

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

Appeal from Barnwell County

Honorable Maite Murphy, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

JEREMY JAMES THOMAS,

APPELLANT

APPELLATE CASE NO 2017-001237

RECORD ON APPEAL

**RECEIVED**

OCT 12 2017

**SC Court of Appeals**

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ATTORNEYS FOR RESPONDENT

**INDEX**

INDEX ..... i

GUILTY PLEA TRANSCRIPT DATED FEBRUARY 7, 2017 .....1

SENTENCING .....17

INDICTMENT .....20

CERTIFICATE OF COUNSEL .....22

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
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State of South Carolina  
County of Barnwell

Court of General Sessions

State )  
)  
v. )  
Jeremy Thomas )  
Defendant. )

Transcript of Record  
17-GS-06-020

February 7, 2017  
Bamberg, South Carolina

B E F O R E:

The Honorable Maite D. Murphy, Judge.

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

Michael H. Emmer, III, Assist. Solicitor  
Attorney for the State

Adam C. Ness, Esquire  
Attorney for the Defendant

Stacy L. Sheppard, RPR  
Circuit Court Reporter

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I N D E X

WITNESSES                      DIRECT   CROSS   REDIRECT   RECROSS

(There were no witnesses.)

E X H I B I T S

NO.                                      DESCRIPTION                                      ID.   EVD.

(There were no exhibits.)

1 (The following proceedings were held on  
2 February 7, 2017.)

3 JEREMY THOMAS,

4 having been duly sworn, testified as follows:

5 MR. EMMER: Your Honor, before you is Jeremy  
6 Thomas, true billed indictment 2016-GS-06-00212,  
7 criminal sexual conduct with a minor age 11 to 14  
8 second degree. Your Honor, the Minor is here. The  
9 Minor is -- the Minor's mother is present in the  
10 courtroom here today and she would like to be heard  
11 from at the appropriate time.

12 THE COURT: And is the State making a  
13 recommendation?

14 MR. EMMER: Your Honor, this is -- the State  
15 has actually negotiated this to a 15 years.

16 THE COURT: Mr. Ness, you represent Mr. Thomas  
17 in this matter?

18 MR. NESS: I do, Your Honor.

19 THE COURT: And have you explained to your  
20 client the charges contained in the indictment, the  
21 possible punishment and his constitutional rights?

22 MR. NESS: I have.

23 THE COURT: In your opinion, does he understand  
24 the charge, the punishment and his rights?

25 MR. NESS: Yes, ma'am.

1           **THE COURT:** How does he indicate to you that he  
2 wishes to plead?

3           **MR. NESS:** Guilty.

4           **THE COURT:** And do you agree with your client's  
5 decision to plead guilty?

6           **MR. NESS:** I do.

7           **THE COURT:** Based upon your investigation of  
8 the facts and circumstances of the case, do you feel  
9 the State could produce sufficient evidence to  
10 convince the jury of your client's guilt beyond a  
11 reasonable doubt? And if he were to stand trial,  
12 his conviction would be probable?

13          **MR. NESS:** I do, Your Honor.

14          **THE COURT:** Have you also explained to your  
15 client all of the collateral consequences of this  
16 plea to include the sex offender registry, the  
17 Violent Predator Act, as well as this being a  
18 violent, most serious offense?

19          **MR. NESS:** Yes, I have.

20          **THE COURT:** In your opinion, does he understand  
21 all of those consequences?

22          **MR. NESS:** In my opinion he does, Your Honor.

23          **THE COURT:** All right. And, Mr. Thomas, I have  
24 questions for you to ensure that your plea is  
25 freely, knowingly and intelligently made. If, at

1 any point, you don't understand something, please  
2 stop to ask me, okay? Make sure you speak out loud.  
3 The court reporter has got to take down everything  
4 that you say.

5 How old are you, sir?

6 **DEFENDANT:** Thirty-five.

7 **THE COURT:** And how far did you go in school?

8 **DEFENDANT:** Tenth grade.

9 **THE COURT:** Did you get a GED?

10 **DEFENDANT:** No, ma'am.

11 **THE COURT:** What type of work do you do?

12 **DEFENDANT:** Mechanic.

13 **THE COURT:** Are you married?

14 **DEFENDANT:** No.

15 **THE COURT:** Any children?

16 **DEFENDANT:** Yes.

