOR
CRIMINAL SEXUAL CONDUCT WITH A
MINOR -SECOND DEGREE

§ 16-03-0655(B)(1)

At a Court of General Sessions, convened on March 11, 2013, the Grand Jurors of Aiken County present upon their oath:

That ISAAC STARKE did in Aiken County on or between August 1, 2010 and August 1, 2012 at _____, commit the crime of Criminal Sexual Conduct With A Minor In The Second Degree, in that the Defendant did commit a sexual battery upon _____ a minor who was the age of fourteen or less but who was at least eleven years of age at the time of the incident. All in violation of §16-3-655 of the Code of Laws of South Carolina (1976), as amended.

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


J. STROM THURMOND, SOLICITOR

WITNESSES

Aiken County Sheriff

Kristopher Evensen

Law Enforcement Case #: 12-061032

DOCKET NO. 2013GS0200406

The State of South Carolina

County of Aiken

ALA

ARREST WARRANT NUMBER

2012A0210200496

FILED 7 March 2013

Shannon D. Rosenkrantz
Deputy Clerk

COURT OF GENERAL SESSIONS

MARCH TERM 2013

THE STATE
vs.

ISAAC STARKE

ACTION OF GRAND JURY

True Bill
Ronnie M. Hall

Foreperson of Grand Jury

Date: March 7, 2013

VERDICT

CDR #: 0398

Indictment for

CRIMINAL SEXUAL CONDUCT WITH A
MINOR -SECOND DEGREE

§ 16-03-0655(B)(1)

J. STROM THURMOND, SOLICITOR

Foreperson of Petit Jury

Date: