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SC SUPREME COURT

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Lexington County

Brooks P. Goldsmith, Circuit Court Judge

DEDRIC L. ISREAL,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2015-001654

A P P E N D I X

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ATTORNEY FOR PETITIONER

ATTORNEYS FOR RESPONDENT

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1 State of South Carolina Court of General Sessions
2 County of Lexington
3
4

5 State)
6)
7 v.) Transcript of Record
8) 14-GS-32-1155
9 Dedric L. Isreal)
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April 2, 2014
Lexington, South Carolina

B E F O R E:

The Honorable William P. Keesley, Judge.

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

L. Suzanne Mayes, Assist. Solicitor
Attorney for the State

Barry B. George, Esquire
Attorney for the Defendant

Stacy L. Sheppard, RPR
Circuit Court Reporter

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I N D E X

WITNESSPAGE

Certificate of Reporter

20

(There were no witnesses.)

E X H I B I T S

NO.DESCRIPTIONID.EVD.

C-1

Letter

19

C-2

Psychological Evaluation

19

C-3

Psychological Evaluation

19

1 (The following proceedings were held on
2 April 2, 2014.)

3 **THE CLERK:** 2014-GS-32-1155, State versus
4 Dedric Isreal, indicted for indecent exposure. He
5 is pleading as charged. He is waiving presentment
6 to the grand jury and represented by Mr. George.

7 DEDRIC ISREAL,
8 having been duly sworn, testified as follows:

9 **THE COURT:** You're Dedric Latrone Isreal?

10 **DEFENDANT:** Yes, sir.

11 **THE COURT:** This indictment charges that in
12 Lexington County, on or about September the 17th,
13 2013, you willfully, maliciously -- maliciously and
14 indecently exposed yourself in a public place or in
15 property of others or in a place where you could be
16 viewed by another person on a street or highway.
17 It's alleged that you exposed yourself to several
18 persons who were customers or employees at Kohl's
19 Department Store on Harbison Boulevard in Lexington
20 County.

21 Upon your arraignment on this charge, it
22 appears you wish to waive presentment to the grand
23 jury and plead guilty to indecent exposure; is that
24 right?

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

1 **THE COURT:** Mr. George, have you fully
2 explained to your client the nature and elements of
3 the offense, the possible punishment and his
4 constitutional rights, including trial by jury?

5 **MR. GEORGE:** I have, Your Honor.

6 **THE COURT:** Are you satisfied there's a factual
7 basis for his plea?

8 **MR. GEORGE:** He does, Your Honor.

9 **THE COURT:** And you agree with his decision?

10 **MR. GEORGE:** Yes, sir.

11 **THE COURT:** Mr. Isreal, today are you under the
12 influence of any medicine, drug, alcohol or anything
13 affecting your thinking?

14 **DEFENDANT:** No, Your Honor.

15 **THE COURT:** Do you have any physical or mental
16 problems affecting your thinking?

17 **DEFENDANT:** No, Your Honor.

18 **THE COURT:** You're clearheaded? You know what
19 you're doing?

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

21 **THE COURT:** When you plead guilty, you give up
22 important rights, including your right to remain
23 silent and your right to a jury trial. Do you
24 understand?

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

1 **THE COURT:** If you want a jury trial, you're
2 presumed innocent. The State has to prove you
3 guilty beyond a reasonable doubt to convict you.
4 And you get to see, hear and have your attorney
5 cross-examine every witness against you. You
6 understand?

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

8 **THE COURT:** By pleading guilty, you give up all
9 of those rights. You give up defenses. You give up
10 challenges to evidence. You admit the charge is
11 true. Do you understand that?

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

13 **THE COURT:** Do you want a jury trial?

14 **DEFENDANT:** No, Your Honor.

15 **THE COURT:** Listen to the State, please.

16 **MS. MAYES:** Yes, sir, Your Honor. This case
17 was reported to law enforcement on September 17th of
18 2013. It was reported by the loss prevention
19 officers at Kohl's Department Store. On that date,
20 they did observe the suspect, pursuant to store
21 surveillance, actually the camera that's placed
22 there inside the department store, they observed him
23 in the children's clothing section picking up
24 several pieces of clothing off the rack and then
25 continuing to look around the store.

1 They described that the suspect then went near
2 a rack of children's clothing and unzipped his pants
3 and began masturbating in public. After he
4 ejaculated on a clothing item, he then placed the
5 item back onto the rack. He then exited the store.
6 He was detained.

7 And those loss prevention officers did give
8 statements. Your Honor, in the statements that they
9 gave, what they specifically stated was that while
10 they were observing him, he was looking around at
11 women and children in the store. Both of the loss
12 prevention officers, Ms. Nelly Pelham and Mr. James
13 Dukes, described that he seemed to be looking around
14 at women and children while he was engaging in this
15 act, and that is our concern.

16 He does have a prior record where he was
17 charged with voyeurism and/or Peeping Tom, it's all
18 under the same statute, in Richland County. That
19 arrest was in 2010. He pled guilty in 2011 to the
20 charge of aggravated breach of peace. That was the
21 plea negotiation. He received a sentence of 18
22 months suspended to one year probation.

23 Our understanding is that he was ordered to
24 participate in psychological or psychiatric
25 counseling as a condition of that probation and he

1 would have completed that probation when this
2 offense occurred. So there is an indication here
3 that he still has the need or the urge to carry out
4 these acts and they seem to be things that are done
5 in public or that there's a need to do it in public
6 while people are watching him. And that's
7 information I received from a report that was
8 provided to me by Mr. George after he had his client
9 evaluated by a private psychologist.

10 **THE COURT:** Do you admit you're guilty of this
11 charge, Mr. Isreal?

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

13 **THE COURT:** Has anybody forced you, threatened
14 you, coerced you in any way to get you to plead
15 against your will?

16 **DEFENDANT:** No, Your Honor.

17 **THE COURT:** Any plea bargains the State's made
18 with you, they have to tell me about on the record
19 in open court or you lose. You understand that?

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

21 **THE COURT:** Mr. George, is there anything need
22 to be put on the record about plea agreements?

23 **MR. GEORGE:** No, sir.

24 **THE COURT:** So has anyone promised you anything
25 or offered you any hope of reward to get you to

1 plead guilty, Mr. Isreal?

2 **DEFENDANT:** No, Your Honor.

3 **THE COURT:** Are you fully satisfied with your
4 attorney?

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

6 **THE COURT:** Anything else you want him to do on
7 the case he hasn't done?

8 **DEFENDANT:** No, Your Honor.

9 **THE COURT:** Any complaint against your
10 attorney, law enforcement officials or anybody who's
11 dealt with your case?

12 **DEFENDANT:** No, Your Honor.

13 **THE COURT:** This case has not been reviewed by
14 the grand jury. If you want the grand jury to
15 review it, at least 12 of the 18 grand jurors must
16 agree that you're probably guilty or the case stops
17 there. You understand?

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

19 **THE COURT:** The papers indicate you're giving
20 up that right. Is that your own decision, made of
21 your own free will?

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

23 **THE COURT:** Indecent exposure carries up to
24 three years in prison and a fine in my discretion.
25 Do you understand that?

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

2 **THE COURT:** I can require you to register as a
3 sex offender. You understand that?

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

5 **THE COURT:** I can place you on the Child Abuse
6 and Neglect Registry. You understand that?

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

8 **THE COURT:** Mr. Isreal's made a free, knowing,
9 voluntary and intelligent decision to waive his
10 rights and plead guilty, including his right of
11 presentment to the grand jury. He's done so upon
12 the advice of counsel with whom he's fully
13 satisfied. There's a factual basis for his plea.

14 Okay. Mr. George.

15 **MR. GEORGE:** Your Honor, the lady with us in
16 the courtroom today is his mother. She's retired
17 from South Carolina Electric and Gas where she
18 worked for 37 years. The only dispute we have with
19 the facts as the Solicitor recited them was it was
20 my understanding there was no one in the store that
21 saw any of this take place, but they saw it on the
22 camera. That's my understanding of the facts as
23 they happened.

24 Your Honor, this gentleman is 35 years old.
25 He's an -- he was an honor student at Columbia High

1 School. And he has attended Midland's Tech and USC.
2 He did not graduate from either of those.

3 Obviously, Your Honor, this young man has some
4 psychological problems. And the Solicitor was
5 talking about the probation that he had when he was
6 over in Richland County. He completed that
7 probation. And the whole time he was under -- in
8 probation, he was receiving psychiatric care. Today
9 he's on a generic substitute for Prozac, Your Honor.

10 And he's employed, Your Honor. And I would
11 pass up a statement, if it's okay with the Court,
12 showing that he's employed at Blue Cross/Blue
13 Shield. He's been working there for two months.

14 After this happened -- he lives at home with
15 his mother. After this happened, we had a
16 psychological evaluation of Mr. -- I'll pass this up
17 to the Court, Your Honor.

18 He suffers from anxiety and depression. And as
19 a result of this psychological evaluation, Your
20 Honor, he is presently under the care of a
21 psychiatrist, Dr. Rao. And he sees him every two
22 months, and he has to go back to see him again on
23 April the 7th. Your Honor, these are the medical
24 records I'd pass up to the Court from Dr. Rao.

25 Your Honor, he's also receiving counseling from

1 a psychologist named Dr. Peter Kilmann, who the
2 mother is paying for. It's quite expensive. So he
3 is -- he is getting the proper care for the problem
4 that he has.

5 He's gainfully employed. He's never -- there's
6 never been a case involving anything that he's been
7 involved with where another person was involved.
8 He's never been -- touched another person. There
9 was nobody in the store that he saw when he did
10 this. It's just a problem that he has.

11 As you see the diagnosis on the psychiatric
12 report what it is and the psychological evaluation
13 is that he has -- suffers from depression and
14 anxiety. And the diagnosis on the -- from Dr. Rao
15 is -- he was under a good bit of medical -- he was
16 taking prescription drugs and he's still taking
17 prescription drugs, as I previously said, generic
18 form of Prozac. And his diagnosis was OCD with
19 paranoia and voyeuristic disorder. That came from
20 the psychiatrist.

21 So, Your Honor, I would ask the Court, under
22 the statute as I read it, this crime that he's here
23 for today is really a victimless crime because there
24 was nobody there but him. And I would ask the
25 Court, pursuant to the statute, I think the -- I

1 would ask the Court to sentence him this way is put
2 him on probation and let him continue his
3 psychiatric care, let him continue his job because
4 he is gainfully employed.

5 And I would ask the Court, if the Court sees
6 fit, to put him on probation in lieu of putting him
7 on the sexual register, put him on an extended
8 probation to see -- so he can continue his
9 psychiatric care. And I would -- the reason I would
10 make that suggestion, Your Honor, I don't know how,
11 if he goes on the sexual register, whether he'll be
12 able to maintain his job or not.

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

14 Do you want to say anything?

15 **DEFENDANT:** No, sir -- well, I would like to
16 say I agree wholeheartedly with what my attorney has
17 just stated. Like he said, I have some problems
18 that I'm dealing with now and that I had previously.
19 I'm getting the proper and thorough treatment, I
20 think, to deal with these issues now.

21 As he mentioned, I'm gainfully employed with
22 Blue Cross/Blue Shield and I would like to
23 definitely keep that job and persevere. I've always
24 been a good citizen in the United States. I've been
25 respectful of my elders and my peers. And my

1 mother's always been with me every step of the way.
2 I grew up basically without a father from a very
3 young age and my mother's been there for me,
4 basically my mother and my father.

5 So I feel like by contributing and having this
6 job and continuing the psychiatric treatments that
7 I'm going through now and the counseling, I think
8 that will help me be a better citizen and a better
9 person overall.

10 **THE COURT:** Did you spend any time in jail on
11 this charge?

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

13 **THE COURT:** How long?

14 **DEFENDANT:** It was two days actually.

15 **THE COURT:** Y'all have a seat. It's going to
16 take me a while to write this up. Have a seat.

17 **MS. MAYES:** And, Your Honor, I also meant to
18 mention that Kohl's Department Store is requesting a
19 no contact order.

20 **THE COURT:** Okay.

21 (Pause.)

22 **THE COURT:** All right. Come back around.

23 Mr. Isreal, your attorney's done an excellent
24 job for you, sent you to the right places,
25 documented things properly. I can tell you, at

1 first hearing of these facts, there was no question
2 in my mind I was going to send you to prison for as
3 long as I could send you. And I think you should
4 pretty much expect that if you ever come before a
5 person in a black robe again, there's a high
6 probability that that person, whoever he or she may
7 be, is going to send you to prison for every day
8 they can send you. It's not a threat. It's just
9 the reality of the situation.

10 In looking at what your attorney presented to
11 me, reading through the reports and figuring out how
12 much time you would actually serve in prison and
13 what that would accomplish, I had come to the
14 conclusion that the better procedure here, the
15 better course is to let you have probation and
16 continue in the treatment you've been given with
17 some very strict guidelines and some very strict
18 conditions.

19 Now, I do find, however, in light of the
20 history that's reported in these reports, this
21 apparently is at least your third or perhaps your
22 fourth incident that deals with voyeurism or
23 voyeuristic type activities. And I have
24 specifically found that under section 24-3-430
25 subsection (C)(14), that the conditions, the

1 circumstances surrounding this incident do demand
2 that you register as a sex offender for the
3 remainder of your life.

4 Your sentence is that you be committed to the
5 South Carolina Department of Corrections for three
6 years and pay a fine of a thousand dollars.
7 Provided that upon the service of two days time
8 served and the payment of a thousand dollar fine,
9 the balance is suspended and you're placed on
10 probation for five years. You're subject to the
11 standard conditions of probation. Restitution is
12 deferred.

13 Now, here are the special conditions of
14 probation, and I have written them on every little
15 corner of this paper I have. I don't ever remember
16 writing -- going to this much trouble to write
17 somebody's sentence. It's a whole lot easier for me
18 to write three years and you go out the door. You
19 go out that door {indicating}.

20 You have to fully comply with your mental
21 health treatment regimen. This report should be
22 released, if you're agreeable, to the probation
23 department so they can see what's been done and what
24 is recommended for you because I don't want to
25 reinvent the wheel and I don't want to have anything

1 done that would interfere with what's been going on
2 because it looks like that the process that you're
3 in is appropriate. You have to reside with your
4 mother while you're on probation. Is that where
5 you're staying now?

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

7 **THE COURT:** I'm putting you on home detention
8 for six months. You can only leave your home for a
9 six-month period to go places that have been
10 preapproved by the probation department. They'll
11 let you go to things like medical appointments,
12 work, church, things like that, but you have to tell
13 them where you need to go in advance and they have
14 to preapprove it. If we see you out somewhere or
15 they -- they can come by your mother's house at two
16 o'clock in the morning, knock on the door, if you're
17 not in there, you violated your probation.

18 **DEFENDANT:** Yes, sir.

19 **THE COURT:** Unless you're gone to one of the
20 things they preapproved of.

21 You have to have intensive supervision for six
22 months. So you have to see them every other week
23 for the first six months; thereafter, it's usually
24 once a month.

25 **DEFENDANT:** Yes, sir.

1 **THE COURT:** I've written specifically that you
2 are to complete the treatment for voyeurism and have
3 follow-up monitoring in treatment throughout
4 probation. So there's -- at least there's that
5 focus. You pay your fine, your costs and
6 assessments, they automatically add 106.5 percent to
7 every fine and they add some more costs on top of
8 it, so the clerk will have to give you the exact
9 amount, but you pay that at the rate of a hundred
10 dollars a month beginning June the 1st, 2014.

11 You -- I had written on your sentence sheet as
12 a justification for requiring you to register as a
13 sex offender, that the circumstances of the incident
14 include masturbating on the children's clothing in
15 the department store and a history of inappropriate
16 conduct of a sexual nature in public with a
17 diagnosis of voyeuristic disorder. So you're not to
18 be in, on or about any Kohl's Department Store or
19 the children or lady sections of any clothing store.
20 You're not to be alone with any minor female. You
21 must have continuous adult supervision when you're
22 around children or minor females. And you cannot
23 exercise any supervisory or leadership roles over
24 any minors.

25 I was trying to use a sheet I use for bond with

1 conditions on the bond to go by. I was going to
2 attach it to it, but I finally wound up just trying
3 to write all over this one page, which they prefer
4 that we have your sentences on one page.

5 But to give you an example what I mean by that,
6 you're not to exercise a supervisory role over any
7 minor children other than your own, if you have
8 children, during this five-year period. You're not
9 to teach any classes to minors, either religious or
10 nonreligious classes. You're not to serve as a
11 chaperon or an adviser or a supervisor or in any
12 similar role over any youth group like Scouts or
13 anything like that, again, unless you have your own
14 children.

15 **DEFENDANT:** Yes, sir.

16 **THE COURT:** You understand all that?

17 **DEFENDANT:** Yes, Your Honor, I do.

18 **THE COURT:** All right. Mr. Isreal, since your
19 lawyer handed this up and since I relied upon it so
20 much, I need to make it a part of the record. We
21 need to go through here and take out personal
22 identifying information as best we can. That's
23 actually the attorney's responsibility.

24 But your work has an ID number on it. I'll
25 probably go strike through that. I'll strike

1 through your date of birth on this evaluation. They
2 put it on your sentence sheet. If I see anything
3 like a social security number, I strike through it,
4 but your lawyer needs to check and make sure none of
5 that is in a public record because what they're
6 starting to do is scan all of this stuff and soon
7 it's going to be available to anybody to access
8 through the Internet on any case.

9 **DEFENDANT:** I understand.

10 **MR. GEORGE:** Thank you, Your Honor.

11 **MS. MAYES:** Thank you, Your Honor.

12 **THE COURT:** Good luck.

13 (Court's Exhibit Numbers 1 through 3 were
14 marked for identification.)

15
16 **END OF PROCEEDINGS**
17
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25

C E R T I F I C A T E

STATE OF SOUTH CAROLINA

COUNTY OF LEXINGTON

I, the undersigned, Stacy L. Sheppard, Circuit Court Reporter for the Eleventh 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 Lexington County, South Carolina, on the 2nd of April, 2014.

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

August 1, 2014

s/Stacy L. Sheppard

Stacy L. Sheppard, RPR
Circuit Court Reporter

STATE OF SOUTH CAROLINA

COUNTY OF LEXINGTON

DEDRIC ISREAL

Full name and prison number (if any) of Applicant.

v.

State of South Carolina

IN THE COURT OF COMMON PLEAS

APPLICATION FOR

POST-CONVICTION RELIEF

2014CP3202121

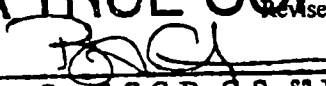
INSTRUCTIONS - READ CAREFULLY

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

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

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

1. Place of detention N/A
2. Name and location of Court which imposed sentence Lexington County Court of General Sessions; 205 E. Main Street, Lexington, SC 29072
3. Name(s) of co-defendant(s) (if any) _____
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 2014-GS-32-01155: Indecent Exposure
 - (b) _____
 - (c) _____
5. The date upon which sentence was imposed and the terms of the sentence:
 - (a) 4/2/14: Three years' imprisonment and \$1,000.00 fine suspended to time served, payment of \$1,000.00 fine, and five years' probation
 - (b) _____

A TRUE COPY
 Revised 5/2003

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

- (c) _____
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty X
- (b) after a plea of not guilty _____
- (c) after a plea of nolo contendere _____
7. Did you appeal from the judgment of conviction or the imposition of sentence?
No
8. If you answered "yes" to (7), list:
- (a) the name of each Court to which you appealed:
- i. _____
- ii. _____
- iii. _____
- (b) the result in each such Court to which you appealed:
- i. _____
- ii. _____
- iii. _____
- (c) the date of each such result:
- i. _____
- ii. _____
- iii. _____
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. _____
- ii. _____
- iii. _____
9. If you answered "no" to (7), state your reasons for not so appealing:
- (a) Collateral review presents the first opportunity to present these issues
- (b) _____
- (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:
- (a) Ineffective Assistance of Counsel

- (b) _____
- (c) _____
11. State concisely and in the same order the facts which support each of the grounds set out in (10):
- (a) Defense counsel failed to conduct an adequate investigation into the Applicant's case.
- (b) Defense counsel failed to properly represent Applicant at sentencing.
- (c) Defense counsel failed to adequately communicate with the Applicant prior to the Applicant's plea.
12. Prior to this application have you filed with respect to this conviction:
- (a) any petition in a State Court under South Carolina Law? No
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? No
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? No
- (d) any other petitions, motions or applications in this or any other Court? No
13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:
- (a) the specific nature thereof:
- i. _____
- ii. _____
- iii. _____
- iv. _____
- (b) the name and location of the Court in which each was filed:
- i. _____
- ii. _____
- iii. _____
- iv. _____
- (c) the disposition thereof:
- i. _____
- ii. _____
- iii. _____

- iv. _____
- (d) the date of each such disposition:
 - i. _____
 - ii. _____
 - iii. _____
 - iv. _____
- (e) if known, citations of any written opinions or orders entered pursuant to each such disposition:
 - i. _____
 - ii. _____
 - iii. _____
 - iv. _____
- 14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?
No
- 15. If you answered "yes" to (14) identify:
 - (a) which grounds have been presented:
 - i. _____
 - ii. _____
 - iii. _____
 - (b) the proceedings in which each ground was raised:
 - i. _____
 - ii. _____
 - iii. _____
- 16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:
 - (a) This Application for Post-Conviction Relief provides the first opportunity to present these issues.
 - (b) _____
 - (c) _____
- 17. Were you represented by an attorney at any time during the course of:

- (a) your arraignment and plea? Yes
- (b) your trial, if any? _____
- (c) your sentencing? Yes
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? _____
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? _____

18. If you answered "yes" to one or more parts of (17), list:

(a) the name and address of each attorney who represented you:

i. Barry B. George; 1419 Bull Street, Columbia, SC 29201

ii. _____

iii. _____

(b) the proceedings at which each such attorney represented you:

i. Plea and sentencing

ii. _____

iii. _____

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

To remove the Applicant from the sex offender registry; or, in the alternative, to vacate the Applicant's sentence and to remand for resentencing.

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

No

STATE OF SOUTH CAROLINA

)

VERIFICATION

)

County of Lexington

)

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

SWORN to and subscribed before me this 6/5/2014
day of June, 2014.

[Signature] (L.S.)
Notary Public

My Commission Expires: 7/10/2016

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF LEXINGTON	)	ELEVENTH JUDICIAL CIRCUIT
	)	
Dedric L. Isreal,	)	C.A. No. 2014-CP-32-2121
	)	
Applicant,	)	
	)	
v.	)	RETURN
	)	
State of South Carolina,	)	
	)	
Respondent.	)	
	)	

Respondent, making its Return to the Application for Post-Conviction Relief (PCR) filed June 6, 2014, would respectfully show this Court:

I.

The Lexington County grand jury indicted Applicant for indecent exposure (2014-GS-32-1155). He was represented by Barry B. George, Esq. On April 2, 2014, Applicant entered a guilty plea before the Honorable William P. Keesley. Judge Keesley accepted the plea and sentenced Applicant to a term of three (3) years imprisonment suspended upon the service of a term of five (5) years probation. Applicant did not appeal his sentence or conviction.

Attached herewith and incorporated herein by reference are the records of the Lexington County Clerk of Court regarding the subject conviction, and a copy of the Applicant's plea transcript.

II.

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

1. Ineffective Assistance of Trial Counsel;
 - a. "Defense counsel failed to conduct an adequate investigation into the Applicant's case;"

- b. "Defense counsel failed to properly represent Applicant at sentencing;"
- c. "Defense counsel failed to adequately communicate with the Applicant prior to the Applicant's plea."

III.

The Applicant's claims three allegations of ineffective assistance of trial counsel. The Respondent contends that the Applicant's trial counsel rendered adequate assistance and provided representation within the range of competence required by attorneys in criminal cases. See Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985).

In a post-conviction relief proceeding, the Applicant bears the burden of proving the allegations in their application. Id. Where ineffective assistance of counsel is alleged as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 2064, 80 L.Ed.2d 674, 692 (1984); Butler, 334 S.E.2d 813.

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Strickland, 80 L.Ed.2d 674. The Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

A two-pronged test is used in evaluating allegations of ineffective assistance of counsel. First, the Applicant must prove that counsel's performance was deficient. Under this prong, attorney performance is measured by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625, citing Strickland. Second, counsel's deficient performance

must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. The Respondent submits that the Applicant cannot satisfy either requirement of the Strickland test. However, the allegation of ineffective assistance of counsel probably raises questions of fact that cannot be conclusively refuted by the record. The Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

IV.

The Respondent therefore requests that this Court convene an evidentiary hearing solely on the issue of ineffective assistance of counsel. As to all other allegations, the Respondent moves for summary dismissal pursuant to S.C. Code Ann. § 17-27-70 on the basis that there is no genuine issue of material fact which would necessitate an evidentiary hearing and that those allegations should be dismissed as a matter of law.

V.

Applicant must specify any claims he intends to raise at the PCR trial. Any claims not *specifically* laid out in this PCR application or in amendments will be opposed by the State at an evidentiary hearing. S.C. Code '17-27-10 et seq; SCRCP 71.1. All claims should be made well in advance of the PCR hearing. If Applicant has an attorney appointed, the attorney, and not the inmate, is the only one authorized to file amendments. SCRCP Rule 11. Filings by inmates will not be considered at the PCR hearing.

VI.

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

VII.

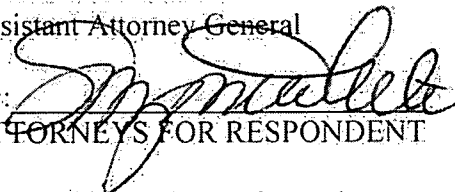
WHEREFORE, having made its Return, the Respondent requests that a hearing be held.

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

KAREN C. RATIGAN
Senior Assistant Deputy Attorney General

WALT WHITMIRE
Assistant Attorney General

By: 

ATTORNEYS FOR RESPONDENT

Office of the Attorney General
P.O. Box 11549
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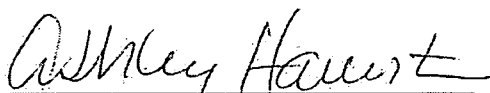
Sept. 22, 2014

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF LEXINGTON	)	
	)	
	)	2014-CP-32-2121
DEDRIC L. ISREAL,	)	
	)	
Applicant,	)	
	)	
vs	)	AFFIDAVIT OF SERVICE BY MAIL
	)	
STATE OF SOUTH CAROLINA,	)	
	)	
Respondent,	)	
	)	

1. I am an employee of the Respondent in the above-captioned action.
2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.
3. I have this day served a copy of the **Return** on the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

Mr. Jeremy Adam Thompson, Esquire
Law Ofc. of Jeremy A. Thompson, LLC
PO Box 12891
Columbia, SC 29211

DATED this 23rd day of September, 2014.


 Ashley Hawthorth, Legal Assistant
 For Respondent

1 State of South Carolina) In the Court
2 County of Lexington) Of Common Pleas
3) Case No.: 2014-CP-32-2121
4 Dedric Isreal,)
5 Applicant,)
6 vs.) Transcript of Record
7 State of South Carolina,)
8 Defendant.)

