

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM LEXINGTON COUNTY
Court of Common Pleas
Diane Schafer Goodstein, Circuit Court Judge

Appellate Case No. 2016-001125
Case No. 2011-CP-32-02607

RECEIVED
JUN 29 2017
SC Court of Appeals

In the Matter of the Care and Treatment of Frances Arthur Oxner, Appellant

RECORD ON APPEAL

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FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF LEXINGTON
IN THE COURT OF COMMON PLEASJUDGMENT IN A CIVIL CASE
CASE NUMBER 2014 CP 23160

RECEIVED

State of South Carolina

Francis Arthur Oxner

MAY 27 2016

SC Court of Appeals

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:

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

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☐ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. ☐ See Page 2 for additional information.
- ☐ **ACTION DISMISSED (CHECK REASON):** ☐ Rule 12(b), SCRPC; ☐ Rule 41(a), SCRPC (Vol. Nonsuit);
☐ Rule 43(k), SCRPC (Settled); ☐ Other: _____
- ☐ **ACTION STRICKEN (CHECK REASON):** ☐ Rule 40(j) SCRPC; ☐ Bankruptcy;
☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other: _____
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other: _____

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☒ See attached order; (formal order to follow) ☐ Statement of Judgment by the Court:

ORDER INFORMATION

This order ☐ ends ☐ does not end the case.

Additional Information for the Clerk: _____

INFORMATION FOR THE JUDGMENT INDEX

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

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

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

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

Circuit Court Judge

Judge Code

5/18/2016

Date

For Clerk of Court Office Use Only

This judgment was entered on , and a copy mailed first class or placed in the appropriate attorney's box on **May 18, 2016**, to attorneys of record or to parties (when appearing pro se) as follows:

James G. Bogle Jr. PO Box 11549 Columbia, SC 29211

ATTORNEY(S) FOR THE PLAINTIFF(S)

Aimee Jendrzewski Zmroczek A.J.Z. Law Firm, LLC PO Box 11961 Columbia, SC 29211

ATTORNEY(S) FOR THE DEFENDANT(S)

Beth A. Carrigg/kpk

Court Reporter

Beth A. Carrigg - Clerk of Court

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

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

ORIGINAL

STATE OF SOUTH CAROLINA

COUNTY OF LEXINGTON

IN THE MATTER OF THE
AND TREATMENT OF

FRANCES ARTHUR OXNER,
RESPONDENT.

IN THE COURT OF COMMON PLEAS
ELEVENTH JUDICIAL CIRCUIT

CASE NO. 2011-CP-32-02607

ORDER FOR EVALUATION
PURSUANT TO THE SEXUALLY
VIOLENT PREDATOR ACT

RECEIVED
MAY 27 2016
SC Court of Appeals

This matter comes before me on petition of the State of South Carolina for an order requiring the Respondent, Frances Arthur Oxner, to submit to an examination and to be detained in appropriate secure facility pending a trial pursuant the Sexually Violent Predator Act (S. C. Code Ann. Sections 44-48-10 *et seq.*, hereafter, the Act).

A hearing was held on April 21, 2016; the state was represented by Senior Assistant Attorney General James G. Bogle, Jr., and the Respondent by Aimee Zmroczek, Esquire. The Respondent was present.

This hearing was conducted under S. C. Code Ann. Section 44-48-100(B) of the Act. That Section provides that since Respondent has been charged with sexually violent offenses, and has been found incompetent to stand trial and is about to be released, and his commitment is sought by the State, this Court first shall hear evidence and determine whether Respondent committed the acts with which he is charged.

That Section goes on to state that the hearing on this issue must comply with all the procedures specified in S.C. Code Ann. Section 44-48-100; the rules of evidence applicable in criminal cases apply, and all constitutional rights available to defendants at criminal trials, other than the right not to be tried while incompetent, apply.

That Section further provides that after hearing evidence on this issue, the Court must make specific findings on whether Respondent committed the acts with which he is charged; the extent to which Respondent's incompetence or developmental disability affected the outcome of the hearing, including its effect on Respondent's ability to consult with and assist counsel and to testify on his own behalf; the extent to which the evidence could be reconstructed without the assistance of Respondent; and the strength of the prosecution's case.

The Statute further provides that if, after the conclusion of the hearing on this issue, this court finds beyond a reasonable doubt that Respondent committed the acts with which he is charged, this Court must enter a final order, appealable by Respondent, on that issue, and may proceed to consider whether Respondent should be committed pursuant to the Act.

Ms. Zmroczek moved to dismiss these proceedings based upon the fact that her client remained incompetent to stand trial, and could not assist her in his defense. That motion was denied. The Court observed that under the Act, at Section 44-48-30 (6)(c) "convicted of a sexually violent offense" means a person has been charged but determined to be incompetent to stand trial for a sexually violent offense. Second, the case law has made it abundantly clear that proceedings under the Sexually Violent Predator Act are civil in nature, not punitive, and seek the treatment of an individual for a mental abnormality or personality disorder that would make him likely to commit acts of sexual violence if not confined in a secure facility for long term control, care and treatment. Third, the Court observed that statutes similar to Section 44-48-100(B) have been found constitutional in other jurisdictions. *See Detention of Greenwood*, 122 P.3d 747 (Wash. App, 2005). The court there noted that a conviction was not required for an individual to qualify as a sexually violent predator; a person need only have been *charged* with a crime of sexual violence. The same is true in South Carolina. Further, in South Carolina, as in Washington, the requirement that the State prove beyond a reasonable doubt that a person not convicted of a sexually violent crime, due to incompetence, in fact committed the act charged, is a safeguard for individuals facing commitment. The initial hearing, like the one before the Court now, is not an end in itself as with a criminal charge, but part of a multi-step process to protect incompetent individuals. The requirement here that the State prove Respondent did in fact commit the acts charged does not constitute a criminal prosecution of a person previously determined to be incompetent. *See also Matter of the Care and Treatment of Sykes*, 316 P.3d 811 (Kan. App. 2013).

The record reflects that Respondent was arrested for several sexually-related crimes in or about 2004, indicted in 2005, and after an evaluation found him incompetent to stand trial, those indictments were *nolle pros'd* by the Eleventh Circuit Solicitor's office. Thereafter, when the present action was commenced under the Act, in order for Respondent to have pending charges, he was re-indicted in 2014, and a subsequent competency evaluation was conducted. That 2014 evaluation also found him incompetent to stand trial in the criminal proceeding.

Received into evidence were the following: Court's Exhibit 1, the competency evaluation dated September 8, 2014; Court's Exhibit 2, indictment number 2014-GS-32-6026 charging Respondent with Assault with Intent to Commit Criminal Sexual Conduct; Court's Exhibit 3, indictment number 2014-GS-32-6024 charging Respondent with Criminal Sexual Conduct with a Minor in the First Degree; State's Exhibit's 1-8, plastic folders, each holding two photographs of the exterior and interior of Respondent's residence, the scene of the alleged crimes, taken by the Lexington County Sheriff's Office pursuant to a search warrant in 2004; and Defense Exhibit 1, an e-mail from then-Detective Eric Russell to Shannon Yerace, about the Oxner case.

Testimony on behalf of the State was received from Cindi D. Floyd, Cody Floyd and Lt. Eric Russell of the Lexington County Sheriff's Department. Due to the nature of this proceeding and the condition of Respondent, after the conclusion of testimony the Court conducted an *ex parte* inquiry with Respondent and his counsel.

At some point after the conclusion of the State's testimony, Respondent began making unsolicited comments and outbursts. Upon request of Ms. Zmroczek he was removed from the

courtroom, based upon a concern that he could make some comment or outburst in open Court that could eventually affect the criminal case against him.

After consideration of the testimony, the Exhibits, and the *ex parte* meeting, the Court makes the following findings of fact:

1. Respondent is currently charged with crimes that are classified as sexually violent under the Sexually Violent Predator Act.
2. Respondent has been determined to be incompetent to stand trial in his criminal case.
3. These proceedings have complied with the requirements of Section 44-48-100(B). The rules of evidence were observed, and Respondent's constitutional rights have been preserved, with the exception that he was previously found not competent to stand trial in a criminal proceeding, a condition which continues.
4. The Court finds beyond a reasonable doubt that, under indictment number 2014-GS-32-6026, Respondent did in Lexington County on or about August 1, 1979 – June 1, 1980 assault Cindi Floyd with intent to commit criminal sexual conduct with a minor in the first degree, that the victim, Cindi Floyd, who was less than eleven years of age at that time, by grabbing her, removing her clothing, and attempting to commit a sexual battery by penetrating her, in violation of S.C. Code Ann. Sections 16-3-656 and 16-3-655(1), subsequently codified as Section 16-3-655(A)(1).
5. Assault with Intent to Commit Criminal Sexual Conduct with a Minor in the First Degree is classified as a sexually violent crime at Section 44-48-30(2)(i).
6. The Court finds beyond a reasonable doubt that, under indictment number 2014-GS-32-6024, Respondent did commit the crime of Criminal Sexual Conduct with a Minor in the First Degree, in Lexington County on or about the summer of 2004, by committing a sexual battery upon a minor who was less than eleven years of age, specifically fellatio or oral sex with Cody Floyd, in violation of S.C. Code Ann. Section 16-3-655 (A)(1), previously codified as Section 16-3-655(1).
7. Criminal Sexual Conduct with a Minor in the First Degree is classified as a sexually violent crime in Section 44-48-30(2)(d).
8. A review of the State's Petition, and Department of Mental Health records attached thereto, showed certain goals of Respondent's behavioral treatment team that appeared to have concluded by September 9, 2011 or as early as May 24, 2011. There then appears a notation "refer to SVP." It would appear that Respondent had progressed as far as possible in the treatment he was

receiving at his current location, and the issue of sex offender treatment needed to be addressed as provided by the Sexually Violent Predator Act.

9. As to the extent to which Respondent's incompetence or developmental disability affected the outcome of the hearing, including its effect on his ability to consult with and assist counsel and to testify on his own behalf, the Court finds that Respondent's ability to perform these functions with his attorney was essentially non-existent.
10. As to the extent to which the evidence could be reconstructed without the assistance of Respondent, the Court finds that his attorney conducted cross-examination of each of the State's witnesses with precision and in an expert and effective manner.
11. As to the strength of the prosecution's case, the Court has witnessed and judged the appearance and credibility of Cindi Floyd and Cody Floyd. With regard to Cindi Floyd, it was abundantly clear that the events about which she testified live on in her today as they did in 1979-1980; essentially the Court heard from a seven-year-old girl, who later as a mother learned her own child had suffered at the hand of Respondent. With regard to Cody Floyd, the Court found him extremely credible, able to recall details, and able to describe the scene of the crime, the building where it occurred, and its exterior and interior contents. It was clear to the Court that the details of these crimes were seared into the witnesses' minds. They were both articulate and compelling, and their testimony was corroborated by State's Exhibits 1-8, the photographs. It was clear that the passage of time had not affected their memories of these crimes. The Court further finds that Lt. Russell's memory of this matter was credible and believable, and was clearly that of a law enforcement officer for which this case held a special place.

Having determined that Respondent committed the acts with which he is charged, the Court finds that probable cause exists to find that the Respondent is a sexually violent predator as defined by S. C. Code Ann. Section 44-48-30,

THEREFORE IT IS ORDERED, ADJUDGED AND DECREED:

- (a) That Respondent committed the acts for which he was charged, Assault with Intent to Commit Criminal Sexual Conduct with a Minor in the First Degree and Criminal Sexual Conduct with a Minor in the First Degree.
- (b) That Respondent remains incompetent to stand trial in a criminal proceeding.
- (c) That probable cause exists to have Respondent evaluated under the Act to determine whether or not he suffers from a mental abnormality or personality disorder that makes him likely to engage in acts of sexual violence if not confined in a secure facility for long-term control, care, and

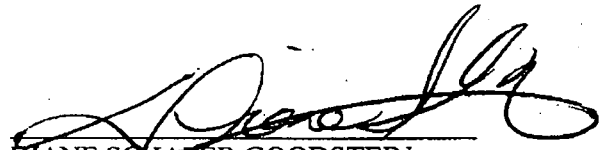
treatment.

The ordered examination shall be conducted by the S.C. Department of Mental Health, and Respondent shall be transported to an appropriate examining facility for such an evaluation as soon as possible. The examination shall be requested by the Office of the Attorney General of South Carolina. The Respondent is to arrive at the examining facility at the time established by confirmed appointment with the staff of the examining facility. The Respondent continues under jurisdiction of this Court.

The qualified expert appointed by the Court at this Probable Cause hearing is Amy C. Swan, Psy.D., to examine the Respondent.

Within five days of the receipt of the written report of the examination by the Office of the Attorney General of South Carolina, said office shall make a copy of such examination available to the Respondent's attorney.

AND IT IS SO ORDERED.


DIANE SCHAFER GOODSTEIN
Presiding Judge for the Eleventh Judicial
Circuit Court of Common Pleas

4-29, 2016
Lexington, South Carolina

FILED
2016 MAY 18 AM 11:14
BETH A. CHANING
CLERK OF COURT
LEXINGTON, SC

STATE OF SOUTH CAROLINA
COUNTY OF LEXINGTON

ORIGINAL

IN THE MATTER OF THE CARE AND TREATMENT
OF FRANCIS ARTHUR OXNER,

Plaintiff(s),

-vs-

Defendant(s).

- | | | |
|---|--|--|
| ☐ Post-Conviction Relief (PCR)/habeas case | ☐ Adoption | ☐ Juvenile |
| ☒ SVP case | ☐ Custody and/or Visitation | ☐ Abuse and Neglect |
| ☐ Minor Name Change | ☐ Other: | |

It appears that Francis Arthur Oxner, who is a litigant in this case, is entitled to court-appointed counsel or a guardian ad litem.

It further appears that: *(Select only one.)*

- ☒ counsel/guardian ad litem has not yet been appointed by the court; therefore, an appointment for counsel/guardian ad litem is necessary.
- ☐ counsel or a guardian ad litem was previously appointed by the court but has indicated either a possible conflict of interest, an entitlement to exemption, or other good cause warranting the appointment of new counsel or guardian ad litem based on: _____
- ☐ counsel was previously appointed by the court but has not indicated that the litigant has retained private counsel and is no longer entitled to appointed counsel.
- ☐ court appointed counsel has obtained _____, Esquire as substitute counsel pursuant to Rule 608(h)(2); provided, however, only the member who originally received the appointment and who sought substitute counsel shall receive credit.
- ☐ Other:

Therefore, it is ordered that GEOFFREY MICHAEL CLEMENS, hereby is appointed as *(Select one.)*

☒ counsel ☐ lead counsel *(if capital PCR case)* ☐ guardian ad litem

for the above-named person. Any counsel or GAL previously appointed is/are hereby relieved.

☐ *(If Death Penalty PCR Case)* It is further ordered that _____, Esquire, is hereby appointed as second counsel in this capital PCR case.

The clerk of court is directed to forward a copy of this order to all persons entitled to notice.

IT IS SO ORDERED THIS 16TH DAY OF AUGUST, 202011.

Beth A. Curry
☐ Circuit Judge ☒ Clerk of Court

NOTICE: SC Supreme Court Order of September 29, 2006, requires appointed counsel entitled to payment from the Office of Indigent Defense

ORIGINAL

STATE OF SOUTH CAROLINA
COUNTY OF LEXINGTON

IN THE COURT OF (Select one.)

☒ COMMON PLEAS ☐ FAMILY COURT
) ELEVENTH JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA,)
Plaintiff(s),)
-vs-)
FRANCES OXNER,)
Defendant(s).)

CASE NO.: 2011-CP-32-02607
APPOINTMENT OF COUNSEL OR GAL
(Select one.)

CLERK OF COURT
LEXINGTON, SC

☒ ORDER
☐ AMENDED ORDER

TYPE OF CASE/PROCEEDING: (Check one.)

- | | | |
|---|--|--|
| ☐ Post-Conviction Relief (PCR)/habeas case | ☐ Adoption | ☐ Juvenile |
| ☒ SVP case | ☐ Custody and/or Visitation | ☐ Abuse and Neglect |
| ☐ Minor Name Change | ☐ Other: | |

It appears that Frances Oxner, who is a litigant in this case, is entitled to court-appointed counsel or a guardian ad litem.

It further appears that: (Select only one.)

- ☐ counsel/guardian ad litem has not yet been appointed by the court; therefore, an appointment for counsel/guardian ad litem is necessary.
- ☐ counsel or a guardian ad litem was previously appointed by the court but has indicated either a possible conflict of interest, an entitlement to exemption, or other good cause warranting the appointment of new counsel or guardian ad litem based on: _____
- ☐ counsel was previously appointed by the court but has not indicated that the litigant has retained private counsel and is no longer entitled to appointed counsel.
- ☐ court appointed counsel has obtained _____, Esquire as substitute counsel pursuant to Rule 608(h)(2); provided, however, only the member who originally received the appointment and who sought substitute counsel shall receive credit.
- ☒ Other:

Therefore, it is ordered that Aimee Zmroczek, hereby is appointed as (Select one.)

☒ counsel ☐ lead counsel (if capital PCR case) ☐ guardian ad litem
for the above-named person. Any counsel or GAL previously appointed is/are hereby relieved.

☐ (If Death Penalty PCR Case) It is further ordered that _____, Esquire, is hereby appointed as second counsel in this capital PCR case.

The clerk of court is directed to forward a copy of this order to all persons entitled to notice.

IT IS SO ORDERED THIS 10th DAY OF September, 2015.


☐ Circuit Judge ☒ Clerk of Court

NOTICE: SC Supreme Court Order of September 29, 2006, requires appointed counsel entitled to payment from the Office of Indigent Defense (OID) to register the case online with OID within fifteen (15) days of this appointment at www.sccid.sc.gov, and further directs that reimbursement vouchers be submitted directly to SCCID and not to the trial judge or clerk of court. See SCCID website for further details.

3. A hearing shall be held before the Court within 72 hours after Respondent has been taken into custody, if he is not already in custody, to require the State to prove the elements of the criminal offenses for which Respondent has been charged, as provided for in S. C. Code Ann. Section 44-48-100(B), *supra*; and thereafter to contest whether probable cause exists to order that Respondent remain in custody and be evaluated by an appointed expert;

4. The Clerk of Court for Lexington County shall appoint the next available attorney for court appointed indigent cases in Lexington County, to represent the Respondent at the aforementioned hearing and until further Order of the Court. The Clerk of Court shall notify said attorney of the appointment promptly;

5. Counsel for the State shall ensure that Respondent is transported to Court for the hearing on the date and time of the hearing as will be set by the Court.

AND IT IS SO ORDERED.

AUG. 15, 2011
Lexington, South Carolina

William P. Keesley
The Honorable William P. Keesley,
Chief Administrative Judge for the Eleventh
Judicial Circuit Court of Common Pleas

FILED
2011 AUG 15 A 2:45
CLERK OF COURT
LEXINGTON, SC

ORIGINAL

STATE OF SOUTH CAROLINA
COUNTY OF LEXINGTON

FILED

IN THE COURT OF COMMON PLEAS
ELEVENTH JUDICIAL CIRCUIT

IN THE MATTER OF THE ESTATE OF
AND TREATMENT OF:

CASE NO. 2010-CP-32-

FRANCIS ARTHUR OXNER
(DOB: 03/08/1949),
RESPONDENT.

BETH A. CARRIG
CLERK OF COURT
LEXINGTON, SC
PETITION PURSUANT TO THE
SEXUALLY VIOLENT PREDATOR
ACT

2011CP3202607

COMES NOW Petitioner, State of South Carolina, by and through the undersigned, and for its cause of action herein alleges and states as follows:

1. This action is filed pursuant to the South Carolina Sexually Violent Predator Act, S.C. Code Ann. Sections 44-48-10 *et seq.*
2. The South Carolina Department of Mental Health, having determined that Respondent, Francis Arthur Oxner (hereafter, Respondent; in some attachments to this Petition and other source documents his first name is spelled "Frances," and in police reports he is referred to by the initials "FA"), had been charged with a Sexually Violent Offense, but found incompetent to stand trial and not likely to be found competent (ITS/NL), under S.C. Code Ann. Section 44-48-30(6)(c) referred Respondent to the Multi-Disciplinary Team for assessment pursuant to S.C. Code Ann. Section 44-48-40. As set forth in more detail below, Respondent was found incompetent to stand trial and not likely to be found competent, and was admitted to an inpatient forensic unit of the South Carolina Department of Mental Health on or about September 9, 2005, and has been confined there since that date. **Upon information and belief, Respondent's treatment team at the Department of Mental Health has recommended his discharge from the Department's forensic unit to a structured residential care facility. This resulted in the presentation of his case to the Multi-Disciplinary Team.**
3. The Multi-Disciplinary Team on May 19, 2011 determined after assessment that Respondent satisfied the definition of a Sexually Violent Predator as set forth in S.C. Code Ann. Section 44-48-30(6)(c), and referred Respondent to the Prosecutor's Review Committee for a determination pursuant to S.C. Code Ann. Section 44-48-60 as to whether probable cause exists to believe Respondent is a Sexually Violent Predator (**PETITIONER'S EXHIBIT A**). The assessment of the Multi-Disciplinary Team is based on a review of existing records, which may include, but are not limited to the following: description of the qualifying offense(s); history of other sexual assault(s); history of other criminal convictions/adjudications; documentation, if any,

of mental disorder(s); community and institutional adjustment; and risk factors.

FILED

4. The Prosecutor's Review Committee on June 20, 2011 determined that there is probable cause to believe that Respondent is a Sexually Violent Predator as defined by statute (**EXHIBIT B**). The Prosecutor's Review Committee bases its determination on the records and reports provided by the Multi-Disciplinary Team including any information provided by the agency that prosecuted the qualifying offense.
5. As set forth in Paragraph 2, *supra*, Respondent was found incompetent to stand trial and not likely to be found competent (ITS/NL) in 2005. His diagnoses included Schizophrenia, Paranoid Type, Provisional, and Schizotypal Personality Traits. The most recent Physician's Monthly Review Note available to the Attorney General's Office as of this filing, dated May 24, 2011, also included Pedophilia (**EXHIBIT C**).
6. Under S. C. Code Ann. Section 44-48-100(B), since Respondent has been charged with a sexually violent offense, and has been found incompetent to stand trial and is about to be released, and his commitment is sought, this court first shall hear evidence and determine whether Respondent committed the act or acts with which he is charged. The hearing on this issue must comply with all the procedures specified in S. C. Code Ann. Section 44-48-100. In addition, the rules of evidence applicable in criminal cases apply, and all constitutional rights available to defendants at criminal trials, other than the right not to be tried while incompetent, apply. After hearing evidence on this issue, this court must make specific findings on whether Respondent committed the act or acts with which he is charged; the extent to which Respondent's incompetence or developmental disability affected the outcome of the hearing, including its effect on Respondent's ability to consult with and assist counsel and to testify on his own behalf; the extent to which the evidence could be reconstructed without the assistance of Respondent; and the strength of the prosecution's case. If, after the conclusion of the hearing on this issue, this court finds beyond a reasonable doubt that Respondent committed the act or acts with which he is charged, this court must enter a final order, appealable by Respondent, on that issue, and may proceed to consider whether Respondent should be committed pursuant to this chapter (**EXHIBIT D**).
7. The Petitioner now alleges that Respondent is a Sexually Violent Predator as defined by S.C. Code Ann. Section 44-48-30 (1), to wit:
 - (a) The sexually violent criminal charges and indictments against Respondent involve four victims, of both sexes and all age 14 or under:
 - (1) In or about March 2004 Respondent forced **Victim 1** (10-year-old male) to perform oral sex on him. (2) During 2002 Respondent offered

Victim 2 (6-year-old male) a glass of water and lured him into his home. Respondent then grabbed Victim 2 and fondled his penis. Respondent threw Victim 2 to the floor and attempted to remove his clothes, but Victim 2 was able to get away and run out of the house. (3) Between on or about May and August 2001 Respondent exposed his penis to **Victim 3** (14-year-old female) at his home. (4) In 1979, Respondent lured **Victim 4** (7-year-old female) into his home and grabbed her from behind. He then pulled down her pants and underwear, and fondled her vaginal area while he held her down. Respondent's pants were down and he was fondling himself when Victim 4 was able to get away and escape.

- (b) Other sexually violent offense: buggery; date of offense between on or about January 1, 1980 and December 31, 1980; disposition, *nolle pros'd*. Respondent place his penis in the rectum of a Shetland pony and performed anal intercourse.
- (c) Based on the above conduct, Respondent was charged and indicted in Lexington County for Criminal Sexual Conduct with a Minor in the First Degree, Assault with Intent to Commit Criminal Sexual Conduct in the First Degree, Assault with Intent to Commit Criminal Sexual Conduct, Exposure of Private Parts in a Lewd and Lascivious Manner, and Buggery (**EXHIBIT E**). Thereafter Respondent was found incompetent to stand trial and not likely to be found competent (ITS/NL), and was admitted to an inpatient forensic unit of the Department of Mental Health.
- (d) Sufficient evidence exists or will exist to determine that Respondent suffers from a mental abnormality or personality disorder which makes him likely to engage in acts of sexual violence if not confined in a secure facility for long-term control, care, and treatment, and that the Respondent has serious difficulty in controlling his behavior, or sexual desire impulses.
- (e) In support of the State's allegations that the Respondent has a mental abnormality or personality disorder that makes him likely to engage in acts of sexual violence if not confined in a secure facility for long-term control, care, and treatment, the State, in addition to any other evidence which Petitioner may present to the Court hereafter, submits the following for consideration:
 - i. According to the Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition, Text Revision, published by the American Psychiatric Association, the diagnostic criteria for **Pedophilia** listed in Section 302.2 are:

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BETH A. CARRIGG
CLERK OF COURT
LEXINGTON SC

- A. Over a period of at least 6 months, recurrent, intense sexually arousing fantasies, sexual urges, or behaviors involving sexual activity with a prepubescent child or children (generally age 13 years or younger).
 - B. The person has acted on these sexual urges, or the sexual urges or fantasies cause marked distress or interpersonal difficulty.
 - C. The person is at least age 16 years and at least 5 years older than the child or children in Criterion A. **(EXHIBIT F)**.
- ii. According to the Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition, Text Revision, published by the American Psychiatric Association, the diagnostic criteria for **Paraphilia**:
 - A. Recurrent, intense sexually arousing fantasies, sexual urges, or behaviors involving (1) the suffering or humiliation of oneself or one's partner, or non-consenting person, (2) over a period of at least 6 months **(EXHIBIT G)**.
 - ii. "[P]revious instances of violent behavior are an important indicator of future violent tendencies." *Kansas v. Hendricks*, 521 U.S. 346, 358, 117 S. Ct. 2072, 2080 (1997). The Respondent's instances of violent and non-violent behavior are:
 - A. The basis of his crimes against the four young victims as set forth above **(EXHIBIT E, supra)**.
 - B. The basis of his 1980 crime against the pony **(EXHIBIT E, supra)**.
 - C. The basis of his diagnoses at the Department of Mental Health, including Schizophrenia, Paranoid Type, Provisional, Schizotypal Personality Traits, and Pedophilia, *supra* **(EXHIBIT C)**.
 - iii. The facts of the Respondent's offenses indicate the existence of a mental abnormality in that they involve recurrent sexual urges, or behaviors involving an underage child or non-consenting women occurring over a period of at least six

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months.

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CLERK OF COURT
LEXINGTON SC

iv. **Known risk factors** increasing the Respondent's likelihood to re-offend include: 1) Prior sexual offense; 2) not related to victim; 3) Force or threat of force used; 4) Male victim; 5) Two or more age groups victimized; 6) Victim age 11 or younger; 7) More than one victim; 8) Victim age 11 or younger; 9) Animal cruelty; and 10) Offender history of use of weapon or threat of death.

v. There is no sex offender treatment for Respondent on file.

vi. Attached also is Respondent's NCIC report (**EXHIBIT H**).

WHEREFORE, Petitioner requests that based on the above information the Court find there is probable cause to believe Respondent is a Sexually Violent Predator and Order:

1. Respondent be taken into custody and confined in a secure facility, if he has not already been so confined;
2. A hearing be conducted into the allegations of criminal conduct against Respondent as required by S. C Code Ann. Section 44-48-100(B), as described in Paragraph 6, *supra*;
3. Respondent be notified by the Court of the opportunity to appear in person at a hearing to contest probable cause as to whether he is a Sexually Violent Predator;
4. A hearing to contest probable cause be held within 72 hours after Respondent is taken into custody, if he is not already in custody;
5. Counsel be appointed for Respondent if necessary;
6. If probable cause is found at that hearing, that Respondent remain in custody and be transferred to an appropriate facility for an evaluation as to whether Respondent is a Sexually Violent Predator;
7. The Court appoint a qualified expert for such an evaluation if probable cause is found, and since Respondent is currently confined and in treatment at a facility operated and/or contracted by the Department of Mental Health, the appointed expert should be from a source outside of that agency;
8. If probable cause is found, a trial be held on all issues, and if Respondent is found to be a Sexually Violent Predator, that he be committed to the custody of the South Carolina Department of Mental Health for control,

care, and treatment until such time as Respondent's mental abnormality or personality disorder has so changed that Respondent is safe to be at large and has been released pursuant to the requirements of S.C. Code Ann. Section 44-48-10 *et seq.*; and

9. For such other and further relief as the Court deems just and proper.

Respectfully submitted,

ALAN WILSON
Attorney General

JAMES G. BOGLE, JR.
Senior Assistant Attorney
General

By: 
Attorneys for Petitioner
S. C. Bar No. 755
Office of the Attorney General
Post Office Box 11549
Columbia, South Carolina 29211
V: (803) 734-3970
F: (803) 734-6679
jbogle@scag.gov

July 5, 2011
Columbia, South Carolina

2011CP3202607

BETH A. CARRIG
CLERK OF COURT
JULY 11 2011

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Exhibit A

ROA_0018

SEXUAL PREDATOR REFERRAL FORM

Offender Name: <u>OXNER, FRANCES</u>		Offender No.: <u>840-1136</u>	Jurisdictional Agency: <u>SCDMH</u>
Age: <u>61</u> Gender: <u>M</u>	County: <u>LEXINGTON</u> No. of Incarcerations:	Qualifying Offense(s): <u>1ST / NL</u> Guilty Plea: <u> </u> Trial: <u> </u> <u>2ND</u> <u>CSC W/ MINOR, AIC (2 CNTS) CSC W/ MINOR, (2 CNTS)</u>	
Adult Sentence:	Parole Eligibility Date:	Max Out Date:	
Juvenile Guidelines:	Parole Release Date:	SFII Date:	

The review of this case is based on the offender's records which include, but are not limited to, the following information: description of the qualifying offense(s); history of other sexual assault(s); history of other criminal convictions/adjudications; documentation of mental disorder(s); community and institutional adjustment; and risk factors. Findings are strictly based on the legal criteria set forth in Section 44-48-30 of the Sexually Violent Predator Act, and are not to be interpreted as a clinical assessment.

VOTES TO REFER/NOT REFER TO PROSECUTOR'S REVIEW COMMITTEE:

YES	NO	ABSTAIN
<u>4</u>	<u>0</u>	<u>0</u>

The following Sexual Predator Multi-Disciplinary Team Members participated in the review process:

[Signature] SCDC -- CHAIRPERSON
[Signature] SCDPPS
[Signature] DMH
[Signature] JDG
 ATTORNEY

MULTI-DISCIPLINARY TEAM

The offender's records were assessed by the Multi-Disciplinary Team on 5/19/11 and based upon that assessment, we find that:

☒ The offender satisfies the definition of a sexually violent predator and a review by the Prosecutor's Review Committee is warranted.

☐ The offender **does not** satisfy the definition of a sexually violent predator and a review by the Prosecutor's Review Committee **is not** warranted.

ROA_0019

Exhibit B

**PROSECUTOR'S REVIEW COMMITTEE
PROBABLE CAUSE DETERMINATION**

INMATE NAME: OXNER, FRANCES	INMATE NUMBER: 8401136	PRC REVIEW DATE: June 20, 2011 MEMBERS PRESENT: John McIntosh (for Alan Wilson) Beebe James Jerry W. Peace
------------------------------------	-------------------------------	---

DATE RECEIVED FROM MULTIDISCIPLINARY TEAM: May 24, 2011

The Multi-Disciplinary Team referred this case to the Prosecutor's Review Committee pursuant to S.C. Code Ann. § 44-48-50, for review to determine whether probable cause exists to believe this person is a sexually violent predator. S.C. Code Ann. § 44-48-60. The Prosecutors Review Committee reviewed all information received from the Multi-Disciplinary Team, including without limitation: documentation of the qualifying offense as well as other sexual assault(s) or criminal convictions/adjudications; documentation of mental disorder(s); community and institutional adjustment; and risk factors.

PROBABLE CAUSE DETERMINATION:

By a vote of 3-0, the Prosecutor's Review Committee found probable cause to believe that this individual has been convicted of a sexually violent offense, and suffers from a mental abnormality or personality disorder that makes the person likely to engage in acts of sexual violence if not confined in a secure facility for long-term control, care, and treatment.

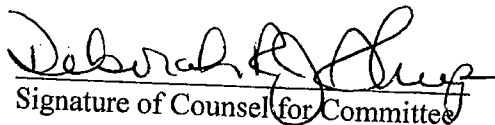

Signature of Counsel for Committee

Exhibit C

**DIVISION OF INPATIENT SERVICES
FORENSIC DIVISION**

INTER TREATMENT PLAN FOR Frances Oxner

INITIAL DATE 09/09/05

(Use problem numbers from problem list; subsequent problems may be added/dated by treatment team)

PROBLEM		GOAL/ BEHAVIORAL TERM	TARGET DATE	TYPE OF TREATMENT	DOSAGE/ FREQUENCY	RESPONSIBLE DISCIPLINE	NAME (print)
No.	Date	Pt will verbalize compliance with medications. Pt will make at least 3 non-delusional comments during the hours of 8:30-5:00 daily X 12 months Pt will engage with staff and peers in daily conversation. <i>5-24-11</i>	09/09/11	Medication/Symptoms Education	1x week	LLP/RN	Reddy/Lee Gooden/Thomas
1	09/09/10			1:1 Intervention, to support and encourage appropriate reality base interaction.	1 X week	SW	Victoria Bourdon
Pt has hx of paranoid delusions. He thinks food and drinks are poisoned. He experiences auditory and visual hallucinations.				Understanding your symptoms group	1 X week	Recovery Mall	Rice-Brown
No.	Date	Pt will be able to state 3 reasons for being meds compliant. Pt will comply with all labs as required and attend all groups.	09/09/11	Healthy Styles group	1 X week	Recovery Mall	Rice-Brown
2	09/09/10			Social recreation	2 X week	AT staff	Alston/Edwards
Pt has hx of non-compliance with meds				1 on 1 Intervention		LPP RN	Reddy/Lee Gooden/Thomas
				<i>3-10-11 Resolved</i>			

I.D.

Oxner, Frances A. 8401136

**DIVISION OF INPATIENT SERVICES
FORENSIC DIVISION**

REF TREATMENT PLAN FOR Frances Oxner

INITIAL DATE 09/09/05

(Use problem numbers from problem list; subsequent problems may be added/dated by treatment team)

PROBLEM		GOAL/ BEHAVIORAL TERM	TARGET DATE	TYPE OF TREATMENT	DOSAGE/ FREQUENCY	RESPONSIBLE DISCIPLINE	NAME (print)
No.	Date	Pt will attend and participate in group to discuss inappropriate sexual behaviors and take ownership for his sexual offenses and demonstrate victim empathy.	09/09/11	Sex Offender group	1 X week	SW/ Recovery Mall	Bourdon, Rice-Brown
3	9/9/10			Building Support group	1 X week	Recovery Mall	Rice-Brown
				Referred to SVP			
No.	Date	Pt will maintain control of his diabetes, monitor his blood sugar levels and comply with all schedules labs, ongoing X 12 months	09/09/11	Nursing staff will monitor pts finger sticks, blood sugar levels and make adjustments to meds as required. Pt will comply with appropriate diet.	PRN	RN	Godden/Thomas
4	09/09/10			Diabetes Education group	1 X week	Recovery Mall	Rice-Brown

I.D.

Oxner, Frances, 8401136

ROA-0024

**DIVISION OF INPATIENT SERVICES
FORENSIC DIVISION**

TREATMENT PLAN FOR Frances Oxner

INITIAL DATE 09/09/05

(Use problem numbers from problem list; subsequent problems may be added/dated by treatment team)

PROBLEM		GOAL/ BEHAVIORAL TERM	TARGET DATE	TYPE OF TREATMENT	DOSAGE/ FREQUENCY	RESPONSIBLE DISCIPLINE	NAME (print)
No.	Date	Pt will be able to identify reasons to maintain mental stability, give three ways he will achieve this. Pt will cooperate with the screening process to obtain appropriate community placement Pt will cooperate with financial planning	09/09/11	1:1 counseling and education and Social recreation group and activities	1X week	SW / AT	Bourdon Edwards / Nelson
5	09/09/10						
Discharge							
ROA 0025							
No.	Date						
6							
Hypertension							
7 Ger O							

ROA 0025

I.D.

Oxner, Frances, 8401136

STATE OF SOUTH CAROLINA)

COUNTY OF LEXINGTON)

STATE OF SOUTH CAROLINA,)

vs.)

FRANCES OXNER,)

Defendant.)

FILED

IN THE COURT OF GENERAL SESSIONS

2005 FEB 18 A 11: 59

BETH A. CARR, ESQ.
CLERK ORDER FOR COMPETENCY EVALUATION
AND CRIMINAL RESPONSIBILITY

H-821232, H-821237

H-821238, H-821256

H-821922

THIS MATTER CAME before me on motion of Jack Duncan, for an order requiring the defendant, Francis Oxner, charged with Criminal Sexual Conduct: Assaults with Intent to Commit (2 cts), and Criminal Sexual Conduct with Minor (3cts). I have considered the showing made in respect to the motion for such an order and am of the opinion that the defendant should be examined pursuant to the statutory provisions of this State.

THEREFORE, IT IS ORDERED that the defendant shall be:

- (a) Examined and observed at the appropriate facilities of the South Carolina Department of Mental Health for a period not to exceed fifteen (15) days relative to his/her mental capacity to stand trial. (Section 44-23-410 (1) or Section 44-23-410 (2), Code of Laws of South Carolina, 1976)

And shall be:

- (b) Examined as aforesaid to determine whether or not the above-named defendant is criminally responsible pursuant to the Mcnaghten test for his/her actions on or around sometime in 1979/1980, 2002/2003, March 1 thru March 31, 2004, and June 1, 2004 thru June 30, 2004 June 25, 2003.

ROA_0026

And shall be:

- (c) If found responsible pursuant to the M'Naghten test, examined as aforesaid to determine whether or not, because of mental disease or defect, the defendant lacked sufficient capacity to conform his conduct to the requirements of the law. (Section 17-24-20(A), Code of Laws of South Carolina, 1976)

The ordered examination shall be requested by the Solicitor and scheduled by the examining facility as soon as possible. The defendant is to arrive at the examining facility at the time established by confirmed appointment with the staff of the examining facility.

The Defendant continues under jurisdiction of this court.

Yd #2
If the examination and observation of a patient committed to the custody of the Department of Mental Health has not been concluded at the end of the fifteen (15) days, the Defendant may be kept in the custody of the said Department of Mental Health for an additional period not to exceed fifteen (15) days, provided the superintendent of the facility so requests in writing the additional period of observation and examination.

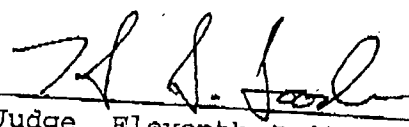
Within five (5) days of the examination or at the conclusion of the observation period, a written report shall be made to the court pursuant to Section 44-23-420, Code of Laws of South Carolina, 1976, as amended.

If, in the judgement of the designated examiners or the

superintendent of the facility, the defendant is presently mentally ill and in need of hospitalization, then the said Defendant shall be retained in the custody of the Department of Mental Health until such time as a hearing, required and provided by Section 44-23-430, Code of Laws of South Carolina, 1976, as amended, may be conducted by this court.

IT IS FURTHER ORDERED that any and all oral or written statements made by the Defendant concerning the above charges and communication to any physicians or hospital personnel in conjunction with this examination shall not be admissible in evidence against the Defendant in any criminal trial concerning these charges. That is to say any and all communications by the Defendant to hospital personnel is protected by the Attorney/Client privilege and that the State shall be prohibited from calling any physicians or other hospital personnel for the purpose of testifying in court as to any statements made to them by the Defendant concerning these charges. The privileged nature of a Defendant's statements to a psychiatrist has been recognized by this state's highest court in State v. Hitopoulos, 309 SE2d 747, 1983.

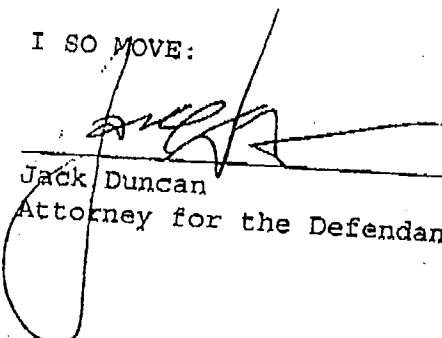
AND IT IS SO ORDERED.


Judge, Eleventh Judicial Circuit
Lexington County Courthouse
Lexington, South Carolina 29071

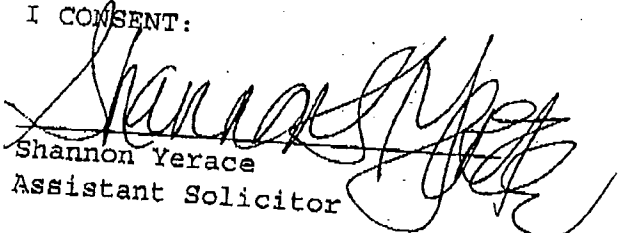
Lexington, South Carolina

This 17 day of February, 2005.

I SO MOVE:


Jack Duncan
Attorney for the Defendant

I CONSENT:


Shannon Verace
Assistant Solicitor

STATE OF SOUTH CAROLINA

COUNTY OF LEXINGTON

THE STATE

vs.

Frances Oxner,
Defendant.IN THE COURT OF GENERAL SESSIONS
ELEVENTH JUDICIAL CIRCUITWARRANT #'S: H-821256, H-821832,
H-821237-38, H-821922

ORDER

On Tuesday, May 24, 2005 a hearing was held before the Honorable William P. Keesley. Present at this hearing was Jack Duncan, defendant's attorney, and Assistant Solicitor Shannon Heath Yerace. The purpose of the hearing was to review the report of Dr. Richard L. Frierson of the William S. Hall Institute concerning the defendant's capacity to stand trial. The defense and the State stipulated to the findings included in the attached report. These findings were that at present time the defendant is not competent, but may become competent in the future. Pursuant to S.C. 22-23-434, the defendant shall be hospitalized for a period of up to sixty (60) days. If the defendant is still unfit at that time, the Solicitor will initiate further proceedings.

IT IS HEREBY ORDERED AND DECREED:

The Defendant, Frances Oxner., shall remain at the William S. Hall Institute for the required hospitalization time. At the William S. Hall Institute the defendant shall receive treatment for the purpose of becoming competent to stand trial. Pursuant to S.C. 22-23-434, the defendant shall be hospitalized for a period of up to sixty (60) days.

IT IS THEREFORE ORDERED.

Signed this 8th day of June, 2005

William P. Keesley
The Honorable William P. Keesley
Judge for the Eleventh Judicial Circuit
Lexington, South Carolina.

BETH A. CARTER
CLERK OF COURT
LEXINGTON, SC

2005 JUN 14 P 2:35

FILED

STATE OF SOUTH CAROLINA
COUNTY OF LEXINGTON

IN THE COURT OF GENERAL SESSIONS
THE REPORT OF FINDINGS

THE STATE

VS.

OXNER, FRANCES
CH 840-1136
Defendant

BETH A. CARRIG
CLERK OF COURT
LEXINGTON, SC

2005 JUN 14 P 2: 30 PM

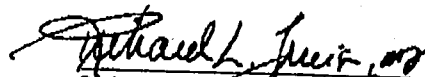
FILED

TO: THE SOLICITOR/ASSISTANT SOLICITOR: SHANNON YERACE

THE UNDERSIGNED RESPECTFULLY REPORTS TO THE COURT:

1. That the above-named defendant was evaluated on April 18, 2005, to determine the defendant's capacity to stand trial pursuant to Section 44-23-410, et sequential, Code of Laws of South Carolina, 1976. Dr. Richard L. Frierson was designated by the South Carolina Department of Mental Health to conduct the evaluation ordered by the court.
2. That after study and observation, the hospital staff submits the following report:
 - a. That the above-named defendant was diagnosed with: Schizophrenia, Paranoid Type., Provisional; and Schizotypal Personality Traits.
 - b. That the above-named defendant is not capable of understanding the nature of his charges and is not capable of assisting counsel in his defense.
 - c. That the above-named defendant is likely to become fit to stand trial in the foreseeable future. In accordance with SC Code of Laws §44-23-430(3), it is requested that the Court conduct a hearing regarding the defendant's capacity to stand trial. If it is the Court's ruling that the defendant is not competent to stand trial, but likely to become competent in the foreseeable future. It is requested that a court order be forwarded immediately to the attention of Cathy B. Garner in order for the defendant to be placed on the waiting list.
3. Mr. Oxner is returned to court.

Columbia, SC
April 22, 2005

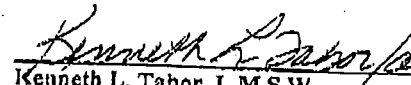

Richard L. Frierson, M.D.
Forensic Psychiatrist

c Jack Duncan, Attorney at Law, 206 East Main St., Lexington, SC 29072

This 5 page document is hereby certified to be the original court-ordered evaluation report issued pursuant to S.C. Code Ann. § 44-23-410 or § 17-24-10 (1976) et seq.

Date

4/24/05


Kenneth L. Tabor, L.M.S.W.
Evaluation Service Program Manager
Department of Mental Health

ROA_0031

EVALUATION SERVICE OF FORENSIC DIVISION

DATE OF EVALUATION: April 18, 2005

PRESIDING: Richard L. Frierson, M.D.

SECOND EXAMINER: Carol David, LISW

OTHERS PRESENT: Jennifer Heath, M.D., Resident in Psychiatry, University of South Carolina School of Medicine

DIAGNOSES: AXIS I: Schizophrenia, Paranoid Type, provisional.
AXIS II: Schizotypal Personality traits
AXIS III: Arthritis.

COMPETENCY TO STAND TRIAL: No, likely to be restored.

CRIMINAL RESPONSIBILITY: No opinion.

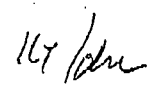
CAPACITY TO CONFORM: No opinion.

DISPOSITION: Mr. Oxner has been returned to the Lexington County Detention Center. He will need an inpatient period of observation in order to complete this evaluation.

PERTINENT STATEMENTS: Frances Oxner is a 56-year-old Caucasian male who was seen at our hospital pursuant to a court order from the Lexington County Court of General Sessions. This court order requests an evaluation of his competency to stand trial and his criminal responsibility pursuant to the McNaughten test for his actions on or about 1979 and 1980, 2002 and 2003, March 1, 2004 - March 31, 2004, June 1, 2004 - June 30, 2004, and June 25, 2003. Furthermore, if found responsible, we are asked to determine whether he had sufficient capacity to conform his conduct to the requirements of the law. He is currently charged with two counts of Assault with Intent to Commit Criminal Sexual Conduct, two counts of Criminal Sexual Conduct with a Minor, and one count of Indecent Exposure.

This evaluation consisted of the following:

1. Review of the court order requesting the evaluation.
2. Review of the incident reports related to the alleged offenses.
3. Review of the arrest warrants.
4. Review of a statement given by Cindy Floyd.



OXNER, FRANCES
840-1136

OUTPATIENT EVALUATION

WILLIAM S. HALL PSYCHIATRIC INSTITUTE

ROA_0032

5. Review of a statement given by Louise Oxner.
6. Review of records from the Assessment and Recovery System (ARC).
7. Review of the defendant's prior NCIC criminal record.
8. Review of a statement given by Cody Floyd.
9. Review of a statement given by Candi Oxner.
10. Review of a statement given by Aleshia Day.
11. Review of medical records from the South Carolina State Hospital.
12. Review of a social history obtained from the defendant's sister.
13. A 1 hour and 45 minute clinical Forensic interview on today's date.