17 **THE COURT:** How many children do you have?

18 **DEFENDANT:** Three children.

19 **THE COURT:** Have you ever been treated for the  
20 abuse of drugs, alcohol or mental illness?

21 **DEFENDANT:** No, ma'am.

22 **THE COURT:** Within the last 24 hours, have you  
23 had any drugs, alcohol or prescription medication?

24 **DEFENDANT:** No, ma'am.

25 **THE COURT:** Are you aware of any physical or

1 emotional or nervous problem that would prevent you  
2 from understanding what you're doing here today?

3 **DEFENDANT:** No, ma'am.

4 **THE COURT:** You're pleading guilty to criminal  
5 sexual conduct with a minor second degree, a charge  
6 which carries a potential penalty between 10 and 30  
7 years. Do you understand that?

8 **DEFENDANT:** Yes, ma'am.

9 **THE COURT:** And your attorney has negotiated  
10 with the State a sentence of 15 years. Do you  
11 understand that?

12 **DEFENDANT:** Yes, ma'am.

13 **THE COURT:** You understand if I don't accept  
14 that, I will allow you to withdraw your plea?

15 **DEFENDANT:** Yes, ma'am.

16 **THE COURT:** Your attorney tells me that he has  
17 discussed with you all of the collateral  
18 consequences of entering into this plea, such as the  
19 sex offender registry and the Violent Predator Act,  
20 along with this being a violent and most serious  
21 offense. Do you understand all of those  
22 consequences?

23 **DEFENDANT:** Yes, ma'am.

24 **THE COURT:** Knowing all of that, do you wish to  
25 proceed and plead guilty here today?

1           **DEFENDANT:** Yes, ma'am.

2           **THE COURT:** All right. Solicitor.

3           **MR. EMMER:** Your Honor, on January 1st of 2016,  
4 the Barnwell County Sheriff's Office was dispatched  
5 to [REDACTED] in Hilda, South Carolina,  
6 within the county of Barnwell in reference to a  
7 criminal sexual conduct with a minor. Officers  
8 arrived on the scene and spoke with the aunt of the  
9 Minor, a Misty Thomas. She stated that the  
10 defendant and she were drinking at the incident  
11 location for New Years Eve.

12           As the evening wound down, the Minor and other  
13 children fell asleep on the couch. Ms. Thomas woke  
14 later that evening and went to check on the  
15 children. She noticed the Minor was missing. She  
16 walked through the house. She went to one of the  
17 rooms and found the defendant having sexual  
18 intercourse with the Minor, his 11-year-old  
19 biological daughter. When confronted, the defendant  
20 became irate and threatened to kill them both.  
21 Ms. Thomas grabbed the Minor and ran out of the  
22 home to the neighbor's home to call the police.

23           The defendant fled the scene in Ms. Thomas' car  
24 leading to a charge of use of vehicle without  
25 permission. The State is going to be dismissing

1 that charge as a part of this plea. The defendant  
2 was located later that morning.

3 The Minor, she was born on [REDACTED], 2004,  
4 making her 11 years old at the time of this  
5 incident.

6 Defendant's prior record: Simple possession of  
7 marijuana and disorderly conduct in 2000, criminal  
8 domestic violence first in 2002, criminal domestic  
9 violence first again in 2003, possession of  
10 marijuana and a driving under suspension in 2005,  
11 driving under suspension in '07, driving under  
12 suspension in '09, another driving under suspension  
13 in '10, as well as a CDV first in 2014.

14 **THE COURT:** Mr. Thomas, do you agree with the  
15 facts as stated by the State?

16 **MR. NESS:** We have one clarification, Your  
17 Honor. As far as there being intercourse in this  
18 matter, there was none that I saw in the evidence.  
19 It appeared to me that it was touching only, no  
20 penetration, none of that.

21 **THE COURT:** Well, if you tell me there's no  
22 penetration, there has to be penetration however  
23 slight for it to be criminal sexual conduct with a  
24 minor. Do you need time to talk to your client  
25 about that?

1           **MR. NESS:** No.

2           **THE COURT:** So, Mr. Thomas, are you guilty of  
3 these charges?

4           **DEFENDANT:** Yes, Your Honor.

5           **THE COURT:** Do you agree with the facts as  
6 stated by the State?

7           **DEFENDANT:** All but what my lawyer had  
8 mentioned.