9
10 April 20, 2015
11 Lexington, South Carolina

12
13 BEFORE:

14 The Honorable Brooks P. Goldsmith, Judge

15
16 APPEARANCES:

17 Jeremy A. Thompson, Esquire
18 Attorney for the Applicant

19
20 Walt Whitmire, Assistant Attorney General
21 Attorney for the Defendant

22 ALSO PRESENT:

23 Dedric Isreal

24

25

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1 Thereupon, the following proceedings were had;

2 MR. WHITMIRE: May it please the Court. The first
3 matter before Your Honor is Isreal v. State. Mr.
4 Isreal's case number is 2014-CP-32-2121. Mr. Isreal was
5 indicted for indecent exposure. He entered his guilty
6 plea as indicted before the Honorable Judge Keesley.
7 Judge Keesley sentenced Mr. Isreal to three years
8 suspended on six months house arrest, five years
9 probation. Mr. Isreal filed a timely application for
10 post conviction relief two months after that guilty plea
11 last year. It's my understanding that Mr. Isreal today
12 is challenging counsel's performance in the mitigation he
13 provided the judge at the plea hearing and the relief
14 he's seeking is, would be a new sentencing hearing not to
15 go back and invalidate his guilty plea.

16 In particular it's my understanding that Mr. Isreal
17 is challenging the fact that as part of the sentence of
18 the collateral consequence he was put on a lifetime sex
19 offender registry pursuant to the appropriate code
20 provision. It's the State's argument that that is a
21 civil collateral consequence and the duty to advise on
22 that is very limited in this context. For SVP and for
23 other things it is if you advise the buyer beware, you
24 must advise correctly and just like other PCR record
25 build up, we look to the transcript and the records as a

1 whole. Judge Keesley did advise Mr. Isreal that as a
2 result of entering his plea he could be sentenced, or not
3 be sentenced, but put on the registry.

4 We would argue that essentially we would want to
5 show in this hearing we move for summary judgment that
6 it's as a matter of law. However, at this point I'll
7 turn matters over to Mr. Thompson.

8 THE COURT: Mr. Thompson.

9 MR. THOMPSON: May it please the Court, Your Honor.

10 THE COURT: Yes, sir.

11 MR. THOMPSON: For the record, my name is Jeremy
12 Thompson. I am Mr. Dedric Isreal's attorney. He does
13 allege ineffective assistance of counsel and violation of
14 his Sixth and Fourteenth Amendment rights under the
15 United States Constitution as well as corresponding
16 provisions of the South Carolina Constitution. I think
17 Mr. Whitmire -- Did you just move for summary judgment?

18 MR. WHITMIRE: I intend to at the end as a matter of
19 law, but we're going to make a record.

20 MR. THOMPSON: Okay. I guess I'll just go ahead and
21 address what he's already talked about and our position
22 with regard to it. What we are seeking here today, Your
23 Honor, is, and what we are challenging specifically with
24 regard to the case is Mr. George's performance with
25 regard to the sex offender registry portion of the plea.

1 Indecent exposure is one of the rare circumstances
2 where registration is not mandatory upon conviction.
3 It's in the discretion of the sentencing judge and in
4 this case, Your Honor; what, and I submit this is what
5 the evidence will show and what's in the record, is that
6 what happened is that Mr. George handed up a report which
7 I have a copy of and which is in the record. Do you have
8 any objection to this, Walt?

9 MR. WHITMIRE: No.

10 MR. WHITMIRE: I would like to go ahead and admit
11 this as applicant's 1.

12 THE COURT: All right, sir. Clerk, if you would.

13 MR. WHITMIRE: Without objection.

14 (Whereupon, Applicant's Exhibit #1 for evidence.)

15 MR. THOMPSON: And essentially, Your Honor, in this
16 report it says that Mr. Isreal has had a history of these
17 kinds of incidents and reveals that he has had charges in
18 2009, arrested for voyeurism. 2010 indecent exposure.
19 2011 a voyeurism charge, and September of 2013 which is
20 the subject of this charge is when he gets the indecent
21 exposure charge.

22 Two of those were not on his record. The first two
23 were not on his record and they're not a part of the plea
24 and the presentation of the State's case. Only the, I
25 guess, second to last charge he had pled to breach of

1 peace instead of the underlying sex offense. And during
2 the plea and in imposing the sentence Judge Keesley
3 specifically says that based on these prior incidents I
4 think you have a history of voyeurism and I'm going to
5 put you on the sex offender registry and that occurs a
6 couple of times, Your Honor. It occurs the first time on
7 page 14, line 19 and that continues through page 15, line
8 3, and then again on page 17, lines 11 through 17.

9 And I do not disagree with the State that normally a
10 defense attorney cannot be ineffective for failing to
11 advise of a collateral consequence. The sex offender
12 registry is a collateral consequence of the plea. But as
13 Mr. Whitmire mentioned there is a basis for arguing that
14 someone is ineffective with regard to a collateral
15 consequence and that is when usually within the context
16 of the plea is if an attorney gives misadvice. If an
17 attorney advises somebody that they're parole eligible
18 when they are not or if somebody advises, if an attorney
19 advises a client that, for example, it usually goes with
20 regard to the sentencing issues, if someone is going to
21 serve 85 percent when their sentence might be day for
22 day. If you screw up, if you give bad advice on a
23 collateral consequence, you can be found ineffective.

24 Our argument here is that by volunteering this
25 evaluation by volunteering the additional information and

1 the additional charges, and Mr. George does argue not to
2 put Mr. Isreal on the sex offender registry, that by
3 venturing into the collateral consequence by arguing
4 against the sex offender registry, that if you screw it
5 up, then you can be found ineffective and that's our
6 argument, is that by introducing this evaluation and by
7 opening the door to multiple other incidents that the
8 judge would otherwise have not known about that he could
9 be found ineffective for doing that. So that is
10 essentially our argument on the, I guess, the legal side
11 of how this is cognizable in PCR.

12 What we are requesting, Your Honor, is, I guess our
13 number one request would be just an order removing Mr.
14 Isreal from the sex offender registry. I understand if
15 Your Honor feels that you cannot give that remedy, our
16 argument is that you can fix the wrong that occurred.
17 The problem is that it's very hard to unring the bell of
18 these prior charges. If we get a new sentencing
19 proceeding, those charges are still out there and that's
20 the basis for putting him on the sex offender registry.
21 So if you give us a new sentencing proceeding, then I
22 don't feel like we're getting anything out of that. Of
23 course, if Your Honor feels that you cannot just take him
24 off the registry, then we would request a new sentencing
25 proceeding. We are not challenging the underlying

1 validity of the plea.

2 THE COURT: All right. Well, okay. Of course, I
3 don't believe I have the authority to remove him from the
4 sex offender registry. You knew I was going to feel that
5 way.

6 MR. THOMPSON: Yes, I did, Your Honor.

7 THE COURT: Let me hear from the Attorney General.

8 MR. WHITMIRE: May it please the Court. I agree
9 with that last sentiment. The appropriate venue or
10 avenue for getting taken off the sex offender registry
11 would be a declaratory judgment action, not a post
12 conviction relief. Your Honor is limited within the
13 context of *Davie v. State* on what type of relief you can
14 grant in this forum whether it be a new sentencing
15 hearing, a whole new plea hearing or a new trial. In so
16 many ways it's all or nothing.

17 With specific reference to counsel's argument, the
18 case law itself, there's substantial case law on parole
19 eligibility, calculation of the sentence and collateral
20 consequence. It's always if you undertake to do this,
21 you don't have to, but if you do, you better do it right
22 so it concerns the advice. This is a whole separate
23 matter. This is a qualitative analysis whether his
24 performance was validly executed, and Judge Keesley put
25 it on the record that counsel's mitigation strategy was

1 brilliant. The unattended consequence may be aggravated
2 at collateral consequence. It's an entirely qualitative
3 analysis, and the case law has not thus far supported it.

4 If I may approach, Your Honor, I'm handing you up
5 Hamm v. State, and In re: Ronnie A. specifically dealing
6 with collateral consequences. I have already provided
7 copies to counsel. Collateral consequences of sexually
8 violent predator and the registry itself, specifically
9 with Hamm v. State, 403 S.C. 461, commitment pursuant to
10 the SVP Act does not automatically flow from the
11 conviction. Rather a civil proceeding occurs where the
12 defendant is evaluated before confinement is served. And
13 In re: Ronnie A., 355 S.C. 407, recently held sex
14 offender registry regardless of the length of time is not
15 punitive, therefore, no liberty interest is implicated.

16 So really at this point there is no Fourteenth or
17 Sixth Amendment analysis for this court. However, the
18 case law does not specifically say Mr. Thompson's
19 argument is invalid. It's just never been extended.

20 MR. THOMPSON: I'll hand up a few cases of my own,
21 Your Honor. One, the first one is Williams versus State
22 which to be quite honest I'm not going to say supports my
23 argument too terribly much. It deals with sex offender
24 registry and kidnapping. In that case, Your Honor, the
25 Court of Appeals held that a defense attorney cannot be

1 ineffective for failing to do anything with regard to
2 trying to get a client off the sex offender registry at a
3 guilty plea proceeding with regard to kidnapping which,
4 as I'm sure Your Honor is aware, if the victim is over
5 18, it's kind of an opted out statute.