Mr. Oxner has a history of one prior psychiatric hospitalization at the South Carolina State Hospital in 1984. At that time, he was diagnosed with Schizophrenia, Paranoid Type. He was found incompetent to stand trial at that time. His charges were subsequently dropped and he was hospitalized at the State Hospital for five months. He was treated with an antipsychotic medication. Review of those records indicates that he was experiencing hallucinations and ideas of reference. He has had no further psychiatric treatment since that time. He is currently not taking any psychotic medications, nor has he taken meds since that time.

Mr. Oxner lives a reclusive lifestyle. He raises animals and has little interactions with other people. He has never been married nor has he had a significant relationship. His family describes him as a loner.

Mr. Oxner has held numerous jobs for short periods of time. He is currently receiving disability on a monthly basis. He reports auditory hallucinations telling him things are right and things are wrong. However, he is very vague in describing these hallucinations and it is difficult to get him to speak in specifics about them. He also reports that he believes others can control his thoughts. He refers to these people as high supreme beings or persons of authority. These thoughts are odd and peculiar. They would be consistent with schizophrenia or a Schizotypal Personality Disorder. His hallucinations would be more consistent with a diagnosis of Schizophrenia. However, they do not appear to be prominent and it is difficult to get a clear history of them from talking with Mr. Oxner.

Mr. Oxner reports that he raises numerous animals including 60 rabbits, 60 pigeons, 20 geese, 10 ducks, 100 chickens, 6 hogs, 12 cows, 12 dogs, and 6 cats. He eats a variety of hand picked fruits as well as animals which he captures including rabbits, squirrels, and deer. He has little interaction with other people.

MENTAL STATUS EXAM: On today's date, he was alert and oriented to person, place, day, date, and time. His hygiene was fair. He registered three objects but could not recall them after five minutes. He recalled one of the three objects with a prompt. It is unclear as to whether there is evidence of actual memory impairment and further psychological evaluation will be needed. His interpretation of similarities was concrete. He was able to abstractly interpret a proverb. His fund of knowledge was below average. He was able to perform a calculation. His performance on a test of

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OXNER, FRANCES
840-1136

OUTPATIENT EVALUATION

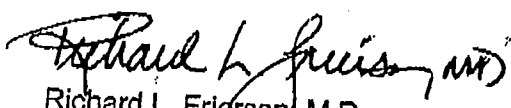
WILLIAM S. HALL PSYCHIATRIC INSTITUTE
FORENSIC UNIT STAFFING

ROA_0033

concentration was poor. His judgment to a hypothetical situation was poor. As mentioned previously, he reports hallucinations of higher people in authority who are trying to punish people. At one point during the interview, he became extremely tearful with a bizarre, intense, and sudden onset of crying. He reports that "I can't take it if I start thinking... I got to quit thinking." He would not specify as to what thoughts were so upsetting to him. He denied immediate suicidal ideation or intent and he denied homicidal ideation or intent. He does report some potential delusional thinking about high supreme beings reading his mind.

CONCLUSION REGARDING COMPETENCY TO STAND TRIAL: Mr. Oxner stated that he was charged with "OSC." He reports that this is a sex crime but adds "they got up and ran - They got first degree like I used force but I never forced anybody." He states that he is facing approximately 100 charges but has only been served with six warrants. He is aware of the person making the accusations against him. He did not know potential sentence he could receive. He initially thought he could receive the death penalty but then when told that he could not, he stated "they could cut something off—joint—inch by inch—they're in control." He was able to state his attorney's name and states the job of his attorney is "to work on a guilty plea but he has to go not guilty on this." He states that he has met with his attorney and can tell his attorney everything he knows about the allegations against him. The only job he could say that the judge has was to "go by the book." He states that the judge "wants to go \$50,000 on everything." He states that "he makes his own decision by the book." He states that the solicitor "drops all the charges but one and doesn't know one case from another case." He alleges that he used to work for the solicitor in this case at a condominium complex where he did maintenance and picked up trash. He states that the jury consists of "12 people who go guilty or not guilty." He could not correctly identify a plea bargain and stated a plea bargain is when you pay money and they let you go. He states that you could arrange a payment scheme in order to "buy your freedom." When asked for a desired outcome in his case, he states "they pay me, I pay them." He is aware of some of the evidence against him. It is our opinion that Mr. Oxner currently has little knowledge of the role of the solicitor and in the process of plea bargaining. Furthermore, he gives bizarre answers to numerous questions, making it somewhat difficult to speak with him. There is diagnostic uncertainty as to whether he indeed has schizophrenia, given the length of time he has not been treated and not required hospitalization. However, given the historical symptoms as well as his current presentation it is our opinion that he is not competent to stand trial and we recommend that he be sent to the hospital for further evaluation and attempts at competent restoration.

RECOMMENDATIONS: We recommend that Mr. Oxner be hospitalized for treatment.


Richard L. Frierson, M.D.
Director, Forensic Psychiatry Education

167/12

WILLIAM S. HALL PSYCHIATRIC INSTITUTE
FORENSIC UNIT STAFFING

OXNER, FRANCES
840-1136
OUTPATIENT EVALUATION

ROA_0034

PHYSICIAN'S MONTHLY REVIEW NOTE

Name: Oxner, Francis

Hospital Number: 840 1136

Date: 05/24/2011

Time: 12:44

Legal Status: Mr. Francis Oxner, a 62-year-old Caucasian male, was admitted from Lexington County on 09/09/2005. He had been charged with two counts of Assaults with Intent to Commit Criminal Sexual Conduct, two counts of Criminal Sexual Conduct with a Minor, and one count of Indecent Exposure. He was found incompetent to stand trial and unlikely to gain competency in the future. His charges were not pressed.

Diagnoses: Axis I: Schizophrenia, Chronic, Paranoid Type.
Pedophilia.

Axis II: Personality Disorder Not Otherwise Specified.

Axis III: Hypertension.

Gastroesophageal Reflux Disease.

Diabetes Mellitus Type I.

Inguinal Rash, resolving.

Allergy: Risperidone (EPS).

Axis IV: Legal charges, history of nonadherence, referral to SVP program and limited insight.

Axis V: GAF: 50

Mr. Francis Oxner is a 62-year-old Caucasian male with a long history of sexual misconduct. He lived alone in rural Lexington County and had sex with animals. He invited young boys to his place, gave them marijuana, and had sex with them. Since being admitted to GeoCare in 2005, he has had no inappropriate behaviors. He did have one prior admission to the South Carolina Department of Mental Health in 1985 at about age 34. Mr. Oxner's case was reviewed by the Multidisciplinary Committee who referred him on to the SVP program. He is understandably disappointed that we cannot proceed with discharge plans. He said that he has not had any delusional thoughts about his food being poisoned for over five years. He recited all of his medications.

Mr. Oxner was seen today by the Multidisciplinary Treatment Team to update his Master Treatment Plan. Over the past month, Mr. Oxner has had no altercations with staff or peers and has had no sexually inappropriate behaviors. He was not seen in any Specialty Clinics. New labs showed a slightly elevated fasting glucose of 115 mg/dL, a minimally elevated HgA1C of 5.9%. His white blood cell count was slightly decreased at 3.4 K/uL with a low ANC of 1.3 K/uL. Today, his Vital Signs were: Blood pressure 105/175; pulse 93; temperature 97.9; respirations 20; weight 175 pounds with a girth of 38 inches. His fasting blood glucose values were as high as 140 and as low as 100; his postprandial glucose values were as high as 209. Over the past review, he received two units of Regular Insulin four times and four units one time prn for elevated blood glucose. All in all, his glucose values were much improved. He reminded us that he does not get a diabetic diet.

Mental Status Exam: Mr. Oxner was alert and oriented times seven. He was casually dressed in his own street clothes and moderately well kempt. He described his mood as "doing alright or hanging in there" or an "8." His formal processes were logical and goal oriented. His formal thought content was negative for hallucinations, delusions, suicidal or homicidal ideations. His insight into his illness and behaviors continues to improve. He has mild to moderate resting EPS in the form of hand tremors and right leg shakes. He has no AIM's. He also has had no adverse events.

I.D.

COLUMBIA CARE CENTER

PHYSICIAN PROGRESS NOTE

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OXNEI
841

Medications: Lisinopril 5 mg each a.m. (hypertension); Aripiprazole 20 mg each a.m. (psychosis); Miralax Powder 5.8 gm in water two times a day (constipation); Metformin 1000 mg two times a day (diabetes); ranitidine (gastric upset); NPH Humulin Insulin 18 units in the a.m. and 22 units in the p.m. (diabetes); Simvastatin 10 mg each h.s. (dyslipidemia); Lopid 600 mg two times a day (hypertension); Vitamin E 400 units each am (EPS prophylaxis); Lamisil Crm twice daily (rash); Pramoxine-zinc apply two times a day (hemorrhoids); he also has Sliding Scale available to him.

Plan: Due to his EPS, I will change his neuroleptics to Geodon. I will order him an ADA diet. We await his acceptance and move to SVP. Will refer patient to podiatry.

Mr. Oxner retains Green Band status.

Naomi Crisp-Lindgren MD 24 May 2011 13:23
Naomi Crisp-Lindgren, M.D.
Staff Psychiatrist

(USE ON REVERSE SIDE - HEAD TO TOE STYLE)

I.D.

COLUMBIA CARE CENTER

FORM REV. MAR. 93
PHYSICIAN IN PROGRESS
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10101

ROA_0036

OXNER,
840

PSYCHOLOGICAL EVALUATION

Client's Name: OXNER, Francis (#840-1136)
Date of Birth: 03/08/49
Exam Date: 09/25/07
Report Date: 10/16/07

Referral Information: Mr. Oxner is a 58-year-old, Caucasian, male who was admitted to an inpatient forensic unit of the South Carolina Department of Mental Health (SCDMH) on 09/09/05. He was referred by his treating psychiatrist, Juliet Igama, M.D., for a psychological evaluation to assist in assessing his eligibility for Social Security Disability benefits due to mental illness.

Limits on Confidentiality: At the outset of this evaluation, I informed Mr. Oxner of my role, the purpose of this evaluation, and the limits on confidentiality. He was further notified of his ability to refuse to participate, selectively respond to questions, and/or terminate the evaluation at any time. Upon inquiry, Mr. Oxner exhibited an adequate understanding of this information. Based on his responses, it appears Mr. Oxner understood the basic purpose of the evaluation and the limits on confidentiality. He expressed a willingness to proceed.

Sources of Information and Tests Administered:

1. Interview with Mr. Oxner on 09/25/07 for a total of approximately 1 hour.
2. Review of Mr. Oxner's current South Carolina Department of Mental Health inpatient chart (date of admission: 09/09/05).
3. Review of forensic reports authored by Richard Frierson, M.D. (dates of evaluations: 04/18/05 and 10/31/05).
4. Psychological testing on 09/25/07:
 - a. TOMM
 - b. Repeatable Battery for the Assessment of Neuropsychological Status (RBANS)
 - c. Wechsler Abbreviated Scale of Intelligence (WASI)

Brief Personal History: The following information was obtained from Mr. Oxner during the current evaluation and the sources listed above, where noted. Mr. Oxner was an adequate historian.

Mr. Francis Oxner, one of six children, was born in Chapin, South Carolina (S.C.), and raised in Leesville, S.C. by his biological parents. When asked to describe his childhood, Mr. Oxner stated, "It was all right, I reckon" and he denied sexual, emotional, and/or physical abuse as a child. He reported never marrying or fathering any children. His SCDMH records indicate his family describes him as living a very reclusive lifestyle.

Regarding his education, Mr. Oxner stated he was expelled for "cheating" during the 9th or 10th grade, noting, "I never did go back ... I just stopped and went to work." He reported grades of B's, C's, and D's, and stated he repeated 3rd grade for unknown reasons. Per Mr. Oxner's account, he has worked as a foreman, brick layer, painter, and in yarn and cotton mills. He acknowledged that he frequently changed jobs because, "I was sort of allergic to work and I kept switching." However, Mr. Oxner denied he was ever fired and described his relationships

with co-workers and employers as "all right." When asked what type of employee he was, Mr. Oxner stated, "They said I was high production." He noted his favorite job to be as a foreman because "I didn't have to check in or check out." His longest time of consistent employment was for one year in a yarn factory in Greenwood, S.C., although Mr. Oxner noted that he has "painted all my life." When asked if he wanted to work upon discharge, Mr. Oxner stated, "Nah ... I just think I can get along fine [without working]."

According to Mr. Oxner, he has lived alone for the past 25 years on a farm where he "raised all sorts of animals" and completed his activities of daily living independently; he noted he does not enjoy living alone. Per his account, Mr. Oxner received food stamps and a disability check, which he cashed to pay his bills, prior to his arrest. Mr. Oxner denied he has ever needed assistance with his finances. He also denied having a driver's license or car and reported that his family provided him with transportation, although he once owned a car. Per Mr. Oxner and SCDMH records, his driver's license was reportedly confiscated for driving without a license. Upon discharge, Mr. Oxner intends to return to his home in Leesville, S.C.

Mr. Oxner's medical history includes removal of his appendix (1969), hypertension, GERD (Gastroesophageal Reflux Disease), and diabetes. He endorsed a possible loss of consciousness at 12 years of age when he was hit in the head with a baseball bat. Mr. Oxner also reported arthritis and on-going sinus problems.

Regarding his history of substance use, Mr. Oxner acknowledged first drinking minimal amounts of alcohol beginning at age 15 years old. He noted consumption of a "couple sips" of "moonshine" several times per year as an adult and denied his drinking was ever problematic. Per Mr. Oxner's account, he began using marijuana at age 45 years, smoking "a little bit ... just several times [total]," the last time being four years ago. He denied use or experimentation with any other illicit substances.

Mr. Oxner acknowledged one inpatient psychiatric admission to South Carolina State Hospital (SCSH) for six months in the mid-1980's after incurring charges of Assault with Intent to Kill and driving without a license. That assertion was corroborated by his SCDMH records which indicated a 1984 admission was preceded by hallucinations, ideas of reference, and paranoia; his symptoms were diagnosed as indicative of Schizophrenia, Paranoid Type. Mr. Oxner was unable or unwilling to explain the circumstances preceding that admission other than to note he "had a sore throat in jail." Per his current inpatient chart, Mr. Oxner acknowledged several appointments at Columbia Area Mental Health Center sometime after he was discharged from SCSH; those records were not available for review. According to SCDMH records, his family has described Mr. Oxner as odd, talking to himself, and demonstrating significant paranoia.

On 04/18/05, per SCDMH records, Mr. Oxner participated in a forensic evaluation of his competence to stand trial for charges of Criminal Sexual Conduct with a Minor 11 years (two counts), Indecent Exposure, and Criminal Sexual Conduct - Assaults with Intent to Commit (two counts), which allegedly occurred in 1979, 1980, 2002, 2003, and 2004. The evaluator, Dr. Richard Frierson, opined Mr. Oxner to be "incompetent to stand trial." On 09/09/05, Mr. Oxner was court-ordered for competency restoration treatment at SCDMH's Columbia Care Center (CCC). On 10/31/05, Mr. Oxner's competence to stand trial was reassessed by Dr.

Frierson who again opined Mr. Oxner to be "incompetent to stand trial" secondary to symptoms of Schizophrenia, Paranoid Type and Schizotypal Personality Traits.

Course of Hospitalization: Per SCDMH records, Mr. Oxner was admitted to CCC on 09/09/05 after adjudication as "incompetent to stand trial." Upon admission, Mr. Oxner denied hallucinations but reported believing he can "feel what someone is saying by hearing just one word"; he denied other delusional ideation. Per SCDMH records, staff has described him as malodorous, having poor hygiene, displaying no eye contact, and exhibiting clear speech. Psychotropic medications prescribed during this admission include Seroquel (antipsychotic) and Abilify (antipsychotic). Mr. Oxner's symptoms have been diagnosed as indicative of Schizophrenia, Paranoid Type; Personality Disorder, Not Otherwise Specified; and Pedophilia.

Per his report and SCDMH records, Mr. Oxner was transported to Richland Memorial Hospital on 06/04/06 after he "blacked out." Records from that facility indicated Mr. Oxner was in a hyperglycemic crisis and was severely dehydrated; he returned to CCC on 06/09/06. His fall risk assessments (dated 09/09/05 - 07/15/07) have consistently been low.

An annual assessment dated 07/18/07 indicated Mr. Oxner has denied suicidal and homicidal ideation, is alert, has intact memory, demonstrates poor insight, displays soft speech, and has gained 10 pounds within the last year. A recent (09/19/07) activity therapy assessment indicated he has become more involved in groups, has increased his level of interaction with peers, and is cooperative; however, it is also noted Mr. Oxner continues to demonstrate a lack of insight. In recent months, Mr. Oxner's treatment team (per SCDMH records) have described him as having better insight regarding his charges and medical conditions but not his mental illness; they also described him as compliant, cooperative, not showing signs of psychosis, denying all symptoms, and improving overall. In February 2007, he was awarded community passes. Per his chart, Mr. Oxner has not been attending a sexual offender's therapy group for unknown reasons. His chart also indicates he requires some assistance with his laundry.

Current Mental Status: Mr. Oxner was interviewed at the SCDMH's Forensic Evaluation Service. He is a Caucasian male whose attire appeared clean and he presented with good, overall personal hygiene. No auditory, visual, or motor abnormalities were noted, barring occasional twitching of his mouth. He exhibited good eye contact and his use of mannerisms and gestures were within normal limits. Mr. Oxner was superficially cooperative with the evaluation process.

Mr. Oxner's speech was clear, of soft volume, and of average to slow rate. He presented with goal-directed, linear thinking. He did not exhibit any abnormal or disorganized speech or thought patterns. His responses were typically terse and void of detail. Mr. Oxner was oriented to date, day of the week, time, situation, and location. In response to questions designed to assess his concentration, memory, and attention, he demonstrated adequate abilities in most areas. His attention appeared somewhat impaired as noted in his difficulty spelling a five-letter word backward. He provided cursory interpretations of two proverbs, suggesting some ability to think abstractly.

When asked, Mr. Oxner described his current mood as "all right," noting he is typically in a "regular mood." He reported sleeping six hours per night and when asked if this was enough,

stated, "I don't like doin' nothing but hangin' around." He endorsed a "pretty good" appetite and "pretty high" energy, but denied it to be excessive; per his report, he has lost weight in the past six months since being placed on a "diabetic diet." Mr. Oxner denied suicidal and homicidal ideation. His affect [observed emotional expression] was very flat [virtually nonexistent]. When asked what angers him, he stated, "Stayin' in here, I reckon," which he deals with by "Just sat [sic] around." Prior to his hospitalization, Mr. Oxner noted he would become angry if an "animal would die or get out" which he would respond to by "bury them or put them back in the pen." Per his report, he would relax by lying "on the swing."

Mr. Oxner did not endorse any recent symptoms of psychosis nor did he evidence any overt signs of such during the present evaluation. When asked to explain the reasons for his admission, Mr. Oxner eventually stated, "There's wasn't no room in jail." Regarding if he has a mental illness, he noted, "A little bit" and stated he has been diagnosed with "schizophrenia and bipolar"; he denied knowing what either of these mean. Of the staff, Mr. Oxner stated, "They all right" and about other patients noted, "About half of them all right." He denied disciplinary problems during this hospitalization although did admit to engaging in several verbal arguments with other patients. Per his report, he has attended several therapeutic groups. According to Mr. Oxner, he is currently prescribed "Risperdal" which is "supposed to be for thoughts or thinking," although denied it has had any impact. According to Mr. Oxner, he will have to take this medication "'Til they change it." When asked if he will need to take this medication upon discharge, he noted, "Yes, ma'am ... they say up to a year" but then noted needing it for the "rest of my life"; however, Mr. Oxner added, "Might be better off without it." He later mentioned, "I might have to stay on them, I don't know." He endorsed several negative side effects such as gas and his jaw trembling.

Psychological Test Results: On 09/25/07, Mr. Oxner was administered the TOMM, a 50-item recognition task that assesses motivation, effort, and misrepresentation of memory deficits. Results of the TOMM suggest Mr. Oxner was not putting forth maximum effort and the results below may be an underestimate of his current functioning.

On 09/25/07, Mr. Oxner was administered the Repeatable Battery for the Assessment of Neuropsychological Status (RBANS), a screening tool used to assess a variety of cognitive abilities. Among the five RBANS domains, Mr. Oxner's performance ranged from "low average" to "extremely low." Specifically, his scores on domains assessing visual-spatial abilities (Visuospatial/Constructional) and the ability to verbally name visual stimuli and identify learned information (Language) were in the "low average" range. He performed in the "extremely low" range on all other domains which assessed the ability to retain oral and visual material in short-term memory (Attention), the immediate recall of verbally-presented information (Immediate Memory), and delayed memory. His Total RBANS score fell in the "extremely low" range indicating that Mr. Oxner performed as well as or better than 0.1% of his same-aged peers. Again, in light of his performance on the TOMM, these scores may be an underestimate of his current abilities.

Mr. Oxner was also administered the Wechsler Abbreviated Scale of Intelligence (WASI). The WASI is a brief assessment of intellectual capabilities that renders a Full Scale IQ score based on the examinee's performance on verbal and spatial-visual tasks. Results of the WASI indicated his Verbal, Performance, and Full Scale IQ scores fell in the "borderline" range of functioning.

(per the DSM-IV-TR; the "borderline" range falls between the "average" and "mild mental retardation" ranges). There was not a significant difference between his Verbal IQ and Performance IQ, suggesting these skills are equally developed. Again, this may be an underestimate of his current intellectual capabilities. A personality measure (e.g., PAI) was not administered as it was assessed that Mr. Oxner would not tolerate a lengthy questionnaire and would not likely comprehend many items.

Diagnostic Impressions

Axis I: Schizophrenia, Residual Type
Axis II: No diagnosis.

Schizophrenia is a chronic mental illness and describes an individual who presents with delusions (false, fixed beliefs), hallucinations (perceptual disturbances), disorganized speech, disorganized or catatonic behavior, and/or "negative" symptoms (e.g., poverty of speech, absence of observed emotion). The "residual" subtype indicates that there is an absence of significant delusions, hallucinations, disorganized speech or behavior, and/or catatonic behavior, yet there continues to be some evidence of several, less severe, symptoms of Schizophrenia. Namely, Mr. Oxner has a psychiatric history suggestive of psychosis (e.g., hallucinations, delusional thought content) since at least 1984. These symptoms appear to be under current clinical control although he continues to exhibit relatively mild signs of Schizophrenia (e.g., flat affect).

Functional Capacities Relevant to Employment

1) Activities of Daily Living (ADL's)

Prior to the current hospitalization, the limited, available data indicate Mr. Oxner was able to complete his ADL's competently and independently (e.g., shopping, cooking, laundry). His family reportedly provided him with transportation, as his driver's license had been confiscated years ago. Prior to his admission, per Mr. Oxner, he was handling his finances independently although did not have a checking or savings account. Per Mr. Oxner and collateral sources, he had been receiving disability for many years for which he is the payee. Per his inpatient chart, Mr. Oxner is currently performing his ADL's without assistance in a secure, highly-monitored setting, barring his laundry on occasion. It is noted that Mr. Oxner has evidenced a lack of insight into his psychiatric symptoms and he expressed to this examiner significant ambivalence about taking medication once discharged. Therefore, while it appears Mr. Oxner would be able to continue performing basic ADL's (e.g., cooking), he will likely need assistance in remaining compliant with treatment recommendations for both his psychiatric and medical illnesses.

2) Social Functioning.

As noted in his SCDMH records, Mr. Oxner has led a fairly reclusive life, socializing nominally with people outside of his immediate family. His inpatient chart indicates Mr. Oxner has displayed minimal to selective interaction with peers, although this appears to be improving in recent months; his chart also indicates Mr. Oxner has not displayed any inappropriate behaviors. While Mr. Oxner was appropriate and polite with this examiner, he appears to lack many basic social skills. In addition, he had difficulty generating situations which stress or anger him, and likewise had trouble identifying concomitant coping skills. Per his report, he has engaged in several verbal arguments with peers during the current admission.

3) Concentration, Persistence, and Pace.

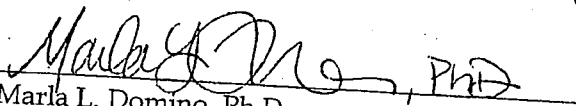
During today's exam, Mr. Oxner demonstrated adequate concentration, persistence, and pace during clinical interviews. However, a neuropsychological screener (RBANS) assessed Mr. Oxner's attention capabilities to be in the "extremely low" range of functioning.

4) Decompensation.

Available data indicate Mr. Oxner was treated for psychotic symptoms in the mid-1980's but has not received psychiatric treatment since. Per SCDMH records, he has lived independently since that time, with some help (e.g., transportation) from his siblings who live near by. It appears (if collateral data and Mr. Oxner's report is accurate) that he has functioned adequately without the assistance of medication and has not had periods of significant decompensation. However, as noted, data regarding his mental status since previous hospitalization is minimal. Per Mr. Oxner's account, he had not used alcohol for several years prior to his admission and has smoked marijuana on occasion; if this report is accurate, it does not appear that this pattern of substance use would be a significant contributing factor to his decompensation.

Conclusions and Recommendations:

According to SCDMH records, Mr. Oxner has a history of exhibiting psychotic symptoms (e.g., delusions) since at least the mid-1980's but for which he has received minimal psychiatric treatment. Given the available data, it appears Mr. Oxner would be able to competently complete his ADL's independently although would need assistance maintaining medication compliance. He appears to have minimal social skills and inadequate coping mechanisms, although has behaved appropriately during the current hospitalization and exam. While he did not endorse conflicts with employees or co-workers in past jobs, his interpersonal style may prevent him from effectively working in jobs requiring adequate communication skills and/or moderate interaction with others. Mr. Oxner demonstrated adequate persistence and pace during this exam, although a neuropsychological screener suggested deficits in his ability to attend. He does not appear to present with any substantial risks for decompensation, as records indicate he has functioned adequately without psychiatric treatment for over 20 years, although there is minimal data about his lifestyle and functioning during that period. In conclusion, it is likely Mr. Oxner would be able to complete simple, structured tasks on a short-time basis, in a low-stress environment where there is not a high level of interpersonal interaction.


Marla L. Domino, Ph.D.
Licensed Clinical Psychologist

STATE OF SOUTH CAROLINA)

COUNTY OF Lexington)

EX PARTE:)

FRANCIS OXNER)

(Petitioner / Applicant))

IN THE MATTER OF:)

FRANCIS OXNER)

(A Person Alleged to be Mentally Ill))

IN THE PROBATE COURT

File Unit 5

840-1136

JUDGEMENT AND ORDER
RECEIVED

MAR 16 2011

JUDICIAL PROCESSING

WSHPL

After a full hearing on the issues involved herein and consideration of the testimony and record,

IT IS ORDERED AND ADJUDGED

That the above-named person is mentally ill and,

(Strike through a., or b., or leave both if applicable)

- a. Because of his/her mental condition lacks sufficient insight or capacity to make responsible decisions with respect to his/her treatment; or
- b. Because of his/her condition, there is a likelihood of serious harm to himself or others, and therefore,

IT IS ORDERED

(Strike through the two which do not apply)

- a. That said person be committed to a state mental facility for in-patient care and treatment as provided in Section 44-17-580, S.C. Code, 1976, as amended.
- b. That said person undergo an out-patient treatment program at Local/ Lexington County mental health facility for a period not to exceed 12 months. And, furthermore, that his Court shall retain jurisdiction over said person to insure compliance with this Order, pursuant to Section 44-17-580, S.C. Code, 1976, as amended.
- c. ~~That it having been requested by _____ that said person be admitted to~~
~~admitted to said hospital for care and treatment as provided for by Section 44-17-510, S. C. Code, 1976, as amended~~

Dated this 16th day of

March, 2011.

Catherine F. Adams

Special Probate Judge For Lexington

(Seal)

STATE OF SOUTH CAROLINA
COUNTY OF Lexington

IN THE PROBATE COURT

EX PARTE:

FRANCIS OXNER

(Petitioner/Applicant)

IN THE MATTER OF:

FRANCIS OXNER

(A Person Alleged to be Mentally Ill)

NOTICE OF HEARING
APPOINTMENT OF COUNSEL
APPOINTMENT OF GUARDIAN AD LITEM
APPOINTMENT OF DESIGNATED EXAMINERS

RECEIVED

MAR 11 2011

NOTICE OF HEARING

JUDICIAL PROCESSING

WSHPI

TO: Petitioner/Applicant - FRANCIS OXNER

Person Alleged to be Mentally Ill - FRANCIS OXNER, PETITION FOR RE-EXAMINATION

Counsel of Record - MR. BOTHWELL F. GRAHAM

Guardian Ad Litem - MR. BOTHWELL F. GRAHAM

Designated Examiners - DR SRINIVASA REDDY

Other Interested Persons Know to the Court - GEORGE MAVROPTAS, MSW
*(time of hearing may vary 15 or 20 minutes, earlier or later than scheduled time. if you plan to attend hearing, please plan to arrive at hearing at least 15 mins. prior to scheduled time of hearing.

YOU ARE HEREBY NOTIFIED that, based on the Petition or Application filed in this matter and upon the report of the designated examiner or certificate of a licensed physician following an examination of the above-named person alleged to be mentally ill, finding that the said person is mentally ill, a hearing will be held on the 16th day of March, 2011 at 10:45AM at Just Care, 7901 Farrow Rd. Columbia, for the purpose of taking testimony as to the mental condition of said person alleged to be mentally ill, at which time you may appear, testify and within the discretion of the Court, present and cross-examine witnesses and have an opportunity to present to the court any and all relevant and material evidence bearing on this matter, appearing either in person or by counsel.

YOU ARE FURTHER NOTIFIED that the person's detention at Just Care, a facility for the mentally ill is based on conclusions and the underlying facts as contained in either the Petition for Judicial Admission and Reports of Designated Examiners or the Application for Emergency Admission, the Certificate of Licensed Physicians, a copy of which is attached.

YOU ARE FURTHER NOTIFIED that you have the right to request the names of the designated examiners and such other persons who will be called to testify and the substance of their proposed testimony.

YOU ARE FURTHER NOTIFIED that it must be proved by the presentation of clear and convincing evidence that said person alleged to be mentally ill is mentally ill, needs treatment and because of his/her condition:

- (1) Lacks sufficient insight or capacity to make responsible decisions with respect to his/her treatment; or
- (2) There is a likelihood of serious harm to himself/herself or others.

APPOINTMENT OF COUNSEL

IT IS HEREBY ORDERED that

MR. BOTHWELL F. GRAHAM

, esquire, Attorney of the South Carolina Bar, is hereby appointed as counsel of and for the person alleged to be mentally ill and is hereby charged with all the duties, responsibilities, powers and privileges conferred and made incumbent upon an Attorney at Law in such cases. Provided, however, that should a privately retained counsel be obtained by or for the said person alleged to be mentally ill and this Court is so notified, then, in that event, the aforesaid court-appointed counsel shall be discharged as counsel in this case.

APPOINTMENT OF GUARDIAN AD LITEM

IT IS ORDERED that MR. BOTHWELL F. GRAHAM who is capable of understanding the rights of the person alleged to be mentally ill and who has no interest in conflict with or adverse to the rights of the person alleged to be mentally ill, is hereby appointed Guardian ad Litem of said person alleged to be mentally ill for the purpose of appearing for and acting on behalf of said person in all the proceedings herein, the said Guardian Ad Litem having consented to act as Guardian Ad Litem for said person alleged to be mentally ill for the purpose of the above-entitled action.

EXAMINATION BY TWO DESIGNATED EXAMINERS

IT IS ORDERED that DR SRINIVASA REDDY, a licensed physician and GEORGE MAVROPTAS shall examine the person alleged to be mentally ill and report without delay to this Court their respective written findings as to the mental condition of said person alleged to be mentally ill and his/her need for treatment.

IT IS SO ORDERED.

Dated this 11th day of

March, 2011

BISHOPVILLE

Catherine F. Hanna

Judge of Probate Court (Seal)

RECEIVED

MAR 11 2011

ORDER OF SUBSTITUTION

JUDICIAL PROCESSING
WSHPI

The corresponding appointments listed above are hereby rescinded by the following substitute appointments:

Counsel: _____

Guardian Ad Litem: _____

Designated Examiner (Licensed Physician): _____

Designated Examiner: _____

Date

Judge of Probate Court

STATE OF SOUTH CAROLINA)
COUNTY OF Lexington)

EX PARTE:)
FRANCIS OXNER)
(Applicant))

IN THE MATTER OF:)
FRANCIS OXNER)
(Person Alleged to be Mentally Ill))

IN THE PROBATE COURT

**ORDER FOR CONTINUED HOSPITALIZATION
AND FOR HEARING**

Having reviewed the Affidavit for Emergency Admission, the Certificate of Licensed Physician, and the documents submitted by the treatment facility (if any) in this matter, I find in these documents evidence that the above-named person is mentally ill and in need of involuntary commitment. Based on the evidence I determine that there is probable cause to continue the emergency detention of the person.

IT IS ORDERED that the person be detained at Just Care

(Name of Treatment Facility)

until the 16th day of March, 2011, at 10:45AM at which date is within twenty days of the day of admission to the facility, at which time he/she will be brought before this court for a hearing to determine if the person shall be involuntarily committed to a facility for care and treatment for mentally ill persons. Attached to this order is a Notice of Hearing and Appointments.

Dated this 11th day of

March, 2011

at BISHOPVILLE, South Carolina.

Catherine F. Hanna

(Seal)

Judge of Probate Court

RECEIVED

MAR 11 2011

**JUDICIAL PROCESSING
WSHPI**

B

STATE OF SOUTH CAROLINA

IN THE PROBATE COURT

COUNTY OF RICHLAND

Lexi

EX PARTE:

Francis Oxener
PETITIONER

IN THE MATTER OF:

Francis Oxener

RECEIVED

FEB 07 2011

JUDICIAL PROCESSING
WSHPI

The undersigned respectfully shows to the Court:

1. That Francis Oxener is now a patient at the
Name of Patient
William S. Hall Psychiatric Institute, a hospital for the mentally ill, pursuant to an Order

of Confinement issued by this Honorable Court on this 15 day of September, 20 10.

2. That the Petitioner believes that the conditions existing at the time of said Order of Confinement
no longer exist, and that continued involuntary hospitalization of the said Francis Oxener
Name of Patient
is no longer warranted.

3. WHEREFORE, the undersigned petitioner prays that the court do inquire into the condition of said
patient, pursuant to Section 32-971, S. C. Code, 1962, as amended, and find him/her not mentally ill, or not so mentally
ill as to require involuntary hospitalization and

At Columbia

South Carolina, this 4th

day of Feb

20 11

3-9-11

@

L. Oxner

f
alleged mentally ill person

NOTE: Pursuant to Section 32-971, S. C. Code, 1962, as amended, Petitioner may be a parent or an interested

Person, defined in Sections 32-911 (21) as a parent, guardian, spouse, adult, next of kin, or nearest friend.

ROA_0047

JOB STATUS REPORT

TIME : 02/08/2011 16:20
NAME : JUDICIAL PROSS
FAX# : 803-898-1654
TEL# : 803-898-1694
SER.# : 000021171

DATE, TIME 02/08 16:19
FAX NO./NAME 918034846881
DURATION 00:00:43
PAGE(S) 03
RESULT OK
MODE STANDARD
ECM

STATE OF SOUTH CAROLINA

IN THE PROBATE COURT

COUNTY OF RICHLAND

Lexi

EX PARTE:

Francis Oxener

PETITIONER

IN THE MATTER OF:

Francis Oxener

RECEIVED

FEB 07 2011

JUDICIAL PROCESSING
WSHPI

The undersigned respectfully shows to the Court:

1. That Francis Oxener is now a patient at the
Name of Patient
William S. Hall Psychiatric Institute a hospital for the mentally ill, pursuant to an Order

of Confinement issued by this Honorable Court on this 15 day of September, 20 10.

2. That the Petitioner believes that the conditions existing at the time of said Order of Confinement
no longer exist, and that continued involuntary hospitalization of the said Francis Oxener
Name of Patient
is no longer warranted.

3. WHEREFORE, the undersigned petitioner prays that the court do inquire into the condition of said
patient, pursuant to Section 32-971, S. C. Code, 1962, as amended, and find him/her not mentally ill, or not so mentally
ill as to require involuntary hospitalization and order his/her release.

ROA_0048

STATE OF SOUTH CAROLINA)
COUNTY OF Lexington)

EX PARTE:)
FRANCIS OXENER)
(Petitioner / Applicant)

IN THE MATTER OF:)
FRANCIS OXENER)
(A Person Alleged to be Mentally Ill)

IN THE PROBATE COURT

*File mit 5
840-1136*

JUDGEMENT AND ORDER

RECEIVED

AUG 04 2008

LEGAL PROCESSING
WSHPI

After a full hearing on the issues involved herein and consideration of the testimony and record,

IT IS ORDERED AND ADJUDGED

That the above-named person is mentally ill and,

(Strike through a., or b., or leave both if applicable)

- a. Because of his/her mental condition lacks sufficient insight or capacity to make responsible decisions with respect to his/her treatment; or
- b. Because of his/her condition, there is a likelihood of serious harm to himself or others, and therefore,

IT IS ORDERED

(Strike through the two which do not apply)

- a. That said person be committed to a state mental facility for in-patient care and treatment as provided in Section 44-17-580, S.C. Code, 1976, as amended.
- ~~b. That said person undergo an out-patient treatment program at Local/ Lexington County mental health facility for a period not to exceed _____ months. And, furthermore, that his Court shall retain jurisdiction over said person to insure compliance with this Order, pursuant to Section 44-17-580, S.C. Code, 1976, as amended.~~
- ~~c. That it having been requested by _____ that said person be admitted to _____, whose director has agreed thereto, the said person is ordered admitted to said hospital for care and treatment as provided for by Section 44-17-610, S. C. Code, 1976, as amended~~

Dated this _____ 6th _____ day of

August, 2008

Catherine F. Hanna (Seal)
Special Probate Judge For Lexington

Stipulation

STATE OF SOUTH CAROLINA
COUNTY OF Lexington

IN THE PROBATE COURT

EX PARTE:

FRANCIS OXENER

(Petitioner/Applicant)

IN THE MATTER OF:

FRANCIS OXENER

(A Person Alleged to be Mentally Ill)

NOTICE OF HEARING
APPOINTMENT OF COUNSEL
APPOINTMENT OF GUARDIAN AD LITEM
APPOINTMENT OF DESIGNATED EXAMINERS

RECEIVED
AUG 6 1 26 PM

NOTICE OF HEARING

TO: Petitioner/Applicant - FRANCIS OXENER

Person Alleged to be Mentally Ill - FRANCIS OXENER,

Counsel of Record - MR. BOTHWELL F. GRAHAM

Guardian Ad Litem - MR. BOTHWELL F. GRAHAM

Designated Examiners - DR REDDY

Other Interested Persons Know to the Court -

JUDY DUPREE, M.D.

*(time of hearing may vary 15 or 20 minutes earlier or later than scheduled....If you plan to attend hearing, please arrive at Just Care at least 15 minutes early.)

LEGAL FILING
WSM

YOU ARE HEREBY NOTIFIED that, based on the Petition or Application filed in this matter and upon the report of the designated examiner or certificate of a licensed physician following an examination of the above-named person alleged to be mentally ill, finding that the said person is mentally ill, a hearing will be held on the 6th day of August, 2008 at 10:15AM at Just Care 7901 Farrow Rd., Columbia, for the purpose of taking testimony as to the mental condition of said person alleged to be mentally ill, at which time you may appear, testify and within the discretion of the Court, present and cross-examine witnesses and have an opportunity to present to the court any and all relevant and material evidence bearing on this matter, appearing either in person or by counsel.

YOU ARE FURTHER NOTIFIED that the person's detention at Just Care, a facility for the mentally ill is based on conclusions and the underlying facts as contained in either the Petition for Judicial Admission and Reports of Designated Examiners or the Application for Emergency Admission, the Certificate of Licensed Physicians, a copy of which is attached.

YOU ARE FURTHER NOTIFIED that you have the right to request the names of the designated examiners and such other persons who will be called to testify and the substance of their proposed testimony.

YOU ARE FURTHER NOTIFIED that it must be proved by the presentation of clear and convincing evidence that said person alleged to be mentally ill is mentally ill, needs treatment and because of his/her condition:

- (1) Lacks sufficient insight or capacity to make responsible decisions with respect to his/her treatment; or
- (2) There is a likelihood of serious harm to himself/herself or others.

APPOINTMENT OF COUNSEL

IT IS HEREBY ORDERED that MR. BOTHWELL F. GRAHAM, esquire, Attorney of the South Carolina Bar, is hereby appointed as counsel of and for the person alleged to be mentally ill and is hereby charged with all the duties, responsibilities, powers and privileges conferred and made incumbent upon an Attorney at Law in such cases. Provided, however, that should a privately retained counsel be obtained by or for the said person alleged to be mentally ill and this Court is so notified, then, in that event, the aforesaid court-appointed counsel shall be discharged as counsel in this case.

APPOINTMENT OF GUARDIAN AD LITEM

IT IS ORDERED that MR. BOTHWELL F. GRAHAM who is capable of understanding the rights of the person alleged to be mentally ill and who has no interest in conflict with or adverse to the rights of the person alleged to be mentally ill, is hereby appointed Guardian ad Litem of said person alleged to be mentally ill for the purpose of appearing for and acting on behalf of said person in all the proceedings herein, the said Guardian Ad Litem having consented to act as Guardian Ad Litem for said person alleged to be mentally ill for the purpose of the above-entitled action.

EXAMINATION BY TWO DESIGNATED EXAMINERS

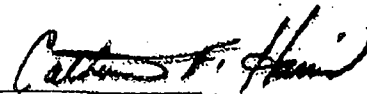
IT IS ORDERED that DR. REDDY, a licensed physician and JUDY DUPREE shall examine the person alleged to be mentally ill and report without delay to this Court their respective written findings as to the mental condition of said person alleged to be mentally ill and his/her need for treatment.

IT IS SO ORDERED.

Dated this 01st day of

August, 2008

BISHOPVILLE



Judge of Probate Court

(Seal)

ORDER OF SUBSTITUTION

The corresponding appointments listed above are hereby rescinded by the following substitute appointments:

Counsel: _____

Guardian Ad Litem: _____

Designated Examiner (Licensed Physician): _____

Designated Examiner: _____

Date

Judge of Probate Court

STATE OF SOUTH CAROLINA)

IN THE PROBATE COURT

COUNTY OF Lexington)

EX PARTE:)

FRANCIS OXENER)

(Applicant)

ORDER FOR CONTINUED HOSPITALIZATION
AND FOR HEARING

IN THE MATTER OF:)

FRANCIS OXENER)

(Person Alleged to be Mentally Ill)

LEGAL PROCESSING

WSHPI

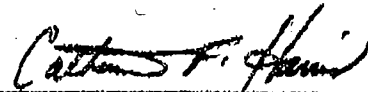
Having reviewed the Affidavit for Emergency Admission, the Certificate of Licensed Physician, and the documents submitted by the treatment facility (if any) in this matter, I find in these documents evidence that the above-named person is mentally ill and in need of involuntary commitment. Based on the evidence I determine that there is probable cause to continue the emergency detention of the person.

IT IS ORDERED

that the person be detained at Just Care

(Name of Treatment Facility)

until the 06th day of August, 2008, at 10:15AM at which date is within twenty days of the day of admission to the facility, at which time he/she will be brought before this court for a hearing to determine if the person shall be involuntarily committed to a facility for care and treatment for mentally ill persons. Attached to this order is a Notice of Hearing and Appointments.

Dated this 1st day ofAugust, 2008at BISHOPVILLE, South Carolina.

(Seal)

Judge of Probate Court

Exhibit D

Title 44 - Health
CHAPTER 48.
SEXUALLY VIOLENT PREDATOR ACT

SECTION 44-48-100. Standard for determining predator status; control, care and treatment of person; release; mistrial procedures; persons incompetent to stand trial.

(A) The court or jury must determine whether, beyond a reasonable doubt, the person is a sexually violent predator. If a jury determines that the person is a sexually violent predator, the determination must be by unanimous verdict. If the court or jury determines that the person is a sexually violent predator, the person must be committed to the custody of the Department of Mental Health for control, care, and treatment until such time as the person's mental abnormality or personality disorder has so changed that the person is safe to be at large and has been released pursuant to this chapter. The control, care, and treatment must be provided at a facility operated by the Department of Mental Health. At all times, a person committed for control, care, and treatment by the Department of Mental Health pursuant to this chapter must be kept in a secure facility, and the person must be segregated at all times from other patients under the supervision of the Department of Mental Health. The Department of Mental Health may enter into an interagency agreement with the Department of Corrections for the control, care, and treatment of these persons. A person who is in the confinement of the Department of Corrections pursuant to an interagency agreement authorized by this chapter must be kept in a secure facility and must, if practical and to the degree possible, be housed and managed separately from offenders in the custody of the Department of Corrections. If the court or jury is not satisfied beyond a reasonable doubt that the person is a sexually violent predator, the court must direct the person's release. Upon a mistrial, the court must direct that the person be held at a local or regional detention facility until another trial is conducted. A subsequent trial following a mistrial must be held within ninety days of the previous trial, unless the subsequent trial is continued. The court or jury's determination that a person is a sexually violent predator may be appealed. The person must be committed to the custody of the Department of Mental Health pending his appeal.

(B) If the person charged with a sexually violent offense has been found incompetent to stand trial and is about to be released and the person's commitment is sought pursuant to subsection (A), the court first shall hear evidence and determine whether the person committed the act or acts with which he is charged. The hearing on this issue must comply with all the procedures specified in this section. In addition, the rules of evidence applicable in criminal cases apply, and all constitutional rights available to defendants at criminal trials, other than the right not to be tried while incompetent, apply. After hearing evidence on this issue, the court must make specific findings on whether the person committed the act or acts with which he is charged; the extent to which the person's incompetence or developmental disability affected the outcome of the hearing, including its effect on the person's ability to consult with and assist counsel and to testify on the person's own behalf; the extent to which the evidence could be reconstructed without the assistance of the person; and the strength of the prosecution's case. If, after the conclusion of the hearing on this issue, the court finds beyond a reasonable doubt that the person committed the act or acts with which he is charged, the court must enter a final order, appealable by the person, on that issue, and may proceed to consider whether the person should be committed pursuant to this chapter.

Exhibit E

DOCKET NO. 05-GS-32-1159

WITNESSES

LCSD
Russell, Eric

The State of South Carolina

County of Lexington

COURT OF GENERAL SESSIONS

March TERM 2005

THE STATE

vs.

Francis Authur Oxner

A-2005-32-00338

3/1/2005 8:29 AM

ARREST WARRANT NUMBER

H821238

ROA_0056

TRUE BILL ACTION OF GRAND JURY

Lisa M. Kerns

Foreperson of Grand Jury FORELADY

Date: 3-14-2005

VERDICT

Foreperson of Petit Jury

Date:

CDR# 0385

Indictment for

Criminal Sexual Conduct with Minor 1st
Degree Child under 11 year of age

§16-3-655(1)

DONALD V. MYERS, SOLICITOR

*DNP with leave
to reinstate to
becomes
competent*

*John
Dec 20, 2005*

A TRUE COPY

[Signature]
Lex. Co. C.C.C.P., G.S. & F.C.

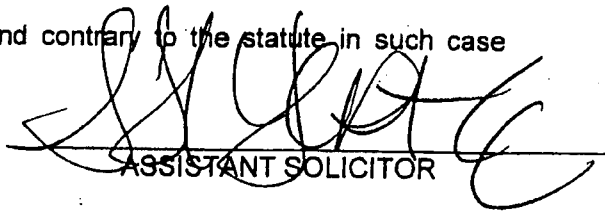
STATE OF SOUTH CAROLINA)
COUNTY OF LEXINGTON)

INDICTMENT FOR
Criminal Sexual Conduct with
Minor Child under 11 year of age
1st Degree
§16-3-655(1)

At a Court of General Sessions, convened on March, 2005, the Grand Jurors of Lexington County present upon their oath:

That Francis Authur Oxner did in Lexington County on or about January 25, 2005, commit a sexual battery upon and with the body of Cody Floyd being a child less than eleven (11) years of age, to wit: forced the victim to perform fellatio on him, in violation of § 16-3-655 (1) 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.


ASSISTANT SOLICITOR

ROA_0057

1238 -H- 821238

STATE OF SOUTH CAROLINA

X ☐ County/ ☐ Municipality of
Lexington

THE STATE
against

Francis Arthur Oxner

Address: 722 Old Lexington Road
Leesville, SC 29070

Phone: _____ SSN: 250-92-1011

Sex: _____ Race: _____ Height: 6-2 Weight: 170

DL State: _____ DL #: _____

DOB: 03/08/1949 Agency ORI#: 3200

Prosecuting Agency: L. C. S. D.