9           **THE COURT:** So what you're telling me is that  
10 there was no penetration; is that correct? Or was  
11 there penetration?

12           **MR. NESS:** Let me clarify, Your Honor. There's  
13 no penetration. It made it sound like there was  
14 penile penetration in this case and that's not what  
15 the evidence given to me showed. There may have  
16 been tactile or otherwise, fingers or that sort of  
17 thing, but I just -- I wanted to clarify the facts  
18 for the Court.

19           **THE COURT:** Well, Mr. Thomas, you tell me.  
20 What did you do?

21           **DEFENDANT:** Honestly, I can't remember, Your  
22 Honor. I just -- I can't remember anything that  
23 happened that night.

24           **MR. NESS:** He was intoxicated. The first part  
25 of that spill was that they were drinking that

1 night, and, in fact, he was so intoxicated he cannot  
2 remember the incident whatsoever.

3 **THE COURT:** So as far as the evidence,  
4 Mr. Ness, tell me what the evidence does show as far  
5 as penetration is concerned.

6 **MR. NESS:** That the child, giving forensic  
7 interviews, detailed that he was touching her and  
8 touched her in her private part, in her vagina. And  
9 I think that's where the penetration comes from.

10 Going further, there was additional evidence.  
11 DNA evidence was collected and it showed that he --  
12 that there was semen about the area, but no --  
13 nothing internal. That's what I saw in the  
14 evidence.

15 **THE COURT:** Was the child not clothed when this  
16 was going on?

17 **MR. NESS:** Her -- yes.

18 **MR. EMMER:** Yes, Your Honor. For  
19 clarification, both Minor and defendant were naked  
20 within the bed.

21 **THE COURT:** So, Mr. Thomas, do you agree with  
22 those facts as stated by the State?

23 **DEFENDANT:** I can't remember, but I'm willing  
24 to take responsibility, yes, ma'am.

25 **THE COURT:** Obviously, for you to acknowledge

1 your guilt, you're telling me that you can't  
2 remember, but have you reviewed the evidence and --

3 **DEFENDANT:** Yes. After me and the attorney  
4 reviewed the evidence, I'm pleading guilty, yes,  
5 ma'am.

6 **THE COURT:** And you accept that even though you  
7 don't remember, because you were under the influence  
8 of alcohol, the State could produce sufficient  
9 evidence to convict you beyond a reasonable doubt?

10 **DEFENDANT:** Yes, ma'am.

11 **THE COURT:** And based upon that, you're  
12 entering a plea of guilty?

13 **DEFENDANT:** Yes, ma'am.

14 **THE COURT:** You understand by pleading guilty,  
15 you're waiving certain constitutional rights.  
16 You're waiving your right to have a trial by jury  
17 where the State would have the burden of proving  
18 your guilt beyond a reasonable doubt?

19 **DEFENDANT:** Yes, ma'am.

20 **THE COURT:** You're also waiving your right to  
21 remain silent during that trial. At which point,  
22 the judge would instruct the jury they could not use  
23 that against you. And you're waiving the right to  
24 challenge the State's evidence, as well as  
25 cross-examine witnesses and present any defenses

1 that you may have. And you're also waiving the  
2 right to challenge any potential incriminating  
3 statements that you may have made. Do you  
4 understand that you're waiving each of those rights?

5 **DEFENDANT:** Yes, ma'am.

6 **THE COURT:** You've been represented by counsel  
7 in this matter. Have you been satisfied with how  
8 he's advised and represented you in this case?

9 **DEFENDANT:** Yes, ma'am.

10 **THE COURT:** Have you spoken with him for as  
11 often and for as long as you feel is necessary for  
12 him to properly represent you?

13 **DEFENDANT:** I have, Your Honor.

14 **THE COURT:** Have you understood your talks with  
15 your attorney?

16 **DEFENDANT:** Yes, ma'am.

17 **THE COURT:** Do you have any complaints against  
18 your attorney?

19 **DEFENDANT:** No, ma'am.

20 **THE COURT:** Has anyone promised you anything or  
21 held out any hope of reward to get you to plead  
22 guilty?

23 **DEFENDANT:** No, ma'am.

24 **THE COURT:** Anyone threaten or coerce you in  
25 any way to get you to plead guilty?

1           **DEFENDANT:** No.