6 The second case, Your Honor, is Smith versus State
7 which just sets forth the general principle regarding
8 once you step into the realm of collateral consequences
9 you have got to advise the client correctly of it.

10 Roland versus State, Your Honor, just the last one,
11 all I'll argue for that, Your Honor, is in Roland, and
12 this goes back to, I know Your Honor has already
13 indicated that you are not going to, you wouldn't just
14 order that he be not on the sex offender registry. In
15 Roland, Your Honor, the Supreme Court specifically holds
16 that you can, that a PCR judge can tailor relief to fix
17 the harm that was done.

18 In this case we would obviously argue that the harm
19 that was done was the ineffective assistance of counsel
20 with regard to the sex offender registry and that Your
21 Honor can tailor the relief to fix that because again we
22 don't believe there is a way to unring the bell of the
23 additional charges coming out. But still I think we
24 would continue to rest on our argument that we can argue
25 that he's ineffective once he gets into the collateral

1 consequence for failing to do it properly similar to what
2 you can do with regard to a plea in challenging a
3 collateral consequence.

4 THE COURT: All right. And so what you are asking
5 me to do is?

6 MR. THOMPSON: What I'm asking you to do is to
7 either take Mr. Isreal off the sex offender registry or
8 remand for a sentencing proceeding solely on the issue of
9 whether he should remain on the sex offender registry.

10 THE COURT: All right. This is a straight up plea?

11 MR. THOMPSON: Yes, Your Honor.

12 THE COURT: Don't you think that one reason the
13 report may have been made available to the Court was to
14 try and avoid any jail time? The recommendations in the
15 report of the treatment is the best remedy.

16 MR. THOMPSON: I certainly believe that's what
17 Mr. George will testify to, Your Honor.

18 THE COURT: Well, do either one of you wish to put
19 up any evidence?

20 MR. THOMPSON: I would like to call my client, Your
21 Honor.

22 THE COURT: All right.

23 MR. WHITMIRE: Beg the Court's indulgence.

24 MR. THOMPSON: We'll call Mr. George, Your Honor.

25

BARRY GEORGE - DIRECT BY MR. THOMPSON

12

1 Thereupon,

2 BARRY B. GEORGE

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

4 THE CLERK: Please have a seat. After you're
5 seated, please state your full name for the record.

6 THE WITNESS: My name is Barry George.

7 DIRECT EXAMINATION

8 BY MR. THOMPSON:

9 Q. Mr. George, how are you doing this morning?

10 A. I'm fine. I hope you are.

11 Q. Yes, sir. I know you are in a hurry so I'll try and
12 get you out of here as quickly as I possibly can.

13 A. That's quite all right. Appreciate you putting me
14 up.

15 Q. Do you recall your representation of Dedric?

16 A. I do.

17 Q. Do you recall whether you were retained or appointed
18 in this case?

19 A. I was retained.

20 Q. Do you recall how soon after Mr. Isreal was arrested
21 that you were hired?

22 A. No. I had represented Dedric on a similar case back
23 in 2010 and his mother called me after this happened. I can't
24 tell you exactly how long. I do remember them talking to me
25 about the bail that he was on and could they put up, instead

1 of getting a bonding company could they put up the money with
2 the court and I remember telling them and I think that it was
3 either his uncle or his mother, one, put up the money with the
4 court so they did not get a bondsman and so I guess it must
5 have been four or five days after this. I can't tell you the
6 exact date.

7 Q. How many times would you say you met with Dedric
8 prior to the plea?

9 A. I don't know. Maybe two, three. But, you know, he
10 had a lot of appearances over here. I don't know. My
11 daughter came with him over here at least three or four times.
12 I didn't come with him to every appearance. My daughter
13 practices law with me. She came with him. But I talked to
14 him and I talked to his mom and I also talked to his uncle.
15 They didn't come to the office. They would just call me on
16 the telephone and ask me what was going on and I would tell
17 them that we have another appearance on this date or
18 whatever.

19 Q. Were there any plea negotiations with the State
20 regarding this charge?

21 A. Ms. Mayes, I had had a prior more serious sexual
22 case with Ms. Mayes prior to this one and no, she said she
23 would just let him plead straight up. That was the deal.

24 Q. Did you talk -- The report is from Dr. Harari. Did
25 you talk to Dr. Harari prior to the plea?

1 A. No. I just looked at his records.

2 Q. And the plea references my client seeing Dr. Peter
3 Kellerman and Dr. Rowe. Did you talk with either of them
4 prior to the plea?

5 A. I didn't talk to any of the doctors. I just had the
6 medical records.

7 Q. How did you get the medical records?

8 A. I think his mother brought them to me.

9 Q. Do you recall how soon before the plea that
10 occurred?

11 A. No. I don't remember. But I think it was a week,
12 ten days, something. I just don't remember. I know we had
13 them at the plea.

14 Q. Did you go over the report with Mr. Isreal prior to
15 the plea?

16 A. I'm sure I did.

17 Q. Did you and Mr. Isreal discuss the contents of the
18 report? Let me rephrase that to be more specific. Did you
19 discuss the number of charges that were mentioned in the
20 report?

21 A. Yeah. I had, as I stated, I had previously
22 represented him on a problem like this when he went into the
23 restroom in Belks back in 2010. When I got those medical
24 records, I saw in the medical records what the doctor had said
25 about some incidents that he had not told me about about him,

1 I guess, something happening in vocation rehabilitation. I
2 don't know.

3 But I looked at that and this is where we were. My
4 main objective was trying to keep him out of jail if I could
5 because of the prior conviction for something similar to this
6 and I saw in the records what the psychiatrist had said so,
7 and we had told Judge Keesley at the plea that he was
8 receiving help. He's got a very nice mother. A very caring
9 mother. A very well educated mother. He also has a very nice
10 uncle who cares a whole lot about him. We had presented to
11 Judge Keesley that he had a family that cared about him and
12 that they were seeing that he gets some proper medical
13 treatment.

14 When we got the medical records, I saw that stuff in
15 there, but I could not remove the stuff and I could just not
16 give it to Judge Keesley and tell him that we are getting
17 psychiatric treatment and not show him what kind of treatment
18 he was getting. So what we either had to do was not present
19 any of these records at all to him or present them to him
20 knowing that was in there.

21 Well, obviously from the plea, if you read what
22 Judge Keesley had to say about it, evidently we presented a
23 pretty good plea. He did not put him in jail. I don't think
24 -- I was concerned because I didn't think Dedric would be a
25 good candidate for incarceration. I didn't think he would

1 last very long in a prison. But my main concern was to keep
2 him out of jail.

3 My second concern was to try to keep him off the
4 registry if I could. But I have been doing this a long time
5 and I tried to explain this to him and after it happened and
6 we had gone over this with his family. Everybody knew that he
7 could possibly be put on the registry, but under the statute
8 he was pleading to that was at the discretion of the judge,
9 but in trying to explain this to them was that if the judge
10 didn't put him on the registry and his history of this kind of
11 behavior, if he went out and did something more serious than
12 this, then the heat is going to be on the judge for not
13 putting him on the registry.

14 I have been doing this a long time. I just knew
15 that Judge Keesley was going to put him on the registry. I
16 was hoping he wouldn't. I asked him not to. I told him that
17 he had a job and that could possibly cause him to lose his job
18 if he put him on the registry, but I knew he was going to put
19 him on the registry. I asked him not to, but I knew he was
20 going to. I knew he wasn't going to put his neck on the block
21 for something like this so that's where we stood on it.

22 Q. Do you feel like Judge Keesley would have put Mr.
23 Isreal on the registry if he had not known about the earlier
24 charges?

25 A. I most certainly did.

1 Q. You think he still would have put him on the --

2 A. Based on the fact that he had had the prior
3 conviction of it, I think so. You know Judge Keesley. I know
4 Judge Keesley. He's a very thorough guy. If you would look
5 at the record on this, I have been doing this a long time, at
6 least 42 years and I have taken a lot of pleas in General
7 Sessions Court, this is the first time I have ever taken a
8 plea in front of a judge when he took all the information, he
9 then said y'all have a seat. So I looked at my watch. He
10 told us to have a seat at 12:00. At 12:35 he called us back
11 up. So for 35 minutes he sat at the bench going through
12 everything and it took him 35 minutes to come up with this
13 sentence. So he gave it some serious thought about what he
14 was going to do and as you see and what Judge Keesley said, it
15 was, his first inclination was to lock him up, and then after
16 he heard everything, I guess the psychiatric treatment had a
17 lot to do with it and the fact that he has a good family that
18 he didn't put him in jail.

19 So I was happy that he didn't put him in jail. I
20 was sorry that he put him on the registry, but that's all I
21 could do. If there was some way you might know that I could
22 have not put those records into evidence. And if I hadn't put
23 them into evidence and then Judge Keesley would have put him
24 in jail, then we would be here today you telling me you should
25 have put those records to Judge Keesley. So what can you do?

1 That's where we were, okay? I'm sorry he's on the registry.

2 I thought I did everything I could to keep him off.

3 Q. You don't believe there was any way to have gotten
4 the psychiatric information in without also getting in the
5 information from the prior charges?