Prosecuting Officer: Det. Russell

Offense: CSC WITH MINOR

Offense Code: 385
Code/Ordinance Sec. 16-3-655

ROA 0058
This warrant is CERTIFIED FOR SERVICE in the

☐ County/ ☐ Municipality of

The accused
to be arrested and brought before me to be
dealt with according to law.

Signature of Judge

(L.S.)

Date: _____

RETURN

A copy of this arrest warrant was delivered to
defendant Francis Arthur Oxner

on 12/15/04

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

JAMIE LUCAS
428 OAK DRIVE

LEXINGTON, SC 29072
803-951-2568

Lexington Co. Sheriff's Dept.

STATE OF SOUTH CAROLINA

X ☐ County/ ☐ Municipality of
Lexington

AFFIDAVIT

Form Approved by
S.C. Attorney General
April 21, 2003
SCCA 618

Personally appeared before me the affiant Eric Russell-
being duly sworn deposes and says that defendant Francis Arthur Oxner who
did within this county and state on 06/01/2004 violate the criminal laws of the
State of South Carolina (or ordinance of ☐ County/ ☐ Municipality of _____)
in the following particulars:
DESCRIPTION OF OFFENSE: CRIMINAL SEXUAL CONDUCT WITH MINOR 1ST DEGREE

I further state that there is probable cause to believe that the defendant named above did commit
the crime set forth and that probable cause is based on the following facts:

That between the dates of 06-01-2004 and 06-30-2004 the
defendant, Francis A. Oxner, did engage in a sexual battery of a
10 year old male victim in that he forced the victim to perform
fellatio on him. This incident occurred at 722 Old Lexington
Road, Leesville (Lexington County) SC. The facts of this case
are supported by statements from the victim.

Signature of Affiant

Affiant's Address Lexington County Sher Dept

521 Gibson Road

Affiant's Telephone Lexington, SC 29071

359-8230

STATE OF SOUTH CAROLINA

X ☐ County/ ☐ Municipality of
Lexington

ARREST WARRANT
TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that
on 06/01/2004 defendant Francis Arthur Oxner
did violate the criminal laws of the State of South Carolina (or ordinance of
☐ County/ ☐ Municipality of _____) as set forth below:

DESCRIPTION OF OFFENSE: 16-3-655
CRIMINAL SEXUAL CONDUCT WITH MINOR 1ST DEGREE

A TRUE COPY

Lex. Co. C.C.C.P., G.S. & F.C.

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said
defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to
the defendant at the time of its execution, or as soon thereafter as is practicable.

Sworn to and subscribed before me

on 12/15/2004

Signature of Issuing Judge

(L.S.)

Judge Code: 059

Judge's Address 521 GIBSON RD.

LEXINGTON, SC 29072

Judge's Telephone 951-2542

Issuing Court: X ☐ Magistrate ☐ Municipal ☐ Circuit

ORIGINAL

BAIL set by

Judge Jeffcoat

on 12-16-04

Type and Amount: _____

Name of Surety: _____

PRELIMINARY HEARING held by

Judge _____

on _____

Defense Attorney: _____

Decision: _____

DISPOSITION before

Judge _____

on _____

by _____

(indicate jury trial, bench trial, plea, nol. pros., etc.)

Disposition: _____

JUN 13 2011

Sentence: _____

JURORS

WITNESSES

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

CODEFENDANTS

FILED

2005 JAN -3 A 11: 59

THOMAS H. COMERFORD
CLERK OF COURT
JACKSON SC.

ROA_0059

WITNESSES

LCSD

Russell

ARREST WARRANT NUMBER

STRAIGHT INDICTMENT

ROA 0060

ACTION OF GRAND JURY

RUE BILL

Foreperson of Grand Jury
Date: 3-14-2005

VERDICT

Foreperson of Petit Jury
Date:

DOCKET # 2005-GS-32-

1158

The State of South Carolina

County of LEXINGTON

COURT OF GENERAL SESSIONS

MARCH TERM 2005

THE STATE

vs.

FRANCES ARTHUR OXNER

CDR# 0038

Indictment for

Buggery
§16-15-120

DONALD V. MYERS, SOLICITOR

DNP with leave to
re-indict y S became
competent

SHH ka m

Dec. 20, 2005

A TRUE COPY

Lex. Co. C.C.C.P., G.S. & F.

STATE OF SOUTH CAROLINA)
COUNTY OF LEXINGTON)

INDICTMENT FOR
Buggery
§16-15- 120

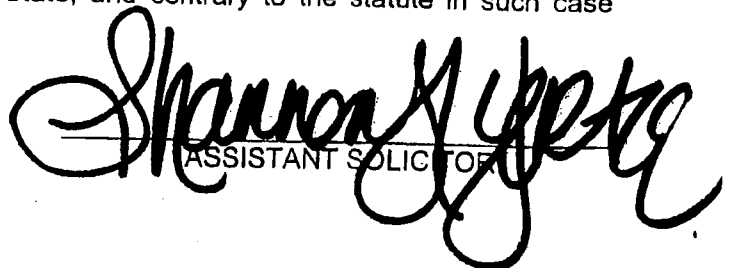
At a Court of General Sessions, convened in March 2005, the Grand Jurors of LEXINGTON County present upon their oath:

Buggery

§16-15-120

That **Frances Arthur Oxner** did in Lexington County on between the dates of January 1, 1980 and December 31, 1980, knowingly and willfully have copulation with animal, to wit: the defendant has anal intercourse with a Shetland Pony by placing his penis inside the horse's rectum, in violation of §16-15-120, 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.


ASSISTANT SOLICITOR

ROA_0061

WITNESSES

LCSD
Russell,

DOCKET NO. 05 -GS-32- 1157

The State of South Carolina

County of Lexington

COURT OF GENERAL SESSIONS

March TERM 2005

THE STATE

vs.

Francis Authur Oxner

A-2005-32-00558

3/1/2005 8:55 AM

ARREST WARRANT NUMBER

H821922

TRUE BILL ACTION OF GRAND JURY

Lisa M. Burns

Foreperson of Grand Jury

FORELADY

Date: 3-14-2005

VERDICT

CDR# 0253

Indictment for

Assault with intent to Commit Criminal Sexual
Conduct 1st Degree

§16-3-656

DONALD V. MYERS, SOLICITOR

*DMP with
leave to re-indict
if A becomes
competent*

A TRUE COPY
[Signature]
Lex. Co. C.C.C.P., G.S. & F.C.

ROA 0062

Foreperson of Petit Jury

Date:

STATE OF SOUTH CAROLINA)
COUNTY OF LEXINGTON)

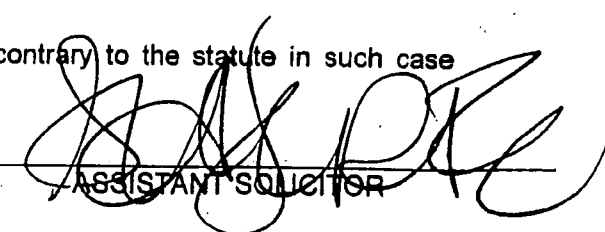
INDICTMENT FOR
Assault with intent to Commit Criminal Sexual Conduct
1st Degree

§16-3-656

At a Court of General Sessions, convened on March, 2005, the Grand Jurors of Lexington County present upon their oath:

That Francis Authur Oxner did in Lexington County on or about February 04, 2005, knowingly and willfully commit an assault upon a minor, Dustin Floyd, age 6, a child under the age of eleven, with the intent to commit a sexual battery to wit: he lured the victim into his house, grabbed him and fondled his penis and pulled him to the floor attempting to remove his clothing, in violation of § 16-3-656, & 16-3-655(1) 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.


ASSISTANT SOLICITOR

ROA_0063

Lexington Co. Sheriff's Dept.
Booking Form
Run Date: 01/29/2005 - 06:24
ORI: SC0320000

Inmate Bio Information

Inmate: OXNER, FRANCIS ARTHUR
AGE: 56
SSN: 260-92-1011
Resident Status: THIS JURISDICTION
Address: 722 OLD LEXINGTON RD
LEESVILLE, SC 29070
License No: / / /
No of. Children: 0
Military:
Occupation RETIRED -
Birth Place: CHAPIN
Employer
Country/State: U.S.A. / SC
Potentially Dangerous: N

Jail ID: 38251
DOB: 03/08/1949
Booking No: 21849810
Citizen: Y
FBI#:

Marital Status: S
Phone: (803) NON-E
Church/Religion:
Education GRADE TEN
Housed at Unit: 3A01
Escape Risk: NO
Suicidal Risk: NO
ClassCode: MX



Inmate Physical Information

Sex: MALE
Skin: LIGHT
Height: 5'11
Eyes: HAZEL
Eyes: HAZEL
Glasses: NONE
Build: LARGE

Race: WHITE
Ethnicity: NON HISPANIC
Facial Hair: FULL BEARD
Hair Style: SHORT-ABOVE EAR
Hair: BROWN
Weight: 180

Current Charges

Charge Code	Offense	Fel/Mis	ITN	Docket No Case No	Bond Amt
16-03-0655(1)	SEX/CRIM SEX CONDUCT W/MIN 11YRS-1ST DE	F		H821238	\$0.00
Note:				Dispo:BOND DENIED	
16-03-0655(1)	SEX/CRIM SEX CONDUCT W/MIN 11YRS-1ST DE	F		H821237	\$0.00
Note:				Dispo:BOND DENIED	
0091	SEX/INDECENT EXPOSURE	M		H821256	\$2,500.00
Note:				Dispo:SURETY/PROPERTY BOND	
16-03-0656	CSC: ASSAULTS W/INTENT TO COMMIT	F		H821832	\$50,000.00
Note:				Dispo:SURETY/PROPERTY BOND	

Current Arrest Information

Arrest Date: 12/15/2004
Arrest Type: FULL BOOKING
Arresting Agency: LEXINGTON COUNTY SHERIFF DEPT
Armed I: 0
Armed II:
Drug Activity:
NO MULTIPLE CLEARANCE

Arrest Time: 15:51
Arresting Officer: RUSSELL
Arrest Situation: TAKEN INTO CUSTODY
Weapon Type I:
Weapon Type II:
Drug Type:
Juvenile disposition:

Current Booking Information

Booking Date: 12/15/2004
Booking Officer: [E71084] Ellza Davis
Search Officer: [E72314] Stephanie FLOYD
Warrant No.:
Civil Process: N
Resist: N
Physical Education: N
Release Date: ?
Outdate: 12/15/2004

Booking Time: 19:23

Warrant No.:
Local Check: Y
Alcohol: N
NCIC Check: Y
Total Bond: 52,500.00
Release Time: 00:00

A TRUE COPY

Lex Co. C.C.C.P., G.S. & F.C.

Scars/Marks/Tattoos

Type	Description
NONE	No S/M/T/A

ROA_0064

ARREST WARRANT

H- 821922

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of
Lexington

THE STATE
against

Francis Arthur Oxner
Address: 722 Old Lexington Rd.
Leesville, SC 29070
Phone: _____ SSN: _____
Sex: _____ Race: _____ Height: 11 _____ Weight: 200 _____
DL State: _____ DL #: _____
DOB: 02/08/1949 Agency ORC# 200
Prosecuting Agency: L. C. S. D.
Prosecuting Officer: Det. Russell
Offense: CSC ASS W/INT TO COMMIT
Offense Code: 253
Code/Ordinance Sec. 16-3-656

This warrant is CERTIFIED FOR SERVICE in the
☐ County/ ☐ Municipality of _____
The accused
is to be arrested and brought before me to be
dealt with according to law.

Signature of Judge

(L.S.)

Date:

RETURN

A copy of this arrest warrant was delivered to
defendant Francis Arthur Oxner
on 1-28-05

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

CARY W. REINHART
521 GIBSON RD.
LEXINGTON SC 29072
951-2542

STATE OF SOUTH CAROLINA

☐ County/ ☐ Municipality of
Lexington

AFFIDAVIT

Form Approved by
S.C. Attorney General
April 21, 2003
SCCA 618

Personally appeared before me the affiant Cindy Floyd who
being duly sworn deposes and says that defendant Francis Arthur Oxner
did within this county and state on between 8-1-1979/6-1-1980 violate the criminal laws of the
State of South Carolina (or ordinance of ☐ County/ ☐ Municipality of _____)
in the following particulars:

DESCRIPTION OF OFFENSE: CRIMINAL SEXUAL CONDUCT: ASSAULTS WITH INTENT TO
COMMIT.

I further state that there is probable cause to believe that the defendant named above did commit
the crime set forth and that probable cause is based on the following facts:

That during the 1979 / 1980 Lexington School District Three
school year the def., Francis A. Oxner, did lure the victim,
a seven year old female child at the time, into his residence.
Once inside the def. grabbed the victim from behind, pulled down
her pants and panties, and began to fondle her vagina while
holding her. When the victim was able to get away, the def. had
removed his penis and was fondling him self. This occurred at 722
Old Lexington Rd. Leesville (Lexington County) SC

Signature of Affiant

Cindy D. Floyd

Affiant's Address

150 Aiken St.

Affiant's Telephone

Batesburg, SC 29066

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of
Lexington

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that
on _____ defendant Francis Arthur Oxner
did violate the criminal laws of the State of South Carolina (or ordinance of
☐ County/ ☐ Municipality of _____) as set forth below:

DESCRIPTION OF OFFENSE: 16-3-656

CRIMINAL SEXUAL CONDUCT: ASSAULTS WITH INTENT TO
COMMIT.

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said
defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to
the defendant at the time of its execution, or as soon thereafter as is practicable.

to and subscribed before me

Signature of Issuing Judge

(L.S.)

Judge Code: 886

Judge's Address

521 GIBSON RD.

Judge's Telephone

LEXINGTON, SC 29072

Issuing Court: ☒ Magistrate☐ Municipal☐ Circuit

ORIGINAL

05006636

A TRUE COPY

Lex Co. C.C.C.P., G.S. & F.C.

RECEIVED

JAN 28 2005

Lexington Co. Sheriff's Dept.

BAIL set by

Judge T. R. H.

on 1-29-05

Type and Amount: \$50,000.00

Name of Surety: _____

PRELIMINARY HEARING held by

Judge _____

on _____

Defense Attorney: _____

Decision: _____

DISPOSITION before

Judge _____

on _____

by _____

(indicate jury trial, bench trial, plea, nol. pros., etc.)

JUN 13 2011
Disposition: _____

Sentence: _____

JURORS

WITNESSES

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

CODEFENDANTS

FILED

2005 FEB -7 P 1:01

BETH A. CARRIGG
CLERK OF COURT
LEXINGTON, KY

ROA 0066

WITNESSES

LCSD Major Crimes Division
Russell,

DOCKET NO. 05 -GS-32- 1156

The State of South Carolina

County of Lexington

COURT OF GENERAL SESSIONS

March TERM 2005

THE STATE

vs.

Francis Authur Oxner

A-2005-32-00445

3/1/2005 8:45 AM

ARREST WARRANT NUMBER

H821832

ROA 0067

TRUE BILL
ACTION OF GRAND JURY

Lisa M. Kerns

Foreperson of Grand Jury

FORELADY

Date: 3-14-2005

VERDICT

Foreperson of Petit Jury

Date:

CDR# 0253

Indictment for

Assault with intent to commit
Criminal Sexual Conduct

§16-3-656

DONALD V. MYERS, SOLICITOR

*DNP with leave to
re-indict by A
becomes comitant
Stetm
Dec. 20, 2005*

A TRUE COPY

[Signature]
Lex. Co. C.C.C.P., G.S. & F.C.

STATE OF SOUTH CAROLINA)
COUNTY OF LEXINGTON)

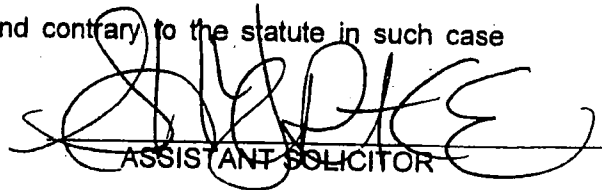
INDICTMENT FOR
Assault with intent to Commit Criminal Sexual Conduct

§16-3-656

At a Court of General Sessions, convened on March, 2005, the Grand Jurors of Lexington County present upon their oath:

That Francis Authur Oxner did in Lexington County between August 1, 1979 and June 1, 1980, knowingly and willfully commit an assault upon a minor, Cindy Floyd, age 7, a child under the age of eleven, with the intent to commit a sexual battery to wit: pulled down her pants and panties and began to fondle her vagina, in violation of § 16-3-656 and 16-3-655(1) 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.


ASSISTANT SOLICITOR

ROA_0068

ARREST WARRANT

11802

H- 821832

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of
Lexington

THE STATE
against

PA13

Francis Arthur Oxner
Address: 722 Old Lexington Rd.
Leesville, SC 29070

Phone: _____ SSN: 250-92-1011

Sex: ☒ Male ☐ Female Race: _____ Height: 5' 11" Weight: 180

DL State: _____ DL #: _____

DOB: 03/08/1949 Agency OR#: 2200

Prosecuting Agency: L. C. S. D.

Prosecuting Officer: Det. Russell

Offense: CSC ASS.W/INT. TO COMMIT

Offense Code: 253

Code/Ordinance Sec. 16-3-656

This warrant is CERTIFIED FOR SERVICE in the
☐ County/ ☐ Municipality of _____ The accused
s to be arrested and brought before me to be
dealt with according to law.

Signature of Judge (L.S.)

Date: _____

RETURN

A copy of this arrest warrant was delivered to
defendant Francis Arthur Oxner

on 1-26-05

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

GARY W. REINHART
521 GIBSON RD.
LEXINGTON, SC 29072
351-2542

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of
Lexington

AFFIDAVIT

Personally appeared before me the affiant Eric Russell who
being duly sworn deposes and says that defendant Francis Arthur Oxner
did within this county and state on 08/01/2002 violate the criminal laws of the
State of South Carolina (or ordinance of ☐ County/ ☐ Municipality of _____)
in the following particulars:

DESCRIPTION OF OFFENSE: CRIMINAL SEXUAL CONDUCT: ASSAULTS WITH INTENT TO
COMMIT.

I further state that there is probable cause to believe that the defendant named above did commit
the crime set forth and that probable cause is based on the following facts:

That during the 2002/2003 Lexington School District Three school
year the def., Francis A. Oxner, did lure the victim, a 6 year
old male child, into his home by offering him a drink. Once
inside the def. did grab the victim, fondle his penis, and throw
him to the floor. The def. then attempted to remove the victim's
clothes. The victim was then able to get away and ran out of the
house. This incident occurred at 722 Old Lexington Rd. Leesville
(Lexington County) SC.

Signature of Affiant

Eric Russell
LCSO

Affiant's Address: 521 Gibson Rd.
Lexington, SC 29072
Affiant's Telephone: 803-359-8230

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of
Lexington

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that
on 08/01/2002 defendant Francis Arthur Oxner
did violate the criminal laws of the State of South Carolina (or ordinance of

☐ County/ ☐ Municipality of _____) as set forth below.

DESCRIPTION OF OFFENSE: 16-3-656

CRIMINAL SEXUAL CONDUCT: ASSAULTS WITH INTENT
COMMIT.

A TRUE COPY

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said
defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to
the defendant at the time of its execution, or as soon thereafter as is practicable.

Sworn to and subscribed before me

on _____

(L.S.)

Signature of Issuing Judge

Judge Code: 886

Judge's Address: 521 GIBSON RD.
LEXINGTON, SC 29072
351-2542

Judge's Telephone: _____
Issuing Court: ☒ Magistrate ☐ Municipal ☐ Circuit

ORIGINAL

Lexington Co. Sheriff's Dept.

05000598

ROA 0069

RECEIVED
JAN 26 2005

BAIL set by

Judge Jeffcoat

on 1-27-05

Type and Amount: \$0.00 - SB

Name of Surety: _____

PRELIMINARY HEARING held by

Judge _____

on _____

Defense Attorney: _____

Decision: _____

DISPOSITION before

Judge _____

on _____

by _____

(indicate jury trial, bench trial, plea, nol. pros., etc.)

JUN 13 2011
Disposition: _____

Sentence: _____

JURORS

WITNESSES

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

CODEFENDANTS

FILED

2005 FEB -7 A 9:55

**BETH A. CARRIG
CLERK OF COURT
LEXINGTON, KY**

ROA 0070

Inmate Bio Information

Inmate: OXNER, FRANCIS ARTHUR
AGE: 55
SSN: 250-92-1011
Resident Status: THIS JURISDICTION
Address: 722 OLD LEXINGTON RD
LEESVILLE, SC 29070
License No: / / /
No of. Children: 0
Military:
Occupation: RETIRED -
Birth Place: CHAPIN
Employer:
Country/State: U.S.A. / SC
Potentially Dangerous: N

Jail ID: 38251
DOB: 03/08/1949
Booking No: 21849810
Citizen: Y
FBI#:
Marital Status: S
Phone: (803) NON-E
Church/Religion:
Education: GRADE TEN
Housed at Unit: 3A01
Escape Risk: NO
Suicidal Risk: NO
ClassCode: MX



Inmate Physical Information

Sex: MALE
Skin: LIGHT
Height: 5'11
Eyes: HAZEL
Eyes: HAZEL
Glasses: NONE
Build: LARGE

Race: WHITE
Ethnicity: NON HISPANIC
Facial Hair: FULL BEARD
Hair Style: SHORT-ABOVE EAR
Hair: BROWN
Weight: 180

Current Charges

Charge Code	Offense	Fel/Mis	ITN	Docket No Case No	Bond Amt
16-03-0655(1)	SEX/CRIM SEX CONDUCT W/MIN 11YRS-1ST DE	F		H821238	\$0.00
Note:		Dispo: BOND DENIED			
16-03-0655(1)	SEX/CRIM SEX CONDUCT W/MIN 11YRS-1ST DE	F		H821237	\$0.00
Note:		Dispo: BOND DENIED			
0091	SEX/INDECENT EXPOSURE	M		H821258	\$2,500.00
Note:		Dispo: SURETY/PROPERTY BOND			
16-03-0658	CSC: ASSAULTS W/INTENT TO COMMIT	F		H821832	\$0.00
Note:		Dispo: AWAITING BOND COURT			

Current Arrest Information

Arrest Date: 12/16/2004
Arrest Type: FULL BOOKING
Arresting Agency: LEXINGTON COUNTY SHERIFF DEPT
Armed I: 0
Armed II:
Drug Activity:
NO MULTIPLE CLEARANCE

Arrest Time: 15:51
Arresting Officer: RUSSELL
Arrest Situation: TAKEN INTO CUSTODY
Weapon Type I:
Weapon Type II:
Drug Type:
Juvenile disposition:

Current Booking Information

Booking Date: 12/16/2004
Booking Officer: [E71084] Eliza Davis
Search Officer: [E72314] Stephanie FLOYD
Warrant No.:
Civil Process: N
Resist: N
Physical Education: N
Release Date: ?
Outdate: 12/15/2004

Booking Time: 19:23
Warrant No.:
Local Check: Y
Alcohol: N
NCIC Check: Y
Total Bond: 2,500.00
Release Time: 00:00

A TRUE COPY
Lex. Co. C.C.C.P., G.S. & F.C.

Scars/Marks/Tattoos

Type	Description
NONE	No S/MT/A

WITNESSES

LCSD
Det. Russell

DOCKET NO. 05-GS-32-1155

The State of South Carolina

County of Lexington

COURT OF GENERAL SESSIONS

March TERM 2005

THE STATE
vs.
Francis Authur Oxner

A-2005-32-00327

3/1/2005 8:15 AM

ARREST WARRANT NUMBER

H821256

ACTION OF GRAND JURY

TRUE BILL

Lisa M. Harris
Foreperson of Grand Jury
Date: 3-14-2005 FORELADY

VERDICT

Foreperson of Petit Jury

Date:

CDR# 0377

Indictment for

Exposure of Private Parts in Lewd and
Lascivious Manner

§16-15-365

DONALD V. MYERS, SOLICITOR

*DNP with leave
to re-indict &
becomes
competent*

*John
Dec 20, 2005*

A TRUE COPY
[Signature]
Lex. Co. C.C.C.P., G.S. & F.C.

ROA 0072

STATE OF SOUTH CAROLINA)
COUNTY OF LEXINGTON)

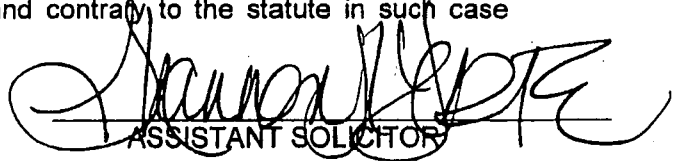
INDICTMENT FOR
Exposure of Private Parts in Lewd and Lascivious
Manner

§16-15-365

At a Court of General Sessions, convened on March, 2005, the Grand Jurors of Lexington County present upon their oath:

That Francis Authur Oxner did in Lexington County on or about January 25, 2005, willfully and knowingly expose the private parts of his or her person in a lewd and lascivious manner in the presence of another person, to wit: exposed his penis to a 14 year old female in violation of Section 16-15-365 of the South Carolina Code of Laws, as amended.

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


ASSISTANT SOLICITOR

ROA_0073

ARREST WARRANT
1256 H- 821256

STATE OF SOUTH CAROLINA
X ☐ County/ ☐ Municipality of
Lexington

THE STATE
against

Francis Arthur Oxner
Address: 722 Old Lexington Rd.
Leesville, SC 29070
Phone: SSN: 250-92-1011
Sex: W Race: Height: 6-2 Weight: 170
DL State: DL #: 03/08/1949 Agency ORI#: 3200
Prosecuting Agency: L. C. S. D.
Prosecuting Officer: Det. Russell
Offense: EXPOSURE OF PRIVATE PARTS
Offense Code: 377
Code/Ordinance Sec. 16-15-365

This warrant is CERTIFIED FOR SERVICE in the
☐ County/ ☐ Municipality of
The accused
to be arrested and brought before me to be
dealt with according to law.

Signature of Judge (L.S.)
Date:

RETURN

A copy of this arrest warrant was delivered to
defendant Francis Arthur Oxner
on 12/17/04
Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

JAMIE LUCAS
428 OAK DRIVE
LEXINGTON, SC 29072
803-951-2568

STATE OF SOUTH CAROLINA
X ☐ County/ ☐ Municipality of
Lexington

AFFIDAVIT

Form Approved by
S.C. Attorney General
April 21, 2003
SCCA 618

Personally appeared before me the affiant Eric Russell
being duly sworn deposes and says that defendant Francis Arthur Oxner
did within this county and state on 05/01/2001 violate the criminal laws of the
State of South Carolina (or ordinance of ☐ County/ ☐ Municipality of)
in the following particulars:
DESCRIPTION OF OFFENSE: EXPOSURE OF PRIVATE PARTS IN A LEWD AND LASCIVIOUS
MANNER

I further state that there is probable cause to believe that the defendant named above did commit
the crime set forth and that probable cause is based on the following facts:

That between the dates of 05-01-01 and 08-09-01 the defendant,
Francis A. Oxner, did in a lewd and lascivious manner, expose his
penis to a 14 year old female victim. This incident occurred at
722 Old Lexington Rd. Leesville (Lexington County) SC. The facts
of this case are supported by a statement from the victim.

Signature of Affiant

STATE OF SOUTH CAROLINA
X ☐ County/ ☐ Municipality of
Lexington

Affiant's Address 521 Gibson Rd.
Lexington, SC 29072
Affiant's Telephone 803-359-8230

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that
on 05/01/2001 defendant Francis Arthur Oxner
did violate the criminal laws of the State of South Carolina (or ordinance of
☐ County/ ☐ Municipality of) as set forth below:

DESCRIPTION OF OFFENSE: 16-15-365
EXPOSURE OF PRIVATE PARTS IN A LEWD AND LASCIVIOUS
MANNER

A TRUE COPY

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said
defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to
the defendant at the time of its execution, or as soon thereafter as is practicable.

Sworn to and subscribed before me
on 12/16/2004
Signature of Issuing Judge (L.S.)
Judge Code: 058

Judge's Address 205 EAST MAIN STREET
LEXINGTON, SC 29073
Judge's Telephone 803-951-2595
Issuing Court: ☒ Magistrate ☐ Municipal ☐ Circuit

ORIGINAL

04100644

Bail set by

Judge _____

on _____

Type and Amount: _____

Name of Surety: _____

PRELIMINARY HEARING held by

Judge _____

on _____

Defense Attorney: _____

Decision: _____

DISPOSITION before

Judge _____

on _____

by _____

(indicate jury trial, bench trial, plea, nol. pros., etc.)

Disposition: _____

JUN 13 2011

Sentence: _____

JURORS

WITNESSES

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

CODEFENDANTS

FILE

2015 JAN -4 A 10: 04

**THOMAS H. COMERFORD
OF COURT
NGTON SC**

ROA_0075

WITNESSES

LCSD
Russell, Eric

DOCKET NO. 05 -GS-32- 1154

The State of South Carolina

County of Lexington

COURT OF GENERAL SESSIONS

March TERM 2005

THE STATE

vs.

Francis Authur Oxner

*ONP with leave to
reindict if A
becomes
competent*

A-2005-32-00338

3/1/2005 8:25 AM

ARREST WARRANT NUMBER

H821237

ROA 0076

TRUE BILL ACTION OF GRAND JURY

Lisa M. Kerns
Foreperson of Grand Jury

Date: 3-14-2005 FORELADY

VERDICT

Foreperson of Petit Jury

Date:

CDR# 0385

Indictment for

Criminal Sexual Conduct with
Minor Child under 11 year of age

1st Degree

§16-3-655(1)

DONALD V. MYERS, SOLICITOR

*Stacy
Dec 20, 2005*

A TRUE COPY

[Signature]
Lex. Co. C.C.C.P., G.S. & F.C.

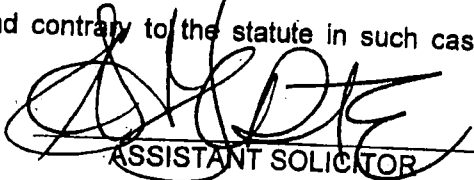
JUN 13 2005
STATE OF SOUTH CAROLINA)
COUNTY OF LEXINGTON)

INDICTMENT FOR
Criminal Sexual Conduct with
Minor Child under 11 year of age
1st Degree
§16-3-655(1)

At a Court of General Sessions, convened on March, 2005, the Grand Jurors of Lexington County present upon their oath:

That Francis Authur Oxner did in Lexington County on or about January 25, 2005, commit a sexual battery upon and with the body of Cody Floyd being a child less than eleven (11) years of age, to wit: forced the victim to perform fellatio on him, in violation of §. 16-3-655 (1) 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.


ASSISTANT SOLICITOR

ROA_0077

Inmate Bio Information

Inmate: OXNER, FRANCIS ARTHUR
AGE: 55
SSN: 250-92-1011
Resident Status: THIS JURISDICTION
Address: 722 OLD LEXINGTON RD
LEESVILLE, SC 29070
License No: ///
No of. Children: 0
Military:
Occupation: RETIRED -
Birth Place: CHAPIN
Employer:
Country/State: U.S.A. / SC
Potentially Dangerous: N

Jail ID: 38251
DOB: 03/08/1949
Booking No: 21849810
Citizen: Y
FBI#:

Marital Status: S

Phone: (803) NON-E
Church/Religion:
Education: GRADE TEN
Housed at Unit: PA13
Escape Risk: NO
Suicidal Risk: NO
ClassCode: MX



Inmate Physical Information

Sex: MALE
Skin: LIGHT
Height: 5'11
Eyes: HAZEL
Eyes: HAZEL
Glasses: NONE
Build: LARGE

Race: WHITE
Ethnicity: NON HISPANIC
Facial Hair: FULL BEARD
Hair Style: SHORT-ABOVE EAR
Hair: BROWN
Weight: 180

Current Charges

Charge Code	Offense	Fel/Mis	ITN	Docket No Case No	Bond Amt
16-03-0655(1)	SEX/CRIM SEX CONDUCT W/MIN 11YRS-1ST DE	F		H821238	\$0.00
Note:		Dispo:AWAITING BOND COURT			
16-03-0655(1)	SEX/CRIM SEX CONDUCT W/MIN 11YRS-1ST DE	F		H821237	\$0.00
Note:		Dispo:AWAITING BOND COURT			

Current Arrest Information

Arrest Date: 12/15/2004
Arrest Type: FULL BOOKING
Arresting Agency: LEXINGTON COUNTY SHERIFF DEPT
Armed I: 0
Armed II:
Drug Activity:
NO MULTIPLE CLEARANCE

Arrest Time: 15:51
Arresting Officer: RUSSELL
Arrest Situation: TAKEN INTO CUSTODY
Weapon Type I:
Weapon Type II:
Drug Type:
Juvenile disposition:

Current Booking Information

Booking Date: 12/15/2004
Booking Officer: [E71084] Eliza Davis
Search Officer: [E72314] Stephanie FLOYD
Warrant No.:
Civil Process: N
Resist: N
Physical Education: N
Release Date: ?
Outdate: 12/15/2004

Booking Time: 19:23
Warrant No.:
Local Check: Y
Alcohol: N
NCIC Check: Y
Total Bond: 0.00
Release Time: 00:00

Scars/Marks/Tattoos

Type	Description
NONE	No S/M/T/A

Lex. Co. C.C.C.P., G.S. & F.C.

Alias Info

Type	Alias Information
Alias Name	FRANCES

Next of Kin

Relation	Name	Age	Can Visit	Notif?	Address
SISTER	PRICE, JANICE		Y	N	LEESVILLE, SC 29070

ARREST WARRANT

21237

H- 821237

STATE OF SOUTH CAROLINA

X ☐ County/ ☐ Municipality of
Lexington

THE STATE

against

Francis Arthur Oxner

Address: 722 Old Lexington Road
Leesville, SC 29070

Phone: SSN: 250-92-1011

Sex: M Race: W Height: 6-2 Weight: 170

DL State: DL #: DOB: 03/08/1949 Agency OR#: 3200

Prosecuting Agency: L. C. S. D.

Prosecuting Officer: Det. Russell

Offense: CSC WITH MINOR

Offense Code: 385

Code/Ordinance Sec. 16-3-655

This warrant is CERTIFIED FOR SERVICE in the
☐ County/ ☐ Municipality ofThe accused
to be arrested and brought before me to be
dealt with according to law.

Signature of Judge

(L.S.)

Date:

RETURN

A copy of this arrest warrant was delivered to
defendant Francis Arthur Oxner

on 12/15/04

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

JAMIE LUCAS
428 OAK DRIVE
LEXINGTON, SC 29072
803-951-2568

Lexington Co Sheriff's Dept.

STATE OF SOUTH CAROLINA

X ☐ County/ ☐ Municipality of
Lexington

AFFIDAVIT

Form Approved by
S.C. Attorney General
April 21, 2003
SCCA 618Personally appeared before me the affiant Eric Russell
being duly sworn, deposes and says that defendant Francis Arthur Oxner who
did within this county and state on 03/01/2004 violate the criminal laws of the
State of South Carolina (or ordinance of ☐ County/ ☐ Municipality of)
in the following particulars:

DESCRIPTION OF OFFENSE: CRIMINAL SEXUAL CONDUCT WITH MINOR 1st DEGREE

I further state that there is probable cause to believe that the defendant named above did commit
the crime set forth and that probable cause is based on the following facts:That between the dates of 03-01-2004 and 03-31-2004 the
defendant, Francis A. Oxner, did engage in a sexual battery of a
10 year old male victim in that he forced the victim to perform
fellatio on him. This incident occurred at 722 Old Lexington
Road, Leesville (Lexington County) SC. The facts of this case
are supported by statements from the victim.

Signature of Affiant

STATE OF SOUTH CAROLINA

X ☐ County/ ☐ Municipality of
LexingtonAffiant's Address: Lexington County Sher Dept
521 Gibson Road
Affiant's Telephone: Lexington, SC 29071
359-8230

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that
on 03/01/2004 defendant Francis Arthur Oxner
did violate the criminal laws of the State of South Carolina (or ordinance of
☐ County/ ☐ Municipality of) as set forth below:DESCRIPTION OF OFFENSE: 16-3-655
CRIMINAL SEXUAL CONDUCT WITH MINOR 1st DEGREEHaving found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said
defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this arrest warrant shall be delivered to
the defendant at the time of its execution, or as soon thereafter as is practicable.

Sworn to and subscribed before me

Signature of Issuing Judge

Judge Code: 059

Judge's Address: 521 GIBSON RD.
LEXINGTON, SC 29072

Judge's Telephone: 951-2542

Issuing Court: X ☐ Magistrate ☐ Municipal ☐ Circuit

ORIGINAL

A TRUE COPY

ALL 1196221

MO.

ROA 0080

AGENCY I.D.
SCO 320000

LEXINGTON COUNTY SHERIFFS DEPARTMENT
SUPPLEMENTAL INCIDENT REPORT

CASE NUMBER

04099321

NO. 1478

☒ ORIGINAL
REPORT
☐ MODIFIES
ORIGINAL

☐ SUPPLEMENTAL
REPORT
☐ CASE STATUS
CHANGE

☐ ADDITIONAL
VICTIMS
☐ ADDITIONAL
OFFENDERS

☐ ADDITIONAL
STOLEN PROPERTY
☐ ADDITIONAL
RECOVERED PROPERTY

PAGE 2 of 2

VICT/SUBJ I.D. OVERFLOW	☐ COMPLAINT	NAME (LAST, FIRST, MIDDLE)		VICTIM RELATIONSHIP TO SUBJECT			RESIDENT	RACE	SEX	AGE	D.O.B.	
	☐ VICTIM #	Oxner, [REDACTED]		OF			0	S	O	U	W F	
	☐ SUBJECT #	HEIGHT	WEIGHT	HAIR	EYES	FACIAL HAIR, SCARS, TATOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.						
	☐ RUNAWAY	permanently disabled										
☐ WANTED	ADDRESS		CITY		STATE	ZIP CODE	LOCATION NO.	DAY PHONE		EVENING PHONE		
☐ WARRANT	[REDACTED] Road		Leesville		SC	29070	West	003-532-7873				
☐ ARREST	☐ VICTIM NO. [REDACTED] VISIBLE INJURY: ☐ NO ☐ YES		☐ COMPLAINT OF NON-VISIBLE INJURIES ☐ NO ☐ YES		☐ VICTIM USING ALCOHOL: ☐ NO ☐ YES ☐ UNK		☐ TWO-MAN VEHICLE ☐ DETECTIVE/S PLASMT.		☐ ALONE			
☐ JAIL	EXPLAIN:		☐ NO ☐ YES		DRUGS: ☐ NO ☐ YES TYPE:		☐ UNK		☐ ONE-MAN VEHICLE ☐ OTHER			
☐ SUMMONS	☐ SUBJECT NO. [REDACTED] USING ALCOHOL: ☐ NO ☐ YES		USING DRUGS: ☐ NO ☐ YES TYPE:		☐ UNK		☐ TWO-MAN VEHICLE ☐ DETECTIVE/S PLASMT.		☐ ALONE			
☒ legal guardian									☐ ASSISTED			

The victims grandmother is his legal guardian - her information is above.

540 28 *5007 60 833
FEB 03 2005

NARRATIVE

JURISDICTION OF THEFT LAW ENFORCEMENT AGENCY		JURISDICTION OF RECOVERY LAW ENFORCEMENT AGENCY	
STATUS	TYPE	VIN AND/OR LICENSE NO.	BOAT HULL NO. AND/OR REG. NO.
☐ STOLEN	☐ VEHICLE	SERIAL AND/OR OWNER APPLIED NO.	
☐ RECOVERED	☐ GUN	YEAR OF REGISTRATION	STATE
☐ FOUND	☐ BOAT	YEAR OF EXPIRATION	YEAR
☐ TOWED	☐ LICENSE PLATE	MODEL	MAKE
☐ SUSPECT	☐ SECURITIES/BONDS, STOCKS	STYLE	TYPE
☐ VICTIM	☐ ARTICLE	COLOR	BRAND NAME
		NIC NO.	CAUBER
		DENOMINATION	ISSUER
		SECURITIES DATE	
MISCELLANEOUS			

TYPE (GROUP)	TOTAL VALUE		
STOLEN			
DAMAGED			
BURNED			
RECOVERED			
SEIZED			
SUBJECT IDENTIFIED	SUBJECT LOCATED	☐ ACTIVE ☐ ADM. CLOSED	☐ ARRESTED UNDER 18
☒ YES ☐ NO	☐ YES ☐ NO	☐ UNFOUNDED	☐ ARRESTED 18 AND OVER
REASON FOR EXCEPTIONAL CLEARANCE: 1. ☐ OFFENDER DEATH. 2. ☐ NO PROSECUTION. 3. ☐ EXTRADITION DENIED. 4. ☐ VICTIM DECLINES COOPERATION. 5. ☐ JUVENILE-NO CUSTODY			
REPORTING OFFICER (3)	DATE	UNIT NUMBER	APPROVING OFFICER
Horton, T	12/11/2004	503	[Signature]
FOLLOW-UP INVESTIGATION ☐ YES ☐ NO		OFFICER	DATE
			12/12/04



LEXINGTON COUNTY SHERIFF'S DEPARTMENT



CASE FILE SUMMARY

270

FEB 03 2005

REPORTING OFFICER Eric Russell

CASE NUMBER: 04099321 DATE OF ARREST: 12-15-04

DEFENDANT(S): Francis Arthur Oxner

CHARGES: CSC w/ a Minor 1st Degree

SUMMARY

On 12-11-04 the victim, [REDACTED] a 10 year old male, was brought to LCSD by his aunt [REDACTED]. The victim had reported to Ms. [REDACTED] that the defendant had forced him, the victim, to perform oral sex on the defendant. The victim advised that this had occurred on more than one occasion. A LCSD incident report was completed by Dep. T. Horton and Ms. [REDACTED] provided a written statement.

During subsequent investigation by I/O, the victim has provided a written statement as to the details of these allegations. Also, Ms. [REDACTED], provided a written statement describing inappropriate sexual behavior by the defendant against her. She advised that these incidents occurred approx. 15 to 16 years ago but was unable to provide an accurate time range at that time. Ms. [REDACTED] also advised that another incident of a similar nature had occurred to another family member. Ms. [REDACTED] provided contact information for that potential victim. SEE LCSD CASE NUMBER 04100644.

On 12-15-04 I/O presented the facts of this case to Judge Reinhart and obtained 2 Criminal Sexual Conduct w/ a Minor 1st Degree warrants against the defendant. The defendant was located near his residence and was placed under arrest on these warrants and turned over to LCDC staff without incident.

AGENCY I.D. SCO320000	LEXINGTON COUNTY SHERIFF'S OFFICE INVESTIGATIVE REPORT	CASE NUMBER 40100644
☐ ORIGINAL REPORT	☒ SUPPLEMENTAL REPORT	☐ ADDITIONAL VICTIMS
☐ STATUS CHANGE	☐ ADDITIONAL OFFENDERS	☐ ADDITIONAL STOLEN PROPERTY
		☐ ADDITIONAL RECOVERED PROPERTY
PAGE <u>1</u> of <u>1</u> PAGE:		

ORIGINAL COMPLAINANT ☒ OR VICTIM ☒	
NAME: [REDACTED]	
STREET ADDRESS: _____	
CITY - STATE - ZIP: _____	DATE OF BIRTH: _____
INCIDENT TYPE: Indecent Exposure	
ORIGINAL SUSPECT: _____	
NAME: Oxner, Francis Arthur	
STREET ADDRESS: _____	
CITY - STATE - ZIP: _____	DATE OF BIRTH: _____
RACE: _____ SEX: _____	
AGE: _____	

RECOVERED PROPERTY DOLLAR AMOUNT: \$ _____

CANCEL NCIC ENTRY: YES _____ NO _____

12-14-04

While investigating another case, SEE CASE NUMBER 04099321, involving the same subject I/O was advised by [REDACTED] that the subject had exposed himself to the victim.

12-15-04

I/O made contact with the victim and she responded to LCSD for an interview. During this interview the victim provided the following details in the form of a verbal and written statement.

During the summer of 2001, while school was out, the victim, who would have been 14 yoa at the time, went to the residence of the subject to return a horse brush. Prior to this incident the victim had performed odd jobs for the subject for money such as feeding animals ect. On this date the victim asked the subject if he anything she could do to earn some money. The subject stated that he did have something she could do. The subject then removed an undetermined amount of money from his pocket and held it out toward the victim. At the same time the subject unzipped his pants and removed his penis displaying it to the victim. The victim advised that she then turned away and immediately left the subject's residence. The victim advised that when this occurred the subject was standing on his porch steps.

After speaking with the victim I/O spoke with her parents, [REDACTED] and [REDACTED]. They advised that they had become aware of this incident some time after it occurred. The victim had not originally confided in her parents but instead had advised her brother who in turn eventually told the parents. Mrs. Day also advised that although she did not have any first hand knowledge she had heard rumors from other family members of other inappropriate sexual acts the subject had done.

12-16-04

I/O presented the facts of this case to Judge Jeffcoat and obtained warrant number H821256 for Exposure of Private Parts in a Lewd and Lascivious Manner against the subject. This warrant was served on the subject at LCDC due to him already being incarcerated reference the above mentioned case number.

This case is CLEARED BY ARREST.

FEB. 03. 2005 *

091

SUBJECT IDENTIFIED YES ☒ NO ☐		SUBJECT LOCATED YES ☒ NO ☐		☐ ACTIVE ☐ UNFOUNDED ☐ ADMINIST. CLOSED	☐ ARRESTED UNDER 18 ☒ ARRESTED 18 AND OVER	☐ EX-CLEAR UNDER 18 ☐ EX-CLEAR 18 AND OVER
REASON FOR EXCEPTIONAL CLEARANCE: 1. ☐ OFFENDER DEATH 2. ☐ NO PROSECUTION 3. ☐ VICTIM/WITNESS DECLINES COOPERATION 4. ☐ EXTRADITION DENIED 5. ☐ JUVENILE, NO ARREST						
REPORTING OFFICER Russell, Eric	DATE 12-17-04	UNIT NUMBER 312	APPROVING OFFICER _____		DATE _____	UNIT NUMBER _____
REPORTING OFFICER	DATE	UNIT NUMBER	APPROVING OFFICER		DATE	UNIT NUMBER

ROA_0083



LEXINGTON COUNTY SHERIFF'S DEPARTMENT



CASE FILE SUMMARY

REPORTING OFFICER

Eric Russell

CASE NUMBER:

05000598

DATE OF ARREST:

Warrant served 01-26-05, already in LCDC

DEFENDANT(S):

F.A. Oxner

CHARGES:

Assault w/ Intent to Commit CSC

SUMMARY

On 01-11-05 the victim, 8 year old [REDACTED] was given a Forensic Interview at the ARC due to him telling his mother that the subject had molested him. At the ARC the victim advised that while he was in the 1st grade, 2002/2003 school year, the subject had lured him into the subject's residence by offering him a drink. Once inside the subject grabbed the victim, rubbed his penis, threw him to the floor, and attempted to remove the victim's clothes. The victim was then able to get away from the subject. The reason this did not come out until now is that the victim had been told not to go to the subject's residence by his mother and was afraid he would get in trouble. The victim did not reveal this to anyone until the subject was arrested for molesting another child.

This case was presented to Judge Whittle on 01-26-05 and a warrant for Assault w/ Intent to Commit CSC was obtained against the victim which was served on him in LCDC.

FEB 03 2005*

009

ROA_0084

AGENCY I.D.
SCO320000

LEXINGTON COUNTY SHERIFF'S OFFICE
INVESTIGATIVE REPORT

CASE NUMBER
04099321

☐ ORIGINAL
REPORT

☒ SUPPLEMENTAL
REPORT

☐ ADDITIONAL
VICTIMS

☐ ADDITIONAL
STOLEN PROPERTY

☐ STATUS
CHANGE

☐ ADDITIONAL
OFFENDERS

☐ ADDITIONAL
RECOVERED PROPERTY

PAGE 1 of 2 PAGE

ORIGINAL COMPLAINANT ☒ OR VICTIM ☐

NAME: [REDACTED]

STREET ADDRESS:

DATE OF BIRTH:

CITY - STATE - ZIP:

RACE:

SEX:

INCIDENT TYPE: CSC

AGE:

ORIGINAL SUSPECT:

NAME: Oxner, Francis Arthur

STREET ADDRESS: 722 Old Lexington Rd.

