

8

22015

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

RECEIVED

SEP 23 2016

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

SC Court of Appeals

22815

Court of Appeals Case No. 2015-001436

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

v.

NAKIA KARREIM JOHNSON,

..... Appellant.

RECORD ON APPEAL VOLUME II OF II

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

Attorney for the Appellant

Alan Wilson
Attorney General

William M. Blich, Jr., Esquire
Assistant Attorney General

P.O. Box 11549
Columbia, SC 29211
(803) 734-3727

Daniel E. Johnson
Solicitor, Fifth Judicial Circuit

Attorneys for Respondent

INDEX
VOLUME I

Trial Transcript	1
Opening Statements	
By Ms. Cavanaugh.....	6
By Mr. Johnson.....	17
Jerry Barnwell (SW)	
Direct by Ms. Cavanaugh	22
Cross by Mr. Johnson	26
Re-Direct by Ms. Cavanaugh.....	26
Shawntea Ford (SW)	
Direct by Ms. Simpson	28
Cross by Mr. Johnson	72
Re-Direct by Ms. Simpson.....	101
Pamela Hall (SW)	
Direct by Ms. Simpson	103
Cross by Mr. Johnson	134
Direct by Ms. Simpson	151
Stacey Hall (SW)	
Direct by Ms. Simpson	154

Temple Hart (SW)

Direct by Ms. Cavanaugh	164
Cross by Mr. Johnson	179
Re-Direct by Cavanaugh.....	189

Jerry Dobbins (SW)

Direct by Ms. Cavanaugh	190
Cross by Mr. Johnson	201

Melisa Hall (SW)

Direct by Ms. Simpson	206
-----------------------------	-----

Nakiah Johnson (SW)

Direct by Ms. Cavanaugh	214
-------------------------------	-----

David Kellin (SW)

Direct by Ms. Cavanaugh	228
Cross by Mr. Johnson	251

Dave Capps (SW)

Direct by Ms. Cavanaugh	253
Cross by Mr. Johnson	256
Re-Direct by Ms. Cavanaugh.....	262

Ron Fountain (SW)

Direct by Ms. Cavanaugh	263
Cross by Mr. Johnson	266

Paul Meah (SW)

Direct by Ms. Simpson	268
Cross by Mr. Johnson	282
Re-Direct by Ms. Simpson.....	283

Steve Knafelc (SW)

Direct by Ms. Cavanaugh	284
Cross by Mr. Johnson	290

Laurie Caldwell (SW)

Direct by Ms. Cavanaugh	291
Direct by Ms. Cavanaugh (in camera).....	297
Direct by Ms. Cavanaugh	301

Allison Foster (SW)

Direct by Ms. Cavanaugh (in camera).....	308
Direct by Ms. Cavanaugh	313
Cross by Mr. Williams.....	334
Re-Direct by Ms. Cavanaugh.....	336

Susan Luberoff (SW)

Direct by Ms. Simpson	340
Cross by Mr. Johnson	353

Ricky Baily (SW)

Direct by Ms. Simpson	355
Cross by Mr. Johnson	385
Re-Direct by Ms. Simpson.....	406

Re-Cross by Mr. Johnson.....	414
Directed Verdict Motion.....	415
Closing Arguments	
By Ms. Simpson.....	434
By Mr. Johnson.....	479
Jury Charge.....	498

Volume II

Jury Charge (cont.).....	501
Verdict.....	513
Sentencing.....	515
Sentencing Sheet.....	524
Indictments.....	526
Rule 210(g), SCACR Certification	

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 his guilt to you beyond a reasonable doubt.

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

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

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

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

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

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

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

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

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

25 That statute defines the terms willfully, that

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

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

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

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

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

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

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

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

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

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

16 Mr. Bailiff, please separate the alternates.

17 THE BAILIFF: All right, sir.

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

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

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

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

1 THE COURT: Mr. Johnson?

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

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

8 MS. SIMPSON: We're good.

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

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

16 MS. SIMPSON: No, Your Honor.

17 THE COURT: You do have an objection?

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

19 MR. JOHNSON: No objection from the Defense.

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

21 It's 11:50 a.m.

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

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

25 THE COURT: Is the State ready to receive the

1 verdict?

2 MS. SIMPSON: The State is ready.

3 THE COURT: Mr. Johnson, ready?

4 MR. JOHNSON: Yes, sir.

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

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

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

17 THE FOREWOMAN: Yes, Your Honor.

18 THE COURT: Hand it to me, please.

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

21 THE CLERK: Thank you, Your Honor.

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

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

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

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

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

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

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

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

22 THE COURT: By the Defendant.

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

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

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

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

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

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

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

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

1 CSC second with a minor?

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

3 THE COURT: Lewd act?

4 MS. SIMPSON: Zero to 15.

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

10 All right. Mr. Johnson.

11 NAKIA JOHNSON

12 being first duly sworn, testified as follows:

13 THE DEFENDANT: Yes.

14 THE CLERK: Thank you.

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

17 MS. SIMPSON: Yes, Your Honor.

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

20 MS. SIMPSON: That is correct.

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

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

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

1 advocate would like to present it to the Court.