6 A. Well, if you will see, it's written into his -- I'm
7 not going to be a party to taking something out of a record,
8 okay? I'm not going to mislead the Court. I have been doing
9 this too long to get into something like that. I'm talking
10 about I'm an officer of the Court so I have an obligation to
11 be - not to do anything like that so I'm not going to be a
12 party to removing something from a record.

13 Q. I'm not saying you should have blacked out the
14 record.

15 A. I know exactly what you mean. I guess I could not
16 have shown him that portion of the record, but I don't know
17 whether that would have been fair or not.

18 Q. What I'm asking is did you think there might be
19 any way to get the fact that Dedric was getting psychiatric
20 treatment into the record without admitting the actual
21 physical report?

22 A. I guess we could have brought the doctor here that
23 wanted to do that, but he would have testified to the same
24 thing. No. To me I don't know of any other way to do it.

25 MR. THOMPSON: No further questions of the witness,

1 Your Honor.

2 THE COURT: Cross examination.

3 MR. WHITMIRE: May it please the Court.

4 CROSS EXAMINATION

5 BY MR. WHITMIRE:

6 Q. A few quick questions for you, Mr. George.

7 A. Sure.

8 Q. Leading up to the plea y'all had discussions about
9 the possibility of being put on the registry?

10 A. Sure.

11 Q. And during the plea when Judge Keesley advises Mr.
12 Isreal that this is a consequence he may face as a result of
13 his conviction, did he stop you or have any questions for
14 you?

15 A. No. Just the opposite. I think you will see that
16 Judge Keesley went over this in detail with Mr. Isreal and I
17 had gone over it with him. Like I said, we had had, this was
18 the second act of this play. We had been through this before
19 and I think one of the problems we might have here is the fact
20 that the first time he got charged with something like this I
21 thought I got him a pretty good deal in that I got the
22 Solicitor over in Richland County to let him plea to something
23 besides a sexual case. That's where he was not put on the
24 registry. They let him plead to breach of peace. But these
25 folks over here after he got one shot, they wasn't going to

DEDRIC ISREAL - DIRECT BY MR. THOMPSON

20

1 give him another shot.

2 MR. WHITMIRE: You just answered the next question I
3 had. I have no further questions. Thank you,
4 Mr. George.

5 MR. THOMPSON: Nothing further, Your Honor.

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

7 THE WITNESS: Thank you, Your Honor. May I be
8 dismissed?

9 MR. THOMPSON: No objection.

10 MR. WHITMIRE: No objection.

11 THE COURT: You may be dismissed.

12 THE WITNESS: Thank you, Your Honor.

13 MR. THOMPSON: I would call the applicant, Your
14 Honor.

15 Thereupon,

16 DEDRIC ISREAL

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

18 THE CLERK: Please have a seat. After you're
19 seated, please state your full name for the record.

20 THE WITNESS: Dedric Latron Isreal.

21 DIRECT EXAMINATION

22 BY MR. THOMPSON:

23 Q. Dedric, normally you're pretty soft spoken. You
24 weren't just there so you have already done what I have asked
25 you to do. If you can, speak up and speak loudly, all

1 right?

2 A. Will do.

3 Q. The court reporter needs to take down everything
4 that you're saying, all right?

5 A. Okay.

6 Q. You just heard your attorney Mr. George testify?

7 A. Yes, sir.

8 Q. Did y'all hire him to represent you?

9 A. Yes, sir.

10 Q. How soon after you were arrested was he retained?

11 A. Almost immediately to within the next day.

12 Q. And had he represented you on a previous occasion?

13 A. Yes, sir.

14 Q. How many times would you say you met? Let me
15 rephrase that. How long between your arrest, how long did it
16 take for you to get from your arrest to get to your plea?

17 A. Roughly several months.

18 Q. During those several months how long, how many times
19 would you say you met with Mr. George at his office?

20 A. I only met with Mr. George twice. The first time I
21 met with him was the day after I got out of the Lexington
22 County Detention Center and the second time that I met with
23 him was on the day of the actual hearing, the plea hearing so
24 only twice.

25 Q. Did you have conversations with him on the phone?

1 A. No. I didn't.

2 Q. I'm not trying to pip witnesses. He testified that
3 his daughter came with you to appearances?

4 A. That's correct.

5 Q. That's correct? She did come with you to
6 appearances?

7 A. Yes, sir.

8 Q. But he did not?

9 A. No. He did not.

10 Q. So you had two meetings with him, once right after
11 you were arrested and once at the plea?

12 A. That's correct.

13 Q. During those conversations, did you discuss your
14 strategy for the plea?

15 A. No. We didn't.

16 Q. Did you have discussions with him regarding Dr.
17 Harari's report?

18 A. No. We didn't.

19 Q. Did he tell you he was going to use it?

20 A. No. He did not.

21 Q. Did you know that Dr. Harari -- Had you seen the
22 report?

23 A. Yes, I had.

24 Q. You had seen it?

25 A. Yes, sir.

1 Q. Did you have -- I'm not trying to beat a dead horse
2 -- Did you have any discussions with him regarding the prior
3 charges that were in the report?

4 A. No, sir.

5 Q. Would you have wanted the judge to know about those
6 prior charges at your plea?

7 A. No. Definitely not.

8 Q. When you went into the plea, did you understand that
9 the sex offender registry was optional?

10 A. I expected it to be mandatory.

11 Q. So you didn't know that it was in Judge Keesley's
12 discretion?

13 A. I did not.

14 Q. So when you went to plead, you thought you were
15 coming out on the sex offender registry?

16 A. Yes, sir, I did.

17 Q. Now, you don't challenge the validity of your plea,
18 do you?

19 A. I do not.

20 Q. You don't want this judge to overturn your whole
21 case, do you?

22 A. No. I don't.

23 Q. What do you want this judge to do?

24 A. I would just like to be removed from the sex
25 offender registry.

DEDRIC ISREAL - CROSS BY MR. WHITMIRE

24

1 Q. I may have already asked you this, but would you
2 have wanted Mr. George to use Dr. Harari's report had you
3 known what was in it?

4 A. No. I would not.

5 Q. Had you had a conversation with him prior to the
6 plea, is that what you would have told him, not to use it?

7 A. Yes. Yes, sir.

8 MR. THOMPSON: No further questions, Your Honor.

9 MR. WHITMIRE: May it please the Court.

10 THE COURT: Cross, sir.

11 CROSS EXAMINATION

12 BY MR. WHITMIRE:

13 Q. Good morning, Mr. Isreal.

14 A. Good morning.

15 Q. If I recall correctly, you retained Mr. George on a
16 prior occasion?

17 A. That's correct.

18 Q. Satisfied with his services on that occasion?

19 A. Yes, sir.

20 Q. Did you guys discuss sentencing and go through all
21 of that in the previous plea?

22 A. No.

23 Q. So this is the second time he just went into
24 sentencing and put things up?

25 A. Yes, sir.

1 Q. If I recall correctly, you were an honor student in
2 high school?

3 A. Yes, sir.

4 Q. How far did you go at USC?

5 A. I actually did two years at USC.

6 Q. What job did you have prior to this plea?

7 A. I was a customer service and data entry analyst at
8 Blue Cross and Blue Shield.

9 Q. If I recall correctly, you have just testified that
10 you expected the registry?

11 A. Yes, sir.

12 Q. You didn't think it was discretionary?

13 A. I did not.

14 Q. On page 9, line 2, when the court stated "I can
15 require you to register", did that send off a buzz signal in
16 your head that maybe you were wrong?

17 A. It didn't, no, sir.

18 Q. Do you recall this part of your plea?

19 A. No, sir.

20 Q. How much time were you facing on this indecent
21 exposure charge?

22 A. I'm not exactly sure.

23 Q. Three years sound about right?

24 A. I'm not sure.

25 Q. Have you ever been to SCDC before, the Department of

1 Corrections?

2 A. The Department of Corrections?

3 Q. Yes.

4 A. No.

5 Q. As a result of counsel's representation you're just
6 serving probation; is that correct?

7 A. Yes, sir.

8 MR. WHITMIRE: No further questions, Your Honor.

9 Thank you, Mr. Isreal.

10 THE WITNESS: Thank you.

11 THE COURT: Any redirect?

12 MR. THOMPSON: Nothing further, Your Honor.

13 THE COURT: Thank you. You may step down.

14 MR. THOMPSON: The applicant has no further
15 witnesses, Your Honor.

16 THE COURT: The applicant rests.

17 MR. WHITMIRE: The State rests, Your Honor.

18 THE COURT: The State rests. I have already heard a
19 lot of argument. I'll be glad to hear brief argument
20 again, brief additional argument.

21 MR. THOMPSON: I don't think I have too much to add
22 to what we argued earlier. It's pretty unusual to have
23 kind of full blown argument on the merits before we get
24 any testimony, but I think the testimony did play out
25 much as we anticipated that it would.

1 I certainly understand where Mr. George is, I guess,
2 coming from in the sense that he believes that the report
3 got Mr. Isreal off the - not - not - I guess did not
4 receive a prison sentence. Our argument would be that
5 there were certainly ways to present the evidence to show
6 that Mr. Isreal was not - was getting psychological
7 treatment and psychiatric treatment without having to
8 present the physical report which again contains
9 significant damaging information regarding prior charges
10 that the State was not aware of, that was not presented
11 by the State because if you look at the State's
12 presentation during the plea, the only issue they talk
13 about is the breach of peace.