DATE OF BIRTH: 03-08-49

CITY - STATE - ZIP: Leesville, SC 29070

RACE: W

SEX: M

AGE: 55

RECOVERED PROPERTY DOLLAR AMOUNT: \$

CANCEL NCIC ENTRY: YES NO

150 *500230733

12-13-04

I/O spoke with compl. by phone. She advised that the victim her nephew, [REDACTED], had informed her that the subject, victim's great uncle, had forced him to perform oral sex on him on two occasions. She advised that when she was a child the subject had done inappropriate things to her as well as other family members. I/O advised the compl. to bring the victim to LCSD for an interview.

The victim was brought to LCSD by compl. for an interview. I/O interviewed the victim alone in an interview room. The compl. advised that in June of this year he had gone to the subject's residence in an attempt to borrow a pump to pump up a bicycle tire. He stated that the subject had told him to "suck his dick" and he would give him the pump. The victim stated he refused and that the subject grabbed him by the back of the head and forced his head to subject's groin area. Victim advised that the subject then unzipped his pants removed his penis and forced the victim to perform oral sex on him. The victim advised that the subject did not ejaculate. Victim stated that when the subject let him go he, victim, ran home. The victim advised that this had occurred in a shed outside of the subject's house.

The victim advised that during March of this year the same thing had happened when he went to the subject's house, at the instruction of his uncle, to get some firewood for a bar-b-q. The victim stated that this occurred inside the victim's residence in the living room area.

12-14-04

I/O responded to the compl.'s residence in Newberry. At that location I/O again spoke with the victim who provided a written statement about these incidents. Also the compl. provided a written statement about incidents between her and the subject from when she was a child. The compl. advised that this was approx. 15 or 16 years ago although she could not remember the year. She stated that the subject would take her swimming and would carry her out in water that was over her head. Once in this deep water the subject would tell the compl. that he had to "play" with him or he would hold her under water. The compl. stated that he meant for her to fondle him. She also advised that the subject had done similar things to her brother. The compl. also advised of an incident involving Alisha Day last summer in which the subject had attempted to expose himself to her.

SUBJECT IDENTIFIED		SUBJECT LOCATED		☐ ACTIVE ☐ UNFOUNDED ☐ ADMINIST. CLOSED		☐ ARRESTED UNDER 18 ☒ ARRESTED 18 AND OVER		☐ EX-CLEAR UNDER 18 ☐ EX-CLEAR 18 AND OVER	
YES ☒ NO ☐		YES ☒ NO ☐							
REASON FOR EXCEPTIONAL CLEARANCE: 1. ☐ OFFENDER DEATH 2. ☐ NO PROSECUTION 3. ☐ VICTIM/WITNESS DECLINES COOPERATION 4. ☐ EXTRADITION DENIED 5. ☐ JUVENILE, NO ARREST									
REPORTING OFFICER		DATE	UNIT NUMBER	APPROVING OFFICER		DATE	UNIT NUMBER		
Russell, Eric		12-17-04	312						
REPORTING OFFICER		DATE	UNIT NUMBER	APPROVING OFFICER		DATE	UNIT NUMBER		

ROA_0085

AGENCY I.D.
SCO320000

LEXINGTON COUNTY SHERIFF'S OFFICE
INVESTIGATIVE REPORT

CASE NUMBER
4099321

☐ ORIGINAL REPORT
 ☒ SUPPLEMENTAL REPORT
 ☐ ADDITIONAL VICTIMS
 ☐ ADDITIONAL STOLEN PROPERTY
☐ STATUS CHANGE
 ☐ ADDITIONAL OFFENDERS
 ☐ ADDITIONAL RECOVERED PROPERTY

PAGE 2 of 2 PAGE:

ORIGINAL COMPLAINANT ☐ OR VICTIM ☐
 NAME: _____ DATE OF BIRTH: _____
 STREET ADDRESS: _____ RACE: _____ SEX: _____
 CITY - STATE - ZIP: _____ AGE: _____
 INCIDENT TYPE: _____
 ORIGINAL SUSPECT:
 NAME: _____ DATE OF BIRTH: _____
 STREET ADDRESS: _____ RACE: _____ SEX: _____
 CITY - STATE - ZIP: _____ AGE: _____

RECOVERED PROPERTY DOLLAR AMOUNT: \$ _____

CANCEL NCIC ENTRY: YES _____ NO _____

052 FEB 03 2005

12-15-04

I/O presented the facts of this case to Judge Reinhart and obtained 2 CSC w/ Minor warrants against the subject. These warrants were entered into the LCSD in-house system.

I/O along with Detectives Peake and Beaver responded to the subject's residence in an attempt to serve these warrants. The subject was not located.

I/O spoke with [REDACTED] on the phone. She advised that the incident between her and the subject occurred in the summer of 2001. She stated that she had gone to the subject's residence to return a horse brush. She advised that she asked the subject if he had anything else for her to do and he nodded his head yes. She stated that he unzipped his pants, exposing himself, and offered her money to perform oral sex on him which she refused and ran away. [REDACTED] agreed to come to LCSD for an interview on today's date at 1430 hours.

[REDACTED] came to LCSD for an interview. She provided a written statement to the above mentioned facts. See Case Number 04100644

At approx. 1500 hours the subject was located by Dep. Crawford, 973, and was placed under arrest on the previously mentioned warrants with out incident.

12-16-04

The subject was taken before Judge Jeffcoat for a bond setting. The subject was denied bond.

This case is CLOSED BY ARREST

SUBJECT IDENTIFIED		SUBJECT LOCATED		☐ ACTIVE ☐ UNFOUNDED ☐ ADMINIST. CLOSED		☐ ARRESTED UNDER 18 ☒ ARRESTED 18 AND OVER		☐ EX-CLEAR UNDER 18 ☐ EX-CLEAR 18 AND OVER	
YES ☒ NO ☐		YES ☒ NO ☐							
REASON FOR EXCEPTIONAL CLEARANCE: 1. ☐ OFFENDER DEATH 2. ☐ NO PROSECUTION 3. ☐ VICTIM/WITNESS DECLINES COOPERATION 4. ☐ EXTRADITION DENIED 5. ☐ JUVENILE, NO ARREST									
REPORTING OFFICER		DATE	UNIT NUMBER	APPROVING OFFICER		DATE	UNIT NUMBER		
Russell, Eric		12-17-04	312						
REPORTING OFFICER		DATE	UNIT NUMBER	APPROVING OFFICER		DATE	UNIT NUMBER		

ROA_0086

AGENCY I.D.
SCO320000

LEXINGTON COUNTY SHERIFF'S OFFICE
INVESTIGATIVE REPORT

CASE NUMBER
05000598

☐ ORIGINAL
REPORT

☒ SUPPLEMENTAL
REPORT

☐ ADDITIONAL
VICTIMS

☐ ADDITIONAL
STOLEN PROPERTY

☐ STATUS
CHANGE

☐ ADDITIONAL
OFFENDERS

☐ ADDITIONAL
RECOVERED PROPERTY

PAGE 1 of 2 PA

ORIGINAL COMPLAINANT ☒ OR VICTIM ☐

NAME: Floyd, Cindy

STREET ADDRESS:

CITY - STATE - ZIP:

DATE OF BIRTH:

INCIDENT TYPE: CSC

RACE:

SEX:

ORIGINAL SUSPECT:

AGE:

NAME: Oxner, F.A.

STREET ADDRESS:

DATE OF BIRTH:

CITY - STATE - ZIP:

RACE:

SEX:

AGE:

RECOVERED PROPERTY DOLLAR AMOUNT: \$

CANCEL NCIC ENTRY: YES NO

12-30-04

The compl. came to LCSD for an interview in reference to the listed subject molesting her when she was a child and her son, [REDACTED], 2 years ago. The compl. provided a written statement.

The compl. advised that when she was a child, 2nd grade, she had gone over to the subject's house for a reason she could not remember. She stated that the subject coerced her into coming into his house and then coming upstairs. The compl. advised that the upstairs was one large room and that there was pornography on the walls. She advised that the subject grabbed her, removed her panties and began to fondle her. She stated that the subject never did penetrate her but that he did expose his penis to her. The compl. advised that she was able to get loose from the subject and run away. The compl. stated that she never told anyone about this.

The compl. stated next that after the subject was arrested on 12-15-04 for molesting one of her sons, [REDACTED], another one of her sons, [REDACTED], came to her and said that the subject's arrest was making him, [REDACTED], remember bad things. The compl. questioned [REDACTED] about this and he described to her that the subject had done the same thing to him that he had done to the compl. [REDACTED] advised that he had not told her about this before because she, compl., had told him not to go to the subject's house and he was afraid he would get in trouble.

The compl. also advised that as a child she had walked into a barn where she saw the subject having sex with a miniature horse.

Investigation continues.....

FEB. 03. 2005 *

012

SUBJECT IDENTIFIED		SUBJECT LOCATED		☐ ACTIVE ☐ UNFOUNDED ☐ ADMINIST. CLOSED		☐ ARRESTED UNDER 18 ☐ ARRESTED 18 AND OVER		☐ EX-CLEAR UNDER 18 ☐ EX-CLEAR 18 AND OVER	
YES ☒ NO ☐		YES ☒ NO ☐							
REASON FOR EXCEPTIONAL CLEARANCE: 1. ☐ OFFENDER DEATH 2. ☐ NO PROSECUTION 3. ☐ VICTIM/WITNESS DECLINES COOPERATION 4. ☐ EXTRADITION DENIED 5. ☐ JUVENILE, NO ARREST									
REPORTING OFFICER		DATE	UNIT NUMBER	APPROVING OFFICER		DATE	UNIT NUMBER		
Russell, Eric		01-03-05	312						
REPORTING OFFICER		DATE	UNIT NUMBER	APPROVING OFFICER		DATE	UNIT NUMBER		

ROA 0087

AGENCY I.D.
SCO320000

LEXINGTON COUNTY SHERIFF'S OFFICE INVESTIGATIVE REPORT

CASE NUMBER
0500598

☐ ORIGINAL
REPORT

☒ SUPPLEMENTAL
REPORT

☐ ADDITIONAL
VICTIMS

☐ ADDITIONAL
STOLEN PROPERTY

☐ STATUS
CHANGE

☐ ADDITIONAL
OFFENDERS

☐ ADDITIONAL
RECOVERED PROPERTY

PAGE 2 of 2 PAC

ORIGINAL COMPLAINANT ☒ OR VICTIM ☐

NAME: [REDACTED]

STREET ADDRESS:

DATE OF BIRTH:

CITY - STATE - ZIP:

RACE:

SEX:

INCIDENT TYPE:

AGE:

ORIGINAL SUSPECT:

NAME:

STREET ADDRESS:

DATE OF BIRTH:

CITY - STATE - ZIP:

RACE:

SEX:

AGE:

RECOVERED PROPERTY DOLLAR AMOUNT: \$

CANCEL NCIC ENTRY: YES NO

01-11-05

[REDACTED] was interviewed at the ARC, Forensic Interview. SEE ARC REPORT.

01-26-05

The facts of this case were presented to Judge Whittle and a warrant for Assault w/ Intent to Commit CSC was obtained against the subject. This warrant was turned over to warrant division to be served on the subject in the LCDC.

This case is Cleared by Arrest

An additional case, 05006636, was opened in reference to the incident between the compl. and the subject.

FEB. 03. 2005 *

013

SUBJECT IDENTIFIED		SUBJECT LOCATED		☐ ACTIVE ☐ UNFOUNDED ☐ ADMINIST. CLOSED		☐ ARRESTED UNDER 18 ☒ ARRESTED 18 AND OVER		☐ EX-CLEAR UNDER 18 ☐ EX-CLEAR 18 AND OVER	
YES ☒	NO ☐	YES ☒	NO ☐						
REASON FOR EXCEPTIONAL CLEARANCE: 1. ☐ OFFENDER DEATH 2. ☐ NO PROSECUTION 3. ☐ VICTIM/WITNESS DECLINES COOPERATION 4. ☐ EXTRADITION DENIED 5. ☐ JUVENILE, NO ARREST									
REPORTING OFFICER	DATE	UNIT NUMBER	APPROVING OFFICER		DATE	UNIT NUMBER			
Russell, Eric	01-26-05	312							
REPORTING OFFICER	DATE	UNIT NUMBER	APPROVING OFFICER		DATE	UNIT NUMBER			

ROA_0088



VOLUNTARY STATEMENT

Victim / Witness

- 1488

Case # 05000598

DOB 6/25/1992 Sex F Home Phone # [REDACTED] Beeper Phone # [REDACTED] Location LCSD
SS # 9152 Race WL Work Phone # [REDACTED] Other Phone # [REDACTED] Time 1330

Name of someone who will know how to reach you, should you ever move: _____

Where do they work? _____

Where do they live? _____

Home Phone # _____

Work Phone # _____

I, [REDACTED]
Victim/Witness Name (First, Middle, Last)

am not under arrest, nor am I being detained for any criminal offenses concerning

the events I am about to make known to Det. Russell

Deputy/Investigator Name

Without being accused of or questioned about any criminal offenses regarding the facts I am about to state, I volunteer the following information of my own free will, for whatever purpose it may serve.

I am 32 years of age, and I live at 150 Aiken St Batesburg, S.C.
Street Address City State Zip Code

I do not know why exactly I was at FA's house this day. I do remember I was 7 years old and in second grade. Mrs. Wanda Derrick was my teacher. For some reason I went inside FA's house on this day. He went upstairs after a few minutes he called me to come up there. I did go. I remember the carpet on the floor was light green & white (Shag Carpet) and the blankets on the beds were hand made patchwork quilt. FA grabbed me from behind using his left hand to hold me from getting away with his right hand he pulled my pants & ~~sed~~ ^{pull} panties down. He began touching me. I remember crying & kicking trying to get away from him but I couldn't. I remember one of the squares on the blanket was red with like a paisley print on it. I kept looking at this red square as I tried to get away. When he finally let me go he had his penis out and was playing with himself. I ran down the stairs as fast as I could. This is the only time that I can really remember him getting to me. Any other time I was around him somebody was always with me.

I have read each page of this statement consisting of _____ page(s), each page of which bears my signature, and corrections, if any, bear my initials, and received a copy of each page. I certify that the facts contained herein are true and correct to the best of my knowledge.

Sworn to before me this _____ day of _____, 20____

FEB. 03. 2005 *

☒ Witness or ☐ Notary Public

Signature of person giving voluntary statement

My Commission expires _____

ROA_0089



Voluntary Statement (con't.)

☒ Victim/Witness☐ Suspect/Defendant

1489

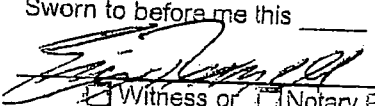
Page 2 of 2 pagesDate 12/30/04

After learning that FA was arrested my 8 year old son [redacted] came to me and said, "Mama, I'm mad at you." I asked him why and he said, "because you are making me remember." I then asked him remember what. He told me that when he ([redacted]) him and [redacted] had went down to F.A.'s They had saved some money and was going to buy a rabbit. FA asked [redacted] if he wanted a soda and [redacted] said that he told FA yes. FA told him he had to come inside and [redacted] did. [redacted] told me once they got inside that FA went upstairs. [redacted] then told me that FA called him upstairs and he went. Once [redacted] got upstairs FA grabbed him. [redacted] told me the FA started touching his "peepee" [redacted] told me that he told FA to stop but he wouldn't. [redacted] told me he was kicking FA trying to get away and that FA hit him several times in the face. [redacted] said he was calling for Bubba ([redacted]) and that FA let him go he ([redacted]) said he ran outside and got Bubba ([redacted]) and they ran home. I asked [redacted] why he never told me and he said, "Because I didn't want to get in trouble."

There was also a time I guess around age 8-9 that my brother [redacted] and I were going to play in the hay barn. Chris went over the fence but I was too little to climb the fence so I went through the stable. When I opened the stable door I saw FA having sex with a small miniature white pony. I closed the door and called for my brother. He did not answer me so I ran home by myself.

I have read this page, initialed any corrections or changes, and received a copy of this page. I certify that the facts contained herein are true and correct to the best of my knowledge.

Sworn to before me this _____ day of _____, 20____


☐ Witness or ☐ Notary Public

FEB. 03. 2005 +

005

Signature of person giving voluntary statement

My Commission expires

ROA_0090



VOLUNTARY STATEMENT

Victim / Witness

Case # 04099321

DOB 5/15/82 Sex F Home 803 Phone # 276-9205 Beeper Phone # _____ Location 274 Powder Ridge
SS # 251679347 Race W Work 803 Phone # 208-2098 Other Phone # _____ Time 3:00 PM

Name of someone who will know how to reach you, should you ever move: _____

Home Phone # _____

Where do they work? _____

Where do they live? _____

Work Phone # _____

I, [Redacted], am not under arrest, nor am I being detained for any criminal offenses concerning

Victim/Witness Name (First, Middle, Last)

054

FEB. 03. 2005

the events I am about to make known to E Russell

Deputy/Investigator Name

Without being accused of or questioned about any criminal offenses regarding the facts I am about to state, I volunteer the following information of my own free will, for whatever purpose it may serve.

I am 22 years of age, and I live at [Redacted] Rd Newberry SC

Street Address

City

State

Zip Code

Back when I was a child my brother and I used to play in the woods around my uncle FA's house. There were occasions when ^{we} we would ride to the lake to go swimming with FA. He would take me in his arms and take me out over his ^{to} my head and make me play with him. If I didn't do it or would try to get away he would let me go under. He would press himself against me until we got back to shore. There were other times when he would talk dirty to my brother and I. He would take us into the top story of his house and make us look @ dirty magazines. There were a few times when I remember him masturbating while we were in the room. This has been about 15-16 years ago.

I have read each page of this statement consisting of _____ page(s), each page of which bears my signature, and corrections if any, bear my initials, and received a copy of each page. I certify that the facts contained herein are true and correct to the best of my knowledge.

Sworn to before me this _____ day of _____, 20____

[Signature]

☒ Witness or ☐ Notary Public

[Signature]

Signature of person giving voluntary statement

My Commission expires _____

ROA_0092



VOLUNTARY STATEMENT

Victim / Witness

1490

Case #

DOB 3/19/52

Sex E

Home

Phone # 532 7873

Beeper

Phone #

SS #

Race A

Work

Phone #

Other

Phone #

Location 640 Old Hwy 1

Time 179.55

Name of someone who will know how to reach you, should you ever move:

Where do they work?

Where do they live?

Home

Phone #

Work

Phone #

I, [Redacted]

Victim/Witness Name (First, Middle, Last)

am not under arrest, nor am I being detained for any criminal offenses concerning

the events I am about to make known to Det. Russell

Deputy/Investigator Name

Without being accused of or questioned about any criminal offenses regarding the facts I am about to state, I volunteer the following information of my own free will, for whatever purpose it may serve.

I am 52 years of age, and I live at [Redacted] Rd Lenoir, NC 28070

Street Address

City

State

Zip Code

On 1980 I went to clean my husband's work shop, to get ready for more orders to be filled for rocking chairs. I opened the back door to dump saw dust & I saw F.A. having sex with a Shetland pony. Then about 15 yrs ago my daughter Randi told me about the upstairs in F.A. house where there were ^{pictures of} naked men & women all around up there. She hadn't told anybody about it except me and her older sister Cindi told me the same thing that Randi had told her.

FEB. 03. 2005*

006

I have read each page of this statement consisting of _____ page(s), each page of which bears my signature, and corrections, if any, bear my initials, and received a copy of each page. I certify that the facts contained herein are true and correct to the best of my knowledge.

Sworn to before me this _____ day of _____, 20____

Eric Russell

☒ Witness or ☐ Notary Public

[Redacted Signature]

Signature of person giving voluntary statement

My Commission expires

ROA_0093



Lexington County Sheriff's Department

VOLUNTARY STATEMENT 990

5007303
FEB 03 2005

(Not Under Arrest)

I, [REDACTED], am not under arrest, nor am I being detained for any criminal offenses concerning the events I am about to make known to DEPUTY HORTON. Without being accused of or questioned about any criminal offenses regarding the facts I am about to state, I volunteer the following information of my own free will, for whatever purposes it may serve. I am 22 years of age, and I live at [REDACTED] Rd. Newberry SC 29108.

On December 11, 2004 I went to my nephew, [REDACTED] house to pick him up as I frequently did. On this particular day I went to pick him up because the past few weeks my husband + I noticed that he had seemed very down + upset. Aleatha Day his other aunt called and told me that [REDACTED] had been asking her children ^{sexual} sexual question making sexual gestures towards them. When I got [REDACTED] to my house I began asking about the incident with Aleatha's children he got extremely upset and said he was sorry. I then began asking him why he had been so upset the past few weeks and if anyone was being mean to him @ home or ~~work~~ school. He got very quite and said yes, It took a while to get him to talk again. When he did he said "what kind of mean (hurt) do you mean sexual or abuse?" This caught me off guard and I said any kind of abuse [REDACTED] then said just one person. When I asked who he said quickly in sobs F.A (Francis Arthur). He was so upset and embarrassed that he didn't want to tell me what Francis Arthur did so I told him that he could write it down and no one would see it. [REDACTED] wrote on the paper "He

I have read each page of this statement consisting of 2 page(s), each page of which bears my signature, and corrections, if any, bear my initials, and I certify that the facts contained here in are true and correct.

Dated at 12/11/04 Lex. Co. SHERIFF'S DEPARTMENT, this 11th day of DECEMBER 20 04

WITNESS: Jana B Horton

WITNESS: _____

[REDACTED]
Signature of person giving voluntary statement.

made me suck his dick." When I asked him how long has this been going on he could only tell me since third grade. He told me it happened on several occasions but could not give me a definite number. One particular event he recall was when he (Cody) went to Francis Arthur's place of residence and asked to borrow money. Francis Arthur then grabbed the (Cody)'s head and placed it at his private area and told (Cody) to "suck my dick," and we'll see. (Cody) tried to get up and move away and he (Francis Arthur) grabbed his head and forced him to this. That was the only event (Cody) could recall for me; he got upset and asked if we could stop talk about it. I didn't want to push him. In my opinion there was more he wanted to say but couldn't or wouldn't.

(Cody) also recalled a time when he and Aaron Black (a friend) went down to Francis Arthur's house to get a bicycle tire pumped up and the two children got into an argument with F.A. and he chased them down his drive way hitting the two of them with a bull whip all the way to Cody's yard.

I have read this page, initialed corrections or changes, if any, and received a copy of this page. I certify that the facts contained herein are true and correct to the best of my knowledge.

[Signature]
Signature of person giving voluntary statement

LC #1141099321

JB 3-17-87

SN

5329656

VOLUNTARY STATEMENT
(Not Under Arrest)

[REDACTED], am not under arrest, nor am I being detained
any criminal offenses concerning the events I am about to make known to DET Russe

Without being accused of or questioned about any criminal offenses regarding the facts
about to state, I volunteer the following information of my own free will, for whatever
poses it may serve.

I am 17 years of age, and I live at [REDACTED] Leesville

I was told before by [REDACTED] or [REDACTED] that FA had
put his hand in [REDACTED] or [REDACTED]'s pants. So from then
on I was suspicious of FA. One day I went over
to FA's to return a horse brush then asked him
if there was anything else I could do because he was
pay me, codg, and Rocky before, to feed his animals.
I was by myself this day, when I asked if there
was anything else I could do he shook his head
yes, went through a gate and ~~was~~ was standing in
front of the door to his house. Then he took money
out of his pocket unzipped his pants and exposed
himself, I didn't do anything, I just left and the
first person I told was Rocky.

- 1) When did this happen? Summer of 2001
- 2) Did you actually see his penis? yes

FEB. 03. 2005* 092

I have read each page of this statement consisting of 1 page(s), each page of which bear
my signature, and corrections, if any, bear my initials, and I certify that the facts con-
tained herein are true and correct.

Dated at LC 87, this 15 day of Dec 2005

WITNESS: [Signature]

WITNESS:

[Signature]
ROA_0096
Signature of person giving voluntary statement

070 1 FEB 03 2005

SECTION I: INFORMANT QUESTIONNAIRE PART I

INFORMANT NAME(S): Cindi Floyd

RELATIONSHIP TO CHILD: mother

CHILD'S PRESENT LOCATION: At home with mother in Leesville, SC

1. Describe the family makeup (family members, care giver data, housing info, etc.):

Current household includes mother, her fiancé [redacted] age 8 and [redacted]'s cousin [redacted], 18yrs. [redacted]'s two older sons, [redacted] age 10 and [redacted], live with [redacted]'s father and stepmother next door to the perpetrator, her uncle Francis (FA) Oxner. A couple of years ago [redacted] moved from a trailer in her parent's yard to a home in another part of town. At that time, her two older boys stayed with the grandparents (see below). Other relatives live on the properties around her parents and on her parents' property as well. [redacted]'s dad was extremely ill, had brain surgery when [redacted] was 6 months old. Lost memory and functioning and is taken care of by his family in another part of the state. No real relationship, limited contact. Last contact 3 years ago.

2. Does the child have any current, or historical, significant medical problems?

If yes, describe:

☐ Y ☒ NR

No medical problems reported. Medical cause ruled out by doctor re: possible eating disorder (see below).

3. Developmental and mental health history: (pregnancy/birth, milestones, traumas, counseling history)

No delays reported, normal pregnancy and birth. [redacted] was referred to counseling by his doctor for possible eating disorder about a year to 18 months ago. He engaged in school based counseling through Lexington County Community Mental Health until his therapist resigned. Difficulty building rapport with new therapist, not currently in treatment. Was doing better until a few weeks ago when this all came out.

4. Has the child experienced any difficulties at school?

If yes, describe:

☒ Y ☐ NR

[redacted]'s teacher reported to mom that he has a lot of pent up anger. Mom describes [redacted] as very sensitive, with eating problems and anxiety.

5. Brief family history: (psychiatric problems, substance abuse, domestic violence, legal problems)

Mom describes a controlling and non-supportive family environment for herself. She reported to her stepmother as a child that the uncle next door molested her and was told to keep it to herself. Her father is described as an alcoholic, drinking on weekends to passing out, drinking and becoming verbally abusive most other nights. [redacted] has witnessed the verbal abuse to his mother. Mom has a history of eating disorder herself, sought treatment and is still in counseling. Was hospitalized for her disorder for two months in early 2000. Legal issues when she moved herself and children to a home off the family property. She states that her parents attempted through DSS and then through a private action to gain custody of all her kids. She ran out of money and they took the older two.

6. Previous child maltreatment investigations in family?

If yes, describe:

☒ Y ☐ NR

See above, DSS was investigating but apparently dropped case when private action was begun. Mom says no "founded" case ever. She ran out of money to fight private action and lost her two older kids to parents.

SECTION I: INFORMANT QUESTIONNAIRE PART II
Account of Allegation

1. Identity of alleged perpetrator (include full name, age, race): Francis ("FA") Oxner, 55, white male

Additional perpetrator identified in child interview: Michael Day, early 20s, white male cousin

2. Relation to child: Francis Oxner: Maternal great uncle

Michael Day: Identified by mother as her stepmother's sister's son (Aunt's brother)

3. What else is known about alleged perpetrator?

Francis Oxner: He has been accused of molesting [redacted], [redacted]'s older brother [redacted], [redacted]'s mother and aunt. Historically hushed up by family. He has a farm with lots of animals, per mom, and children want to go there to see the animals – "like a free zoo for kids" says mom.

Michael Day: He lived with his family on the same or adjoining property as [redacted] and [redacted] at the time of the alleged abuse – had access to the house, slept over some. His sister [redacted] has accused FA (their uncle) of abusing her. [redacted] had some concerns that [redacted] may have been abused by FA and may have also abused her other sons. He had access to all three when [redacted] was living in a trailer on her parents' property. He may be married and living in NC today.

4. Allegation of maltreatment, course of discovery (include time frame, how did suspicions arise?):

[redacted]'s older brother [redacted] (age 10) slept over at his aunt's house ([redacted]'s sister). The Aunt became suspicious and [redacted] made a disclosure. They went to LCSD and made statements. The Wednesday before Christmas [redacted] came to his mother and stated "I'm mad at you. You're making me remember." [redacted] inquired and [redacted] revealed that FA had molested him. [redacted] told his mother that he went to FA's farm with [redacted] to buy a rabbit, he was invited in for a soda and FA called him upstairs, that FA grabbed him, touched his pee-pee, they fought and [redacted] got away, got [redacted] and ran home.

Subsequently [redacted] made a statement about her abuse and what [redacted] told her and an interview for [redacted] was scheduled by Eric Russell of LCSD with the ARC.

Additional perpetrator, Michael Day, identified during the child interview and subsequent follow-up interview with mother. See narrative for details.

5. Current symptoms: indicate source (care giver, child, observed, standardized measure)

Difficulty eating, overwhelming crying fits, no sleep disturbance per mom. She says he has always been accident prone – no change lately. Trauma Symptom Checklist revealed no suicidal ideation, or causes for immediate concern – except some anger and getting into fights.

6. Child's Understanding of the Assessment:

He knows he's coming to talk to someone about what FA did to him. He is anxious, cried twice on the way to the interview, fearful of retaliation from FA. Said "I'm not gonna talk to these people." Mom told him it's like talking to a counselor and that he should tell the truth.

7. Have previous interviews been conducted?

If yes, describe:

☐ Y ☒ NR

No formal interviews, only mom's inquiry one time.

SECTION II: CHILD INTERVIEW and SUMMARY OF DATA

1. Truth v. Lie / Moral Imperative (option for younger or delayed

☐ Reviewed ☒ Not Reviewed

If reviewed, child's performance indicated

☐ Competence ☐ Competency Problems

2. Other child interview characteristics:

██████ was cooperative, able to correct interviewer and agree to only talk about things that really happened. He seemed comfortable saying "I don't remember" or "I don't know" when he did not.

3. Did interviewer review confidentiality with child?

If yes, describe:

☒ Y ☐ N

Camera, purpose, and limits of confidentiality all reviewed.

4. Did the child make a disclosure?

If yes, how did the child demonstrate the alleged abuse?

☒ Y ☐ N

☒ Verbally ☐ Drawing ☒ Dolls ☐ On Self ☐ Writing

5. List any records reviewed:

Received ██████'s statement from Lex County Sheriff's Dept re her abuse and ██████'s statements to her. Reviewed Trauma Symptom checklist administered on site.

6. Has the child been examined by a physician?

If yes, describe:

☐ Y ☒ N

7. Is the child sexually active?

If yes, describe:

☐ Y ☒ N

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8. Were there any implausible/fantastic elements identified in disclosure?
If yes, describe:

☐ Y ☒ N

9. Are there any apparent motives for false allegation?
If yes, describe:

☐ Y ☒ N

10. Are there any apparent motives for false denial/minimization/retraction?
If yes, describe:

☒ Y ☐ N

██████ could have had difficulty revealing details to a female interviewer. He stated to his mother and in the interview that he didn't want to remember it. His mother describes some fear of retaliation from perpetrator.

11. Did any of the following child factors affect the child's ability to respond in the interview?

☐ Linguistic issues
☐ Emotional state

☐ Developmental level
☐ Other: _____

☐ Psychiatric disorder

☐ Y ☒ N

If yes, describe:

12. Did the child's interview appear to be affected by any of the following factors?

☐ Coaching

☐ Injunctions not to tell

☐ Family response

☐ Problems with rapport

☐ Multiple interviews

☐ Other: _____

☐ Y ☒ N

If yes, describe:

13. DSM-IV Diagnoses (include code and supporting symptoms)

Axis I: 995.53 Sexual Abuse of a Child, unspecified eating disorder by hx.

Axis II: none reported or observed

Axis III: none reported or observed

Axis IV: family dynamics may be causing tension – perpetrator is a relative and allegations came out just prior to the holidays. Child has been exposed to perpetrating relatives (both of them) through out his childhood.

Axis V: GAF = 60

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021

14. Recommendations (e.g., treatment, placement, visitation issues, etc.)

1. No unsupervised contact between [redacted] and extended family members during investigation – there appears to be a history of covering up abuse (per mother's statement about telling her stepmom at a young age, and being told to keep it to herself). It is unclear whether [redacted]'s parents are/will be supportive of [redacted], [redacted] or others who disclose. They were apparently not supportive of her disclosure.
2. Review custody arrangements of older brothers, one of whom has revealed abuse. They are currently in the custody of perpetrator's sibling (their grandfather) – and [redacted]'s stepmother – who allegedly hushed up earlier abuse. [redacted] and [redacted]'s caretakers should be evaluated for appropriate parenting and possible substance abuse.
3. Interview [redacted] and [redacted] regarding any additional incidents of sexual abuse/molestation – both were available at a young age to both perpetrators. Evaluate them for treatment needs. The ARC is available for further interviews.
4. Interview any additional possible victims and take steps to secure safety of children available to additional perpetrator, Michael Day, and pursue case/provide treatment for him as well. It seems likely that he was available to Francis Oxner throughout his childhood.
5. Specialized therapy for [redacted] related to abuse history, anxiety and eating disorder.
6. Supportive therapy for [redacted]'s mother – a parent group is suggested.

15. Given all available data, this assessment is considered:

☒ **Compelling**

For the following:

- ☐ No abuse
- ☒ Sexual Abuse
- ☐ Physical Abuse
- ☐ Psychological Abuse
- ☐ Physical Neglect
- ☐ Medical Neglect
- ☐ Other _____

☐ **Problematic**

For the following:

- ☐ Sexual Abuse
- ☐ Physical Abuse
- ☐ Psychological Abuse
- ☐ Physical Neglect
- ☐ Medical Neglect
- ☐ Other _____

NOTE: Case is compelling for two perpetrators:
Francis Oxner, previously identified,
and Michael Day, identified through this child
interview.

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16. Narrative account of abuse (see video for complete interview: copy available to investigators by request)

[redacted] was interviewed using a semi-structured protocol known by its acronym RATAC. Interviewer built rapport and discussed family structure, reviewed confidentiality and the camera/purpose. [redacted] agreed to only tell about things in the interview that really happened, that are real and true. [redacted] was able to correct interviewer, give information about current living arrangements and activities.

[redacted] was able to identify most body parts, using "worm" for male genital area, "butt" for buttocks and "chest" for the chest area on both male and female bodies, unable to give a name to female genital area. During touch inquiry, [redacted] related getting hugs, kisses and tickles from relatives and friends. He denied receiving spankings or hits. He was able to identify "butt" as the area people generally get spankings.

He was able to point to genitalia, chest and buttocks as places people should not touch without permission. Q=Has anybody touched you on those parts? A="Mm-hmm" (affirmative). Q=Can you tell me about that? A=I don't remember. Q=You don't remember, but someone touched you on some private part? A="mm-hmm" (affirmative response). Q=Can you point to the body parts they touched so that I know? Dustin pointed to the male genitals and buttocks. Confirmed verbally. Q=Who was it? A=my uncle. Q=What's his name? A=Uncle FA. Q=So Uncle FA touched you on your worm and your butt? A=yes. Q=Where were you when he did that? A=At his house. [redacted] gave some details about being there with his brother who is 10 years old but who was younger then.

Q=What happened? A=He asked me if I wanted anything to drink. And I said yes and then he took me inside. Q=He took you inside and said it was to give you a drink? A=mm-hmmm Q=What happened inside? A=He was messing with me. Q=And that was inside his house? A=yes Q=what room were you in? A=It was an upstairs room. Q=Was it like a bedroom, a bathroom, a hallway? A=I don't remember, I was only 6 years old. My brother was two years older. Q=So this was a few years ago cause you're 8 now? A=mm-hmmm. Q=Did it happen one time or more than one time? A=one time. [redacted] doesn't remember if FA said anything to him about telling, but he didn't tell. When [redacted] went inside, [redacted] went to look at the rabbits. The boys had come to Uncle FA's to buy a rabbit. [redacted] stayed outside. Q=Do you remember anything about the room you were in? About the walls or...? A=there were posters of naked women. [redacted] was unable to remember any more details about the room. Q=where did you go when you left that house? A=my grandma's Q=Is that nearby? A=It's on the same land. [redacted] described getting away and grabbing [redacted] with Uncle FA chasing them. The boys hid in a "deer house" on the other side of a fence (that has electricity, a stove, etc) - where his other Uncle and grandpa keep stuff to shoot deer. Q=When he touched your worm and your butt was it on clothes or under clothes? A=on clothes. Q=And what did he touch you with? A=his hands. Q=did he say anything or ask you anything when he was doing it? A=no. Q=And you remember in that room there were posters on the walls of naked women? A=nodded. Q=was there furniture in the room? A=shrugged. Q=did he show you any part of his body? A=shake head no. Q=Did he ask you to touch him? A=nodded. Q=What part of his body did he ask you to touch? A=his worm. Q=Did he have clothes on or clothes off? A=on. [redacted] was reassured that he was not in any trouble and would not get in trouble for anything he said today - that it was okay to say he didn't remember or know if that was the truth.

The interviewer introduced the dolls - not for playing with, not toys, but only for showing things that really happened. [redacted] demonstrated using two dolls. Q="I would like you to try to show me with these dolls what happened at Uncle FA's. How the clothes were exactly and everything." [redacted] showed Uncle FA touched Dustin on the butt over clothes and then pushed him down to the floor with clothes on. Then Uncle FA was touching his own worm over clothes. Then looked like he was going to open his pants. Then Uncle FA jumped on him on the floor and touched [redacted]'s worm on clothes. He tried to take [redacted]'s shirt off. And then [redacted] started fighting and got him off, then ran and got [redacted], and hid in the deer house. After the demonstration, [redacted] said "And then I wanted to beat him up."

Interviewer attempted to pin down time frame. [redacted] says it happened when he was 6 years old. He says he knows it wasn't 5K because he skipped 5K. He thinks it was first grade and named Mrs. Asbill as his teacher at the time. He did not remember what time of year. There were leaves on the ground from the trees but not fall leaves.

Evaluator Signature:

Date:

FEB 03 2005

023

Narrative Summary Continuation Page

█████ says he told █████ about it at the time – why they were running away. █████ wanted to go back and beat him up together. █████ felt they were too small to do it. █████ says no one else found out about it when it happened. Uncle FA did not say things to him about telling.

█████ states he was nervous about coming today – worried that he would be interrogated by people with a one-way mirror looking at him. He thinks that happened to █████.

█████ says he knows Uncle FA did things to other people, and he heard recently from his mom that Uncle FA did something to █████ and to her. (█████'s mom says she told him this to help █████ feel okay that it happened to others also, but gave no details). According to █████, his Aunt █████ was the first to know because there were some kids she was watching and one of the kids (█████) did something to another one. Aunt █████ made that child write why he did it and then she read it. █████ says he really thinks the first one to know was his grandma.

Q=why do you think she knew? A=Because it was on her land and he [█████] ran straight to her. He got away just like me. Q=How did somebody find out what happened to you. A=█████ told the detective about it. Q=Did you talk to someone else about it. A=My Aunt took █████ to the detective and then she told my mom, because I would never have told my momma. I thought I would get in trouble. I thought I would just keep it a secret. █████ now understands he would not be in trouble.

█████ elaborated on the visits to Uncle FA. He was not supposed to go down there but didn't know why. They would go to do work and get paid. When he was 6 he described putting geese in cages, feeding goats, dogs, watering them. Carrying logs. He says they were paid \$5, \$10 or \$20 depending on how hard Uncle FA thought they worked. He and █████ both would go work. █████ says he continued to go to do work there when he was 7 and 8 years old also. Q=But you said you went back and did work after this happened – how did you keep yourself safe when you went back there? A="No – I didn't go back after that happened, after that I didn't go back. I waited a long time. We waited probably five weeks before we went back and he [Uncle FA] had forgot all about it." Q=so when you went back five weeks later or after this happened, did you ever go back in his house? A=no. Q=Did you ever go in his house before this happened? A=yeah, but it was always me and Cody together. █████ reconfirmed that it is a two story house (but hard to tell that is the case) and that it happened upstairs.

After a break for the restroom, Interviewer and █████ returned to the interview room. █████ was asked about any other possible incidents involving inappropriate touch or sexual abuse. He confirmed that the incident with Uncle FA happened upstairs in a room with posters of naked women on the walls and couldn't remember the furniture and couldn't remember any windows in the room.

SECOND PERPETRATOR

Q=Has anyone else ever touched you in these places (indicating genital areas)? A=no. Q= Have you ever seen someone else touch someone in those places? A=No. Q=Has anyone ever asked you to touch them? A=(nod)mm-hmm. Q=Who was that? A=A boy named Michael. Q=Where's he from? A=He's really really older than me; he's already out of school. In North Carolina. Q=So Michael in NC asked you too... A= To touch him. Q=to touch him where? A=on his worm. Q=when was that? A=It was a bunch of years ago. Q=do you remember where you were at when he did that? A=in the house. Q=at your house, at his house or...? A=(thinking hard) my house. Q=the house you live in with your mom now? A=no. Q=Different house? A=it was a trailer. Q=and you lived there with your mom... A=and my dad, and my brothers. Q=and how did Michael know you? A=Cause he's kind like a cousin. Q=do you know his last name? A=head shake no Q=Do you know who he's related to? A=(thinking hard) head shake no. Q=Michael lives in NC and he's out of school, older? A=yes. Q=Was he staying with you? A=yeah. Dustin was unable to say how long Michael stayed with them. He was reassured by interviewer, praised for saying 'I don't know' when that is the truth. Q=Do you remember where that happened, what room of the trailer? A=in the bathroom. Q=can you tell me a little bit about that? A=He told me to suck his worm.

Evaluator Signature:

Date:

FEB. 03. 2005

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Narrative Summary Continuation Page

Q=What happened then? A=He made me suck it and then he put his clothes back on and we got outta there. Q=Did he take your clothes off or make you take your clothes off? A=No. Q=And he took off some of his clothes or all of his clothes? A=He took off his pants. Q=did you tell somebody about that? A=(negative response) Q=Did somebody find out? A=(negative response) still not yet. Q=Have you ever told anyone before? A=no. Q=You're just telling me? A=nod affirmative. [redacted] describes clearly that Michael was in the bathroom first, and then told [redacted] to come in there. [redacted] does not remember what he said. He went in the bathroom. When asked whether the door was left open or closed, [redacted] said he had a hard time remembering it all because he was four years old when it happened. [redacted] does not remember if he was staying in the trailer that night or at all. [redacted] says nothing came out of his worm. That Michael told him to stop because he knew [redacted]'s dad was coming. They could hear footsteps in the house. There was no other adult in the house, just his dad. (It is not clear if this is [redacted]'s biological dad, who lived with them for a while after being very ill and receiving brain surgery that caused him serious functional problems - or id this is someone else referred to as dad). [redacted] says his dad was in the house but not sure where. He described his dad coming to use the bathroom, and he thinks Michael hid when his dad came. [redacted]: "And uh I was using the bathroom and my dad asked (unintelligible) and I said 'Yes, I'm using the bathroom' and then he went back too. And I opened the door and Michael came out. And my dad didn't see him." Q=were you ever by yourself with Michael again? A=mm-mm (negative response) Q=has someone else ever touched you besides Uncle FA or Michael? A=(negative response) Q=Has someone else ever asked you to touch them besides Uncle FA or Michael? A=(negative response).

[redacted] was asked to demonstrate what happened with Michael using the dolls. [redacted] says he thinks Michael was in school when this happened. That he lived in SC then, but now lives in NC. [redacted] demonstrated Michael in the bathroom. [redacted]: "He says to me 'come in there' Then he told me to shut the door, so I shut the door. And then, he does like this (demonstrated Michael doll opening his pants and pulling down his underpants himself). He told me to get down and then he told me to do that (carefully demonstrates [redacted] doll putting mouth on the Michael doll's penis) And then he heard my daddy coming and he did like that (demonstrates pulling up underpants and pants) and then he said... he jumped behind the shower curtain. Then my dad came. [to interviewer]: I need a third person." (Interviewer brings out another adult male doll - Hispanic doll) Q=is this one okay? A="yeah, even though my dad's not that color. So he came walking and he knocked on the door. He said 'anybody there?' I said 'yes I'm using the bathroom'. Okay and then I got done using the bathroom, and then he [dad doll] was walked away and he was sitting in the living room and watching TV. And Michael's room was right outside the bathroom. So I opened the door and walked off. Kay so I go in my room and he comes out, he looks for my dad and then he runs out. And then he went straight to his room." [redacted] stated that he had a lock on his door and he locked it. Then he called out to his dad "you can go to the bathroom" and his dad went into the bathroom and then went back to the living room. [redacted] states that Michael did not say anything to him about telling or not telling. That no one ever found out.

Dolls were dressed fully and put away. Interviewer reviewed safety with [redacted]. [redacted] named some adults he could tell if anything like this happens again. [redacted] was allowed to draw for some time before returning to the waiting room. Details about Michael were provided by [redacted]'s mother after the interview - she was briefed about the additional incident and alerted to make sure [redacted] was supervised with the family members who might have be a safety risk, or would pressure [redacted]. She was told not to alert family before talking to Eric Russell of LCSO.

Note: This is not a transcript; copy of video available upon request.

Evaluator's Signature:

[Handwritten Signature] MA EDT

Date:

1/14/05

FEB. 03. 2005 *

025

Exhibit F

302.2 Pedophilia

The paraphilic focus of Pedophilia involves sexual activity with a prepubescent child (generally age 13 years or younger). The individual with Pedophilia must be age 16 years or older and at least 5 years older than the child. For individuals in late adolescence with Pedophilia, no precise age difference is specified, and clinical judgment must be used; both the sexual maturity of the child and the age difference must be taken into account. Individuals with Pedophilia generally report an attraction to children of a particular age range. Some individuals prefer males, others females, and some are aroused by both males and females. Those attracted to females usually prefer 8- to 10-year-olds, whereas those attracted to males usually prefer slightly older children. Pedophilia involving female victims is reported more often than Pedophilia involving male victims. Some individuals with Pedophilia are sexually attracted only to children (Exclusive Type), whereas others are sometimes attracted to adults (Non-exclusive Type). Individuals with Pedophilia who act on their urges with children may limit their activity to undressing the child and looking, exposing themselves, masturbating in the presence of the child, or gentle touching and fondling of the child. Others, however, perform fellatio or cunnilingus on the child or penetrate the child's vagina, mouth, or anus with their fingers, foreign objects, or penis and use varying degrees of force to do so. These activities are commonly explained with excuses or rationalizations that they have "educational value" for the child, that the child derives "sexual pleasure" from them, or that the child was "sexually provocative"—themes that are also common in pedophilic pornography. Because of the ego-syntonic nature of Pedophilia, many individuals with pedophilic fantasies, urges, or behaviors do not experience significant distress. It is important to understand that experiencing distress about having the fantasies, urges, or behaviors is not necessary for a diagnosis of Pedophilia. Individuals who have a pedophilic arousal pattern and act on these fantasies or urges with a child qualify for the diagnosis of Pedophilia.

Individuals may limit their activities to their own children, stepchildren, or relatives or may victimize children outside their families. Some individuals with Pedophilia threaten the child to prevent disclosure. Others, particularly those who frequently victimize children, develop complicated techniques for obtaining access to children, which may include winning the trust of a child's mother, marrying a woman with an attractive child, trading children with other individuals with Pedophilia, or, in rare instances, taking in foster children from nonindustrialized countries or abducting children from strangers. Except in cases in which the disorder is associated with Sexual Sadism, the person may be attentive to the child's needs in order to gain the child's affection, interest, and loyalty and to prevent the child from reporting the sexual activity. The disorder usually begins in adolescence, although some individuals with Pedophilia report that they did not become aroused by children until middle age. The frequency of pedophilic behavior often fluctuates with psychosocial stress. The course is usually chronic, especially in those attracted to males. The recidivism rate for individuals with Pedophilia involving a preference for males is roughly twice that for those who prefer females.

Diagnostic criteria for 302.2 Pedophilia

- A. Over a period of at least 6 months, recurrent, intense sexually arousing fantasies, sexual urges, or behaviors involving sexual activity with a prepubescent child or children (generally age 13 years or younger).
- B. The person has acted on these sexual urges, or the sexual urges or fantasies cause marked distress or interpersonal difficulty.
- C. The person is at least age 16 years and at least 5 years older than the child or children in Criterion A.

Note: Do not include an individual in late adolescence involved in an ongoing sexual relationship with a 12- or 13-year-old.