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

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

7 THE COURT: All right. Anything else?

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

11 THE COURT: Mr. Johnson?

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

18 THE COURT: That you were amazed?

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

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

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

1 THE COURT: I can't hear you.

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

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

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

13 VICTIM ADVOCATE: Yes, sir.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 The jury has given you a lot of mercy not

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

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

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

17 MS. SIMPSON: Thank you, Your Honor.

18 MR. JOHNSON: Thank you, Your Honor.

19 THE COURT: Everybody remain seated, please.

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

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

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

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

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

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

16 MR. JOHNSON: Thank you, Your Honor.

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

19 MISS FORD: Yes, sir.

20 THE COURT: Good luck.

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

23 -- END OF TRANSCRIPT OF RECORD --

24

25

1 C E R T I F I C A T E

2

3 STATE OF SOUTH CAROLINA

4 COUNTY OF LEXINGTON

5

6 I, the undersigned, Bethanie K. Creppon, Circuit
7 Court Reporter for the Second Judicial Circuit of
8 the State of South Carolina, do hereby certify that
9 the foregoing is a true, accurate and complete
10 transcript of record of all the proceedings had and
11 the evidence introduced in the trial of the
12 captioned cause, relative to appeal in the Criminal
13 Court for Kershaw County, South Carolina, on the
14 23rd - 26th days of June, 2015.

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

17

18

December 1, 2015

19

20

s/Bethanie K. Creppon

21

22

Bethanie K. Creppon
Circuit Court Reporter

23

24

25

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

ROA 524

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

SENTENCE SHEET

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

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

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

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

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

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
 probation, which are incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on:
 The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
 by the State Department of Corrections.
 The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered PTUP
 Total: \$ plus 20% fee: \$ days/hours Public Service Employment
 Payment Terms:
 Set by SCDPPPS
 Obtain GED
 Attend Voc. Rehab. or Job Corp.
 May serve W/E beginning
 Substance Abuse Counseling
 Random Drug/Alcohol testing
 Fine may be pd. in equal, consecutive weekly/monthly
 pmts. of \$ beginning
 \$ paid to Public Defender Fund
 Other:

Recipient:

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

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

Clerk of Court/ Deputy Clerk: [Signature] Presiding Judge: [Signature]
 Court Reporter: Bethanie Cuppen Judge Code: 2136
 Sentence Date: 6/26/15

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

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

ROA 525

SENTENCE SHEET

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

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

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

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

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center,
for a determinate term of 15 days/months/years or under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.
 CONCURRENT or CONSECUTIVE to sentence on: 14-65-28-420
 The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
by the State Department of Corrections.
 The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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

SPECIAL CONDITIONS:

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

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

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

Clerk of Court/ Deputy Clerk: [Signature]
Court Reporter: [Signature]

Presiding Judge: [Signature]
Judge Code: 2136
Sentence Date: 6/26/15

ROA 526

WITNESSES

(S) Inv. R. Bailey
- KCSD

DOCKET NO. 2014-GS-28-0420

The State of South Carolina

County of

Kershaw

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

Defendant

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

COURT OF GENERAL SESSIONS

JUNE TERM 2014

116

ARREST WARRANT NUMBER

DP00083

Defendant

**THE STATE
vs.**

Witness:

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

**ACTION OF GRAND JURY
TRUE BILL**

Nakia Karreim Johnson

representative of Grand Jury
MAY 28 2014

VERDICT

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

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

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

representative of Petit Jury
ite:

STATE OF SOUTH CAROLINA)
)
 COUNTY OF KERSHAW)

INDICTMENT

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

CRIMINAL SEXUAL CONDUCT WITH A MINOR
2ND DEGREE (AGE 11-14)

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

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


 DAN JOHNSON, SOLICITOR

ROA 528

WITNESSES

(S) Inv. R. Bailey - KCSD

DOCKET NO. 2014-GS-28-0910

The State of South Carolina

County of

Kershaw

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

Defendant

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

Defendant

Witness:

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

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

ARREST WARRANT NUMBER

DP00112

COURT OF GENERAL SESSIONS

AUGUST TERM 2014

79

THE STATE

vs.

Nakia Karreim Johnson

ACTION OF GRAND JURY

TRUE BILL

person of Grand Jury
e:

AUG 20 2014

VERDICT

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

SC Code: 16-15-0140

CDR Code: 2468

person of Petit Jury
e:

STATE OF SOUTH CAROLINA)

INDICTMENT

COUNTY OF KERSHAW)


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

Grand Jurors of Kershaw County present upon their oath:

LEWD ACT ON A MINOR CHILD

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

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



DAN JOHNSON, SOLICITOR

RECEIVED

SEP 23 2016

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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

Court of Appeals Case No. 2015-001436

The State of South Carolina, Respondent

v.

Nakia Johnson, Appellant.

Rule 210(g), SCACR Certification

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

Respectfully Submitted,

By 

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

Attorney for Appellant

September 19, 2016
Greenwood, South Carolina

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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

RECEIVED

SEP 23 2016

SC Court of Appeals

Court of Appeals Case No. 2015-001436

The State of South Carolina, Respondent


v.

Nakia Johnson, Appellant.

CERTIFICATE OF SERVICE

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

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



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

September 19, 2016
Greenwood, South Carolina