2           **THE COURT:** Has anyone associated with your  
3 case whatsoever mistreated you in any way?

4           **DEFENDANT:** No, ma'am.

5           **THE COURT:** Have you had enough time to make up  
6 your mind as to whether or not you want to plead  
7 guilty?

8           **DEFENDANT:** Yes, ma'am.

9           **THE COURT:** Are you pleading guilty of your own  
10 free will?

11          **DEFENDANT:** Yes, ma'am.

12          **THE COURT:** Have you understood all of my  
13 questions?

14          **DEFENDANT:** Yes, ma'am.

15          **THE COURT:** Is there anything you need to ask  
16 me about what we have just been over?

17          **DEFENDANT:** No, ma'am.

18          **THE COURT:** Has each and every answer that  
19 you've given the Court been completely truthful and  
20 honest?

21          **DEFENDANT:** It has, yes, ma'am.

22          **THE COURT:** You understand that you have ten  
23 days to appeal the guilty plea and the sentence of  
24 the Court? And if you cannot afford an attorney,  
25 one will be appointed to represent you?

1           **DEFENDANT:** Yes, ma'am.

2           **THE COURT:** I do find that there is a  
3 substantial factual basis for the plea. The  
4 defendant's decision to plead guilty is freely,  
5 knowingly and intelligently made with the advice of  
6 counsel with whom he says he's satisfied with. I'll  
7 accept the plea.

8           I understand that the Minor's wish to be heard?

9           **MR. EMMER:** Yes, Your Honor.

10          **THE COURT:** I'll be happy to hear from them.

11          Yes, ma'am, if you'd state your name first.

12          **MS. WOOD:** My name is Lisa Wood.

13          **THE COURT:** Yes, Ms. Wood.

14          **MS. WOOD:** And I would just like to say I don't  
15 think 15 years is long enough for what he has done  
16 and that he's not -- this is not the only time that  
17 he's done that. He's done it more than once.

18          **THE COURT:** And tell me your relationship with  
19 him.

20          **MS. WOOD:** That's -- I have two kids by him.  
21 And the daughter is my daughter.

22          **THE COURT:** Okay. Is there anything else you  
23 would like to add?

24          **MS. WOOD:** (Ms. Wood shook head.)

25          **THE COURT:** Anything further from the State?

1           **MR. EMMER:** No, Your Honor -- oh, I'm sorry.

2           **MS. MYRICK:** Your Honor, I'm the grandmother.

3 I'm Lisa's mother.

4           **COURT REPORTER:** I need your name.

5           **MS. MYRICK:** Susan Myrick.

6           Considering what he did and the age of my  
7 granddaughter, what she's went through, what my  
8 daughter's been through and there's another child, a  
9 little brother, and -- it's been devastating. And I  
10 don't know what all she's going to face ahead of  
11 her, but I agree with Lisa that 15 years is not  
12 enough. He should get the maximum of whatever you  
13 consider is appropriate, but a father's supposed to  
14 protect his child; he's not supposed to hurt.

15           **THE COURT:** Is the child in counseling?

16           **MS. WOOD:** She was. She's finished with it  
17 now.

18           **THE COURT:** Anything else y'all would like to  
19 add?

20                       (There was no response.)

21           **THE COURT:** Mr. Ness.

22           **MR. NESS:** Thank you, Your Honor.

23           As mentioned earlier, Mr. Thomas is 35 years  
24 old. He's an auto mechanic by trade. He's also  
25 done some HVAC installations and worked on those

1 kind of systems as well.

2 You know, beyond what I mentioned earlier, we  
3 don't dispute the facts. The evidence is all  
4 physical or it's by testimony of the daughter. And  
5 after multiple conversations, multiple trips back  
6 and forth to Barnwell speaking with Mr. Thomas,  
7 discuss the evidence, talked about the interviews,  
8 talked about, you know, what happens next if we  
9 don't plead, that sort of situation, he told me  
10 straight up, he said, I'm not going to put my  
11 daughter through anything else; I can't believe what  
12 happened happened. But he said, I'm going to take  
13 responsibility for it. And ensued the negotiation  
14 with the solicitor's office for 15 years.

15 And while he understands that pleading guilty  
16 and accepting responsibility will never fix what he  
17 did, he is asking the Court to accept the  
18 negotiations of the solicitor's office and myself  
19 and give him a 10 year -- a 15-year sentence, let  
20 him go do his time.