Specify if:

Sexually Attracted to Males
Sexually Attracted to Females
Sexually Attracted to Both

Specify if:

Limited to Incest

Specify type:

Exclusive Type (attracted only to children)
Nonexclusive Type

302.83 Sexual Masochism

The paraphilic focus of Sexual Masochism involves the act (real, not simulated) of being humiliated, beaten, bound, or otherwise made to suffer. Some individuals are bothered by their masochistic fantasies, which may be invoked during sexual intercourse or masturbation but not otherwise acted on. In such cases, the masochistic fantasies usually involve being raped while being held or bound by others so that there is no possibility of escape. Others act on the masochistic sexual urges by themselves (e.g., binding themselves, sticking themselves with pins, shocking themselves electrically, or self-mutilation) or with a partner. Masochistic acts that may be sought with a partner include restraint (physical bondage), blindfolding (sensory bondage), paddling, spanking, whipping, beating, electrical shocks, cutting, "pinning and piercing" (infibulation), and humiliation (e.g., being urinated or defecated on, being forced to crawl and bark like a dog, or being subjected to verbal abuse). Forced cross-dressing may be sought for its humiliating associations. The individual may have a desire to be treated as a helpless infant and clothed in diapers ("infantilism"). One particularly dangerous form of Sexual Masochism, called "hypoxiphilia," involves sexual arousal by oxygen deprivation obtained by means of chest compression, noose, ligature, plastic bag, mask, or chemical (often a volatile nitrite that produces a temporary decrease

Exhibit G

1. No (or substantially diminished) subjective erotic feelings despite otherwise normal arousal and orgasm
2. Situations in which the clinician has concluded that a sexual dysfunction is present but is unable to determine whether it is primary, due to a general medical condition, or substance induced

Paraphilias

Diagnostic Features

The essential features of a Paraphilia are recurrent, intense sexually arousing fantasies, sexual urges, or behaviors generally involving 1) nonhuman objects, 2) the suffering or humiliation of oneself or one's partner, or 3) children or other nonconsenting persons that occur over a period of at least 6 months (Criterion A). For some individuals, paraphilic fantasies or stimuli are obligatory for erotic arousal and are always included in sexual activity. In other cases, the paraphilic preferences occur only episodically (e.g., perhaps during periods of stress), whereas at other times the person is able to function sexually without paraphilic fantasies or stimuli. For Pedophilia, Voyeurism, Exhibitionism, and Frotteurism, the diagnosis is made if the person has acted on these urges or the urges or sexual fantasies cause marked distress or interpersonal difficulty. For Sexual Sadism, the diagnosis is made if the person has acted on these urges with a nonconsenting person or the urges, sexual fantasies, or behaviors cause marked distress or interpersonal difficulty. For the remaining Paraphilias, the diagnosis is made if the behavior, sexual urges, or fantasies cause clinically significant distress or impairment in social, occupational, or other important areas of functioning (Criterion B).

Paraphilic imagery may be acted out with a nonconsenting partner in a way that may be injurious to the partner (as in Sexual Sadism or Pedophilia). The individual may be subject to arrest and incarceration. Sexual offenses against children constitute a significant proportion of all reported criminal sex acts, and individuals with Exhibitionism, Pedophilia, and Voyeurism make up the majority of apprehended sex offenders. In some situations, acting out the paraphilic imagery may lead to self-injury (as in Sexual Masochism). Social and sexual relationships may suffer if others find the unusual sexual behavior shameful or repugnant or if the individual's sexual partner refuses to cooperate in the unusual sexual preferences. In some instances, the unusual behavior (e.g., exhibitionistic acts or the collection of fetish objects) may become the major sexual activity in the individual's life. These individuals are rarely self-referred and usually come to the attention of mental health professionals only when their behavior has brought them into conflict with sexual partners or society.

The Paraphilias described here are conditions that have been specifically identified by previous classifications. They include Exhibitionism (exposure of genitals), Fetishism (use of nonliving objects), Frotteurism (touching and rubbing against a nonconsenting person), Pedophilia (focus on prepubescent children), Sexual Masochism (receiving humiliation or suffering), Sexual Sadism (inflicting humiliation or suffer-

ing), Transvestic Fetishism (cross-dressing), and Voyeurism (observing sexual activity). A residual category, Paraphilia Not Otherwise Specified, includes other Paraphilias that are less frequently encountered. Not uncommonly, individuals have more than one Paraphilia.

Recording Procedures

The individual Paraphilias are differentiated based on the characteristic paraphilic focus. However, if the individual's sexual preferences meet criteria for more than one Paraphilia, all should be diagnosed. The diagnostic code and terms are as follows: 302.4 Exhibitionism, 302.81 Fetishism, 302.89 Frotteurism, 302.2 Pedophilia, 302.83 Sexual Masochism, 302.84 Sexual Sadism, 302.3 Transvestic Fetishism, 302.82 Voyeurism, and 302.9 Paraphilia Not Otherwise Specified.

Associated Features and Disorders

Associated descriptive features and mental disorders. The preferred stimulus, even within a particular Paraphilia, may be highly specific. Individuals who do not have a consenting partner with whom their fantasies can be acted out may purchase the services of prostitutes or may act out their fantasies with unwilling victims. Individuals with a Paraphilia may select an occupation or develop a hobby or volunteer work that brings them into contact with the desired stimulus (e.g., selling women's shoes or lingerie [Fetishism], working with children [Pedophilia], or driving an ambulance [Sexual Sadism]). They may selectively view, read, purchase, or collect photographs, films, and textual depictions that focus on their preferred type of paraphilic stimulus. Many individuals with these disorders assert that the behavior causes them no distress and that their only problem is social dysfunction as a result of the reaction of others to their behavior. Others report extreme guilt, shame, and depression at having to engage in an unusual sexual activity that is socially unacceptable or that they regard as immoral. There is often impairment in the capacity for reciprocal, affectionate sexual activity, and Sexual Dysfunctions may be present. Personality disturbances are also frequent and may be severe enough to warrant a diagnosis of a Personality Disorder. Symptoms of depression may develop in individuals with Paraphilias and may be accompanied by an increase in the frequency and intensity of the paraphilic behavior.

Associated laboratory findings. Penile plethysmography has been used in research settings to assess various Paraphilias by measuring an individual's sexual arousal in response to visual and auditory stimuli. The reliability and validity of this procedure in clinical assessment have not been well established, and clinical experience suggests that subjects can simulate response by manipulating mental images.

Associated general medical conditions. Frequent, unprotected sex may result in infection with, or transmission of, a sexually transmitted disease. Sadistic or masochistic behaviors may lead to injuries ranging in extent from minor to life threatening.

Exhibit H



ICHR 003FA72EB5 from SCCH

ATTSC412

.ICHR.003FA72EB5.SCCH.20110525 09:49:42

TO: ATTSC412-1269 20110525 09:49:42 003FA72EB5

FROM: SCCH-10956469 20110525 09:49:42

ICHR REQUEST FOR RAP SHEET

ORI-SC040015A FBI-237425HC6 PUR-C

ATN-DEB SHUPE

AUTHORIZED CRIMINAL JUSTICE AGENCY USE ONLY. CONTACT CONTRIBUTING
 AGENCY FOR SPECIFIC/MORE DATA ABOUT CHARGES AND/OR DISPOSITIONS.
 BECAUSE ADDITIONS OR DELETIONS MAY BE MADE AT ANY TIME, A NEW COPY
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PAGE-01 DATE-05/25/2011 TIME-09:55:33

REQ ORI-SC040015A ATTORNEY GENERALS

SID-SC01609639 FBI-237425HC6

NAME-OXNER, FRANCIS ARTHUR SEX-M RACE-W

HEIGHT-511 WEIGHT-180 EYES-HAZ HAIR-BRO SKIN- BORN-SC
 FPC- HENRY-

PHOTOGRAPH AVAILABLE

1-FINGERPRINT IMAGES ON THIS SUBJECT ARE STORED ON SCAFIS

DATE RECORD ENTERED--01/27/2005 DATE OF LAST UPDATE--01/19/2006

 ADDITIONAL IDENTIFIERS

NAME

BIRTH

DATES MARKS

SOC SEC MISC NUM

03081949

250921011

 CONTRIBUTOR/SUBJECT

DOA/RCVD CHARGE/DISPOSITION/ETC

OXNER, FRANCIS ARTHUR

12/15/2004

SC0320000 LEXINGTON CNTY SO

CASE-04099321

ATN-990000010735

WARR-H821238

CIT-16-3-655(1)-FELONY

ARREST CHARGE 01-CRIM SEX
 CONDUCT W/MINOR-<11YRS
 OLD-1ST DEGREE
 OFFENSE DATE-12/15/2004
 PHOTOGRAPH AVAILABLE

WARR-H821237

CIT-16-3-655(1)-FELONY

ARREST CHARGE 02-CRIM SEX
 CONDUCT W/MINOR-<11YRS
 OLD-1ST DEGREE
 OFFENSE DATE-12/15/2004

CIT-16-3-655(A)(1)-FELONY

DOC-05GS3201154 WARR-H821237

COURT CHARGE 01-CRIM SEX
 CONDUCT W/MINOR-<11YRS
 OLD-1ST DEGREE
 COURT DISP-NON-CONVICTION;

CIT-16-3-655(A) (1)-FELONY
DOC-05GS3201159 WARR-H821238

DISM/NOL PROS/PROS ENDED
COURT DATE-12/20/2005
ATN-990000010735

COURT CHARGE 02-CRIM SEX
CONDUCT W/MINOR-<11YRS
OLD-1ST DEGREE
COURT DISP-NON-CONVICTION;
DISM/NOL PROS/PROS ENDED
COURT DATE-12/20/2005

BASED ON SEARCH OF SCLED CJIS CCH FILE USING FBI/237425HC6
REQUESTED FOR CRIMINAL JUSTICE PURPOSES

SCLED CJIS RECORD INDICATES SUBJECT HAS NO OUT-OF-STATE ARREST INFORMATION

INQUIRY WILL BE FORWARDED TO: N C I C W A N T E D P E R S O N S

** S C CJIS END OF RECORD **



QWA 000679F28A from NC2K

ATTSC412

.QWA.000679F28A.NC2K.20110525 09:49:47

TO: ATTSC412-1270 20110525 09:49:47 000679F28A
FROM: NC2K-7991946 20110525 09:49:47
1L0131F50003C42QWA
SC040015A

NO NCIC WANT FBI/237425HC6

NO NCIC WANT SOC/250921011

***MESSAGE KEY QWA SEARCHES ALL NCIC PERSONS FILES WITHOUT LIMITATIONS.



ALAN WILSON
ATTORNEY GENERAL

ORIGINAL
FILED

2011 JUL 11 3:47

BETH A. CARRIGG
CLERK OF COURT
LEXINGTON SC

July 8, 2011

The Honorable Beth Carrigg
Lexington County Clerk of Court
205 East Main Street
Lexington, South Carolina 29072

2011CP3202607

RE: In the Matter of the Care and Treatment of Francis Arthur Oxner

Dear Ms. Carrigg:

Please find enclosed an original and two copies of a Petition Pursuant to the Sexually Violent Predator Act regarding the above referenced case. Please file the original and return certified copies in the self-addressed envelope provided for your convenience.

The Attorney General's Office is not required to pay a filing fee for Sexually Violent Predator Act petitions. Therefore, a filing fee is not enclosed.

If you have any questions, please do not hesitate to contact me at (803) 734-2593.

Sincerely,

Lloyd V. Flores, Jr.
Assistant Attorney General

LVF:grm
Enclosures

STATE OF SOUTH CAROLINA

COUNTY OF LEXINGTON

IN THE MATTER OF THE CARE AND TREATMENT OF
FRANCIS ARTHUR OXNER

IN THE COURT OF COMMON PLEAS

CIVIL ACTION COVERSHEET

Plaintiff(s)

vs.

2011 JUL 11 3:47

2011-CP - 32-

Defendant(s)

BETH A. CARRIGG
CLERK OF COURT
LEXINGTON SC

(Please Print)

Submitted By: James G. Bogle, Jr.

Address: Office of the Attorney General

P.O. Box 11549

Columbia, SC 29211

SC Bar #: 755

Telephone #: 803-734-3243

Fax #: 803-734-6679

E-mail: jrbogle@scag.gov

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

DOCKETING INFORMATION (Check all that apply)

*If Action is Judgment/Settlement do not complete

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

NATURE OF ACTION (Check One Box Below)

- | | | | |
|--|--|---|--|
| Contracts
☐ Constructions (100)
☐ Debt Collection (110)
☐ Employment (120)
☐ General (130)
☐ Breach of Contract (140)
☐ Other (199) | Torts - Professional Malpractice
☐ Dental Malpractice (200)
☐ Legal Malpractice (210)
☐ Medical Malpractice (220)
☐ Previous Notice of Intent Case #
20____-CP-_____
☐ Notice/ File Med Mal (230)
☐ Other (299) | Torts - Personal Injury
☐ Assault/Slander/Libel (300)
☐ Conversion (310)
☐ Motor Vehicle Accident (320)
☐ Premises Liability (330)
☐ Products Liability (340)
☐ Personal Injury (350)
☐ Wrongful Death (360)
☐ Other (399) | Real Property
☐ Claim & Delivery (400)
☐ Condemnation (410)
☐ Foreclosure (420)
☐ Mechanic's Lien (430)
☐ Partition (440)
☐ Possession (450)
☐ Building Code Violation (460)
☐ Other (499) |
| Inmate Petitions
☐ PCR (500)
☐ Mandamus (520)
☐ Habeas Corpus (530)
☐ Other (599) | Judgments/Settlements
☐ Death Settlement (700)
☐ Foreign Judgment (710)
☐ Magistrate's Judgment (720)
☐ Minor Settlement (730)
☐ Transcript Judgment (740)
☐ Lis Pendens (750)
☐ Transfer of Structured
Settlement Payment Rights
Application (760)
☐ Other (799) | Administrative Law/Relief
☐ Reinstate Driver's License (800)
☐ Judicial Review (810)
☐ Relief (820)
☐ Permanent Injunction (830)
☐ Forfeiture-Petition (840)
☐ Forfeiture-Consent Order (850)
☐ Other (899) | Appeals
☐ Arbitration (900)
☐ Magistrate-Civil (910)
☐ Magistrate-Criminal (920)
☐ Municipal (930)
☐ Probate Court (940)
☐ SCDOT (950)
☐ Worker's Comp (960)
☐ Zoning Board (970)
☐ Public Service Commission
(990)
☐ Employment Security Comm (991)
☐ Other (999) |
| Special/Complex /Other
☐ Environmental (600)
☐ Automobile Arb. (610)
☐ Medical (620)
☐ Other (699) | ☐ Pharmaceuticals (630)
☐ Unfair Trade Practices (640)
☐ Out-of-State Depositions (650)
☐ Motion to Quash Subpoena in
an Out-of-County Action (660)
☒ Sexual Predator (510) | ☐ cc: Box
☒ cc: Mail
☐ cc: Person
☐ cc: None | |

Submitting Party Signature:

Date: 7/5/11

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

1 State of South Carolina) In the Court
 2 County of Lexington) Of Common Pleas
 3 State of South Carolina,) Case No.: 2011-CP-32-02607
 4 Plaintiff,)
 5 vs.) Transcript of Record
 6 Francis Arthur Oxner,)
 7 Defendant.)
 8 _____)

9
 10 April 21, 2016
 11 Lexington, South Carolina

12 BEFORE:

13 The Honorable Diane Schafer Goodstein, Judge.

14
15 APPEARANCES:

16 James G. Bogle, Junior, Assistant Attorney
17 General
18 Attorney for the Plaintiff

19 Aimee Jendizejewski Zmroczek, Esquire
20 Attorney for the Defendant

21 ALSO PRESENT:

22 Francis Arthur Oxner
23
24
25

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1 Thereupon, the following proceedings were had,

2 BAILIFF: All rise.

3 THE COURT: Thank you. Please be seated. All
4 right. Counsel, I'm here and we have the file. Do you
5 wish to make a short opening statement? Y'all ready to
6 go?

7 MR. BOGLE: If I may, let me kind of set the picture
8 of where we are right now.

9 THE COURT: All right.

10 MR. BOGLE: As Your Honor knows, this case is under
11 the Sexually Violent Predator Act. Typically a person
12 being considered as being convicted of a sexually violent
13 crime who is nearing the end of his prison term, the
14 review is done, the multidisciplinary team, the
15 prosecutor review committee, and then we file a petition
16 to come to court with him already convicted to get an
17 evaluation.

18 There is one section of the law, however, which has
19 never been used until today that deals with a person
20 found not competent to stand trial. So what you have
21 here is Mr. Oxner was charged with sexually violent
22 crimes back in 2004. He was indicted back then. He was
23 found not competent to stand trial by evaluations back
24 then and hospitalized with the Department of Mental
25 Health somewhere within their system. Apparently,

1 according to them, he's at the point now where he's
2 nearing a release from where ever he is. That then
3 triggered the Sexually Violent Predator Act and under our
4 law a criminal conviction convicted of a sexually violent
5 offense found in the definition section of the law
6 includes being charged but determined to be incompetent
7 to stand trial for a sexually violent offense.

8 So what we have is, when we got the case, the
9 multidisciplinary team had done their thing. The
10 prosecutor review committee had done their thing, we
11 filed our petition, then we discovered in the file that
12 way back in 2004 or 2005 when he was found not competent
13 back then and unlikely to regain competence, the
14 Solicitor did what all Solicitors do, they nolle prossed
15 the charges.

16 So the way the law reads is for this section to go
17 forward, and by section I'm talking about 44-48-100(b) it
18 talks about a case where the guy is charged. So we had
19 him re-indicted last year.

20 So right now you have got two indictments pending,
21 one for criminal sexual conduct with a minor in the first
22 degree, and one for assault with intent to commit
23 criminal sexual conduct with a minor. And I have got
24 certified copies here I can pass up in a few minutes.

25 But anyway, so now we have an indictment. Since he

1 was re-indicted, the Solicitor's Officer had to get him
2 re-evaluated and that was done in 2014. I have a copy
3 here for the Court if you need to see it. Again he was
4 found not competent to stand trial. So there's nothing
5 criminal pending.

6 The purpose of this hearing, what I have to do is to
7 get him evaluated --

8 THE COURT: You said there is nothing criminal
9 pending.

10 MR. BOGLE: Well, it's pending.

11 THE COURT: Got it.

12 MR. BOGLE: But the Solicitor's Office is not
13 looking to prosecute right now because they can't. He's
14 not competent. So in order for me -- If this, again if
15 this was a normal probable cause hearing, he would have
16 already been convicted. So what I have to do under this
17 statute is I have to prove to you beyond a reasonable
18 doubt that he committed at least one of these sexually
19 violent crimes. And if we are successful there, then the
20 Court can order the evaluation and then we wait and see
21 how that comes out and consider whether to go through the
22 regular process. That's what we have got. I have a
23 memorandum of law that I have submitted to the Court.

24 Again it's never -- This section has never been
25 tested by the Appellate Courts in this state, and in at

1 least two other states, Kansas and Washington they have
2 looked at it and found it to be constitutional. It's a
3 strange bird but that's what it is.

4 THE COURT: Now, I read the statute earlier and it's
5 a little bit different than what you have just described.

6 MR. BOGLE: Mm-hmm.

7 THE COURT: Because (b) talks about certainly the
8 hearing, the determination beyond a reasonable doubt and
9 then it says, and after that, the last sentence, and I
10 want you to address this for me, because the last
11 sentence says if after the conclusion of the hearing on
12 this issue the Court finds beyond a reasonable doubt that
13 the person committed the act or acts with which he's
14 charged, the Court must enter a final order appealable by
15 the person on that issue.

16 MR. BOGLE: Right.

17 THE COURT: And may proceed to consider whether the
18 person should be committed pursuant to this chapter.

19 MR. BOGLE: Now, that language may proceed to
20 consider, our understanding of what that means all you
21 can do is order an evaluation like you would a regular
22 probable cause hearing and then if that evaluation comes
23 back saying the guy is a predator, he has a right to his
24 own independent evaluation and then there's a jury trial
25 down the road to commit him. So we are not at any point

1 trying to have you - if you find that he committed the
2 crimes, try to commit him today. I don't think due
3 process would allow that because number 1, the Department
4 of Mental Health wouldn't take him because the evaluation
5 of him has not been is he a sexually violent predator,
6 it's been is he competent to stand trial. Apples and
7 oranges. So I think the most we could ask the Court
8 today, if you find he committed the acts, is to order the
9 evaluation. So the words proceed to determine, we take
10 the position that's what it means. I think that's more
11 fair to him as well. We're not trying to put him in
12 now.

13 THE COURT: I understand. I got it.

14 MR. BOGLE: But again, I haven't got much guidance
15 here.

16 THE COURT: Ms. Zmroczek.

17 MS. ZMROCZEK: Good afternoon, Judge. Obviously I
18 have a problem with this section of the statute. I
19 believe it is completely unconstitutional. Mr. Oxner has
20 been since 2004 not competent, not likely to become
21 competent. He and I have tried to have conversations.
22 He can't assist me in any defense much less participate
23 in any proceeding.

24 Your Honor, I think that that right there, the
25 constitution addresses that. I understand what the

1 legislators were trying to do maybe in their wording of
2 this particular section of the statute but the due
3 process and the constitutional concerns addressing this
4 little (b) section of the statute are great to me. Mr.
5 Oxner, what they are asking you to is for you, the Judge,
6 to bypass all of his constitutional rights to a jury
7 trial and things like that because if you -- Have you had
8 an opportunity to read his most recent evaluation?

9 THE COURT: I have read -- I hate to say, when
10 people say most recent, it's like I don't know. I have
11 read one. I don't know if it's the most recent one or
12 not.

13 MS. ZMROCZEK: It was 2014.

14 MR. BOGLE: I have a copy for Your Honor.

15 THE COURT: Let me see it and then --

16 MR. BOGLE: It's very similar --

17 THE COURT: -- see if it's sort of what I read.

18 MR. BOGLE: It's similar to the one attached to our
19 petition from 2005 as far as the ultimate conclusion but
20 there it is.

21 THE COURT: All right. I'm listening.

22 MS. ZMROCZEK: Thank you. And as you're just
23 reading through it, the main thing, Your Honor, the first
24 line says in their opinion Mr. Oxner lacks capacity to
25 stand trial and is unlikely to be restored with further

1 treatment. Okay. He lacks the capacity to stand trial.

2 Well, now, what in essence the State is asking you
3 to do is to have a mini trial, you know, for you to
4 decide whether he's committed these crimes beyond a
5 reasonable doubt. I think that those two things are
6 conflicting. He does not have the capacity. He is
7 unable to participate. He does not have the capacity to
8 stand trial so I just don't think that we can go forward
9 with this determination and I understand that this is
10 maybe the one time before that it's come up whoever the
11 counsel just consented. Obviously that counsel wasn't
12 me, Your Honor.

13 I mean, I'm appointed to protect these
14 constitutional rights, and I know you're well aware of
15 that, regardless of how egregious the underlying facts
16 that they want to present may or may not be, I don't have
17 an opportunity to properly defend Mr. Oxner because, A,
18 he can't assist me and, B, the mental health people of
19 the state say that he doesn't have the capacity to
20 participate and assist me.

21 So that's my concern obviously. If we go forward
22 and just, you know, understand that it's in the statute
23 but ignore all the constitutional remedies, and I
24 understand that I can appeal, but I just have a concern
25 to allow another court to decide this issue. And I

1 understand they probably can appeal, too, but I just have
2 a concern that as you read the statute, if you find it
3 constitutional, I guess we can go forward. I'm just
4 limited in having a mini trial when I'm not able to --

5 THE COURT: I get it completely where you are coming
6 from, Ms. Zmroczek. Let me tell you, and let's have a
7 conversation about this, have a debate about that because
8 the first thing that I think we have to acknowledge is
9 that our Sexually Violent Predator Act is in the nature
10 of a commitment for treatment for mental health. We do
11 that in this state as in every state in this country
12 everyday of the year in every state in this country and
13 we, under our law we can commit individuals if they are
14 deemed medically to be a danger to themselves or others
15 and there are no, in the nature of a criminal case, there
16 are no constitutional - all of the constitutional
17 protections that attach to a criminal matter do not
18 attach to a civil commitment matter to a mental health
19 facility and we have to be mindful that in a civil
20 commitment when individuals are found to be a danger to
21 themselves or others those individuals also can be held
22 against their will for the protection of themselves and
23 the community.

24 The Sexually Violent Predator Act is in the nature
25 of a mental - it is a mental health commitment. It's

1 just because there is the overlay, if you will, of
2 typically and normally a criminal prosecution that I
3 believe the statute is addressing and instead of having a
4 lower standard which is applicable in another kind of
5 commitment which could be applicable here because
6 unfortunately and sadly as I understand it Mr. Oxner has
7 been diagnosed with paranoid schizophrenia. Many times,
8 many times people are hospitalized for paranoid
9 schizophrenia against their will when they have been
10 found to be a danger to themselves or others and they are
11 not allowed to leave upon their own will.

12 What is attendant here is a higher standard and the
13 higher standard of the finding is no doubt because the
14 topic, if you will, the beginning topic has to do with
15 acts that are criminal acts and it is those acts that
16 don't cause him to be hospitalized or anyone. It is
17 those acts that cause an evaluation. And I think that is
18 a very important difference because these acts are
19 symptoms of sexually violent conduct which can be
20 resultant from a mental abnormality and so there are more
21 building blocks, if you will, that must be attendant for
22 the State to hospitalize someone just as they could do if
23 someone by virtue of paranoid schizophrenia were deemed
24 to be a danger to themselves or others and so because of
25 the nature, let's say, for example, pedophilia and that

1 is a recognized illness, condition, syndrome, you know,
2 challenge, mental health challenge, there cannot be a
3 determination of pedophilia unless there have been acts
4 of a sexual nature against children. But that doesn't
5 cause you under our system to be hospitalized. It's the
6 beginning of a process. Once that's determined, then the
7 mental health evaluation comes next.

8 In other words, I think that the statute, if you
9 will, is more protective, not less protective because for
10 this hearing his freedom in terms of any kind of
11 conviction and imprisonment is not at risk. The fact
12 that he is hospitalized potentially, potentially, and not
13 allowed to leave because of being deemed necessary
14 treatment, is not, that is not a penal, a penalty under
15 the criminal law. It is a hospitalization in a
16 controlled environment because that person is found to be
17 at risk to others, not to himself or herself and others,
18 but to others. And so this step as I understand this
19 step this is the beginning step. This is not a criminal
20 trial from which Mr. Oxner's freedom is at risk for a
21 penalty.

22 Now, you're going to say a locked environment is a
23 locked environment. Well, but you could say that if he
24 was to be hospitalized because there was a danger to
25 himself or others because of paranoid schizophrenia just

1 the same, and those individuals must be restored to
2 a point where they are not a risk to themselves or
3 others.

4 What's different, what's different with our Sexually
5 Violent Predator Act is that we do remove the component
6 risk to themselves. There is no question. We do remove
7 that element and while certainly implicitly if someone is
8 a sexually violent predator, they are a risk to
9 themselves because you spend time, if you're going to
10 reoffend, then you certainly are a risk to your own
11 freedom. But that's not what we talk about. We do talk
12 about those folks because of the mental abnormality are
13 at a substantial risk to reoffend and the jury makes that
14 determination.

15 This finding is a finding that is required in order
16 to cause, in order to cause Mr. Oxner to submit to a
17 mental health evaluation. Now, and I think the standard
18 is really quite frankly a higher standard because as you
19 know before someone can be committed, they must be
20 examined by two physicians. Isn't that what statute
21 says? So this examination, they are fairly similar after
22 any determination that might be made. The difference is
23 is that because the allegations are of a criminal nature,
24 the legislature has decided that there is going to be a
25 heightened burden rather than what might happen in the

1 probate court during a civil commitment for someone who
2 finds themselves to be a danger to themselves or others.

3 You know, you have to, I think, to understand the
4 sexually violent predator to understand that the
5 intention is a treatment. Intention - it is not a
6 punitive intention. It is a treatment intention and it
7 comes out of a need for the - just as if someone was a
8 danger to others by virtue of paranoid schizophrenia that
9 that person would be held and treated until they were no
10 longer a risk to themselves but to others, this is very
11 much the same.

12 MS. ZMROCZEK: And I respect that, Your Honor. I
13 actually try a lot of the SVP cases. I'm the contract
14 attorney for those cases so I have tried several of them.
15 In fact, we have one on Monday another one. So I'm
16 familiar with act and the purpose. My concern is is that
17 what we are talking about here are alleged acts because I
18 understand that this is a civil commitment. I understand
19 all of that part. But what's different between this case
20 and every other SVP case is that they have been
21 previously convicted and in this case he hasn't been
22 previously convicted and so in essence it is a criminal
23 trial for the first part because they're asking the Court
24 to find that he committed these acts beyond a reasonable
25 doubt so having a criminal trial, and that's where I

1. argue that the legislature just got it wrong. I
2. understand why they wrote the protections.

3. THE COURT: Let me ask you this question, Ms.
4. Zmroczek. Your client suffers from paranoid
5. schizophrenia.

6. MS. ZMROCZEK: And is hospitalized.

7. THE COURT: Yes.

8. MS. ZMROCZEK: Yes.

9. THE COURT: And let's say -- Let's don't talk about
10. him. Let's talk about Mr. Doe. Let's say that Mr. Doe
11. suffers from paranoid schizophrenia and the reason that
12. this person's family brought this person into the
13. hospital and is asking for assistance because this person
14. was running around with a butcher knife in the mall.
15. That has to be established. That can't just be assumed.
16. It has to be established that this person is exhibiting
17. conduct that is a risk to them and saying I'm gonna kill
18. myself and everybody here. Well, that has to be proven.
19. You can't just walk in and say that about somebody and
20. all of a sudden they're locked up and to receive
21. treatment until they are no longer a risk to themselves
22. or others. We can't do that.

23. The standard is a lesser standard. It is not beyond
24. a reasonable doubt and it's the same here. It's a higher
25. standard. Now, why the legislature chose to make it a

1 higher standard I don't know, but they did. So let's
2 assume we have a hearing. Let's assume that Mr. Doe has
3 allegations and according to those allegations and the
4 court believes beyond a reasonable doubt that these
5 events occurred, then the next step isn't that the judge
6 then says, now, I'm going to commit him to the South
7 Carolina State Department of Corrections for 20 years.
8 The next thing that happens is this person now that this
9 determination has been made will be evaluated just the
10 same, just the same as if the person with the knife at
11 the mall. Standard is higher. The burden is a higher
12 burden. The standard a higher standard, but it's still a
13 treatment. The end result is a treatment. Now people
14 are locked up and no doubt that's the reason why the
15 standard is what it is. But it's certain that people are
16 locked up if it's the person with the knife at the mall
17 so --

18 MS. ZMROCZEK: And my concern, Your Honor, I'm sorry
19 to interrupt, but my concern is the person with the mall
20 and the knife and the danger, I get that. But my concern
21 is that's in probate. That's been designated for a
22 probate court decision, for a probate court determination
23 whether or not they are competent to even stand trial and
24 I understand that if they are found not competent, that
25 they get put into the facility or a facility where Mr.

1 Doe, you know, is put until he gets better.

2 THE COURT: Right.

3 MS. ZMROCZEK: Or he doesn't get better.

4 THE COURT: Right.

5 MS. ZMROCZEK: And I think that's the problem here
6 is that maybe he's still not getting better but maybe the
7 State doesn't know what to do with him. And so I have
8 concerns that they say, well, he's been in treatment for
9 ten years, he's been in this hospital, my client, and I
10 don't know if it's their intention to let him out. I
11 have no idea what is their intention with him but if they
12 are wanting to let him out, I just don't see given
13 reading his evaluations both of them and comparing them
14 and seeing in ten years that he has not gotten better to
15 make him even eligible to stand a criminal trial, how can
16 he even meaningfully participate in an evaluation to find
17 if he's, I mean, clearly he's got mental disabilities,
18 clearly because he's in civil commitment here right now
19 and I understand that.

20 So my concern is that, you know, I believe they
21 added that higher burden because they are trying to
22 somehow back door or circumvent that whole jury process
23 trial by putting the burden on the judge, but I still
24 think that putting that same burden that a jury would
25 have to find in a criminal trial onto you, because what

1 the difference is is the conviction and since he hasn't
2 been convicted because he can't participate in that
3 process and that is where my main concern is with this.

4 THE COURT: I understand. And I don't see it as a
5 conviction. It's a finding and it's certainly not a
6 conviction. It's a determination just like we just
7 talked about the fellow at the mall. The fellow at the
8 mall who commits a crime with a knife doesn't get the
9 benefit of probate court making that determination beyond
10 a reasonable doubt. It's a much, much lesser standard
11 and yet the treatment under detained status, if you will,
12 remains. This is treatment under detained status if, if
13 the determination is made beyond a reasonable doubt and
14 there's been an evaluation that makes a determination
15 that there is a mental problem, defect and there is a
16 substantial likelihood to reoffend and a jury concurs.
17 So there are many more layers, if you will. Whereas the
18 guy with the knife at the mall, the schizophrenia is a
19 lesser standard.

20 MS. ZMROCZEK: So I guess what my question is for
21 the Court is this: So you see this first hearing today
22 as not a criminal conviction finding?

23 THE COURT: I do not.

24 MS. ZMROCZEK: Or just that he - or a finding that
25 he committed these criminal acts? And if that's so, I'm

1 just trying to find out the difference between the two.

2 THE COURT: It is absolutely not a conviction.

3 MS. ZMROCZEK: Okay.

4 THE COURT: In other words, I believe that if
5 miraculously, and it would be a wonderful thing, you
6 know, no one wants to suffer from the mental health
7 challenges that I have seen and the documents and the
8 evaluations of Mr. Oxner. Nobody would want to suffer
9 that way. But let's say that miraculously tomorrow he is
10 restored to perfect health, let's say John Doe is
11 restored to perfect health and this proceeding has gone
12 forward, do I believe there is a criminal conviction?
13 Absolutely not. So that all of a sudden the judge would
14 simply then impose some sort of sentence? Absolutely
15 not. And the reason that that isn't a criminal
16 conviction is because we know he's not competent. This
17 is a civil matter. It blends because there are added
18 protections that the findings are at a higher level, but
19 it is certainly not a criminal conviction. Certainly is
20 not a criminal conviction. These are matters at a higher
21 standard that potentially sometime down the road could
22 lead to treatment in a facility where, of course, he
23 doesn't have the freedom to leave.

24 Now, with regards to why would you do it because
25 he's already in treatment, he's been there for ten years,

1 it isn't working, et cetera, the question I would ask
2 you, okay, do you believe that the Department of Mental
3 Health could make a determination we believe that John
4 Doe who has been treated for paranoid schizophrenia for
5 ten years, we are not comfortable that he is
6 at this point not a danger to himself or others because
7 we really believe that where the danger component now
8 lies is in the fact that we believe he has a mental
9 abnormality that is tied into a sexuality of John Doe now
10 and, therefore, we are going to move him and we are going
11 to move him into the sexually violent predator unit
12 because we believe, mental health, we believe that that's
13 the treatment that he needs and we can't give him that
14 because we are treating him for paranoid schizophrenia
15 and it isn't working and it isn't going to restore him.
16 Do you believe that the Department of Mental Health would
17 just say (indicating)? Put him in a car and we're gonna
18 move him across campus. See, I don't think that they can
19 do that.

20 MS. ZMROCZEK: See, that's what I think they are
21 trying to do and that's my concern.

22 THE COURT: Well, they are not trying -- If they
23 believe that, they must, they must follow the statute
24 because there must be judicial and public intervention
25 involved in that move. The judicial determination is in

1 the determination of the probable cause. This
2 anticipated hearing whatever happens will happen. The
3 public input was on the interdisciplinary determination
4 and a jury. There are many layers. We don't let them,
5 you're right, we don't let them make that move without
6 input both from the judiciary and from the public.

7 So, I mean, that's how I see it. I think you are
8 right to make all of those objections and your argument,
9 your concern is is that this is the end of the day a
10 criminal conviction because you are without your client
11 being competent in theory.

12 MS. ZMROCZEK: Right.

13 THE COURT: So irrespective of whether or not the
14 rules of evidence apply or anything else, your ability to
15 cross examine doesn't matter because he's not
16 competent.

17 MS. ZMROCZEK: Right.

18 THE COURT: I get it. I get it. But the difference
19 is is that the determination that they are requesting is
20 not a conviction. It's just simply not a criminal
21 conviction. It's not. Could never be because he isn't
22 competent. It is a finding that if made would cause him
23 to be evaluated to see if he has a abnormality.

24 MS. ZMROCZEK: And that's the clarification that I
25 needed. I understand your position. We can still go

1 forward with the trial. I just needed that clear
2 understanding.

3 THE COURT: You needed that on the record that that
4 is my understanding so that when the Appellate Court
5 deals with it, then they will at least have the benefit
6 of what I was thinking. Might be right. Might be wrong.
7 Statute might be unconstitutional, but at least in my
8 mind it really is, while it to some extent tracks a civil
9 commitment that is heard by the Probate Court, it has
10 many, many more layers of protection. That's my
11 opinion.

12 MS. ZMROCZEK: Certainly. My understanding is that
13 in the hearing they will put up witnesses and I will
14 attempt to cross examine just so the record knows that
15 I'm very limited in what I can --

16 THE COURT: And that must be a finding.

17 MS. ZMROCZEK: Yes.

18 THE COURT: That must be a finding. And I would
19 anticipate, and we'll talk about, I think that probably
20 at the conclusion of the taking of testimony there ought
21 be, and I will hold, y'all remind me, but it would be my
22 intention to hold an ex parte in camera examination to
23 that end because of the attorney/client privilege.

24 MS. ZMROCZEK: Okay. Perfect.

25 THE COURT: Because that finding must also be made

1 whether or not his current mental health had an affect on
2 your ability to --

3 MS. ZMROCZEK: I appreciate that. Thank you, Your
4 Honor.

5 THE COURT: Yes.

6 MR. BOGLE: Thank you, Your Honor. Just that I
7 think we are on the same, we are definitely on the same
8 page about the purpose of today's hearing. We are not
9 exposing him to a criminal conviction that will put him
10 in prison. That's not where we are. And the Solicitor's
11 Office who has been of great assistance to us in getting
12 him re-indicted so there would be pending charges is
13 aware of this as well. Today's hearing is to establish
14 whether or not you should have him evaluated under this
15 law, not to put him in prison. Again, it's a multi step
16 process and we are just at the first step.

17 THE COURT: Mr. Bogle, I was a little bit scared you
18 were going to stand back up and give me what are you
19 talking about?

20 MR. BOGLE: Just to clean the record up a little
21 bit, if we could make as court exhibit number 1 the 2014
22 evaluation for competency on the criminal side which I
23 handed up a minute ago.

24 THE COURT: This is September 11, 2014?

25 MR. BOGLE: That is correct, Your Honor. Dr.

1 Frierson, I believe, was the one that wrote the letter.

2 MS. ZMROCZEK: No objection. I believe the
3 evaluation was September 8th but I think it was faxed
4 September 11th but no objections.

5 THE COURT: You're exactly right. The letter is
6 September 11.

7 MR. BOGLE: All right. And then as court's exhibits
8 2 and 3 for the purposes of this hearing and this hearing
9 only the charging documents, and I have got certified
10 copies of the charging document alleging the criminal act
11 involving the two victims that we're gonna hear testimony
12 from. If that's court's exhibit 1. 2 could be
13 indictment number 2014-GS-32-6026, State of South
14 Carolina versus Francis Arthur Oxner, the charge being
15 assault with intent to commit criminal sexual conduct.
16 That's court exhibit number 2. Court exhibit 3 would be
17 indictment number 2014-GS-32-6024, State of South
18 Carolina versus Francis Arthur Oxner, indictment for
19 criminal sexual conduct with a minor in the first degree.
20 We have these certified copies just to complete the
21 record.

22 THE COURT: Thank you.

23 MS. ZMROCZEK: And my only objection, Your Honor,
24 would go to the criminal nature and just so that's
25 preserved.

1 THE COURT: Yes. Absolutely.

2 MR. BOGLE: Thank you, Your Honor.

3 (Whereupon, Court's exhibits #1, #2, #3 marked.)

4 MR. BOGLE: Your Honor, now proceeding with the case
5 we would like to call Cindi Floyd as a State's witness
6 please. Ms. Floyd, would you step forward please.

7 MS. ZMROCZEK: Your Honor, I hate to do this but if
8 they are going to have multiple witnesses, if we could
9 just sequester them. I think there is a room right
10 outside the courtroom.

11 MR. BOGLE: We have no objection. What the Judge is
12 asking is that you wait, whoever is going to testify wait
13 in the room next door. You can all wait there if you
14 want to. Just wait right outside in the conference room
15 and I'll come and get you.

16 MS. ZMROCZEK: I believe it has chairs and
17 everything in there, Your Honor.

18 THE COURT: Okay.

19 Thereupon,

20 CINDI DARLENE FLOYD

21 after having been first duly sworn, testified as follows,

22 THE COURT: And how do you spell Cindi?

23 THE WITNESS: C-i-n-d-i.

24 THE COURT: And I want you to take your time and be
25 sure you breathe, okay? All right. Your witness.

1 MR. BOGLE: Thank you, Your Honor.

2 DIRECT EXAMINATION

3 BY MR. BOGLE:

4 Q. Ms. Floyd, you have already told the Judge your
5 name. What county do you live in right now?

6 A. Lexington.

7 Q. Are you employed at the present time?

8 A. No.

9 Q. Okay. Have you previously had jobs of different
10 types?

11 A. Yes.

12 Q. What type of jobs have you worked?

13 A. Uhm, mostly finance.

14 Q. Finance, loans, things like that?

15 A. Mm-hmm.

16 Q. What about schooling. Where did you go to high
17 school and grammar school?

18 A. Batesburg/Leesville High School. My elementary
19 school was Utopia Elementary.

20 Q. And are you married at the present time?

21 A. No.

22 Q. Divorced?

23 A. Yeah.

24 Q. Do you have any children?

25 A. Yes.

1 Q. Is Cody Floyd the young man that was in here a
2 moment ago, is he one of your children?

3 A. Yes.

4 Q. I'm going to need you to answer some questions to
5 set out how things were back in 1979 and 1980. Back in that
6 time frame where were you living?

7 A. My dad's house with my dad. I was like seven or
8 eight years old. Seven years old.

9 THE COURT: Around seven years old and you were
10 living with your dad?

11 THE WITNESS: Yes.

12 BY MR. BOGLE:

13 Q. Talk loud enough for me to hear all the way over
14 here, okay? That good? What town or community was this in?

15 A. Batesburg/Leesville.

16 Q. Is that a part of Lexington County?

17 A. Yes, it is.

18 Q. Now, the guy we are going to talk about today, Mr.
19 Oxner, his name is Francis Arthur Oxner, right?

20 A. That's correct.

21 Q. Was he known as F.A. by his two initials by a lot of
22 the family members?

23 A. Yes.

24 Q. Okay. Who was -- What was Mr. Oxner's relationship
25 family wise to you?

1 A. My uncle.

2 Q. Your uncle. So he was married to your mother's --

3 A. He is my dad's brother.

4 Q. Your dad's brother. Okay. Starting at the top, so
5 we have F.A. Oxner right here. What's his brother's name?

6 A. Leo Oxner.

7 Q. Leo. And Leo's daughter is going to be you; is that
8 right?

9 A. Correct.

10 Q. So that's the connection. F.A., I'm gonna call him
11 F.A. from time to time or I might call him respondent, Mr.
12 Oxner. F.A. was your uncle?

13 A. Correct.

14 Q. Did he live on the same general property area where
15 you were living back then?

16 A. It was connected, yes.

17 Q. By connected, what do you mean? Separate houses?
18 How was it set up?

19 A. Separate houses, but the property was separated
20 basically by a barbwire fence.

21 Q. Okay. Back in the 1979 to 1980 era about how old
22 would you have been back then?

23 A. About seven.

24 Q. Were you in school?

25 A. Yes.

1 Q. Where did you go to school back then?

2 A. Utopia Elementary.

3 Q. Who would your teacher have been? Do you remember
4 her name?

5 A. At the time it was Wanda Derrick. It's now Wanda
6 Brown.

7 Q. Okay. You were living on this property in a house
8 not too far from F.A.'s house; is that correct?

9 A. That's correct.

10 Q. I would like to ask you were there different things
11 that he had on his side of the property that attracted the
12 children who lived in that area?

13 A. Yes, sir.

14 Q. What might that have been?

15 A. Uhm, just lots of animals. Uhm, baby animals.

16 Q. He raised bunnies, rabbits?

17 A. Yeah. Ducks.

18 Q. What about candy and food and things like that?

19 A. Oh, yeah.

20 Q. Okay. At the time in question we are talking
21 sometime between August of '79, the beginning of the school
22 year and June of 1980 the end of that school year, did you
23 have an encounter with Mr. Oxner that you can tell the Court
24 about please? I know this is difficult but I need to ask you
25 just to walk through what happened.

1 A. Yes. Uhm --

2 Q. Did you go down to his building?

3 A. I went over to his house.

4 Q. Why was that?

5 A. Probably to feed the rabbits because that's what I
6 always liked to do.

7 Q. Was he present at the house when you went down
8 there?

9 A. Yeah.

10 Q. Is the man we are talking about, just for the
11 record, I have got to do this technically, just for the
12 record, is the man we are talking about present in the
13 courtroom today?

14 A. Yes, he is.

15 Q. Is that him sitting next to his lawyer over to my
16 left?

17 A. Yes, he is.

18 Q. So you walked down to his house to see the animals.
19 What happens?

20 A. We feed the rabbits and the baby ducks and then he
21 tells me to come inside, uhm, that he had different little
22 Debbie Cakes or whatever.

23 Q. You said Debbie Cakes, like snack food?

24 A. Yeah. Uhm, so I go inside and then he was always
25 real playful, real silly acting back then, not as incompetent

1 as he appears to be today.

2 Q. Now, you say back then. Let's talk. About how much
3 older would he have been than you back then?

4 A. Oh, God, I don't even know how old he is now. I'm
5 sorry..

6 Q. Like in his 40's or something?

7 A. Maybe.

8 Q. Certainly over 18?

9 A. Yeah.

10 Q. Okay. So you go inside. What happens?

11 A. Uhm, we were in the little kitchen area and he told
12 me to go upstairs, that he had some baby, baby chickens and
13 ducks up there for me to see. So I go up there and when I get
14 up there, he just, he proceeds to try to take my clothes off
15 of me.

16 Q. Did he grab you?

17 A. Yes.

18 Q. Did you give him at any time permission to touch you
19 in any way?

20 A. No.

21 Q. I have to ask you these things. Did it surprise you
22 that he grabbed you like that?

23 A. Yes.

24 Q. Okay. Did he say anything as he was doing this?

25 A. No. He was just real rough. Just real man

1 handling.

2 Q. What did he do with regard to your clothing?

3 A. Uhm, he got my pants and my underwear off.

4 Q. How old would you have been about the time this
5 happened?

6 A. Seven.

7 Q. This is second grade when Mrs. Derrick was your
8 teacher?

9 A. Correct.

10 Q. Ms. Derrick back then. Okay. Did he do anything
11 with his clothes? Take them off? Expose himself? Anything
12 like that?

13 A. Not right away.

14 Q. Okay. What happened next?

15 A. I tried to get away from him, but obviously at seven
16 years old compared to him I didn't and I told him to stop and
17 leave me alone and it was like talking to the wall and then he
18 did take his clothes off and he tried --

19 Q. Let me ask you, I have got to ask you some blunt
20 questions, Ms. Floyd. Did he expose his penis to you?

21 A. Yes.

22 Q. Did he try to get it inside you?

23 A. Yes.

24 MS. ZMROCZEK: Objection. Leading, Your Honor.

25 THE COURT: Don't lead.

1 BY MR. BOGLE:

2 Q. All right. After he exposed it to you, what did he
3 do next with regard to his penis? What did he try to do with
4 you?

5 A. He tried to penetrate me.

6 Q. Okay. How did this event end? What happened
7 next?

8 A. Well, like I said, obviously I couldn't fight him
9 away, but I just started kicking him and screaming and yelling
10 hoping that somebody would hear me and they didn't.

11 Q. Was his house located, the location where this is
12 happening, the second floor of his building, was it some
13 distance from the residence where other people lived?

14 A. Yes, sir.

15 Q. Okay. Go ahead. What happened next? How did you
16 get away?

17 A. I just started kicking him and hitting him and I
18 remember, I remember the color of the carpet. I remember the
19 curtains that were on the walls. The paisley home made quilts
20 that were on the beds.

21 MR. BOGLE: May I approach the witness, Your Honor?

22 THE COURT: You may.

23 BY MR. BOGLE:

24 Q. I'm going to show you some pictures you have looked
25 at before and ask you if you can identify what's in the

1 pictures, okay?