14 So by introducing the report we believe that is the
15 trigger for what put Mr. Isreal on the sex offender
16 registry. I think if you look, Mr. George, I believe, it
17 does not surprise me that it took Judge Keesley 35
18 minutes to read over everything. I have never seen a
19 sentencing sheet written quite like the one in this case
20 is. Judge Keesley wrote several factual findings
21 regarding the placement on the sex offender registry in
22 there.

23 But again, on page 14 and going over to page 15 and
24 on page 17 Judge Keesley twice says I find in light of
25 the history that's reported in these reports this

1 apparently is at least your third or perhaps fourth
2 incident that deals with voyeurism and voyeuristic type
3 activities and specifically found that under Section
4 243430 sub section (c) 14 that the conditions and
5 circumstances surrounding this incident do demand that
6 you register as a sex offender for the remainder of your
7 life. That is again reiterated on page 17 and on page 14
8 over to page 15.

9 I don't think there is any more direct evidence that
10 I can give you that this report is what caused Judge
11 Keesley to believe that sex offender registry was
12 appropriate. We believe that that - that again there
13 were other ways he could have just argued that, you know,
14 and gotten records or something to show that Mr. Isreal
15 was regularly attending treatment without presenting that
16 damaging information in the report and that he was
17 ineffective for doing so and that we would just request
18 that Your Honor again either remove Mr. Isreal from the
19 sex offender registry or vacate the sex offender portion
20 of the sentencing and remand for resentencing on that as
21 that would remedy the specific harm that was done. There
22 is no need to go back for a brand new sentence. The only
23 error that occurred was during the sex offender portion
24 of it.

25 THE COURT: All right, sir. Thank you,

1 Mr. Thompson. Mr. Whitmire.

2 MR. WHITMIRE: May it please the Court. Addressing
3 the merits of Mr. George's performance, specifically
4 looking at page 15, line 1 of Judge Keesley's sentence,
5 the antecedent condition right before he imposes the
6 lifetime registry is circumstances surrounding this
7 incident. This incident had some graphic circumstances
8 and as counsel has testified today the only way to keep
9 Mr. Isreal off the registry would be to contest the
10 charges and his guilt is not disputed and has not been in
11 dispute or raised to be in dispute in this hearing. The
12 State would be happy to answer any questions Your Honor
13 may have.

14 THE COURT: I don't have any questions. The Court
15 is compelled to deny applicant's motion both the request
16 to remove sex offender registry and the request to
17 remand. It's clear that it was part of trial strategy
18 for one thing and other than that I accept the argument
19 made by the Attorney General and ask Mr. Whitmire if he
20 would prepare an order.

21 MR. WHITMIRE: Thank you, Your Honor. I'll get
22 Mr. Thompson a copy.

23 THE COURT: Yes.

24 MR. THOMPSON: Thank you, Judge.

25 (Whereupon, the hearing was concluded.)

1 CERTIFICATE OF REPORTER

2 (STATE OF SOUTH CAROLINA)

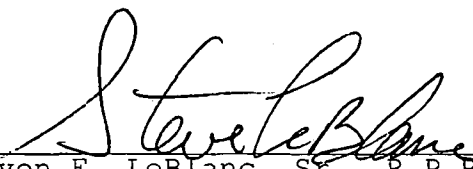
3 (COUNTY OF LEXINGTON)

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 20th day of April, 2015.

11 I FURTHER CERTIFY that the forgoing 29 pages
12 constitute a true, accurate, and complete record of said
13 proceedings.

14 I FURTHER CERTIFY that I am neither related, counsel
15 to, nor of interest to any party hereto.

16 IN WITNESS WHEREOF, I have hereunto set my hand at
17 Lexington County, this 3rd day of December, 2015.

18
19
20 
21 Steven E. LeBlanc, Sr., R.P.R.
22 Eleventh Circuit Court Reporter
23 State of South Carolina.
24
25

FILED

ORIGINAL

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF LEXINGTON) ELEVENTH JUDICIAL CIRCUIT
Dedric L. Isreal,) C.A. No. 2014-CP-32-2121
Applicant,)
v.) **ORDER OF DISMISSAL**
State of South Carolina,) **(with prejudice)**
Respondent.)

This matter comes before the Court by way of a post-conviction relief (PCR) application filed on June 6, 2014. Respondent made its return on September 23, 2014. An evidentiary hearing into the matter was convened on April 20, 2015, at the Lexington County Courthouse. Applicant was present at the hearing and was represented by Jeremy A. Thompson, Esq. Respondent was represented by Walt Whitmire, Esq., of the Office of the Attorney General.

PROCEDURAL HISTORY

The Lexington County grand jury indicted Applicant for indecent exposure (2014-GS-32-1155). He was represented by Barry B. George, Esq. On April 2, 2014, Applicant entered a guilty plea before the Honorable William P. Keesley. Judge Keesley accepted the plea and sentenced Applicant to a term of three (3) years imprisonment suspended upon the service of a term of five (5) years probation. Applicant did not appeal his sentence or conviction.

Applicant alleges that he is being held in custody unlawfully for the following reasons:

1. Ineffective Assistance of Trial Counsel;
 - a. Counsel presented a defective mitigation strategy in sentencing that expose the Plea Judge to Applicant's medical history of deviant behavior; thus causing prejudice by the Plea Judge's decision to place Applicant on the Sex Offender Registry.

- b. Counsel failed to adequately communicate his mitigation strategy to Applicant.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has had the opportunity to review the record in its entirety and has heard the testimony at the post-conviction relief hearing. This Court has further had the opportunity to observe the witnesses presented at the hearing, closely pass upon their credibility, and weigh their testimony accordingly. Set forth below are the relevant findings of facts and conclusions of law as required pursuant to S.C. Code Ann. §17-27-80 (1985).

As a matter of general impression, Applicant's PCR action is without legal basis. However, this Court allowed Applicant to proffer his case-in-chief and notes the following impressions: counsel's testimony was convincing and his performance in presenting Applicant's successful mitigation defense was exemplary. Counsel succeeded in keeping Applicant, a repeat offender, out of prison. This Court finds counsel's feat to be remarkable in light of the State's evidence of the egregious aggravating circumstances of the offense.

In a post-conviction relief action, the Applicant bears the burden of proving the allegations in their application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 2064, (1984); Butler, 286 S.C. at 441, 334 S.E.2d at 813.

A.

Upon hearing arguments from both parties and upon due deliberation, this Court grants Respondent's motion for a directed verdict as to both allegations of ineffective assistance of counsel. When reviewing the grant of a summary judgment motion, the appellate court applies

the same standard which governs the trial court under Rule 56(c), SCRCP: summary judgment is proper when there is no genuine issue as to any material fact and the moving party is entitled to judgment as a matter of law. White v. J.M. Brown Amusement Co., 360 S.C. 366, 601 S.E.2d 342 (2004). "Summary judgment is appropriate where the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law." Belton v. Cincinnati Ins. Co., 360 S.C. 575, 602 S.E.2d 389 (2004).

First, Respondent argued that "placement on the registry" was collateral consequence to Applicant's conviction and sentence; and as such, the Strickland PCR inquiry is limited to whether a defense attorney, who under no duty to advise his client of a collateral consequence, provides correct advice. Thus, a qualitative inquiry on whether a defense attorney's performance enhanced the prospect of collateral consequence is incognizable in this forum and cannot as a matter of law support a grant of PCR relief. See Smith v. State, 329 S.C. 280, 283, 494 S.E.2d 626, 628 (1997);

In response, Applicant argued that once a defense attorney ventures to advise the convicted of a collateral consequence, the duty to provide correct advice extends to any aspect of the attorney's performance that may have enhanced the prospect of the collateral consequence.

This Court agrees with Respondent and summarily dismisses Applicant's PCR action as a matter of law for the following reasons: First, "[The Court] recently held sex offender registration, regardless of the length of time, is non-punitive and therefore no liberty interest is implicated. Hendrix v. Taylor, 353 S.C. 542, 579 S.E.2d 320 (2003). "The intent of the legislature in enacting the sex offender registry law is to protect the public from those offenders who may re-offend." State v. Walls, 348 S.C. 26, 558 S.E.2d 524 (2002). Second, the sex



offender registry, similar to parole eligibility “has been held to be a collateral consequence of sentencing of which a defendant need not be specifically advised before entering a guilty plea. Smith v. State, 329 S.C. 280, 283, 494 S.E.2d 626, 628 (1997) (citing Griffin v. Martin, 278 S.C. 620, 300 S.E.2d 482 (1983)). “However, if the defendant's attorney undertakes to advise the defendant about parole eligibility and gives erroneous advice, then the plea may be collaterally attacked.” Id.