21 **THE COURT:** Anything further from anyone?

22 **MR. EMMER:** No, Your Honor.

23 **THE COURT:** Well, Mr. Thomas, the mother of  
24 your child certainly is correct, you're not -- if  
25 you're a father, that's the last thing you need to

1 be doing. You need to be -- you're there to protect  
2 your child, not to physically abuse a child like  
3 that. Obviously, that will forever change her. And  
4 I think it's important that you are taking  
5 responsibility for that.

6 And your attorney's done a good job in  
7 negotiating this sentence. I will follow the term,  
8 but I'm going to add some probation afterwards so  
9 that you continue to get treatment and that you're  
10 not to have any contact with her unless somehow it's  
11 initiated through a family court order after the  
12 fact, but that has to be initiated through them.  
13 But my order is going to be that you not have any  
14 contact with her.

15 On indictment 2017-GS-06-020, you're hereby  
16 committed to the State Department of Corrections for  
17 a period of 30 years, provided upon the service of  
18 15 years and probation to follow for five years.  
19 Special conditions of probation are that you are to  
20 obtain your GED, you must receive substance abuse  
21 counseling, random drug and alcohol testing, you  
22 must register as a sex offender.

23 I understand that you're appointed Mr. Ness; is  
24 that correct?

25 **MR. NESS:** That's correct.



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

STATE OF SOUTH CAROLINA

COUNTY OF BARNWELL

I, the undersigned, Stacy L. Sheppard, Circuit Court Reporter for the Second Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete transcript of record of all the proceedings had and the evidence introduced in the hearing of the captioned cause, relative to appeal in the Criminal Court for Barnwell County, South Carolina, on the 7th of February, 2017.

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

July 16, 2017



Stacy L. Sheppard, RPR  
Circuit Court Reporter

**WITNESSES**

Barnwell Sheriffs Office

Matt Davis

Law Enforcement Case #: C16-01-0004

MHE

**ARREST WARRANT NUMBER**

2016A0610300002

**ACTION OF GRAND JURY**

*True Bill*  
*May Holladay*

Foreperson of Grand Jury  
Date: January 5, 2017

**VERDICT**

Foreperson of Petit Jury  
Date:

**DOCKET NO. 2017GS0600020**

**The State of South Carolina**

**County of Barnwell**

**COURT OF GENERAL SESSIONS**

**MARCH TERM 2017**

**THE STATE  
vs.**

**JEREMY JAMES THOMAS**

**CDR #: 0396**

**Indictment for**

**CRIMINAL SEXUAL CONDUCT WITH A  
MINOR SECOND DEGREE**

**§ 16-03-0655(B)(1)**

**J. STROM THURMOND, SOLICITOR**

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF BARNWELL )  
 )

INDICTMENT FOR  
 CRIMINAL SEXUAL CONDUCT WITH A  
 MINOR SECOND DEGREE

§ 16-03-0655(B)(1)

At a Court of General Sessions, convened on March 13, 2017, the Grand Jurors of Barnwell County present upon their oath:

That **JEREMY JAMES THOMAS** did in Barnwell County on or about January 1, 2016, commit the crime of Criminal Sexual Conduct With A Minor In The Second Degree, in that the Defendant did commit a sexual battery upon Minor a minor who was eleven (11) years of age at the time of the incident. All in violation of §16-3-655(B)(1), Code of Laws of South Carolina (1976), as amended.

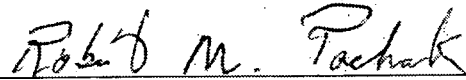
Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

  
 J. STROM THURMOND, SOLICITOR

## CERTIFICATE OF COUNSEL FOR APPELLANT

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

Respectfully Submitted,



Robert M. Pachak  
Appellate Defender

South Carolina Commission on Indigent Defense  
Division of Appellate Defense  
PO Box 11589  
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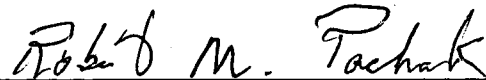
ATTORNEY FOR APPELLANT

This 12th day of October, 2017.

## CERTIFICATE OF COUNSEL FOR APPELLANT

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

Respectfully Submitted,



Robert M. Pachak  
Appellate Defender

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

ATTORNEY FOR APPELLANT

This 12th day of October, 2017.

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SC Court of Appeals