2 A. Okay.

3 THE COURT: Have they previously been marked?

4 MR. BOGLE: Not yet.

5 THE COURT: Okay. Let's mark them for
6 identification purposes.

7 MS. ZMROCZEK: If I just may look at them?

8 THE COURT: Of course.

9 MS. ZMROCZEK: Obviously I object to the relevance.

10 THE COURT: Yes, ma'am.

11 (Whereupon, State's exhibit 1 through 8 marked for
12 identification.)

13 BY MR. BOGLE:

14 Q. Okay. Ms. Floyd, I'll show you what's been marked
15 for identification as State's exhibit number 1 in a plastic
16 sleeve. This photo right here, what is that a picture of?

17 A. The house that he lived in.

18 Q. Okay. Now, I see where the house has a one story
19 part right here and a second floor up here. That's where he
20 was living?

21 A. Yes.

22 Q. Okay. As I show you these pictures, is that a true
23 and exact representation of what the house looked like? Is
24 that what it looked like when he lived there pretty much?

25 A. This part wasn't on there until later on. It was

1 just this part and then he later built this addition on.

2 Q. This addition on. The one story addition right
3 here?

4 A. Right.

5 Q. The two story part is right here?

6 A. Correct.

7 Q. Okay. And on the flip side of exhibit 1, what's
8 that a picture of? Is that the same door we saw a minute
9 ago?

10 A. That's the door that goes into the addition that he
11 later built on.

12 Q. Okay.

13 A. The door that goes --

14 Q. Let me ask you this: The crime that we are talking
15 about today happened back in the 1979, 1980 school year. When
16 did you and the other family members who were victims come
17 forward to the Lexington County Sheriff's Office about this
18 case?

19 A. Not until my son Cody came forward.

20 Q. So that was sometime in 2004? Roughly 2004 the best
21 you recall?

22 A. Yeah.

23 Q. Okay. So the pictures as far as you know, were
24 these pictures taken by the Sheriff's Office after y'all came
25 forward in 2004?

1 A. Yes, sir.

2 Q. So just to put the date in context, these are 2004
3 pictures and I'm asking you about a 1979, 1980 event?

4 A. Correct.

5 Q. Okay. Now, this picture right here, what does that
6 show? This is State's exhibit number 2 for identification.

7 A. This is all part of the original house that he had.

8 Q. And the flip side right here, is that just showing
9 some of the stuff in the backyard?

10 A. That's the door that you went in through that lead
11 into the kitchen.

12 Q. State's exhibit number 3, what are we looking at
13 right here?

14 A. That's the door that you went into.

15 Q. Same door?

16 A. (Witness nodding head.)

17 Q. And on the flip side, the bottom of the door? I
18 can't tell.

19 A. Looks like it was taken from the inside out of the
20 window.

21 Q. Okay. You testified earlier that he said something
22 about going upstairs?

23 A. Correct.

24 Q. State's exhibit number 4 for identification, what is
25 that a picture of?

1 A. The stairs.

2 Q. Okay. Is that the stairs he asked you to go up?

3 A. Yes.

4 Q. And the flip side of State's exhibit 4, what are we
5 looking at right here?

6 A. This was his living area. Behind this orange
7 curtain right here is where those stairs are.

8 Q. So the stairs we just came up to get to the second
9 floor living area?

10 A. No. This is still the first floor.

11 Q. Okay. And the stairs we saw are behind the orange
12 curtains?

13 A. Correct.

14 Q. Okay. State's exhibit number 5 for identification,
15 what are we looking at right here?

16 A. The upstairs.

17 Q. Is that the upstairs?

18 A. (Witness nodding head.)

19 Q. And the flip side?

20 THE COURT: And the answer was yes?

21 BY THE WITNESS:

22 A. Yes. It was the upstairs.

23 BY MR. BOGLE:

24 Q. Is the upstairs where the crime against you
25 happened?

1 A. Yes.

2 Q. Was it the same carpet back then as it was when they
3 took these pictures?

4 A. The 1970 shag green that everybody had.

5 Q. That's it right there on the floor?

6 A. Yes.

7 Q. On the flip side of number 5 we have another picture
8 here. Where is this? Is this upstairs or downstairs?

9 A. This is like when you come up these little stairs,
10 there's like this little landing thing right here and this is
11 an upstairs window that faced toward the back of his property
12 and there's another window over here that faced towards the
13 road of the property so this is like a landing where he had
14 obviously shelves built.

15 MS. ZMROCZEK: Your Honor, I'm going to specifically
16 object to anymore pictures he tries to put in that
17 contain pornographic material because there's been no
18 testimony about that up to this point.

19 THE COURT: Okay.

20 BY MR. BOGLE:

21 Q. Let me ask you this: Back then --

22 A. Yes.

23 Q. -- did he keep pornographic --

24 A. Yes, he did.

25 Q. -- material around the house?

1 A. Everywhere.

2 Q. Okay. By pornographic material, what are we talking
3 about?

4 A. Uhm, pictures, centerfolds hanging up all over the
5 house.

6 Q. Okay.

7 A. Just, it was everywhere.

8 Q. All right.

9 A. And I'm - if I'm not mistaken some of the
10 pornography that was found was dated back to the '70's.

11 Q. Now, these pictures you have all looked at so far,
12 are these true and exact representations of what you remember
13 about the house?

14 A. Yes, sir.

15 Q. These photographs show what they show?

16 A. Yes, sir.

17 MR. BOGLE: Okay. We move to introduce these
18 exhibits, State's 1, 2, 3, 4, and 5 into evidence
19 at this point in time.

20 THE COURT: All right. Your objection is noted.

21 MS. ZMROCZEK: Thank you, Your Honor.

22 THE COURT: Over the objection they are admitted.

23 BY MS. BOGLE:

24 Q. Now, you testified a minute ago that through
25 struggling you got away?

1 A. Yes.

2 Q. Did this type of thing ever happen again to you by
3 him?

4 A. Yes.

5 Q. Okay. Was it the same house where he was living we
6 have already looked at in those pictures before?

7 A. Yes, sir.

8 Q. Do you remember how old you were when it happened
9 again?

10 A. Probably still seven. No more than eight. Like
11 once you hit puberty he had no more interest in you.

12 Q. At some point in time as you got older did his
13 interest stop?

14 A. Yes.

15 Q. Okay. Back then and even in the years forward from
16 back when this happened in 1979, 1980 up until 2004 when you
17 all went to the Sheriff's Department, during all that time did
18 Mr. Oxner live in the same location?

19 A. Yes.

20 Q. Do you know what his, or did you ever learn what his
21 source of income was or did he have a job of any kind?

22 A. No. He received some kind of check from the
23 government.

24 Q. Okay. Do you know whether or not he ever served in
25 the military at any time in his life?

1 A. I'm not sure. I don't know.

2 MR. BOGLE: Okay. Ms. Floyd, that's all the
3 questions I have right now. Please answer any questions
4 that counsel may have or the Judge may have, okay?

5 CROSS EXAMINATION

6 BY MS. ZMROCZEK:

7 Q. If you can hear me, I'll just ask them from here, if
8 that's okay. Ms. Floyd, can you tell me who Michael Day is?

9 A. I can tell you, but what does that have to do with
10 this case?

11 Q. Didn't you accuse Mr. Day of abusing family
12 members?

13 A. He's already been convicted of 39 and a half years
14 for molesting my youngest son.

15 Q. And he actually lived at the house that you have
16 just described in all those pictures; is that correct?

17 A. No, he did not.

18 Q. And you remember -- So this happened in 1979 and
19 1980?

20 A. Yes.

21 Q. And who did you tell in 1979 and 1980?

22 A. I didn't really tell anyone. Uhm, I may have
23 mentioned it to my mom or dad and my mom and dad talked to my
24 grandfather and my grandmother and they said they would take
25 care of it.

1 Q. So as of 2004 there had been no charges and you had
2 never given a statement to any police; is that correct?

3 A. That's correct.

4 Q. But then in 2005 you gave a statement to Detective
5 Eric Russell. Do you recall that?

6 A. Yes, I do.

7 Q. Do you recall telling him that you don't remember
8 why you were at F.A.'s house that day?

9 A. It's possible that, yes, I told him that. But, I
10 mean, I know the reason why I usually went down there was
11 because I liked the rabbits and I liked the ducks and he had
12 many, many, many rabbits and different kinds of rabbits.

13 Q. But you didn't put that in your statement ten years
14 ago?

15 A. No, I didn't put that in my statement because that
16 was when it was all fresh and new that I had to sit here and
17 relive something that I should not have had to relive to begin
18 with.

19 Q. And I certainly apologize.

20 A. No. You don't apologize because you're smiling and
21 you're laughing like this is all one big joke to you.

22 MS. ZMROCZEK: Your Honor --

23 BY THE WITNESS:

24 A. No. I don't appreciate that. She's being very
25 disrespectful.

1 MS. ZMROCZEK: I just want the record to make sure
2 and everyone understands that I am not laughing and/or
3 smiling or taking this anything more than --

4 BY THE WITNESS:

5 A. You're not laughing and you're not smiling? Okay.
6 Is there a camera in the courtroom that can take a picture of
7 you to prove that? You've made nothing but a joke of this
8 ever since we came in here.

9 THE COURT: Stop. Ms. Floyd - Ms. Floyd, I need you
10 to regain your composure. We'll take a five minute
11 break.

12 THE WITNESS: She's being very disrespectful. I
13 have nothing more to say to her.

14 THE COURT: Ms. Floyd.

15 THE WITNESS: You go through what I've been through
16 and you have somebody laughing in your face and act like
17 it's a joke.

18 THE COURT: Ms. Floyd, I'm gonna give you about five
19 or ten minutes to regain your composure. These matters
20 are extraordinarily difficult.

21 THE WITNESS: Obviously she doesn't think so.

22 THE COURT: Ms. Zmroczek has a job to do and she is
23 a professional and an officer of the Court and I can
24 assure you that she is endeavoring to represent her
25 client and she means you no disrespect, I can promise you

1 that.

2 THE WITNESS: Well, she doesn't act very
3 professional.

4 THE COURT: I'm going to ask you to take about five
5 minutes --

6 THE WITNESS: Thank you.

7 THE COURT: -- and compose yourself. All right.
8 We'll take about five or ten minutes. Ms. Floyd, in an
9 abundance of precaution I'm going to ask you not to
10 discuss your testimony with anyone. Now, let me ask you
11 this question: We have got a jury room this way where
12 you can have some privacy or you can go this way. It's
13 completely up to you.

14 THE WITNESS: I just want to go outside.

15 THE COURT: I understand. I understand. I need you
16 not to talk about your testimony though.

17 THE WITNESS: I won't.

18 MR. BOGLE: With the Court's permission, may I
19 confer with Ms. Floyd about what's going on just
20 procedurally during this break?

21 THE COURT: Ms. Zmroczek.

22 MS. ZMROCZEK: Your Honor, I don't think --

23 THE COURT: What I'm going to ask you to do is to go
24 get the victim's advocate from the Solicitor's Office.
25 That's the appropriate person. We ought to have someone

1 here for these proceedings because you didn't bring
2 yours, right?

3 MR. BOGLE: We did not.

4 THE COURT: Okay. It's appropriate for her to have
5 one.

6 MR. BOGLE: Let me go see who they have got.

7 THE COURT: Very well.

8 MS. ZMROCZEK: Very good, Your Honor.

9 THE COURT: Let me do this. I'm gonna step over to
10 the Solicitor Office, too.

11 MS. ZMROCZEK: Okay. Thank you.

12 THE COURT: Thank you.

13 (Short recess.)

14 BAILIFF: All rise.

15 THE COURT: Thank you. Please be seated.

16 MR. BOGLE: Thank you, Your Honor. Ms. Floyd, would
17 you come back up and take the stand please.

18 THE COURT: All right! Ms. Floyd, we are going to
19 have a rule. If you need to take a break and breathe and
20 get out of here for a moment, we are going to do that.

21 THE WITNESS: I apologize to you.

22 THE COURT: I know. But I'm serious. If you need
23 to stop and if you need to take a break, this is not a
24 forced march, we are going to stop and we are going to
25 take a break, okay? All right. Yes, ma'am. Come on.

1 MS. ZMROCZEK: Thank you, Your Honor.

2 BY MS. ZMROCZEK:

3 Q. Ms. Floyd, I believe I was asking you about if you
4 recall giving the statement to Detective Russell in 2005?

5 A. Yes, I do recall giving that statement.

6 Q. And in that statement you stated that you did not
7 know why you were at his house that day.

8 THE COURT: I think she's answered that.

9 BY MS. ZMROCZEK:

10 Q. Yes. And in that statement you said that you were -
11 you did talk about the bunnies?

12 A. What now?

13 Q. In that statement did you say you did talk about the
14 bunnies?

15 A. I'll be honest with you, I don't really recall
16 exactly what I wrote. Can I read my statement? Am I allowed
17 to have my statement?

18 MR. BOGLE: I have a copy, Your Honor.

19 THE COURT: Let me just say to you, Ms. Floyd, if
20 anyone is talking about a writing and you want it, you
21 get to have it, okay?

22 THE WITNESS: Okay.

23 THE COURT: So thank you, Mr. Bogle.

24 MR. BOGLE: If I may approach, Your Honor.

25 THE COURT: Sure.

1 MR. BOGLE: This is a written statement dated --.

2 THE COURT: Let Ms. Zmroczek see what you're handing
3 her.

4 MS. ZMROCZEK: Three pages?

5 MR. BOGLE: I do not know.

6 MS. ZMROCZEK: Yeah.

7 MR. BOGLE: Yes. It's two pages.

8 MS. ZMROCZEK: Three.

9 MR. BOGLE: That's somebody else's.

10 MS. ZMROCZEK: Okay. So just the two pages?

11 MR. BOGLE: Yes.

12 MS. ZMROCZEK: Okay.

13 MR. BOGLE: Here you go, ma'am (proffering.)

14 THE WITNESS: Thank you.

15 MR. BOGLE: Your Honor, let the record reflect that
16 I have provided Ms. Floyd with a copy of the statement
17 she gave law enforcement back in 2004.

18 THE COURT: Okay.

19 MR. BOGLE: Thank you.

20 BY THE WITNESS:

21 A. Okay. Yes. This is my statement.

22 BY MS. ZMROCZEK:

23 Q. In that statement it doesn't say that he tried to
24 put his penis inside of you, does it?

25 A. You know, whenever you're faced with these kind of

1 things, you don't remember every single thing at the time that
2 you're writing it down, but as you sit and you think about it
3 you start to recall all of the details, all the little details
4 and if you have ever been through anything like that maybe you
5 would understand.

6 Q. And Mr. Oxner, F.A., doesn't have any children or
7 any heirs, correct?

8 A. No.

9 Q. So the only people who stand to inherit his property
10 and all of his money are your family members; is that correct?

11 MR. BOGLE: Objection as to relevancy, Your Honor.

12 THE COURT: Sustain the objection.

13 MR. BOGLE: Thank you.

14 BY MS. ZMROCZEK:

15 Q. When you remembered these new details that you
16 testified to today, did you call Detective Russell and inform
17 him?

18 A. Yes. Detective Russell knows, yes.

19 Q. Did you write a new statement?

20 A. No.

21 MS. ZMROCZEK: Thank you. Those are all the
22 questions I have, Your Honor.

23 THE COURT: Redirect.

24 MR. BOGLE: Nothing further from this witness, Your
25 Honor.

1 THE COURT: All right. And, Ms. Floyd, you can come
2 down. You're welcome to stay in the courtroom if you
3 wish. All right. Call your next witness.

4 MR. BOGLE: Thank you, Your Honor. Our next witness
5 is Cody Floyd. Let me go get him. He's outside.

6 THE COURT: All right.

7 MR. BOGLE: Your Honor, the State would call Cody
8 Floyd.

9 Thereupon,

10 CODY FLOYD

11 after having been first duly sworn, testified as follows,

12 THE COURT: Hold on. I'm sorry. I have been given
13 something I have to look at. It's not about this matter.
14 Okay.

15 DIRECT EXAMINATION

16 BY MR. BOGLE:

17 Q. Mr. Floyd, I'll need you to talk loud enough for me
18 to hear over here, okay?

19 A. All right.

20 Q. First off, state your full name.

21 A. Cody Lauren Floyd.

22 Q. Mr. Floyd, how old are you at the present time?

23 A. 21.

24 Q. What county do you live in?

25 A. Lexington County.

1 Q. Now, are you employed at the present time?

2 A. Yes, sir.

3 Q. What kind of job do you do?

4 A. Self-employed handyman business.

5 Q. Are you working any jobs right now?

6 A. Yes, sir.

7 Q. How many?

8 A. I have two jobs going on right now.

9 Q. Where are those jobs?

10 A. One is in Batesburg/Leesville and one is in
11 northeast Columbia off Clemson Road.

12 Q. What kind of jobs do you and your crew work? What
13 are these jobs that are going on right now?

14 A. Right now we're demoing a mobile home and the other
15 one is painting a 2300 square foot two story house exterior.

16 Q. I would like to turn the clock back to around the
17 2004 time frame right now, the summer of 2004. Back then
18 where were you living?

19 A. I was living with my grandma Louise, and Leo Oxner,
20 my grandpa.

21 Q. Okay. So at that time your grandma Louise was
22 married to Leo Oxner?

23 A. Correct.

24 Q. Your grandma's daughter, your mother would be who?

25 A. Cindi Floyd.

1 Q. Okay. And did you have a brother?

2 A. I had a older brother named Rocky Floyd and a
3 younger brother Dustin Floyd.

4 Q. Okay. Now on this property what area of Lexington
5 County was this property located in where you lived?

6 A. Leesville.

7 Q. Okay. Who else lived on the property besides you
8 and your grandmother?

9 A. It was my grandparent's house. Uhm, he had a mobile
10 home, a rental property and there was a little fence line that
11 ran between my grandpa's property and Mr. Oxner's property
12 there and the fence wasn't there no more and it fell down and
13 what not.

14 Q. Now, you say your grandmother Louise. She was
15 Louise Oxner back then; is that right?

16 A. Right.

17 Q. And her husband was who at that time?

18 A. Leo Oxner.

19 Q. Leo Oxner. What relationship was F.A. Oxner or
20 Francis Oxner, respondent in this case, what relationship was
21 he to Leo Oxner?

22 A. Be his brother.

23 Q. Okay. So what relationship was there between you
24 and F.A. Oxner?

25 A. My great uncle.

1 Q. Okay. And on the property we are talking about back
2 in the time frame of the summer of 2004, the time frame we are
3 talking about here, how old would you have been back then?

4 A. Approximately 10 years old.

5 Q. Okay. Were you in what, second grade?

6 A. Third grade.

7 Q. Third grade?

8 A. Yes, sir.

9 Q. Do you remember who your teacher was in third grade?

10 A. Ms. Harmon.

11 Q. What school would you have been going to?

12 A. Batesburg/Leesville Elementary.

13 Q. Okay. Mr. Oxner, the guy we are talking about, the
14 man we are going to talk about, is he present in the courtroom
15 today?

16 A. Yes, sir.

17 Q. Would you point to him there?

18 A. Right there (indicating.)

19 Q. Next to his lawyer over there?

20 A. Yes, sir.

21 MR. BOGLE: Let the record reflect he has identified
22 the respondent.

23 THE COURT: All right.

24 BY MR. BOGLE:

25 Q. Now, Mr. Floyd, was there something about, at the

1 time that Mr. Oxner lived on this property, this general
2 property with the different houses that you have talked about,
3 as best you recall back then did he have any kind of job?

4 A. Not that I know of.

5 Q. Okay. What did he do on his side of the property,
6 the house or building that he lived in?

7 A. Basically ran a petting zoo pretty much. There was
8 rabbits, chickens, pigs, horses, cows, anything that you could
9 think of he pretty much had it. As far as I knew that's what
10 went on over there. He did his own little farming thing and
11 then he had bicycles and everything, you know, a kid wanted to
12 see.

13 Q. Okay. Did kids tend to go over there to see the
14 bunnies and the chickens and the bicycles and things like
15 that?

16 A. Yeah.

17 Q. Did that happen a lot?

18 A. There was quite a few times. I remember one
19 incident where we went over there one time to go and borrow a
20 bicycle and it was my half brother Austin Black, we had went
21 over there to see if we could borrow a bicycle for him and
22 F.A., he wanted us to perform oral sex on him and we told him
23 no and started running and he chased us with a whip and he hit
24 my half brother in the back.

25 Q. Would that be Austin? Austin is the one he hit?

1 A. Yes, sir.

2 Q. Were you able to get away without being hit with a
3 whip?

4 A. Yeah. We finally made it back over to my grandpa's
5 barbecue shed. That's when the family kind of intervened and
6 the kids all went inside and was told not to go back over
7 there no more that day.

8 Q. Okay. If need to take any kind of break, a cup of
9 water, take a break, step outside, just let me know, okay?

10 A. I'm good.

11 Q. Now, I would like to turn to the time of the summer
12 of 2004. Did you go to Mr. Oxner's house during that summer
13 time for any reason?

14 A. Yes, sir. Probably quite a few times I have went
15 to, you know, go and like I said borrow a bicycle or borrow a
16 bicycle pump, pump up a tire on the bicycle or just to walk
17 over there and look at the rabbits or something, animals. It
18 was always something over there to catch your eye and would
19 just attract a little kid over there, you know.

20 Q. Okay. And on one of the occasions you went over
21 there back in 2004 during that summer by yourself, was there
22 something that happened between you and him that you can tell
23 us about please?

24 A. Yes, sir. I went to borrow the bicycle pump for my
25 tire on my bicycle and he told me the only way I could get it

1 is if, if I, his words were suck his dick. I didn't know no
2 better.

3 Q. Did he expose himself to you?

4 A. Yeah. And then he pulled it out and kind of put his
5 hand on the back of my head and pulled me on it and I didn't
6 know what to do. I just, just did it.

7 Q. Did you, after this event was over, did you leave
8 his premises, his property and go somewhere else?

9 A. Yeah.

10 Q. Did you later tell somebody what had happened?

11 A. I didn't tell nobody right away but I eventually
12 broke down and went to my aunt and she is present Candy.

13 Q. Your aunt's name is Candy?

14 A. Yes, sir.

15 Q. Now Candy Ricardi?

16 A. Yes, sir.

17 Q. Did you tell her what had happened?

18 A. Yes, sir. I went to her and told her everything
19 that happened and she ended up bringing me to speak with
20 Detective Russell at the Lexington County Sheriff's Department
21 and I made a report and a couple days later we had got word
22 that he had been picked up and here I am.

23 Q. Now, was this how the matter got reported to the
24 Sheriff's Department back in 2004?

25 A. Yes, sir.

1 Q. You told your aunt Candy?

2 A. Yes.

3 Q. And then everybody went down there?

4 A. Yes, sir.

5 Q. Okay. Did you give a written statement to the
6 Sheriff's Department back then?

7 A. I'm pretty sure I did.

8 Q. I would like to hand you a photocopy of this right
9 here. Is that a copy of the written statement you gave the
10 Sheriff's Department back when they began investigating this
11 case in 2004?

12 A. Yes, sir.

13 MS. ZMROCZEK: May I see it just to make sure it's
14 the same one I have.

15 MR. BOGLE. Yes.

16 MS. ZMROCZEK: Thank you.

17 BY MR. BOGLE:

18 Q. Okay. I'm just going to leave that right here.
19 Now, the place where this thing happened between, with him
20 attacking you like you said he did, did this happen inside his
21 dwelling or outside?

22 A. There was a little gray shed probably about a 10 by
23 20 square foot shed out by the edge of the road probably about
24 15 foot off of the road where he kept all his bicycles and
25 pumps and stuff like that and at the time when I approached

1 him to ask for this stuff, he was down at his house on the
2 swing out front. If you look at this picture here, there was
3 a swing back over this way looking at the house and, uhm, I
4 walked up to him. I asked him for that. That's when he told
5 me if I would suck his dick, that he would let me have the
6 bicycle pump and we started walking towards the shed to go get
7 the bicycle pump. That's when he exposed his self to me and
8 forced me to perform oral sex on him.

9 Q. Did the event, the act happen inside the bicycle
10 pump house or outside?

11 A. Yes, sir, inside.

12 Q. Okay. You were looking at a picture a minute ago.
13 Let me show you what's been marked as State's exhibit 1 right
14 now. What are we looking at right here, this one story
15 building and the two story building right there? How does
16 this relate to Mr. Oxner or where the thing happened to you?

17 A. This is his home. Yeah. He, uhm, he stayed in this
18 house. The shed was probably about maybe 50 yards back up the
19 driveway if you are looking at the picture to your left.

20 Q. You say there was a swing there back at that time?

21 A. Yes, sir.

22 Q. The swing would have been out in front of the
23 house?

24 A. Yes, sir.

25 Q. Okay. And this picture on the backside of State's

1 exhibit 1, is that the swing?

2 A. Yes, sir.

3 Q. Okay. And there's the door we saw a minute ago
4 right there?

5 A. Right.

6 Q. Okay. State's exhibit 2 is another photograph of
7 the area. What are we looking at right here?

8 A. That's the door that enters to the kitchen and this
9 part right here is the second story part. Uhm, there's been
10 times when I went down there, you know, just for, he always
11 had marshmallows. I remember like it was yesterday. Just a
12 bag of marshmallows. He would always, I guess that was his
13 way of getting us there. I don't know. Like I said, at the
14 time I didn't know any better. We would go down there. He
15 would have this stuff. It would be appealing. He would hit
16 you with that obligation to perform oral sex or whatever the
17 case may be.

18 Q. Did the oral sex thing you have told us about happen
19 more than once?

20 A. It was twice that I remember. And the second time
21 -- The first time I told you was in the shed. The second time
22 was through that door there.

23 Q. Okay. Which door are we talking about? Right
24 here?

25 A. On the other side.

1 Q. Let's see. This is State's exhibit number --

2 A. Yes, sir.

3 Q. That door right there?

4 A. Yes, sir.

5 Q. On the one story thing?

6 A. Yes, sir. You walk through that door to the left
7 and then to your immediate left there is a stairwell right
8 there.

9 Q. Okay. And this is State's exhibit 2. Is this the
10 stairway? I'll show you State's exhibit number 4, a
11 photograph. What are we looking at right here?

12 A. That's the stairway that leads to upstairs that I
13 was just telling you about.

14 Q. Okay. On the flip side?

15 A. That's when you come through the, through this door
16 here.

17 Q. The door right here on State's exhibit 2?

18 A. Yes, sir. And to your right that way would be the
19 kitchen and right here is the stairwell.

20 Q. So behind this burgundy curtain is the stairway I
21 just showed you right here on State's exhibit 4?

22 A. Yes, sir.

23 Q. Okay. Is State's exhibit 5, is that the top of the
24 stairs? The room at the top of the stairs?

25 A. Yes, sir.

1 Q. Okay. Is that pretty much the way it looked back --
2 Well, these were taken in 2004. Is that the way it looked
3 back in 2004?

4 A. Yes, sir. And there were porno magazines laying
5 everywhere and stuff like that that I remember just catching
6 my eye. You know, back then I didn't know that's what it was
7 but being a little older now and knowing more than I did then
8 I know that's what it was.

9 Q. When you told the police about what had happened,
10 did you also tell them about the porno magazines?

11 A. I'm not sure if I did in my report or not.

12 Q. Okay. I would like to show you what's been marked
13 as State's exhibit number 6 for identification. Is that the
14 kind of stuff you're talking about?

15 A. Yes.

16 Q. Pictures, porno magazines?

17 A. Yes, sir.

18 Q. Did you see things like this on the second floor in
19 his building?

20 A. Yes, sir.

21 Q. Okay. And on the flip side of State's exhibit 6 is
22 more pictures of the same thing. Is that what you saw?

23 A. Yes, sir.

24 Q. Okay. State's exhibit 7, were the pictures all in
25 the magazines or were they cut out and put somewhere?

1 A. There were pictures cut out. I remember there being
2 probably about a 18 by 24 poster of a black women on it and
3 her mouth being cut out.

4 Q. Okay. State's exhibit number 7, is that more of the
5 same pictures you saw in the house?

6 A. Yes, sir.

7 Q. And on the flip side of it more of the same?

8 A. Yes, sir.

9 Q. State's exhibit number 8, more of the same type of
10 pictures you remember being on that floor of the house?

11 A. Yes, sir.

12 Q. And on the flip side of that kind of the same.
13 thing?

14 A. Right.

15 Q. Is that the bed right there with the pictures
16 beneath them?

17 A. Yes, sir. When you first walk up the stairwell to
18 the left there was a bed there.

19 Q. Now, I just showed you State's exhibit number 8, 7,
20 and 6 for identification purposes. Are these all true and
21 exact, do these photos show exactly what you remember from
22 back then?

23 A. Yes, sir.

24 MR. BOGLE: Move to introduce these three into
25 evidence at this time, Your Honor, 6, 7, and 8.

1 THE COURT: Same objections?

2 MS. ZMROCZEK: Yes, Your Honor.

3 THE COURT: Very well. Over the objection they are
4 admitted into evidence.

5 BY MR. BOGLE:

6 Q. The place where all this happened, is it in
7 Lexington County?

8 A. Yes, sir.

9 Q. Okay. What's your date of birth?

10 A. 1/10/94.

11 Q. 1994?

12 A. Yes, sir.

13 Q. So in 2004 when this all happened, the summer of
14 2004 you would have been what?

15 A. Ten years old.

16 Q. Do you know off the top of your head how much older
17 than you F.A. Oxner is?

18 A. If I had to guess I would say probably about 40 to
19 50 years older than me.

20 MR. BOGLE: Mr. Floyd, thanks a lot. I would like
21 you to answer any questions that Ms. Zmroczek has or any
22 questions the Judge may have.

23 THE COURT: The first question I have is do you need
24 a break?

25 THE WITNESS: No, ma'am.

1 THE COURT: Are you okay?

2 THE WITNESS: Yes, ma'am. We may continue.

3 THE COURT: All right. Do you have water?

4 THE WITNESS: Yes, ma'am.

5 THE COURT: Okay. You may proceed with cross
6 examination.

7 MS. ZMROCZEK: Thank you.

8 CROSS EXAMINATION

9 BY MS. ZMROCZEK:

10 Q. Mr. Floyd, you said that your mom was Cindi Floyd?

11 A. Correct.

12 Q. But you had a legal guardian?

13 A. Yes. That was Louise and Leo Oxner.

14 Q. So Louise was your legal guardian and not your
15 mother?

16 A. Correct. They got custody of me when I was nine
17 years old.

18 Q. Okay. I just wanted to clarify that. And you said
19 that you were 10 years old when this happened?

20 A. Correct.

21 Q. Did you go to ARC and give an interview at this
22 time?

23 A. Where?

24 Q. Did the police take you to any counselors or anybody
25 to ask you questions and videotape you and ask you about what

1 happened?

2 A. Uhm, after this had all happened, uhm, I was
3 probably about 12 years old and I had talked to a counselor
4 about all of this. It was in Newberry, South Carolina.

5 Q. But you don't recall going to ARC and giving an
6 interview?

7 A. No.

8 MR. BOGLE: What is ARC?

9 THE COURT: I don't know what it is either.

10 MS. ZMROCZEK: I'm sorry. The Assessment And
11 Resource Center where they send children who have made
12 claims of sexual abuse.

13 THE COURT: Okay.

14 MS. ZMROCZEK: Sorry. It's something I have in the
15 paperwork that I was given of other people who went to
16 ARC with this defendant.

17 THE COURT: That must be locally here in Lexington
18 County.

19 MS. ZMROCZEK: Yes.

20 THE COURT: Okay.

21 MS. ZMROCZEK: I believe it's called different
22 things around the state.

23 THE COURT: It is. We have in Dorchester County the
24 Children's Center. There's the Low Country Children's
25 Center.

1 MS. ZMROCZEK: Right. It's a child advocacy center.

2 THE COURT: Right. The one you're speaking of is
3 called ARC?

4 MS. ZMROCZEK: Right. ARC. A-R-C. The Assessment
5 and Resource Center.

6 THE COURT: Okay.

7 BY MS. ZMROCZEK:

8 Q. But you don't recall being taken anywhere and being
9 taken into a room and talked to by a counselor or drawing
10 pictures or using dolls?

11 A. Uhm, when I went to talk with Detective Russell when
12 my aunt took me there, I remember drawing pictures and stuff
13 like that.

14 Q. Okay. And you wrote the statement in 2004. I
15 believe that Mr. Bogle gave you a copy of that?

16 A. Right.

17 Q. But you didn't mention any pornographic materials at
18 that time, did you?

19 A. Like I said, if I did - if I did not mention it in
20 my statement or whatever, I was 10 years old and, you know.

21 Q. And you were just writing down what you could
22 remember, right?

23 A. Right. Something that tragic happens to you, you
24 don't know what to do. Just kind of go with the flow.

25 Q. And you talked about the whip, but the whipping was

1 pretty traumatic, right?

2 A. Yep.

3 Q. But you left that out of your statement as well,
4 correct?

5 A. Right.

6 MS. ZMROCZEK: Your Honor, I have no further
7 questions.

8 THE COURT: Okay. Redirect?

9 MR. BOGLE: No, Your Honor. Thank you.

10 THE COURT: All right. You are free to go or you
11 can stay in the courtroom. Thank you. Call your next
12 witness please.

13 MR. BOGLE: The State has no more witnesses, Your
14 Honor.

15 THE COURT: Very well. All right. Will there be
16 any witnesses on behalf of the defense?

17 MS. ZMROCZEK: No, Your Honor.

18 THE COURT: All right. Very well. All right.

19 MS. ZMROCZEK: Your Honor, my client would like an
20 opportunity for you to, he has some questions about
21 what's going on. I have tried to explain it to him.

22 THE COURT: You go right ahead and take a minute.

23 MS. ZMROCZEK: Thank you.

24 (Discussion off the record between defense counsel
25 and client.)

1 MS. ZMROCZEK: Your Honor, his question has to do
2 with his current housing.

3 THE COURT: Okay. All right. Anything further from
4 the State?

5 MR. BOGLE: If I may, Your Honor, may I call
6 Detective Russell briefly?

7 THE COURT: Sure.

8 MR. BOGLE: I said no more witnesses, but let me put
9 him up very briefly. I'll get him.

10 THE COURT: Yes. Sure.

11 MR. BOGLE: I think he's outside. We would call
12 Lieutenant Russell.

13 THE COURT: All right.

14 Thereupon,

15 ERIC RUSSELL

16 after having been first duly sworn, testified as follows,

17 DIRECT EXAMINATION

18 BY MR. BOGLE:

19 Q. Would you, please, state your full name and
20 occupation for the record please.

21 A. Eric Redman Russell, Lieutenant at the Lexington
22 County Sheriff's Office.

23 Q. How long have you been with the Sheriff's
24 Department?

25 A. 23 and a half years.

1 Q. Okay. Let's turn the clock back to 2004. At that
2 time were you serving the Sheriff's Department in a different
3 capacity or with a different rank?

4 A. I was. I was a detective, a major crimes detective
5 at that time.

6 Q. Are you the investigative officer in the case
7 involving the respondent Mr. Oxner and the victims Cody Floyd
8 and Cindi Floyd and other victims as well?

9 A. I am.

10 Q. Were you the one who interviewed them when they all
11 came into the Sheriff's Department back in 2004?

12 A. Yes, sir, I did.

13 Q. There's been some statements made by the different
14 victims, handwritten statements, were those made pursuant to
15 your investigation?

16 A. That's correct. They were.

17 Q. Did you get a search warrant to look at the
18 residence and the location where the respondent lived?

19 A. Yes, sir, I did.

20 Q. Why was that?

21 A. After interviewing Cindi and learning where the
22 incident allegedly had taken place and she described how the
23 incident location looked at that time, I obtained the search
24 warrant to search his house to try to find evidence to
25 corroborate her statement.

1 Q. Okay. For example, by corroborate, if she described
2 the color of the carpet, were you looking for that?

3 A. That's correct. She described the color of the
4 carpet. She described some bedding. She described some
5 pictures that were on the wall there.

6 Q. Okay. I'm going to show you what's been marked
7 State's exhibits 1, 2, 3, 4, 5, 6, 7, 8. Each one is in a
8 plastic folder containing two photographs. What's your
9 connection to the taking of these photographs?

10 A. Upon serving of the search warrant, Detective Mike
11 Phipps who was CSI at the time and myself went to Mr. Oxner's
12 residence to serve it. After making entrance into the house,
13 Mike actually was the one taking the pictures and I was
14 standing there with him as he was taking pictures saying we
15 need a picture of this and a picture of that..

16 Q. So these are pictures that Mike took and you were
17 there when he took them?

18 A. That's correct.

19 Q. I would like you to look through them right now.
20 Well, let's just take them one at a time. The first one,
21 exhibit number 3 shows a door?

22 A. Yes, sir.

23 Q. What was that door as far as you know?

24 A. That's an exterior door to Mr. Oxner's residence.

25 Q. Okay. And the flip side shows part of the same door

1. I guess?

2. A. That's correct. That's the door to Mr. Oxner's
3 house.

4 Q. Okay. How does this door relate to where these
5 crimes happened?

6 A. Those crimes occurred inside that house.

7 Q. Okay. Was that the information that you had from
8 your witnesses when you went out there?

9 A. That's correct.

10 Q. Okay. State's exhibit number 5 shows an upstairs
11 area; is that right?

12 A. That's correct. That is the actual room that it was
13 alleged to have occurred in.

14 Q. The carpet matched the description that Cindi Floyd
15 gave you at the time?

16 A. Yes.

17 Q. Is that where he lived, his bed and everything on
18 the second floor?

19 A. I don't think he actually slept up there, his
20 bedroom, but that was a room inside that house.

21 Q. Okay. And the flip side shows, what am I looking at
22 right here?

23 A. That's the stairs going down out of that room to the
24 downstairs.

25 Q. Okay. And State's exhibit number 4 on one side, is

1 that the stairs?

2 A. That's the stairs from downstairs looking up, yes,
3 sir.

4 Q. And did the crime as it was explained to you by
5 Cindi Floyd happen upstairs in this house?

6 A. It did.

7 Q. Okay. And the flip side of that one shows this
8 photograph of some, of a room. Where are we talking about
9 right now?

10 A. That's as we entered into the, entered the house
11 from the exterior door.

12 Q. From an exterior door?

13 A. Yes, sir.

14 Q. And the stairs you showed me a minute ago are
15 where?

16 A. I think they would have been to the right if I
17 remember correctly.

18 Q. All right. State's exhibit number 2, what are we
19 looking at right here?

20 A. That's another exterior picture of Mr. Oxner's house
21 and the door we entered through.

22 Q. And the back side of it, is that also the exterior
23 of the building he lived in?

24 A. It is, yes, sir.

25 Q. State's exhibit number 1?

1 A. It's another picture of the house.

2 Q. Is this the exterior door we are talking about?

3 A. It is, yes, sir.

4 Q. And the stairs went up to the second floor here?

5 A. That's correct.

6 Q. And the flip side of that showing, is that the same
7 exterior door?

8 A. It is.

9 Q. This is State's exhibit number 4. Had you been told
10 anything about porn being in the building?

11 A. Yes, sir. Upon interviewing Cindi and other victims
12 they told me that at the time that this occurred that there
13 was pornography taped up to the walls up in the upstairs
14 room.

15 Q. State's exhibit number 6 the back and front, what
16 are we looking at right here?

17 A. These are just photographs of some of the
18 pornography that we found upstairs in Mr. Oxner's house.

19 Q. State's exhibit number 7, is that more of the
20 same?

21 A. Once again --

22 Q. Back and front?

23 A. -- pictures. Yes, sir. And I would point out that
24 that one does have tape on the back like it was affixed to the
25 wall at one time.

- 1 Q. That's State's exhibit number 7?
- 2 A. That's correct. Yes, sir.
- 3 Q. State's number 8, more of the same?
- 4 A. More of the same, yes, sir.
- 5 Q. Was there tape on these as though they had been hung
- 6 on the wall?
- 7 A. Some of them had tape on them, some of them
- 8 didn't.
- 9 Q. Okay. And the flip side shows more pornographic
- 10 pictures?
- 11 A. More pictures, yes, sir.
- 12 Q. Okay. So you were present when these pictures were
- 13 taken?
- 14 A. That's correct. I was.
- 15 Q. Are these all true and exact representations of what
- 16 you have just described and we have shown?
- 17 A. Yes, sir.
- 18 Q. Okay. Did you try to talk to Mr. Oxner?
- 19 A. I did.
- 20 Q. Were you the one that arrested him?
- 21 A. I went looking for him but he wasn't there and
- 22 another deputy actually arrested him later on.
- 23 Q. Okay. Was he given his Miranda Rights before you
- 24 tried to talk to him?
- 25 A. He was.

1 Q. Did you try to talk to him?

2 A. I tried. He did not want to talk to me.

3 Q. Okay. Was the location where all this happened in
4 Lexington County?

5 A. It was. Old Lexington Highway in Lexington
6 County.

7 MR. BOGLE: Okay. Thank you, lieutenant. Please
8 answer any questions counsel may have or the Judge may
9 have.

10 THE COURT: Cross examination.

11 MS. ZMROCZEK: Thank you.

12 CROSS EXAMINATION

13 BY MS. ZMROCZEK:

14 Q. Mr. Russell, I'm looking for an e-mail. I know that
15 I saw it. Maybe I'll just ask you about it and maybe you can
16 recall. Do you remember sending an e-mail in this case to
17 someone in the Solicitor's Office saying that there had been
18 allegations made by multiple family members and calling it
19 just a happy child molesting family, some report or some
20 reported and some denied; is that correct? Was that the gist
21 of the e-mail that you sent?

22 A. It's been ten years ago. I don't remember sending
23 an e-mail, but I do know that the information that I was told
24 that some people, yes, did report and some people did not.

25 Q. And, in fact, I found the e-mail. There's writing

1 on the back of it. I believe it was to Shannon Yurst who was
2 Solicitor at the time?

3 A. She was, yes.

4 Q. And in there you said this whole group lives in the
5 same general area. It's just one big happy child molesting
6 family. I'll show you your words just so you don't think I'm
7 making this up.

8 A. I believe you. Like I said, that's ten years ago.
9 I don't remember.

10 Q. (Proffering.)

11 A. Yes, ma'am.

12 Q. Okay. So there were allegations. Some were
13 founded, some weren't?

14 THE COURT: Are you placing that in evidence since
15 you have published it?

16 MS. ZMROCZEK: I was just refreshing his
17 recollection. I have notes on the back, but I can make a
18 copy. I'm sorry, Your Honor. I can put it into evidence
19 if we need to. But I was just trying to refresh his
20 recollection.

21 THE COURT: Well, you actually published it and you
22 asked him about it so I think it needs to go into
23 evidence if you're going to publish from it.

24 MS. ZMROCZEK: Certainly. If I may make a copy.

25 THE COURT: Of course.

1 MS. ZMROCZEK: Thank you. I'll make sure that gets
2 done today. I guess that will be defendant's 1.

3 THE COURT: Okay.

4 MS. ZMROCZEK: Thank you.

5 (Whereupon, Defendant's Exhibit #1 marked for
6 identification and admitted.)

7 BY MS. ZMROCZEK:

8 Q. You're familiar with ARC, correct?

9 A. Yes, ma'am.

10 Q. Can you tell the Judge what that is?

11 A. It's the Assessment and Resource Center. They do
12 forensic interviews and counseling for children and medical
13 exams.

14 Q. In fact, you did take children involved with
15 allegations in this case to ARC for evaluation, correct?

16 A. I remember one went. I don't remember if there was
17 anymore than that. I don't remember.

18 Q. You remember one being Dustin possibly going?

19 A. That's correct.

20 Q. But Cody didn't go?

21 A. That's correct.

22 Q. But he would have been the age that they would have
23 assessed him; is that correct?

24 A. Yes, ma'am.

25 Q. But for some reason he wasn't taken?

1 A. That's correct.

2 Q. Okay. Was it kind of a cascade of reports? For
3 example, one family member reported and then additional family
4 members started to report?

5 A. That's correct.

6 Q. That's what you recall?

7 A. Yes, ma'am.

8 Q. And you said that there had been mention of porn to
9 you in the statements given at the time --

10 A. Okay.

11 Q. -- ten years ago. Would there be a reason that
12 those were left out of the handwritten or out of your typed
13 written statements?

14 A. I have no idea.

15 Q. Okay. But if they are not in there, you would agree
16 with me, and I can show you your reports, but you would agree
17 with me that they are not in there?

18 A. I thought looking back over everything that there
19 was something in one of them about some porn on the walls but
20 if you have read them and say it's not in there, then maybe
21 it's not. I don't remember.

22 Q. But you said specifically that you remember Cindi
23 Floyd telling you about it?

24 A. About the pornography on the walls?

25 Q. Yes.

1 A. Yes.

2 MS. ZMROCZEK: Your Honor, I have no further
3 questions.

4 THE COURT: Redirect?

5 MR. BOGLE: No, Your Honor. Thank you.

6 THE COURT: All right. You can step down. All
7 right.

8 MR. BOGLE: At this time the State has no more
9 witnesses to present in the hearing regarding this
10 particular section of the statute.

11 THE COURT: All right. Let me ask you this
12 question: Because I have not reviewed the report and I
13 have to do that because as you know section (b) says that
14 if the person charged with a sexually violent offense has
15 been found incompetent to stand trial and is about to be
16 released and the person's sexual assault commitment is
17 pursuant to subsection (a), is it somewhere about the
18 fact that he's about to be released?

19 MR. BOGLE: The fact that we got the case from the
20 Department of Mental Health, and this might be in our
21 petition somewhere from the statute, we can rely upon
22 what's in our petition in lieu of live testimony, the
23 information, the way the case was presented, the
24 multidisciplinary team and then the prosecutor review
25 committee and then us was that he was not competent to

1 stand trial, remained that way, was about to be released
2 from the facility where he was.

3 THE COURT: Got you.

4 MR. BOGLE: So they then reviewed him to see if he
5 fit the criteria, they voted yes, it went to the PRC, the
6 committee, they voted yes, and here we are today.

7 MS. ZMROCZEK: Your Honor, in response to that, the
8 only petition, and I don't know if there's a different
9 one, the one that I have was filed in 2011. Is that the
10 one that you have?

11 MR. BOGLE: That's it.

12 MS. ZMROCZEK: So obviously my concern goes back to
13 my initial constitutional concern is if this was filed in
14 2011, certainly this hearing wouldn't be timely and I'm
15 just now noticing that because these were supposed to be
16 held within a certain time frame within the program.

17 Now, if they thought, if this went through the
18 multidisciplinary team in 2011 which was five years ago
19 almost, four years and ten months ago and they thought
20 that he was about to be released then, Your Honor, and
21 it's 2016 and he's still - I still don't think that they
22 meet the qualifications to have him fall within this
23 portion of the statute, in addition to all of my other
24 constitutional arguments. Thank you, Your Honor.

25 MR. BOGLE: Well, there has been a delay. The time

1 frames where statute mandates certain time frames is
2 first off, again, in a typical case where the guy is in
3 prison, the look back is 270 days from the date of his
4 max out date. The next thing is when the
5 multidisciplinary team, that's the timing for them to
6 look at the case. When they look at the case, they then
7 send it to the prosecutor review committee who has to
8 look at the case within 30 days of getting it from the
9 multidisciplinary team. If they vote yes, then the
10 Attorney General's Office has to file a petition within
11 30 days of that date which we did.

12 Now, as far as having the actual hearing there's no
13 time limit in the statute for the actual hearing that we
14 are here for today. The next time that it does kick in
15 is if you do find that the acts happened and order an
16 evaluation, the evaluator has 60 days to complete his or
17 her evaluation and if he or she needs an extension, you
18 can only get one through permission of the court. When
19 that evaluation does come out, then a clock starts
20 ticking for when the case has to be tried but we are not
21 there yet.

22 THE COURT: Let me see the 2014, or the latest, I
23 think it's 2014 evaluation.

24 MR. BOGLE: I think I handed it up.

25 THE COURT: It's been marked as an exhibit?

1 MR. BOGLE: Here it is. Judge, as far as my
2 witnesses as far as I'm concerned they can be released
3 now. I guess I'll leave it up to them.

4 MR. OXNER: I ain't said nothing. All three of them
5 is liars. That's all there is to it. All three of them.

6 MS. ZMROCZEK: Shh. Shh.

7 MR. OXNER: They all come in here to start with and
8 they framed me. Most liars I have ever seen in my life.

9 MS. ZMROCZEK: Shh. Shh.

10 MR. OXNER: They take no responsibility for their
11 actions, every one of them. They taking no
12 responsibility.

13 MS. ZMROCZEK: We'll talk about it later.

14 MR. OXNER: I ain't done nothing to nobody.
15 Everybody doing everything to me. They doing it all to
16 me. I ain't done nothing to nobody. They doing
17 everything to me. They all liars. Keep charging me in
18 here.

19 THE COURT: Mr. Bogle, this says that he's been
20 repeatedly retained by the Probate Court at yearly
21 commitment hearings. Has been treated with numerous
22 medications to treat his current condition.

23 MR. OXNER: They're not treating me. They're
24 charging me is what they're doing. That's all. Tell it
25 how it is.

1 THE COURT: So do you have any information if he's
2 to come up for an additional probate hearing? When was
3 the last one? Do you have any information about that?

4 MR. BOGLE: Nothing. None that's been made
5 available to us. Exhibit 3 to our original petition had
6 some documents in it relating from the forensic division
7 of inpatient services and there's a handwritten note. I
8 can bring this up and show you, our original petition.

9 THE COURT: Okay.

10 MR. BOGLE: Exhibit 3 to it right here is a
11 handwritten note. Let me find it.

12 THE COURT: Okay.

13 MR. BOGLE: It refers to SVP. The way it was
14 presented to us and the department was wherever he is,
15 he's nearing release and so the question is should the
16 SVP process be started and it was.

17 MR. OXNER: I never should have been locked up to
18 start with. Both of them are the biggest liars, if they
19 would listen to it. Tell them what they are.

20 MS. ZMROCZEK: Shh.

21 THE COURT: All right. I'll hear very brief
22 argument from either side if you wish to make it.

23 MR. BOGLE: Just basically, Your Honor, we think the
24 testimony as established by the burden of proof required
25 beyond a reasonable doubt is that he committed the acts

1 for which he was charged, specifically criminal sexual
2 conduct with a minor in the first degree of Cody Floyd
3 which is a sexually violent crime and assault with intent
4 to commit criminal sexual conduct on Cindi Floyd which is
5 also a sexually violent crime.

6 Like I mentioned earlier, under the definition
7 section of the act the word convicted includes among
8 other things being charged but determined to be
9 incompetent to stand trial for a sexually violent
10 offense. So what we are asking you to do now, part of
11 your order is to find that he committed the acts for
12 which he is charged, the two acts. The next part order
13 an evaluation by the Department of Mental Health under
14 the Sexually Violent Predator Act. In between those two
15 parts is all those other things that were in the statute
16 about the finding in him assisting himself, assisting his
17 counsel, things like that that impacted on today's
18 hearing. But we have no more testimony.

19 MR. OXNER: They're talking about something ain't
20 never happened. They talking about something that never
21 happened and you're believing every bit of.

22 MR. BOGLE: I believe we have met the burden of
23 proof.

24 THE COURT: I understand.

25 MR. BOGLE: Thank you, Your Honor.

1 THE COURT: All right. Yes.

2 MS. ZMROCZEK: Briefly, Your Honor.

3 THE COURT: We do need to have a -- Let me tell you,
4 we'll go ahead and do that now. We need to have an ex
5 parte hearing outside the presence of everyone other
6 than, of course, security and my court reporter, my
7 clerk, my Clerk of Courts and counsel, security folks
8 with him from the hospital.

9 MR. OXNER: I call for retrial. That's what I call
10 for.

11 THE COURT: And let me just --

12 MR. OXNER: Find out what the truth is.

13 THE COURT: If y'all will just give me just a
14 moment. Y'all please just take your leave from the
15 courtroom.

16 (Whereupon, an ex parte in camera hearing was
17 conducted and ordered sealed by the Honorable Diane
18 Goodstein.)

19 (Whereupon, the ex parte in camera portion of the
20 proceedings were concluded.)

21 (Whereupon, Mr. Bogle and other interested parties
22 re-entered the courtroom.)

23 THE COURT: All right. I am prepared to rule. I
24 have heard the evidence. I have heard the testimony
25 presented by Ms. Cindi Floyd and her son Cody Floyd. I

1 have heard also from the detective who investigated this
2 matter. I have reviewed the petition and I have reviewed
3 the evaluation, the latest evaluation of Mr. Oxner and I
4 believe that this hearing has complied with the
5 procedures specified in this section and the section, of
6 course, is 44-48-100 as well as the other parts of the
7 section of the violent predator statute.

8 I believe that I have enforced to the best of my
9 ability the rules of evidence. I believe that I have
10 likewise preserved Mr. Oxner's constitutional rights with
11 the exception that he has had a hearing today before me
12 and he has been adjudicated to be incompetent and I find
13 that that level of incompetence has continued. He is not
14 competent to stand trial.

15 MR. OXNER: This ain't no hearing. That police what
16 put me in here to start with.

17 THE COURT: And that continues. Obviously that
18 constitutional right has not been preserved, but it isn't
19 preserved pursuant to this statute.

20 Now, I will now make specific findings which I find
21 beyond a reasonable doubt.

22 First of all, I find that -- Let me see the
23 indictments.

24 MR. BOGLE: Court's exhibits?

25 THE COURT: Did you pass them up? Yeah, you did.

1 First of all, let me discuss Cindi Floyd. This is
2 indictment 2014-GS-32-6026 and it is an indictment for
3 assault with intent to commit criminal sexual conduct,
4 and I find beyond a reasonable doubt that Francis Arthur
5 Oxner did in Lexington County between August of 1979 and
6 June of 1980, that being the school year where Ms. Floyd
7 was seven years old, that he did assault her.

8 MR. OXNER: Well, it never happened. I think you
9 need to leave that out.

10 THE COURT: And that --

11 MR. OXNER: It never happened.

12 THE COURT: And that assault included --

13 MR. OXNER: That police told her what to say. That
14 never happened. That never happened. You can't rule on
15 something that ain't never happened.

16 MS. ZMROCZEK: Your Honor, at this point I'm
17 concerned that he may or may not say something; that I
18 have advised him not to speak. I believe that we can
19 have the hearing, since you have found him to be
20 incompetent, without his presence because I'm concerned
21 about what else he might say.

22 MR. OXNER: That's what they been doing.

23 THE COURT: Very well. Then I would ask you all --

24 MR. OXNER: You ruling on something that never
25 happened.

1 THE COURT: All right, sir.

2 MR. OXNER: You ruling on something that never
3 happened.

4 THE COURT: All right, sir.

5 MS. ZMROCZEK: Thank you, Your Honor.

6 MR. OXNER: You can't rule on something that never
7 happened. They been doing it for 12 years and punishing
8 me.

9 (Whereupon, Francis Arthur Oxner, the defendant, was
10 escorted from the courtroom.)

11 THE COURT: In other words, you have asked that your
12 client be removed because you just don't want him to in
13 any way in the event that he would be restored, in the
14 event there would be a prosecution, that he would hurt
15 himself by statements here today on the record?

16 MS. ZMROCZEK: Yes, Your Honor.

17 THE COURT: Very well.

18 MS. ZMROCZEK: Thank you.

19 MR. BOGLE: The State has no objection to him being
20 removed under those grounds, Your Honor.

21 THE COURT: Thank you.

22 MR. BOGLE: I think Ms. Zmroczek is acting in the
23 best interests of her client.

24 THE COURT: No question about that. I agree
25 completely.

1 Now, I find that the assault was made on Cindi Floyd
2 by Mr. Oxner grabbing her, she used the term man handling
3 her, but grabbing her, removing her pants, removing her
4 panties, and attempting to penetrate her with his penis.
5 He exposed himself to her and she after a vigilant fight
6 was able to free herself and escape from him apparently
7 and there certainly may have been another instance but
8 certainly with respect to this instance I find beyond a
9 reasonable doubt in Lexington County these matters I find
10 beyond a reasonable doubt occurred and find that the
11 State has proven beyond a reasonable doubt that Mr. Oxner
12 committed assault with intent to commit criminal sexual
13 conduct at the time she was seven years old.

14 Now, with regards to Mr. Cody Floyd, I find that in
15 the summer of 2004 that I find beyond a reasonable doubt
16 that Mr. Oxner committed a sexual battery upon Cody Floyd
17 who at the time was 10 years old, obviously a young man
18 under 11 years old and that he forced Cody Floyd to
19 perform fellatio or oral sex on him. He did it on two
20 occasions. These events occurred in Lexington County and
21 I find that they occurred beyond a reasonable doubt,
22 therefore, I find beyond a reasonable doubt that Mr.
23 Oxner committed the offense, the act of criminal sexual
24 conduct with a minor in the first degree.

25 Further, I find based upon the review of the records

1 from the Department of Mental Health that their goals
2 which the forensic division encloses or is enclosed in
3 the package I should say, that the goals by the
4 behavioral team appear as much as they can have, they
5 were sought to be concluded by 9/9/11. Apparently one of
6 the tasks is that Mr. Oxner would comply and verbalize
7 compliance with his medication and make at least three
8 non delusional comments during the hours of 8:00 to 5:00
9 for 12 months and engage with staff and peers in daily
10 conversation was accomplished. It appears that while the
11 target date was 9/9/11, there is a note and it appears
12 that that occurred 5/24/2011. It appears that the target
13 date perhaps was met early.

14 There is a note that the next targeted goal was
15 resolved on 3/10/11. And the target date for the
16 diabetes treatments, the target date is 9/9/11, and I'm
17 confident that his diabetes is controlled and there's
18 reference to it in the records that I have received, that
19 the Department of Mental Health is controlling whatever
20 diabetic condition he has.

21 When it comes, however, to patient will attend and
22 participate in group to discuss un - they say un. I
23 think they mean inappropriate sexual behaviors and take
24 ownership for his sexual offenses and demonstrate victim
25 empathy and the type of treatment in the sex offender

1 group, building support group, it says referred to SVP
2 which is, of course, I take that to mean referred to
3 sexually violent predator.

4 I think what has occurred based on my review of the
5 records is that any goals that the folks at the
6 Department of Mental Health sought to reach with him
7 apparently had taken place with the exception of the
8 treatment, sex offender treatment and by his comments
9 today it appears that he certainly has not successfully
10 completed sex offender treatment wherein he is able to
11 embrace empathy for his victims and hence the referral to
12 sexually violent predator group.

13 It appears to me that what is being communicated is
14 that the Department of Mental Health has taken him as far
15 as they can take him and that it is appropriate for him
16 to be referred for further treatment to a sexually
17 violent predator unit and as I look at all of this
18 information it appears to me that that then means that
19 this hearing is in compliance with 44-48-100.

20 Now I will make other specific findings. First of
21 all, let me just, I want to put on the record what I'm
22 referring to. The statute says the extent to which the
23 person's incompetence or developmental disability
24 affected the outcome of the hearing including its affect
25 on the person's ability to consult with and assist

1 counsel and to testify on the person's own behalf. I
2 find that Mr. Oxner's ability to help his lawyer, to
3 consult with and assist counsel to testify on his own
4 behalf, although he's certainly shouted out enough that I
5 got the point that he did not agree with what the
6 witnesses under oath testified to, he also makes other
7 statements in the records, in the treatment notes where
8 he makes specific admissions, however, I would find that
9 his ability to consult with and assist counsel to testify
10 on his own behalf and to assist counsel to be zero.

11 With regards to the extent to which the evidence
12 could be reconstructed without the assistance of the
13 person, I would tell you that Ms. Zmroczek being an
14 extremely experienced criminal defense attorney, she
15 cross examined these witnesses with precision expertly
16 and I don't believe, of course, it would call, I guess,
17 for some speculation, but I cannot imagine the cross
18 examination being any better. It was expertly done. It
19 was done on the basis of these individuals' statements
20 and having tried many criminal sexual conduct with a
21 minor and criminal sexual conduct cases based upon my
22 having heard these cases, the ability to cross examine
23 the alleged victims effectively is extraordinarily
24 important and to point out the discrepancies. I think
25 that Ms. Zmroczek has done that effectively completely.

1 So quite frankly other than the fact that no doubt
2 you can never say that the assistance of your client
3 wouldn't be helpful, but Ms. Zmroczek certainly cross
4 examined the victims extraordinarily well and I don't
5 know what assistance even this gentleman competent could
6 have done to help her. And, of course, that depends on
7 how many of the statements that he's already made with
8 his admissions in the records that I have read, how many
9 of those would have been utilized or available but her
10 cross examination was expertly done.

11 With regards to the strength of the case, I had an
12 opportunity to witness directly and to judge the
13 credibility of both Cindi Floyd and Cody Floyd's
14 testimony. I find their credibility to be absolutely
15 compelling. I find them credible. I find them
16 believable. I find that even though Ms. Cindi Floyd is
17 still a young woman, those events live on in her life and
18 in her memory with as much agony this day as they did in
19 the time period 1979 to 1980. I heard from that little
20 seven year old girl and you can feel her pain. The pain
21 felt by that little seven year old girl was only replaced
22 by the pain of a mother whose child had suffered abuse at
23 the hands of the same perpetrator and it was palpable.

24 I find that Cody Floyd was extremely credible. He
25 remembered details. They both remembered details. The

1 color of the carpet. What was on the bed covering for
2 Ms. Floyd. For him the buildings. What were in the
3 buildings. Where were the bicycles. Where were the
4 pumps. Marshmallows. The details of these events
5 clearly have been seared in these people's minds. They
6 are articulate. Their memories I am convinced beyond a
7 reasonable doubt are sharp, compelling.

8 So let me speak to the detective's memory. The
9 detective's memory was that of a detective for which this
10 particular case held a special significance. You can
11 just tell from his work. Didn't talk a lot about it but
12 apparently there were more victims. He talked about
13 that. And when he spoke of the memory even of Ms. Floyd
14 being the person that told him that there was pornography
15 throughout the house, that memory is crystal clear.

16 So I find that the State's case as presented by
17 Mr. Bogle was as strong a prosecution of these matters as
18 I have heard. I've heard none stronger and no witnesses
19 more compelling to include law enforcement, therefore, I
20 find that the prosecution's case today was crisp, clear
21 and just as strong I think as if this matter was
22 prosecuted in 1980 or '81 when these events occurred to
23 young Cody as well. Time has not dulled these two
24 victims' memory.

25 So it is my order that Mr. Oxner be evaluated and

1 once that evaluation has been done obviously, obviously
2 if it comes back that he is someone who suffers from a
3 mental abnormality and there is a substantial likelihood
4 that he is a sexually violent predator and will reoffend,
5 you know, Mr. Bogle, I know you will cooperate with Ms.
6 Zmroczek in terms of allowing her in submitting an order
7 to allow her to likewise have him evaluated. Who do you
8 --

9 MR. BOGLE: The Department of Mental Health provides
10 us the list of who does these things. Right now it's Dr.
11 Amy Swan. She is a psychologist who resides in Florida,
12 but is licensed in both states, is under contract with
13 DMH to do evaluations here in South Carolina.

14 THE COURT: All right.

15 MS. ZMROCZEK: I'm familiar with Dr. Swan. I would
16 just ask that she be also provided all of the materials
17 including his most recent DMH evaluation because I'm not
18 sure how effectively --

19 MR. BOGLE: Absolutely. Everything that we have we
20 give to you or your prior counsel and everything we get -
21 anything she asks for we'll make available to Ms.
22 Zmroczek. If during the course of the eval she needs
23 more stuff, everything goes to her.

24 THE COURT: Very well. I will then approve Dr.
25 Swan. If there is a change though, I have to know

1 because there is a particular doctor that I will not
2 under any circumstances approve so I need to know who the
3 doctor is.

4 MR. BOGLE: Well, for the Court's information, Dr.
5 Marie Gayle has been doing these.

6 THE COURT: That's fine.

7 MR. BOGLE: And then Dr. Swan has been brought in
8 right now.

9 THE COURT: That's fine.

10 MR. BOGLE: So those are your choices.

11 MS. ZMROCZEK: Additionally, Your Honor, they have
12 been relying on Dr. Burke out of MUSC.

13 THE COURT: Which one?

14 MR. BOGLE: We contract with MUSC for our own
15 evaluations.

16 THE COURT: I know both Dr. Burkes very, very
17 well.

18 MR. BOGLE: William in Summerville.

19 THE COURT: I have extraordinary confidence in both
20 of them. I just didn't know if it was Mr. or Mrs.

21 MR. BOGLE: I do, too.

22 THE COURT: Mr. or Mrs.?

23 MS. ZMROCZEK: Mr.

24 MR. BOGLE: William. Bill Burke in Summerville.

25 THE COURT: He is superb. The only problem is is

1 that Bill recently has had some health issues. I think
2 they are resolved, but he does an excellent job. Any one
3 of those three I'm perfectly happy with and certainly
4 know them. Dr. Burke just happens to be somebody since
5 that is my county I know him very, very well but any of
6 the three are fine. All right. Now, that is going to --
7 You will prepare an order for me?

8 MR. BOGLE: I will, Your Honor.

9 THE COURT: And that will be the order of the
10 Court.

11 MR. BOGLE: I have got a bare bones one with me but
12 I think it needs a little fluffing up some.

13 THE COURT: A little fluffing.

14 MR. BOGLE: I'll work on it and I'll get it by
15 e-mail to your clerk, is that okay? A copy to Ms.
16 Zmroczek.

17 THE COURT: Can you send it to me because my clerk's
18 fixin' to go get another job. Hes' going to work in a
19 different office and he's going to go off and fly the
20 coop.

21 MR. BOGLE: E-mail it directly to you with a copy to
22 your assistant?

23 THE COURT: How about a hard copy?

24 MR. BOGLE: Hard copy in the mail.

25 THE COURT: I'm old time.

1 MR. BOGLE: Hard copy.

2 THE COURT: That would be wonderful. And certainly
3 send it to Ms. Zmroczek before and after and I'm done.
4 Everybody clear? Finished and finished. I'm done with
5 this one. Yes?

6 MR. BOGLE: Yes.

7 THE COURT: I want to speak to Cindi Floyd a minute.
8 Do y'all have any objection to me doing that? I'm done.

9 MR. BOGLE: I don't.

10 MS. ZMROCZEK: No, Your Honor. And, Your Honor, I
11 believe that, just because I know this is the first time
12 it has been done this way, do I - does the statute read
13 that I need to appeal at this point or do I have to wait?
14 That's unclear.

15 THE COURT: If I were you, I would do it and have
16 them kick it back.

17 MR. BOGLE: It says what you do today is
18 appealable.

19 MS. ZMROCZEK: And that's the way I understood it.

20 MR. BOGLE: The only place in the law that says
21 that.

22 THE COURT: When in doubt, appeal.

23 MS. ZMROCZEK: Okay.

24 THE COURT: And they will tell you if you did it too
25 quick.

1 MS. ZMROCZEK: And your understanding is that I'm
2 just doing it for --

3 THE COURT: I think you must. I don't think you
4 have any choice. We're off the record.

5 WHEREUPON, THE HEARING WAS CONCLUDED.
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1 CERTIFICATE OF REPORTER

2 (STATE OF SOUTH CAROLINA)

3 (COUNTY OF LEXINGTON)

4

5 I, THE UNDERSIGNED, Steven E. LeBlanc, Sr., R.P.R.,
6 and Official Circuit Court Reporter for the Eleventh Judicial
7 Circuit in and for the State of South Carolina, do hereby
8 certify that I reported the proceedings in the before
9 captioned case in the Court of Common Pleas in and for the
10 State of South Carolina on the 21st day of April, 2016.

11 I FURTHER CERTIFY that the forgoing 103 pages
12 constitute a true and accurate record of said proceedings.

13 I FURTHER CERTIFY that I am neither related, counsel
14 to, nor of interest to any party hereto.

15 IN WITNESS WHEREOF, I have hereunto set my hand at
16 Lexington County, this 22nd day of July, 2016.

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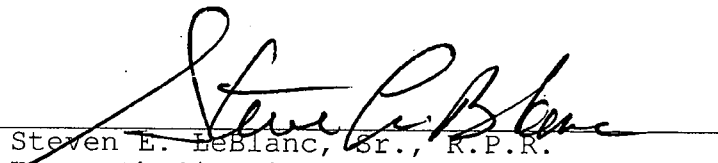
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Steven E. LeBlanc, Sr., R.P.R.
Eleventh Circuit Court Reporter
State of South Carolina.

Steven E. LeBlanc, R.P.R., Circuit Court Reporter
P.O. Box 184, Lexington, South Carolina 29071

ROA_0216

COUNTY OF LEXINGTON
BETH A. CARRIGG
CLERK OF COURT

IN THE COMMON PLEAS / GENERAL SESSIONS / FAMILY COURT

CASE NO. 2011 CP 32 - 02607

JUDGE Goodstein

CT. REP. Steve LeBlanc

DATE 4/21/16

CLOCK - IN AREA

(NOTES)

(1) _____

(2) _____

(3) _____

PLAINTIFF

VS.

DEFENDANT

State of South Carolina

Francis Arthur Oyner

Atty. James G. Bogle, JR.

Atty. Aimee Zmroczek

NO.	ID.	EV.	DESCRIPTION	NO.	ID.	EV.	DESCRIPTION
1	✓	✓	2 Photos - House	1	✓	✓	EMAIL 3/3/05
2	✓	✓	2 Photos - House				
3	✓	✓	2 Photos - DOOR				
4	✓	✓	2 Photos - Stairwell Doors				
5	✓	✓	2 Photos - Stairwell Attic				
6	✓	✓	2 Photos - Porno MAGS				
7	✓	✓	2 Photos - Porno PICS				
8	✓	✓	2 Photos - Porno PICS				

CT. REP

REC. BY

VERIFIED

TITLE

TITLE

WHITE: COURT RECORDS * YELLOW: EVIDENCE VAULT * PINK: FILE



State of South Carolina
Department of Mental Health

MENTAL HEALTH COMMISSION:

Allison Y. Evans, PsyD, Chair
Joan Moore, Vice Chair
Beverly Cardwell
Jene B. Jones
Everard Rulledge, PhD
J. Buxton Terry
Sharon L. Wilson

STATE DIRECTOR

Suzanna Mayes
Assistant Solicitor
205 E. Main St.
Lexington, SC 29072

September 11, 2014

Division of Inpatient Services
G. Werber Bryan Psychiatric Hospital
Forensic Evaluation and Treatment Services
7801 Farrow Road, Building #8
Columbia, SC 29203
Information: (803) 835-6588

Re: The State of South Carolina vs. Oxner, Frances
DMH Case #: 840-1136
Lexington County, Court of General Sessions

Dear Assistant Solicitor Mayes:

In accordance with the court order issued by the Honorable William Keesley, a competency to stand trial evaluation was conducted by the South Carolina Department of Mental Health, pursuant to S.C. Code Ann. § 44-23-410 (1976).

Please see the attached report for the results of this evaluation.

This 7 page document is certified to be the original court-ordered evaluation report issued pursuant to S.C. Code Ann. § 44-23-410 (1976).

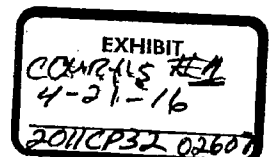
9/11/14
Date

Jeffrey E. Musick, PhD ABPP
Jeffrey E. Musick, PH.D., ABPP
Chief Psychologist
Forensic Evaluation Services
Department of Mental Health

cc: Bennett Castro, Attorney at Law, 407 1/2 W. Main St., Lexington, SC
29072

JM/tl

MISSION STATEMENT
To support the recovery of people with mental illnesses.



ROA_0218

CAPACITY TO STAND TRIAL
FORENSIC EVALUATION SERVICE
SOUTH CAROLINA DEPARTMENT OF MENTAL HEALTH (SCDMH)

DATE OF EVALUATION: September 8, 2014

PRESIDING EXAMINER: Richard L. Frierson, MD, Professor of Clinical Psychiatry,
University of South Carolina School of Medicine

SECOND EXAMINER: Josnel Fallvae, MD, Resident in Psychiatry
University of South Carolina School of Medicine.

OTHERS PRESENT: Ashley Dotson, Medical Student
West Virginia School of Osteopathic Medicine.

DIAGNOSES: AXIS I: Schizophrenia, Paranoid Type.
AXIS II: No Diagnosis.
AXIS III: Adult-Onset Diabetes Mellitus.
Hyperlipidemia.
Hypertension.
Gastroesophageal Reflux Disease.
Tardive dyskinesia secondary to antipsychotic medication

OPINION REGARDING COMPACTY TO STAND TRIAL: Mr. Oxner lacks the capacity to stand trial and is unlikely to be restored with further treatment.

DISPOSITION: Mr. Oxner was returned to Bryan Psychiatric Hospital Forensic Services at the completion of the evaluation.

IDENTIFYING INFORMATION: Francis Oxner is a 55-year-old Caucasian male who was seen at the Forensic Evaluation Service pursuant to a court order from the Lexington County Court of General Sessions. This court order requests evaluation of his competency to stand trial pursuant to State vs. Blair, 275 S.C. 529, 273 S.E. 2d 536 (1981) and S. C. Code Ann. §44-23-410 (1976). According to the court order, it was issued for the following reasons: "Defendant, Francis A. Oxner, has received ongoing inpatient mental health treatment at a secure facility of the South Carolina Department of Mental Health since 2005. The defendant underwent previous evaluations for Competency to Stand Trial on October 31, 2005 and April 18, 2005 due to the aforementioned pending charges in this case. The previous evaluations for Competency to Stand Trial in 2005 were conducted by the South Carolina Department of Mental Health and resulted in the findings that the defendant was not competent to stand trial at that time."

OXNER, FRANCIS ARTHUR
8401136

ADMITTED: 03/18/2008

SOUTH CAROLINA DEPARTMENT OF MENTAL HEALTH
FORENSIC EVALUATION SERVICES 1

ROA_0219

This examiner initially evaluated Mr. Oxner for capacity to stand trial on these charges in 2005. He has been continuously hospitalized since September of that year.

LIMITATIONS OF CONFIDENTIALITY: Prior to participating in the evaluation Mr. Oxner was informed of the limitations of confidentiality. He was informed that the examination was court ordered. He was informed that the examiners were employed by the South Carolina Department of Mental Health and were not paid by his attorney or the solicitor. Finally, he was informed that the evaluators would write a report that would be sent to his attorney, the solicitor, and the judge of his case. He was also informed that the examiners could be called to court to testify at a hearing related to his competency to stand trial.

SOURCES OF INFORMATION:

1. Court order requesting the evaluation received by the Forensic Evaluation Service on May 5, 2014.
2. Indictment for Criminal Sexual Conduct with a Minor dated January 25, 2005.
3. Arrest Warrant #H-821238 for Criminal Sexual Conduct with a Minor.
4. Incident report related to sex offense dated May 2002 through October 2004.
5. Statement of Cody Floyd.
6. Statement of Kandi Oxner.
7. Indictment for Assault with Intent to Commit Criminal Sexual Conduct dated August 1, 1979 through June 1, 1980.
8. Arrest Warrant #H-821922 for Assault with Intent to Commit Criminal Sexual Conduct.
9. Incident report related to child molestation dated 1979 through 1980.
10. Statement of Cindy Floyd.
11. Incident report related to removal of pornography from the defendant's house.
12. Indictment for Assault with Intent to Commit Criminal Sexual Conduct dated August 1, 2002 through June ten, 2003.
13. Arrest Warrant #H-821832 for Assault with Intent to Commit Criminal Sexual Conduct First Degree.
14. Assessment and Recovery Center Forensic Mental Health Evaluation on Dustin Floyd.
15. Indictment for Exposure of Private Parts dated June 1, 2001 through September 1, 2001.
16. Arrest Warrant #H-821256 for Exposure of Private Parts.
17. Incident report related to Indecent Exposure.
18. Statement of Aleshia Day.
19. Statement of Michael Day.
20. Statement of Louise Oxner.
21. Second statement of Kandi Oxner.
22. Search Warrant and Return.
23. Prior Competency to Stand Trial Evaluation conducted by this examiner on the defendant on April 18, 2005.

OXNER, FRANCIS ARTHUR
8401136
ADMITTED: 03/18/2008

SOUTH CAROLINA DEPARTMENT OF MENTAL HEALTH
FORENSIC EVALUATION SERVICES 2

24. Prior Competency to Stand Trial Evaluation conducted on the defendant by this examiner on October 31, 2005.
25. Social history obtained from Janice Price, the defendant's sister.
26. Medical records from Bryan Psychiatric Hospital Forensic Services dated September 9, 2005 until the Present.
27. A one hour and 20 minute clinical-forensic interview on today's date.

CLINICAL AND PSYCHIATRIC HISTORY: Mr. Oxner has been continuously hospitalized since September 9, 2005 after being found incompetent to stand trial on his current charges. While in the South Carolina Department of Mental Health he has been repeatedly retained by the Probate Court at yearly commitment hearings. He has been treated with numerous medications to treat his Schizophrenia. Unfortunately, he has had significant serious medical complications that are the result of antipsychotic treatment. He is currently demonstrating tardive dyskinesia, an irreversible movement disorder that is caused by the long-term use of antipsychotic medications. He also has developed diabetes and hyperlipidemia which are consequences of treatment with atypical antipsychotic medications. Currently he is prescribed the antipsychotic medication ziprasidone (Geodon[®]) and the antidepressant medication fluoxetine (Prozac[®]). He also takes medication for hypertension and for gastroesophageal reflux disease. Finally, he is currently taking insulin to manage his diabetes which appears to be under fairly good control at the present time.

On interview Mr. Oxner appears paranoid. He states that persons in the Lexington County Detention Center and the Bryan Psychiatric Hospital Forensic Services Division have altered warrants to "put forced words on me." He defines these words as *pull, push, or throw down*. He states this is what has led him to being detained for nine years. He is not self-protective and states that he had oral sex with some of the victims for one and one-half minutes but he did not use force and therefore he is not guilty. He also expressed a delusion that he knows when the end of the world is coming. He states that he had several dreams in which God revealed his purpose in life. He is very reluctant to discuss this stating, "I'm not supposed to tell you." However, he strongly implied that he believed he had more power than God and could cause the end of the world at any time. When asked to read an information form about the evaluation he said, "That would be the biggest mistake you ever made." He reports that persons in the hospital try to tell him what to do all of the time and that he is not being treated well. He states that he has been assaulted on six occasions during the past nine years while in the hospital. He reports he has a good appetite and he is sleeping well. He described his mood as basically angry. He denies suicidal or homicidal ideas. He denied auditory hallucinations. When asked if he had special abilities that other people do not have, he initially states, "I probably do but I'm not supposed to talk about them." He later admitted that he believed he could read people's minds. He states that he had a series of dreams where he was walking in a desert and fell in a well and that Jesus Christ sent him a special message related to his dreams. He states that he is not exactly a prophet. When asked specifically if he was the second coming of Christ he responded, "Could be." He states, "The Lord could put an end to the world and use me." He further added, "I have more power than God, Jesus Christ, or God Almighty."

OXNER, FRANCIS ARTHUR
8401136

ADMITTED: 03/18/2008

SOUTH CAROLINA DEPARTMENT OF MENTAL HEALTH
FORENSIC EVALUATION SERVICES 3

ROA_0221

Mr. Oxner had one prior psychiatric hospitalization at the South Carolina State Hospital in 1984. At that time, he was diagnosed with Schizophrenia, Paranoid Type. At that time he was hospitalized for a competency evaluation and he was subsequently found incompetent. He was treated with antipsychotic medications. He was experiencing auditory hallucinations and ideas of reference. He had several follow-up appointments at the Lexington County Mental Health Center but eventually stopped going for treatment. He lived for many years without mental health treatment on very rural property in Lexington County. There is no other history of psychiatric treatment.

ALCOHOL AND SUBSTANCE USE HISTORY: He reports he drinks one-half pint of liquor several times a year. He states, "It's medicine - it cleans my tubes out." He also reported that he needed liquor and beer at times to "clean my kidneys." He also espoused the medical uses of Apple Cider Vinegar.

He reports that he has occasionally used marijuana but never used it on a regular basis. He denies any use of other illicit substances including methamphetamine, cocaine, hallucinogens, or prescription medications.

MEDICAL HISTORY: His medical history is remarkable for gastroesophageal reflux disease (GERD), arthritis, sinus difficulties, hypertension, diabetes, and tardive dyskinesia. Tardive dyskinesia consists of a permanent and irreversible movement disorder caused by the use of antipsychotic medications. This is most notable with his tongue movements.

FAMILY HISTORY: His mother, Dorothy Restor, died at the age of 70 as a complication of diabetes, hypertension, and renal failure. His father, D. C. Oxner, also died at age 84 from complications of diabetes. Mr. Oxner is the fourth of six children. One of his older brothers died of a stroke at the age of 68. There is no family history of mental illness.

SOCIAL HISTORY: He was born in Chapin, South Carolina and raised by both parents. He eventually settled two miles from Saluda County off Highway 378 in Lexington County. He states that he did not have developmental delays and was in regular classes in school but that, "My third grade teacher had to teach me how to talk." He had a case of appendicitis in the ninth grade and quit going to school after that illness. He began working at his father's gas station. He has also held jobs working in Graniteville at a yarn mill and in Saluda at a wool mill. He also worked for 14 months at Wamsutta in Greenwood making fertilizer. He has not worked for many years. After his hospitalization at Bryan Psychiatric Hospital he was approved for psychiatric disability.

He has never married and he has no children. He denies any interests or history of romantic relationships.

Mr. Oxner lives a secluded lifestyle on property in rural Lexington County with numerous animals. He states that he has 12 dogs, six cats, 60 pigeons, 60 rabbits, 20 geese, ten ducks, 30 goats, and 12 cows. It is of note that these are the exact same numbers that he provided this examiner during his

OXNER, FRANCIS ARTHUR
8401136

ADMITTED: 03/18/2008

SOUTH CAROLINA DEPARTMENT OF MENTAL HEALTH
FORENSIC EVALUATION SERVICES 4

ROA_0222

evaluation in 2005. He states that it would take him longer than an hour a day to feed his animals. He also reports that he would go through 1200 to 1500 pounds of hay a year.

MENTAL STATUS EXAM: Mr. Oxner presented as fairly groomed. He made good eye contact. There were no abnormal movements noted with the exception of the tardive dyskinesia involving his tongue. He made good eye contact. His speech was normal in rhythm and volume. He was alert and oriented to person, place, day, date and time. He was able to register three objects and recall two of them after five minutes. He was able to recall the third object with a prompt. He was able to recall significant past personal information. We found no evidence of clinically significant long- or short-term memory impairment. He was able to perform a calculation. He was able to name the current President and the immediate past President. His fund of knowledge was judged to be in the low average range. He performed poorly on a test of concentration as evidenced by his difficulty in spelling the word *world* backwards. He could not compare similarities in an abstract manner and his attempt at comparing similarities was concrete. Hence, an apple and orange are "round and have seeds and a hull." He was able to abstractly interpret the simple proverb of *what goes around comes around*. His judgment for a hypothetical situation was fair. He rated his current mood as a six on a scale of one to ten with one being severely depressed and ten being euphoric. He denied auditory or visual hallucinations. He denied ideas of reference but endorsed numerous delusions including delusions about thought control and grandiose religious delusions. He denied suicidal or homicidal ideations. His thinking was occasionally disorganized and he made odd word choices. However, he was capable of being understood.

OPINION REGARDING CAPACITY TO STAND TRIAL: Mr. Oxner states he is charged with "three warrants I didn't do." He states, "I had the right to do what I did. They put forced words on the warrants." He states he realizes that he has a total of five total charges. He implied that if the children borrowed money from him, it made it okay to have sexual contact with them. He was not able to state the official legal names of his charges. He states the charges are not serious and they are "not even a crime." He added, "All the cheerleaders were pregnant and they couldn't find anyone to be a cheerleader at Batesburg/Leesville Middle School." He states that the worse thing that could happen to him would be to be executed or crucified. He mistakenly identified his attorney as Alvin Neal. (Mr. Neal is an attorney at numerous probate court hearings.) He understands that the role of his attorney is "supposed to be on my side." He states that he feels he needs to have a jury trial so that he can prove all the false stuff written on the warrants. When asked about the evidence against him he reports, "My niece is writing warrants all year long and she must be getting paid." He states that the job of the solicitor is "to be against you." He states that the solicitor in his case is Donny Myers and added, "I cut his grass and pick up his trash at Watergate Apartments." He states the judge's job is "to keep order and read the verdict." He states that the judge "goes along with the doctor to do evil stuff and he will be judged for his actions later." He understands that a jury consists of 12 people who decide whether he is guilty or not guilty. He also reports that their decision has to be unanimous. His mistakenly believed that the jury decided on the sentence and not the judge. He was able to define the plea of *Not Guilty*. He states a plea bargain is when "They give you a lighter sentence if you plead guilty." He had difficulty formulating a clear plan as to what he wished his attorney would do for him.

OXNER, FRANCIS ARTHUR
8401136

ADMITTED: 03/18/2008

SOUTH CAROLINA DEPARTMENT OF MENTAL HEALTH
FORENSIC EVALUATION SERVICES 5

ROA_0223

Mr. Oxner has some factual understanding of the legal system but has numerous areas of knowledge deficits. He is certainly not self-protective in this interview and said things that were highly incriminating. Likewise, he would not be self-protective if he were to testify. He appears to have an unrealistic expectation about likely legal outcomes. Given his delusional statements, he is likely to express delusional statements in court and to his attorney. This would make his ability to work with the attorney in the preparation of defense difficult, if not impossible. In summary, it is our opinion that he lacks a rational understanding of the legal system and the ability to assist his attorney. Therefore, it is our opinion that he lacks the capacity to stand trial.

It is opined that Mr. Oxner lacks the capacity to stand trial and is unlikely to gain the capacity to stand trial in the foreseeable future.



Richard L. Freeman, MD, DFAPA
Professor of Clinical Psychiatry
University of South Carolina School of Medicine

RLF/bs

D: 09/08/2014

RT/EM: 09/09/2014

F/EM: 09/09/2014

OXNER, FRANCIS ARTHUR
8401136

ADMITTED: 03/18/2008

SOUTH CAROLINA DEPARTMENT OF MENTAL HEALTH
FORENSIC EVALUATION SERVICES 6

ROA_0224

STATE OF SOUTH CAROLINA)
COUNTY OF LEXINGTON) INDICTMENT FOR
Assault with intent to Commit Criminal Sexual Conduct
with a minor in the first degree

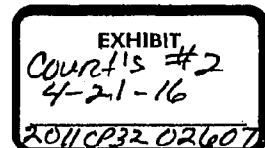
§16-3-656

At a Court of General Sessions, convened on March, 2014, the Grand Jurors of Lexington County present upon their oath:

That Francis Authur Oxner did in Lexington County on or about August 1, 1979 through June 1, 1980, willfully and unlawfully commit an assault with intent to commit criminal sexual conduct with a minor in the first degree, to wit: did assault Cindy Floyd, a minor child who was less than eleven years of age, with the intent to commit a sexual battery, including but not limited to vaginal intrusion, however slight, in violation of § 16-3-656 and 16-3-655(1) of the Code of Laws of South Carolina, 1976 as amended, and subsequently codified as 16-3-655(A)(1) 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.

Suzanne Mayes
ASSISTANT SOLICITOR



ROA_0225

STATE OF SOUTH CAROLINA)
)
COUNTY OF LEXINGTON)
)

INDICTMENT FOR
Criminal sexual conduct with a minor - 1st
degree

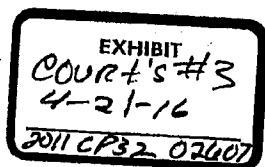
§ 16-03-0655(A)(1)

At a Court of General Sessions, convened on NOVEMBER 2015, the Grand Jurors of Lexington County present upon their oath:

That **FRANCIS ARTHUR OXNER** date of birth March 8, 1949, did in Lexington County, South Carolina, on or about the Summer of 2004, commit a sexual battery upon a minor who was less than eleven years of age, to wit: fellatio upon or with Cody Floyd, a minor under age 11, in violation of Section 16-3-655(A)(1), and previously codified as 16-3-655(1), 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.

Suzanne Mayes
ASSISTANT SOLICITOR



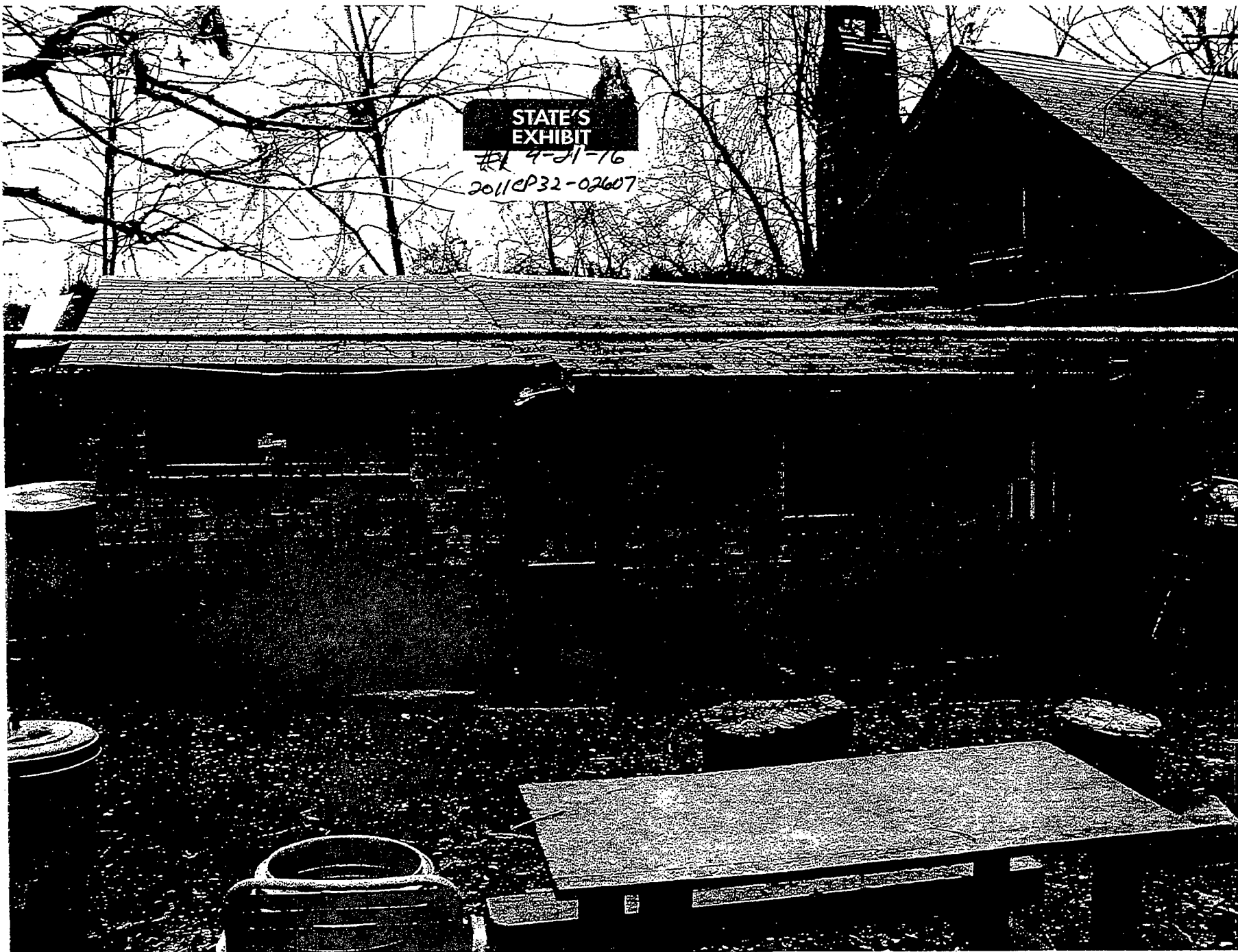
ROA_0226

STATE'S
EXHIBIT

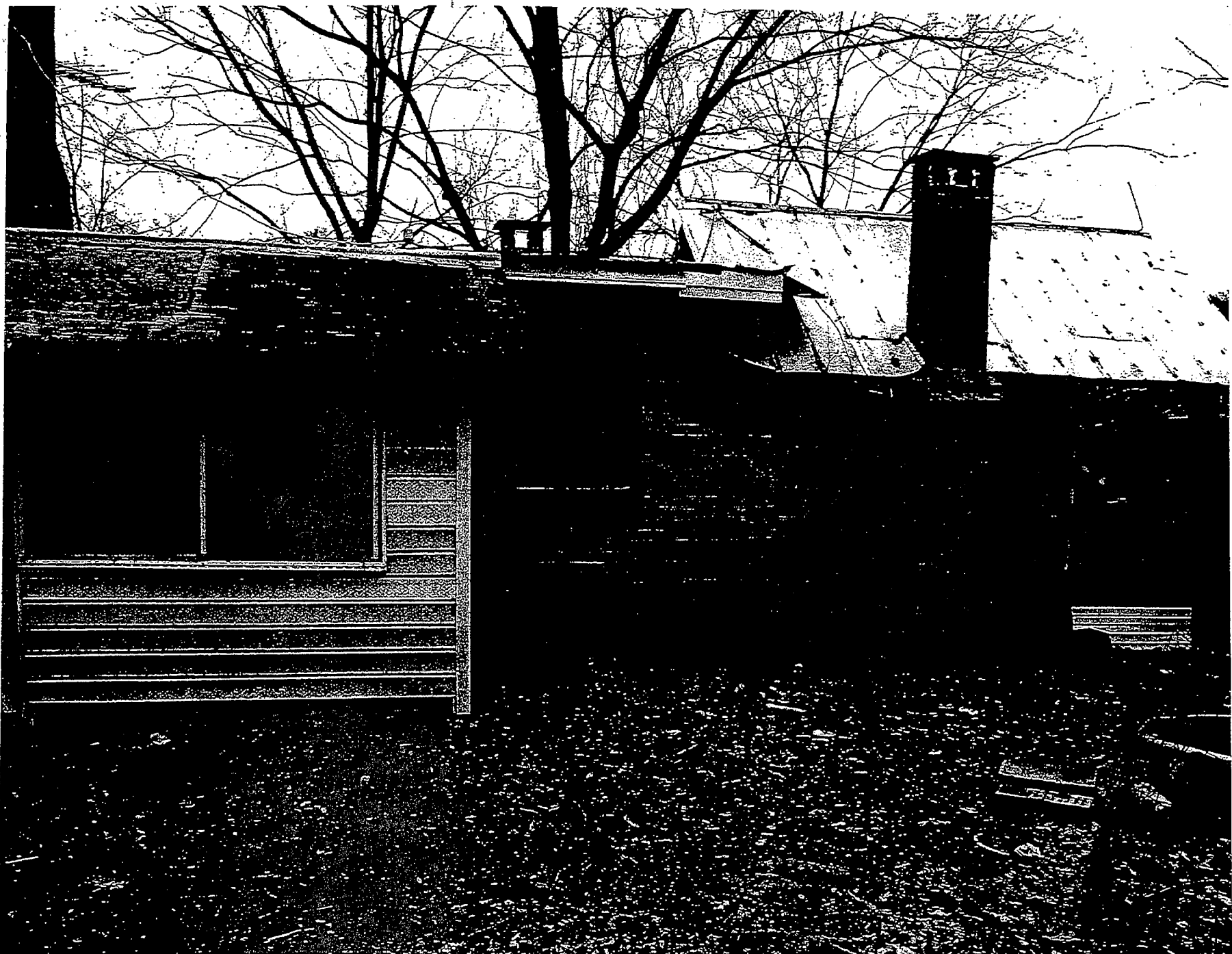
#1 4-21-76

2011CP32-02607

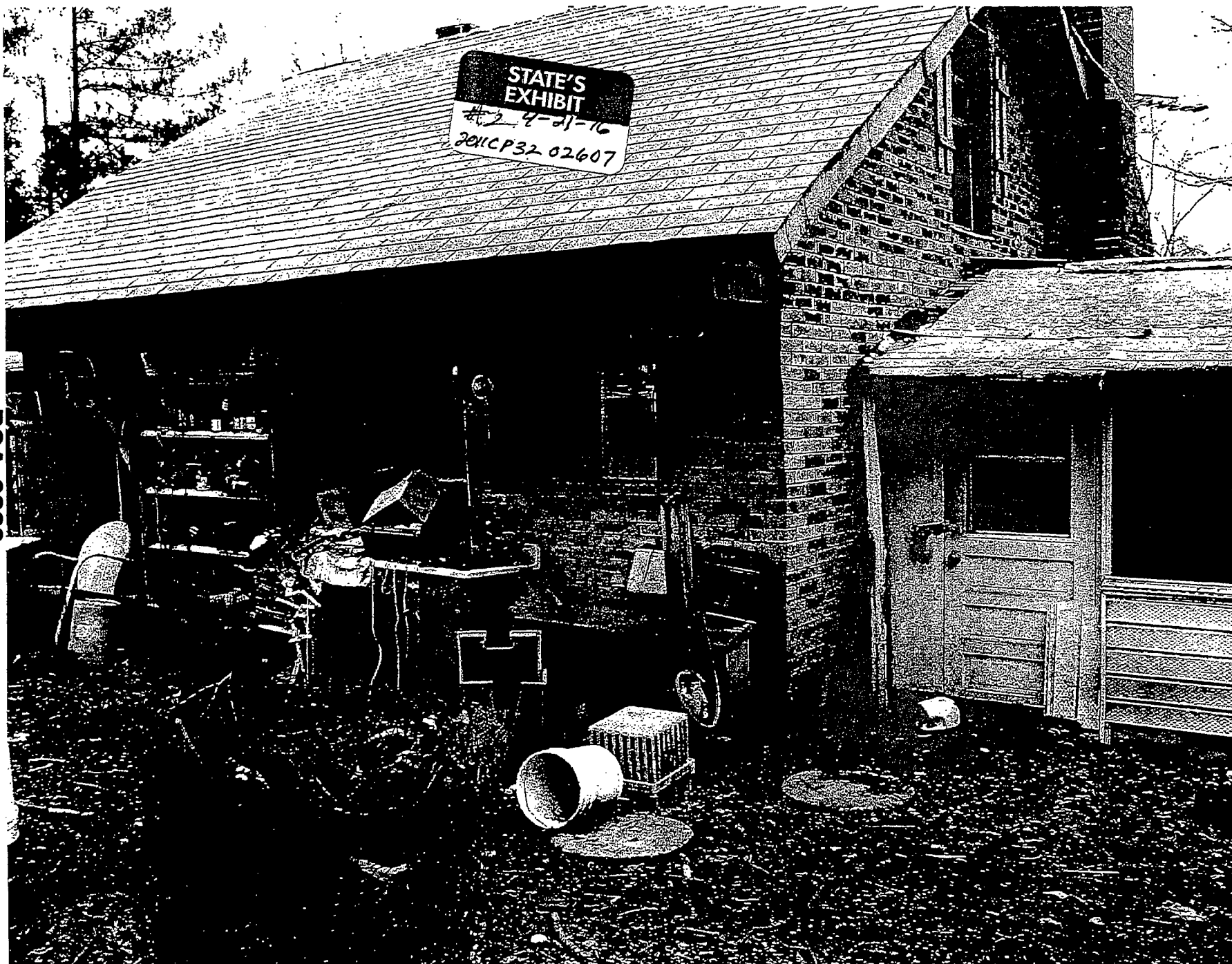
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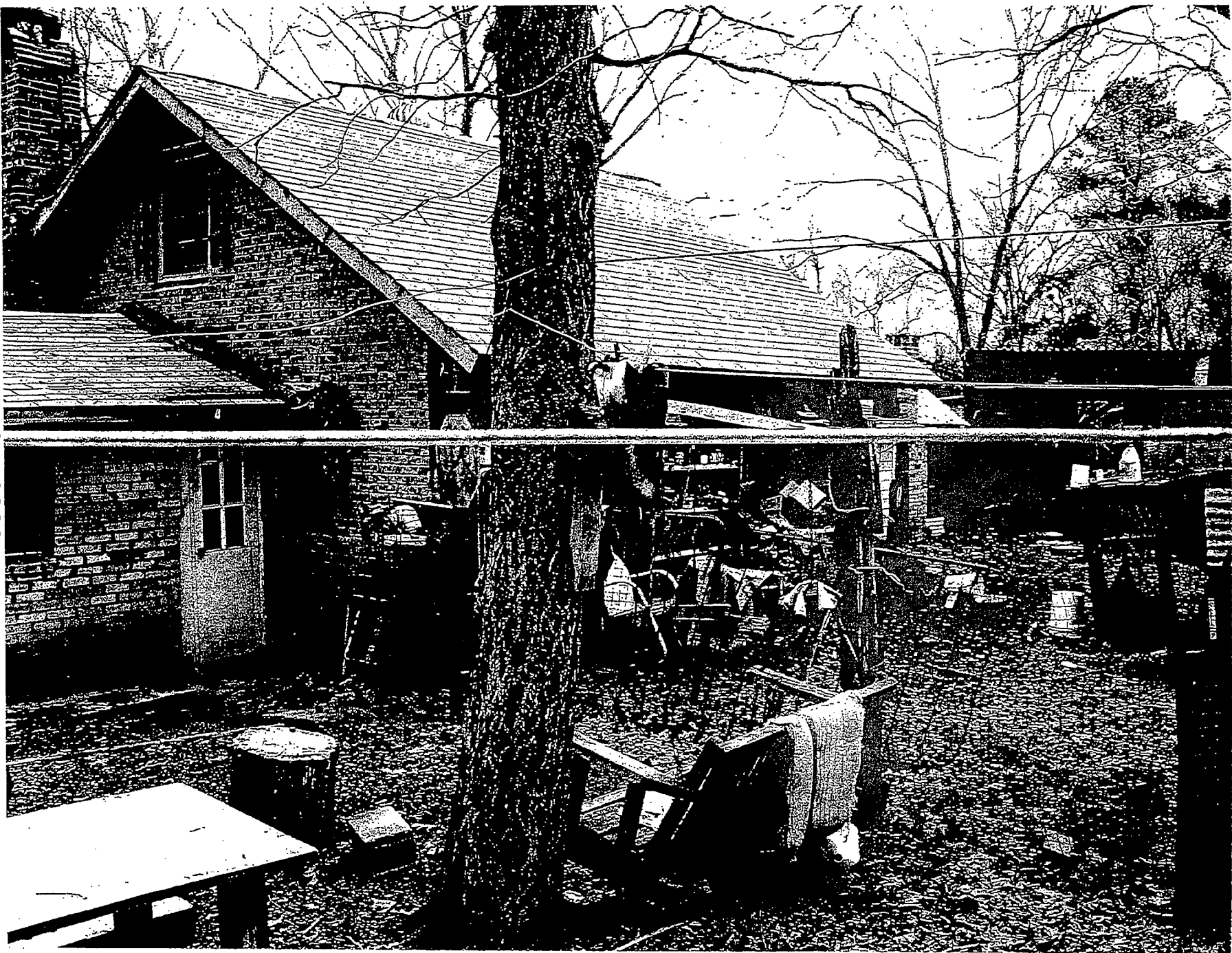
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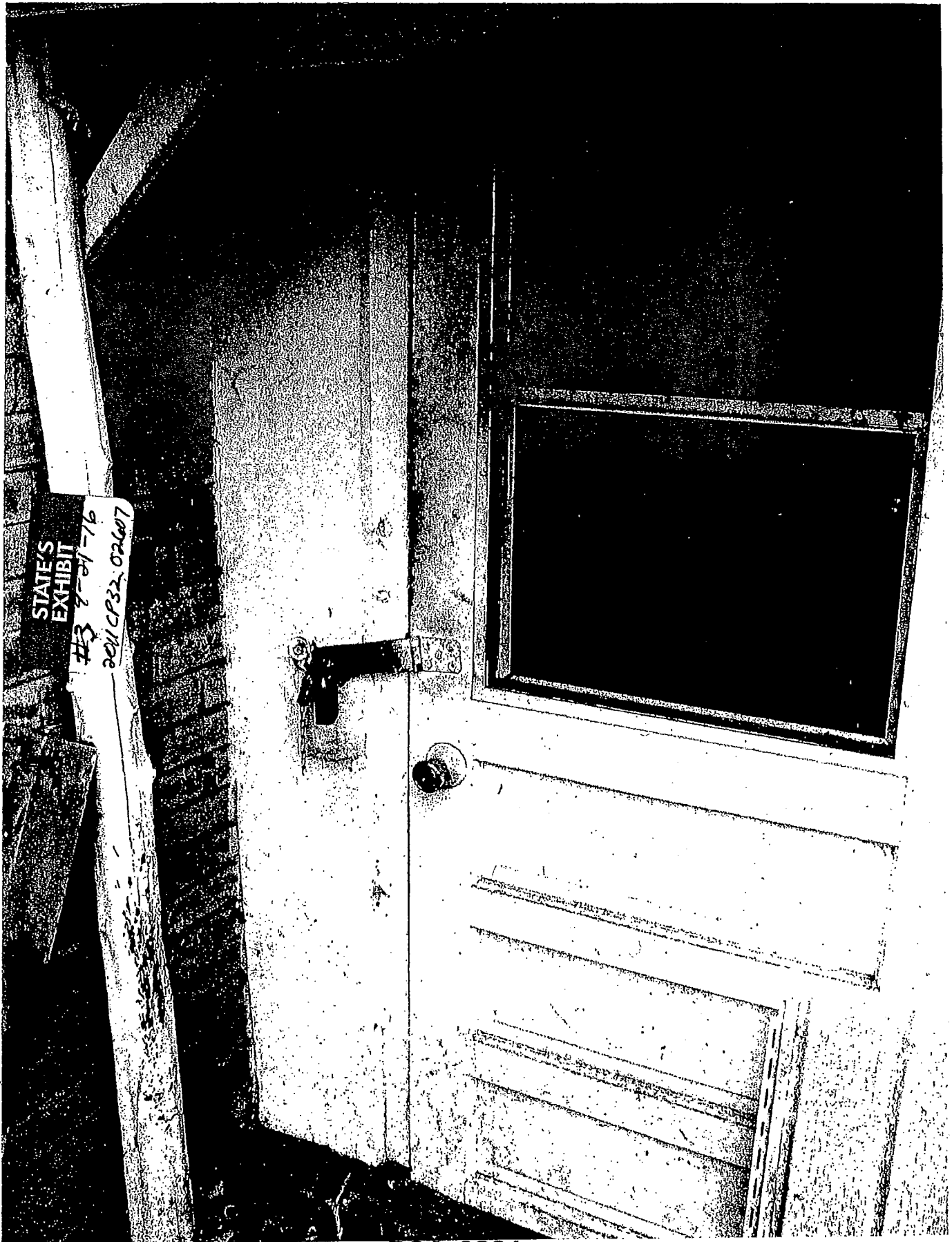


ROA 0229



ROA 0230





ROA_0231



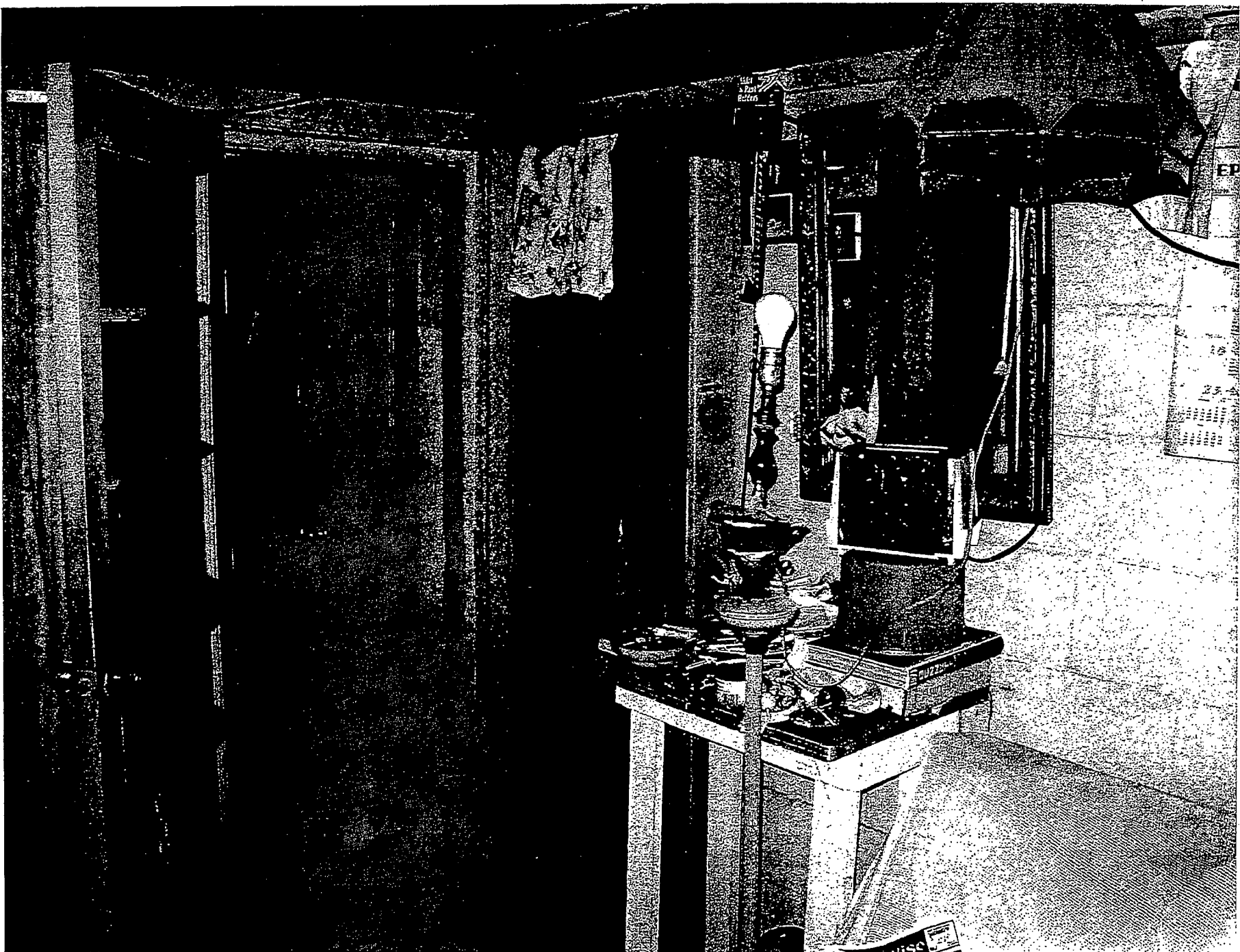
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ROA_0233

STATES
EXHIBIT
#4-4-1-12
2011CP32 021007



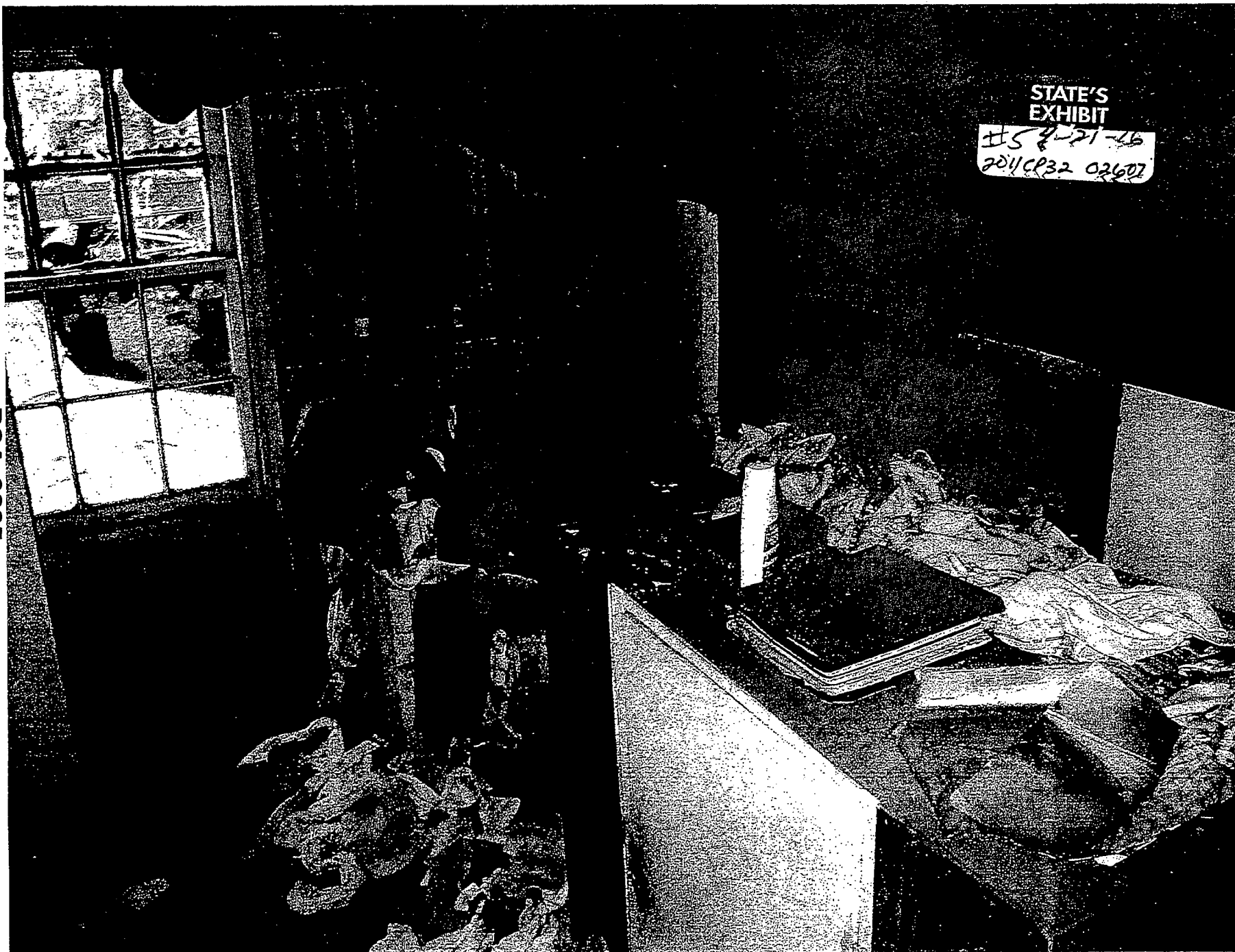
ROA 0234



STATE'S
EXHIBIT

#5 4-21-46
2011 CP32 02607

ROA 0235



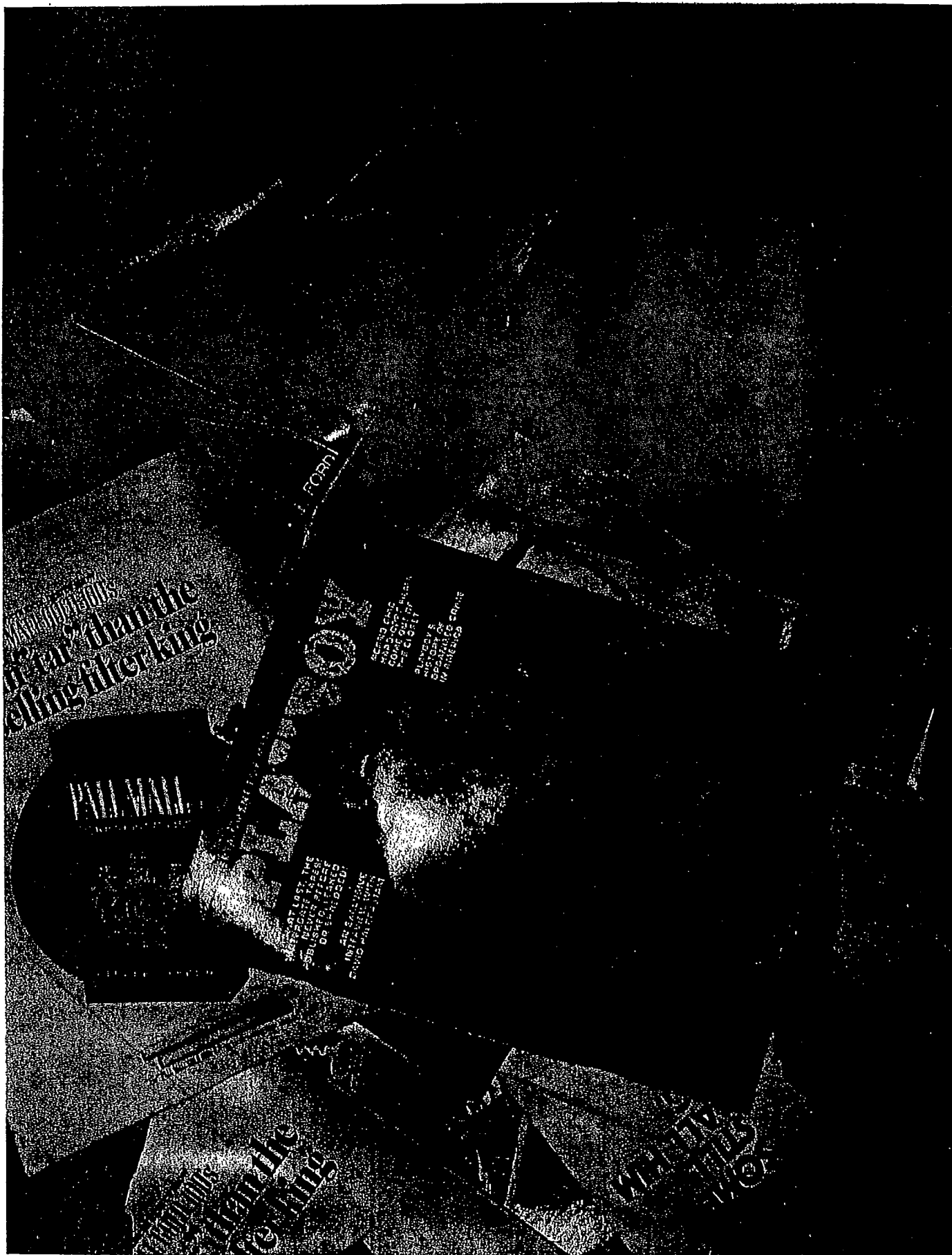


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STATE'S
EXHIBIT
#6 8-21-10
2011CP32 02607

ROA_0237





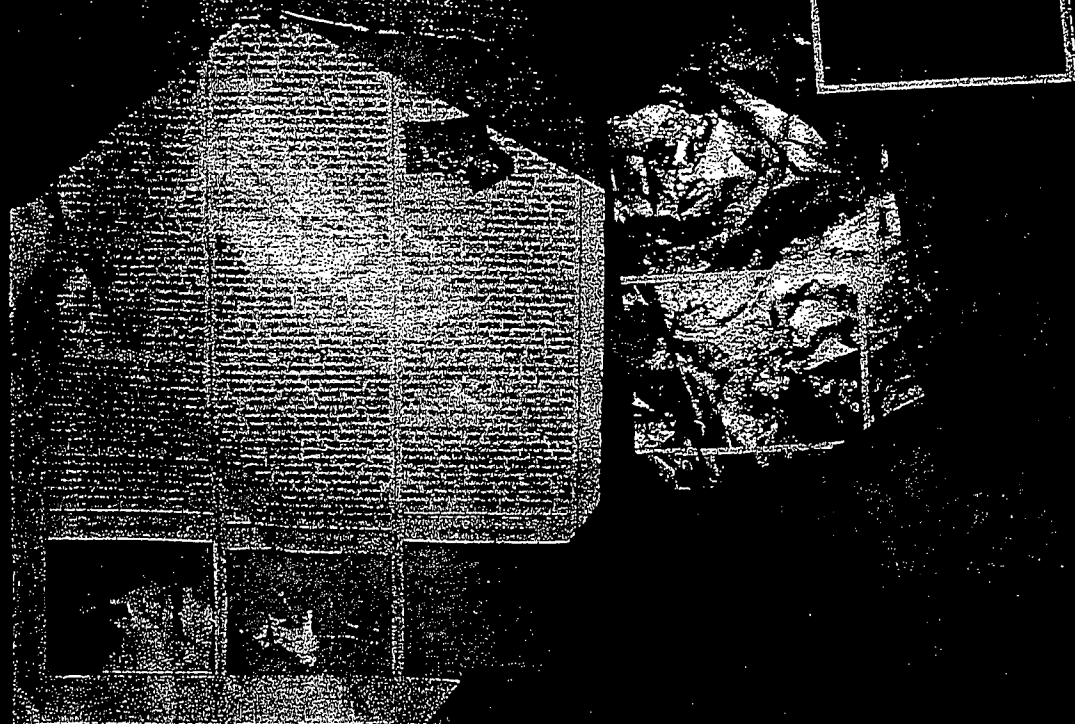
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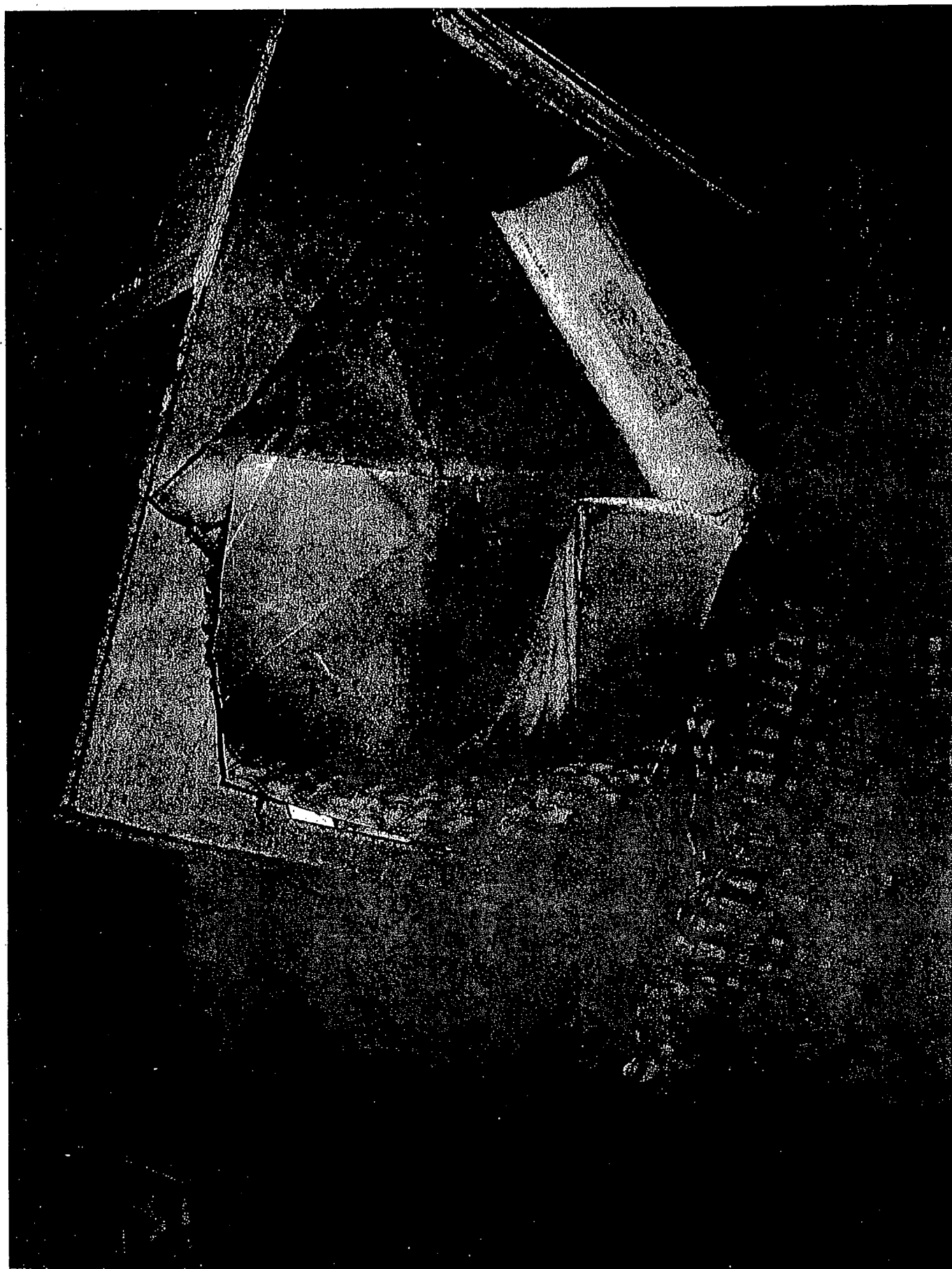
STATE'S
EXHIBIT

#7 4-21-16

2011CP32 02607

ROA_0239





ROA_0240

STATE'S
EXHIBIT

#84-21-16

204CP32 Q2607

ROA 0241





ROA_0242

Shannon Yerace

From: Eric Russell [erussell@lex-co.com]
Sent: Thursday, March 03, 2005 8:05 AM
To: Shannon Yerace
Subject: Re: FA Oxner

Okay, I hope you've got your thinking cap on because this can get confusing, here goes,

FA Oxner and Leo Oxner are brothers,
Leo Oxner is married to Louise Oxner,
Cindy Floyd is Leo and Louise's daughter,
Cody and Dustin Floyd are Cindy's children.

Louise Oxner's sister is Barbara Day,
Michael and Alisha Day are Barbara's children,
Michael is married to Kim Day and they have a 10 month old child, DJ. DJ is the one that Michael is violating his bond with.

FA molested Cindy Floyd, Cody Floyd, Dustin Floyd, and exposed himself to Alisha Day.

Michael Day molested Dustin Floyd.

This whole group lives in the same general area on Old Lexington Rd. except for Cindy and Dustin Floyd who live in Batesburg. This is just one big happy child molesting family.

I will be at the hearing for Michael's bond violation on the 16th. Cindy Floyd has said that she wants to be there also. Is that okay? Just let me know.

Thanks,

Eric

----- Original Message -----

From: Shannon Yerace
To: erussell@lex-co.com
Sent: Wednesday, March 02, 2005 3:50 PM
Subject: FA Oxner

Eric,

Just to let ya know, I got the search warrant pictures from Oxner's house (lovely viewing material for the afternoon - haha) and bond violation info on Michael Day. He is definately supposed to be here on Wed, March 16 in the morning for that hearing..Who is Leo Oxner???

Thanks,

Shannon

3/3/2005

ROA_0243

**DEFENDANT'S
EXHIBIT**

#1 4-21-16

STATE OF SOUTH CAROLINA
COUNTY OF LEXINGTON

IN THE MATTER OF THE CARE AND
TREATMENT OF FRANCIS ARTHUR
OXNER,

RESPONDENT.

IN THE COURT OF COMMON PLEAS
ELEVENTH JUDICIAL CIRCUIT

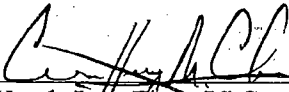
CASE NO. 2011-CP-32-02607

**FREEDOM OF INFORMATION
ACT REQUEST**

COMES NOW the Respondent, by and through his undersigned counsel, pursuant to the Freedom of Information Act, S.C. Code Ann. 30-40-10, et seq., requesting the following information:

1. All documents pertaining to the biographical history, medical history, confinement, maintenance, treatment, assessment, medication, evaluation, care, monitoring, or otherwise related to Mr. Francis Arthur Oxner, D.O.B. 03-08-1949; S.S.N. 250-92-1011.
2. Records or documentation of all visitors, staff, consultants, contractors, or appointees – whether for medical, psychological, security, or ministerial reasons – who have had contact with Mr. Oxner since his confinement.
3. Contact information for those staff, consultants, contractors, or appointees who are primarily responsible for the supervision, security and control over, biographical history, medical history, confinement, maintenance, treatment, assessment, medication, evaluation, care, monitoring, or otherwise of Mr. Francis Arthur Oxner.

Respectfully submitted,



Woods Law Firm, LLC
Geoffrey M. Clemens, Esq.
P.O. Box 2444
Lexington, SC 29071
803.808.8088
Attorney for the Defendant

20 September 2011

FILED
2011 SEP 20 P 12:07
BETH A. CARRIGS
CLERK OF COURT
LEXINGTON SC

ROA_0244

ORIGINAL
PS
SCANNED

STATE OF SOUTH CAROLINA
COUNTY OF LEXINGTON

FILED

IN THE COURT OF COMMON PLEAS
ELEVENTH JUDICIAL CIRCUIT

2011 SEP 20 P 12: 03

CASE NO. 2011-CP-32-02607

IN THE MATTER OF THE CARE AND
TREATMENT OF FRANCIS ARTHUR
OXNER,

BEN A. CARRIGG
CLERK OF COURT
LEXINGTON SC

**MOTION FOR BRADY AND
OTHER FAVORABLE MATERIAL
AND INCORPORATED
MEMORANDUM OF LAW**

RESPONDENT.

COMES NOW the Respondent, by and through the undersigned counsel of record, and files this Motion for Brady and Other Favorable Material and Pursuant to Rules 5 and 6, S.C.Crim.P., and Incorporated Memorandum of Law requiring the production of material to the Respondent within thirty days of the receipt of this request or at least ten (10) days prior to trial. As grounds therefore, the undersigned would show as follows:

1. Under the United States Supreme Court decision in *Brady v. Maryland*, 373 U.S. 83 (1963) the Solicitor has an obligation to produce all *Brady* material for the Respondent well in advance of the scheduled trial date.
2. That the individual prosecutor, prosecutors, or prosecuting office or officers in this case has a duty to learn of and disclose any favorable evidence known to others acting on the government's behalf in the case, including the police or any other government agencies. *Kyles v. Whitley*, 514 U.S. 419 (1995); *State v. Gullede*, 326 S.C. 220 (1997). That this Court should specifically direct the Government in the spirit of fairness and equity, seek and produce for the Respondent the documents, letter, records and other items sought, irrespective of the State's determination of whether a witness' statement or a particular letter or exhibit can "help" the Respondent. The Respondent and his/her attorney, not the Solicitor, should be the judge of his/her defense and the documents relevant thereto and necessary in support of same.
3. Respondent claims under *Brady* and its progeny, as well as the language and spirit of *Kyles*, 514 U.S. 419, and *Giglio v. United States*, 405 U.S. 105 (1972); *United States v. Tashman*, 478 F.2d 129 (5th Cir. 1973); and *Napue v. Illinois*, 360 U.S. 264 (1959); *Alconta v. Texas*, 355 U.S. 28 (1957); *Mooney v. Halliham*, 294 U.S. 103 (1935); and *Moore v. Illinois*, 408 U.S. 786 (1962); that he/she is entitled to any and all reports, memoranda and documents, as well as a statement of the Circuit Solicitor and all appropriate state, federal, and local law agencies as to:
 - a. All statements by the Respondent, whether oral or written; if written whether signed or unsigned.
 - b. All handwritten notes made by police or other investigating officers of their interview or conversation with the Respondent or any other witness.

SCANNED

ROA_0245

- c. Any oral, written, or recorded statements made by any person to the Solicitor's office, Grand Jury or any law enforcement agency in connection with this case.
- d. A copy of all tape recordings, audio or visual, made by a Respondent, witness, or any other person in connection with this case. If these tape recordings have been transcribed, then a copy of the transcribed conversation is also requested.
- e. Any and all investigation reports, information, or material which tends to establish the Respondent's innocence, to mitigate punishment, or to impeach, discredit, or contradict the testimony of any witness whom the State will or may call at trial. *Giles v. Maryland* 386 U.S. 66 (1967); *Napue*, 360 U.S. 264; *Giglio*, 405 U.S. 105; *Kyles*, 514 U.S. 419.
- f. The names and addresses of all witnesses interviewed by the Solicitor's office or any other law enforcement agency who might establish the Respondent's innocence, mitigate punishment, or impeach, discredit, or contradict the testimony of any witness of the State whether or not the witness may testify at trial. *Kyles*, 514 U.S. 419.

Specifically, Respondent requests production of the names and contact information of all law enforcement officers, including those of assisting agencies, and all other civilian witnesses whether retained or appointed by the state or those have no governmental or investigative function or relation.

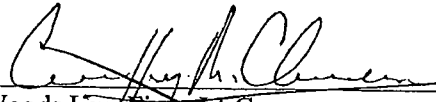
- g. Any and all photographs taken of the Respondent on any portion of his body.
- h. Any and all photographs taken at the scene of the alleged crime and/or the alleged victim or prosecuting witness.
- i. Any photographs that have been exhibited to any person for the purpose of establishing identity of the perpetrator of the crime charged and the name and current address of the person or persons to whom the photographs were shown.
- j. Any scientific or medical report which tends to establish the Respondent's innocence, to mitigate punishment, or to impeach, discredit, or contradict the testimony of any witness whom the State will or may call at trial. *Ashley v. Texas*, 319 F.2d 80 (5th Cir. 1963). This request shall include any reports by or to the State Law Enforcement Division (SLED) criminalistic or forensic laboratory, Federal Bureau of Investigation laboratories, County Sheriff's Department laboratory or any other law enforcement laboratory concerning an examination made by said laboratories and/or personnel thereof, of any physical, photographic, oral or written evidence concerning the investigation of this case.

Specifically, the Respondent requests production of the curriculum vitae of any and all expert witnesses involved in the investigation or evaluation of the Respondent.

- k. All reports from the State Law Enforcement Division (SLED), Sheriff's Department, or any other law enforcement agency, including Federal Bureau of Investigation, concerning fingerprints checked in connection with this case.
- l. All records of arrests or criminal convictions of the Respondent and all State's witnesses in relation to this case. *Giglio*, 405 U.S. 105.
- m. All "inconsistent" statements made by a particular witness or between witnesses, whether written or oral, that is known to the Solicitor's Office or any other law enforcement agency, including statements and other evidence that raise questions about the reliability or the credibility of a particular witness or the investigation. *Kyles*, 514 U.S. 419.
- n. Any statement or admission by a witness for or on behalf of the State with respect to the witness's memory or loss thereof.
- o. Whether or not any witness called before the Grand Jury or who has or will give testimony to any investigative agency or at trial has ever been psychiatrically hospitalized or undergone psychiatric treatment, examination, mental status examination or care, and if so, a list of names and addresses of the psychiatrists, hospitals and copies of any and all relevant records and reports.
- p. All notes or memoranda by psychiatrists or other medical or mental health examiners of their conversations with the Respondent.
- q. Any and all plea bargains, promises, rewards, reductions, dismissals, agreements not to bring criminal charges, or any other inducements made to any witness herein, whether or not they have testified before any State or Federal Grand Jury, or other investigative agency, and regardless of whether or not they will testify at trial.
- r. Any offers or grants of immunity to any witness from loss of property, fine, forfeiture, prosecution or punishment in this case or any other case, related or otherwise.
- s. In addition, Respondent requests copies of any and all memoranda, reports and correspondence to and from the various law enforcement agencies of the United States and all state, county, municipal and local law enforcement agencies regarding the investigation herein.
- t. Any and all physical or tangible items in the possession, custody or control of or which could reasonably be brought within the possession, custody or control of the Solicitor's Office, State, Federal or local law enforcement agency.

4. To the extent the Respondent is specifically required to demonstrate the materiality of the requested information, the Respondent submits this requirement is satisfied in this motion. *United States v. Agurs*, 427 U.S. 97 (1976).
5. That recognizing that *Brady* and other authorities cited require that information favorable to the Respondent be made available, and further recognizing that a genuine disagreement may arise as to whether or not a particular item of evidence is favorable, it will be requested that the Court provide for an in camera inspection of the items sought to be discovered should you feel such items are not favorable to the Respondent. By permitting the Court to examine the items requested, the legitimate interest of the State will be protected in that no disclosure in excess of, et al., will occur. Further, it will be requested of the Court that said Order will be a continuing one, and if, prior to or during trial, the prosecution discovers additional evidence or material requested, the prosecution is hereby requested promptly to notify counsel for the Respondent of the existence of the additional evidence or material.
6. It is further requested that the prosecution promptly respond to the within request by notifying counsel for the Respondent of the existence and availability of the information requested herein within thirty (30) days of the receipt of this motion and at least ten (10) days prior to trial.

Respectfully submitted,



Woods Law Firm, LLC
Geoffrey M. Clemens, Esq.
P.O. Box 2444
Lexington, SC 29071
803.808.8088
Attorney for the Defendant

20 September 2011

ORIGINAL

RECORDED

STATE OF SOUTH CAROLINA)

COUNTY OF RICHLAND)

In the Matter of the Care and)
Treatment of Francis Arthur Oxner)

IN THE COURT OF COMMON PLEAS
FIFTH JUDICIAL CIRCUIT

Case No: 2011-CP-32-02607

AFFIDAVIT OF SERVICE

The undersigned, Wendetta H. Montgomery, being duly sworn, states that he/she served
Person Serving

the Petition Pursuant to the Sexually Violent Predator Act and Probable Cause Order, in this action on
the Respondent, Francis Arthur Oxner, by delivering a copy of the same to Francis Arthur Oxner, the
Respondent personally, on the 09 day of September, 2011, that the Deponent knows
the person so served to be the Respondent and that the Deponent is not a party to, nor interested in,
the action.

Wendetta H. Montgomery
Deponent (Print)

[Signature]
Deponent (Signature)

Sworn to before me this 9

Day of Sept., 2011.

[Signature]
NOTARY PUBLIC FOR SOUTH CAROLINA

My Commission Expires: Feb 2018

FILED
CLERK OF COURT
LEXINGTON, SC
SEP 13 P 1:48

ROA_0249



South Carolina
Department of
Mental Health

F11-9-05
Columbia Behavioral Health System
Forensic Center
7901 Farrow Road
Columbia, South Carolina 29203
Information: (803) 935-5600
Fax: (803) 935-5544

November 7, 2005

Jack Duncan
Attorney at Law
206 East Main St.
Lexington, SC 29072

Re: The State of South Carolina v. Oxner, Frances A.
DMH Case #: 840-1136
Lexington County, Court of General Sessions

Dear Attorney Duncan:

In accordance with the court orders issued by the Honorable Kenneth G. Goode, competence to stand trial, criminal responsibility, and capacity to conform evaluations were undertaken by the Department of Mental Health. However, as explained in the report on competence to stand trial, it is opined that the above-named defendant is not currently competent to stand trial. As such, the criminal responsibility and capacity to conform evaluations are being deferred until such time as the defendant is adjudicated competent to stand trial.

This 4 page document is certified to be the original court-ordered evaluation report issued pursuant to § S.C. Code Ann. 17-24-10 (1976).

11-9-05
Date

Kenneth M. Kepler, L.P.C.
Kenneth M. Kepler, L.P.C.
Program Coordinator
Forensic Evaluation Services
Department of Mental Health

c Shannon Yerace, Assistant Solicitor, 205 East Main St.,
Lexington, SC 29072

FORENSIC UNIT STAFFING

DATE: October 31, 2005

PRESIDING: Richard L. Frierson, M.D.

SECOND EXAMINER: Randi Pickens, LMSW

OTHERS PRESENT: Jennifer Pender, M.D., Resident in Psychiatry

DIAGNOSES: AXIS I: Schizophrenia, Paranoid Type.
 AXIS II: Schizotypal Personality Traits.
 AXIS III: Arthritis.
 Hypertension.

COMPETENCY TO STAND TRIAL: No, recommend civil commitment.

DISPOSITION: Mr. Oxner will await a formal competency determination from the Lexington County Court of General Sessions.

PERTINENT STATEMENTS: Frances Oxner is a 56-year-old Caucasian male who was initially seen at our hospital on April 18, 2005 pursuant to a court order from the Lexington County Court of General Sessions. This original court order had requested an evaluation of Mr. Oxner's competency to stand trial and his criminal responsibility pursuant to the McNaughten test for his actions on or about 1979 and 1980, 2002 and 2003, March 1, 2004 – March 31, 2004, June 1, 2004 – June 30, 2004, and June 25, 2003. Furthermore, if responsible, the original court order had requested an evaluation of his capacity to conform his conduct to the requirements of the law. He is currently charged with two counts of Assault with Intent to Commit Criminal Sexual Conduct, two counts of Criminal Sexual Conduct with a Minor, and one count of Indecent Exposure. He was initially seen at the Forensic Evaluation Service on April 18, 2005. At that time, a report was returned to the court stating that Mr. Oxner was not competent but likely to be restored with further treatment. Subsequent to that report, a court order was received on June 15, 2005 for Mr. Oxner to be admitted to the hospital for a period of 60 days during which time he would be treated and reevaluated. Mr. Oxner has been hospitalized at the Columbia Care Center where he is currently attending Competency Education Group. Today, this evaluation was scheduled as a reevaluation to monitor his progress.

Mr. Oxner has a history of a prior diagnosis of Schizophrenia, Paranoid Type, while at the South Carolina State Hospital in 1984. He was experiencing hallucinations and ideas of reference at that time. Since discharge from the hospital in 1984, he has not received further psychiatric treatment. He has lived a very reclusive lifestyle with minimal interaction with other individuals. His family has

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observed him talking to himself on numerous occasions. He has had long-standing paranoid thinking that others are out to harm him or wish him harm in some way. It would appear that his job experience has been very limited. He also has been noted to raise a variety of animals.

MENTAL STATUS EXAM: On today's date, he was alert and oriented to person, place, day, date, and time. He registered three objects and recalled one of them spontaneously after five minutes. He was able to recall the other two objects with a prompt. He was able to perform a calculation. His fund of knowledge was below average and his intelligence was judged to be in the low average range. He could name the current President but not the immediate past President. He performed poorly in a test of concentration. At times during the interview, he appeared internally distracted and frequently looked out of the window as if he were seeing something outside of the hospital. He was very guarded in discussing this. He was concrete in his thinking. Hence, when asked to interpret the proverb "birds of a feather flock together," he reports "a group of people are together and they'll take control of what they are going against." He was unable to abstractly interpret similarities. He described his mood as "my spirits have descended out of here." He denied current suicidal ideation. When asked about homicidal ideation, he reports "things might be better off if most people were dead." His judgment to a hypothetical situation was bizarre and appeared to demonstrate, in part, his psychotic thinking. When asked what he would do if he saw a small child on the end of a pier at a lake, he states he would "kick him in the water and let the fish eat him because he might have a disease." He reports prominent ideas of reference from numerous people in his environment. He can see people talking approximately 100 yards away from where he is standing and is convinced that they are talking about him and plotting something against him. He spontaneously stated to this examiner "ya'll go ahead and crucify me and see if the lights and power go off." When asked what he meant by the statement, he states "you'll all fall in my -- feel short in my presence." He then went on to make bizarre statements about how many stars were in his hand and wounds on his side as if he were comparing himself to Christ.

CONCLUSION REGARDING COMPETENCY TO STAND TRIAL: Mr. Oxner had some difficulty reading an informed consent form related to the evaluation. He understood that he did not have to answer our questions. He initially did not understand the nonconfidentiality of this evaluation but after it was explained to him, he was able to state that the judge, jury, solicitor, and lawyer could hear about what was discussed during the evaluation. He was able to state his attorney's name. He was aware of the charges against him. He made bizarre statements about the evidence against him and calling it "carbon imprinting." He has very unusual word choice and ways of expressing himself. He states that the charges are serious but he did not know what could happen if he were convicted. He states he reports hearing - from a distance - a correctional officer stating "it's going to happen sooner or later." He states the job of his attorney is to handle his case in front of the judge. He further adds "that survey that he sent me, the carbon imprints, someone has to check it out like a survey of your life." It is unclear to this examiner what he meant by that. He was unable to state what he wishes his attorney to do in his case. When asked about what he wants his attorney to do, he states the judges "are supposed to go low and I'm supposed to take the victory." He understands the role of the solicitor in seeking conviction. He states that the judge "keeps order in the courtroom and

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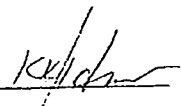
gives out the verdict." He is aware of the role of a jury. He is aware of the pleas of *guilty, not guilty*, "insanity", and "mentally ill." He had some difficulty defining a plea bargain. He had difficulty solving a hypothetical problem involving the courtroom. When asked about evidence in his case, he reports "these chaps and illusions—they have been treated for it, they had a mental lapse in seizure in the head." He has bizarre paranoid thinking about being persecuted by Larry Koon from Lexington County, Mr. Koon's father who was allegedly a preacher, Mr. Oxner's brother's wife, and someone he worked for in the past. He believes they are conspiring to bring the charges against him because they owed him money. It is our opinion that his thinking is too disorganized to rationally consult with his attorney and furthermore his paranoia would impair his ability to form a trusting relationship with his attorney or to assist his attorney in the preparation of a defense to these charges. Therefore, it is our opinion that he remains incompetent to stand trial.

RECOMMENDATIONS: Despite 60 days of court ordered hospitalization to help Mr. Oxner obtain competence, it is opined that he remains incompetent and therefore, in accordance with South Carolina Code of Law Section 44-23-430 (3), it is requested that if Mr. Oxner is adjudicated incompetent, that the solicitor initiate judicial admission proceedings within 14 days. If commitment proceedings are initiated, it is requested that orders declaring Mr. Oxner incompetent and authorizing his judicial commitment be forwarded to the Forensic Evaluation Service.


Richard L. Frierson, M.D.
Director, Forensic Psychiatry Education

RLF/khr

D: 10/31/05
RT/EM: 11/01/05
F/EM: 11/07/05 (rlf)


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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM LEXINGTON COUNTY
Court of Common Pleas

Diane Schafer Goodstein, Circuit Court Judge

Appellate Case No. 2016-001125
Case No. 2011-CP-32-02607

In the Matter of the Care and Treatment of Frances Arthur Oxner, Appellant

CERTIFICATE OF COUNSEL

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

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June 15, 2017