In the case at bar, this Court finds Smith v. State, and its progeny to be controlling. Whether it be parole eligibility, sex offender registry, or commitment proceedings for the SVP program, the governing jurisprudence allows Applicant to proceed on an allegation of ineffective assistance of counsel that his guilty plea was rendered involuntary based upon inaccurate advice from counsel on whether the conviction either compelled registration or qualified for discretionary review for registration. Thus, this Court agrees with Respondent that a qualitative inquiry concerning whether counsel's successful presentation of his mitigation case adversely impacted Applicant on Judge Keesley's decision to order registration is incongruous because registration is non-punitive and does not implicate a liberty interest. Similarly, Applicant's second allegation that counsel's performance was ineffective for failing to advise on the matter is summarily denied and dismissed as a matter of law for the reasons stated above. Therefore, Applicant's PCR action is summarily denied and dismissed with prejudice.

This Court also grants Respondent's motion for summary dismissal on the alternative ground that Applicant's PCR Action moves for relief that is unavailable in this forum. Applicant argues that this Court has the authority to order specific performance to remand for a defacto declaratory judgment hearing on whether Applicant's conviction qualifies him for the sex offender registry. This Court disagrees with Applicant, accepts Respondent's argument, and



finds that Davie v. State provides for either (1) a new sentencing hearing; (2) the traditional, full bundle of sticks, vacation of the conviction and remand. Davie v. State, 381 S.C. 601, 675 S.E.2d 416 (2009). Therefore, Applicant's PCR action is independently summarily denied and dismissed with prejudice on the additional grounds.

ALL OTHER ALLEGATIONS

As to any and all allegations that were raised in the application or at the hearing in this matter and not specifically addressed in this order, the Court finds Applicant failed to present any evidence regarding such allegations. Accordingly, the Court finds Applicant has abandoned any such allegations.

CONCLUSION

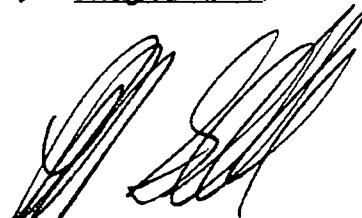
Based on all the foregoing, this Court finds and concludes that the Applicant has not established any constitutional violations or deprivations that would require this court to grant his application. Therefore, this application for post-conviction relief must be denied and dismissed with prejudice.

This Court notes that that Applicant must file and serve a notice of appeal within thirty days from the receipt by counsel of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453 (1991), an Applicant has a right to an appellate counsel's assistance in seeking review of the denial of post-conviction relief. Rule 71.1(g), SCRCP, provides that if the applicant wishes to seek appellate review, post-conviction relief counsel must serve and file a Notice of Appeal on the Applicant's behalf. Applicant is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

IT IS THEREFORE ORDERED:

1. That the Application for Post-Conviction Relief must be denied and dismissed with prejudice; and
2. The Applicant must be remanded to the custody of the Respondent.

AND IT IS SO ORDERED this 3 day of JUNE, 2015.



BROOKS P. GOLDSMITH
Presiding Judge
Eleventh Judicial Circuit

_____, South Carolina

PSYCHOLOGICAL EVALUATION

Marc Harari, Ph.D.
1816 Bull Street
Columbia, SC 29201
(803) 422-0017

Date of Testing: 10/7/13
Date of Report: 10/8/13

Client: Dedric Isreal

DOB - [REDACTED]

REASON FOR REFERRAL

Dedric Isreal was self-referred for this psychological evaluation upon the recommendation of his psychiatrist, Dr. Subba Rao. The purpose of this assessment is to gather objective data regarding his emotional and personality functioning in order to provide appropriate recommendations for mental health treatment.

NOTICE

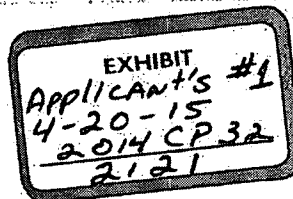
This report is confidential and meant for use by Dedric Isreal. No unauthorized disclosure of this report or data contained in this report is allowed. Any person who, without proper authorization, discloses information contained in this report assumes all liability associated therewith. It is noted that Dedric signed an authorization to release these test findings to Dr. Subba Rao.

SOURCES OF INFORMATION

Clinical Interview with Dedric Isreal
Collateral Information Provided by Ms. Idella Isreal, Dedric's Mother
Psychological Testing:
Paulhus Deception Survey (PDS)
Personality Assessment Inventory (PAI)
Rotter Incomplete Sentences Blank - Adult Response Sheet (RISB)
Symptom Assessment Questionnaire - 45 (SA-45)

BEHAVIORAL OBSERVATIONS/MENTAL STATUS

Dedric is a 34-year-old, African American male who appeared consistent with his chronological age. He was dressed casually and exhibited adequate personal hygiene. His speech quantity was normal, and he spoke in a logical and coherent manner. Dedric focused adequately during this testing administration. He presented in a calm mood with an appropriate expression of affect. Dedric appeared oriented to all spheres and in full contact with reality. Overall, he presented in a candid and realistic manner during the clinical interview. However, on the validity indices he engaged in moderate levels of impression management. To facilitate data collection, collateral information was obtained from his mother, Ms. Idella Isreal.



BACKGROUND

Family History/Education/Career

Dedric reported that he was raised as an only child primarily by his biological mother in South Carolina. His father left South Carolina when he was 8 years old and he has not had any contact with him since that time. Dedric has never lived alone and is currently residing with his aunt and mother. He used to help take care of his grandmother who had a terminal illness and is now deceased, and his aunt has a history of physical and emotional disabilities. He indicated that he relates well with his family members. Dedric denied that he was ever the victim of physical abuse, sexual abuse, or significant trauma. Regarding family psychiatric history, Dedric indicated that his aunt suffers from depression and anxiety.

Educationally, Dedric reported that he completed high school in a timely manner. He stated that he was always enrolled in advanced classes, and he never received special education services. After graduating from high school, Dedric attended the University of South Carolina and Midlands Technical College. However, he was unable to complete his degree due to the responsibility of taking care of his aunt and grandmother as well as being unmotivated to do well academically. Dedric is currently unemployed and recently worked at CoreLogic as a document processor before resigning due to a recent incident of voyeurism. Prior to this position, Dedric worked for Palmetto GBA but he had to resign to take care of his aunt and grandmother.

Physical/Mental Health

Dedric denied any prominent medical problems during the course of his childhood or adolescence. He did not report any severe head injuries or seizures. Dedric also denied knowledge of developmental delays when he was younger. Presently, he appears to be functioning in good physical health. Dedric did not report any limitations in his present physical functioning capacity. However, he did acknowledge some weight gain.

Dedric described a history of experiencing sexual thoughts that originated when he was a senior in high school as a result of not being recognized as an honor student. Dedric stated that he was always an advanced student and due to an error made by a teacher, he was not recognized as an honor student until after the graduation ceremony. Ms. Isreal stated that Dedric fell to the ground in anguish after learning the news. Dedric and Ms. Isreal stated that his psychological functioning has not been the same since this incident. Dedric stated that he was devastated by this incident and upon enrolling in classes at the University of South Carolina, he was unmotivated to do well academically. Ms. Isreal recalled an event during this time where Dedric was found wandering around the campus aimlessly instead of going to class. During this time he also started isolating himself from others. Dedric was also enrolled in classes at Midlands Technical College but he dropped out due to family responsibilities.

Dedric stated that he used to engage in watching extensive amounts of pornography to satisfy his sexual urges. Dedric stated that his sexual urges have gotten worse over time and pornography is no longer effective. He stated that he needs to be in the presence of an actual person in order to satisfy these urges. In 2009, Dedric was arrested for voyeurism in a department store in Richland Fashion Mall. He stated that this charge was dismissed. In 2010, Dedric received an indecent exposure charge in a department

store at Dutch Square Mall. He participated in Pre-Trial Intervention for this charge. In 2011, he received another voyeurism charge at a physician's office which was lessened to a breach of peace charge. Dedric stated that at this time he was mandated to see a psychiatrist as part of his probation. In September 2013, Dedric received an indecent exposure charge for exposing himself near the children's section of Kohl's department store. Dedric stated that directly preceding the incident, he was receiving a lot of physical attention from female co-workers. Specifically, he stated that his female co-workers would brush up against him or touch his hair which would make him very aroused. He reportedly left work and went to Kohl's in order to relieve himself sexually. This charge is still pending.

Ms. Isreal described a history of obsessive-compulsive tendencies that started following Dedric's high school graduation incident. Specifically, she stated that he began taking showers and washing his hands incessantly to the point that his hands were raw. She stated that Dedric would stay in the bathroom for hours taking a shower. Additionally, she stated that Dedric would place a piece of paper around door knobs or household objects in order to avoid touching germs directly with his hands. Ms. Isreal stated that these behaviors have decreased over time but he still engages in them. She believes that the sexual urges began in 2009 shortly following a break up from a female he met online. Dedric stated that he believes his sexual urges have increased because he has not been in a sexual relationship in several years. He stated that he has a difficult time dating due to social anxiety. Dedric has not been in a serious relationship since 2000 and does not have any children. He stated that his social anxiety was improving when he worked at CoreLogic prior to the incident. He reported going out with co-workers on occasion. Dedric stated that he refrains from talking on the phone or going to public places such as church because he is afraid of people's perception of him following his recent arrest.

Dedric endorsed situational anxiety and depression related to the recent incident. However, Ms. Isreal described a history of depressive symptoms. She stated that Dedric experiences depressed mood, insomnia and feelings of loneliness and worthlessness and a history of making suicidal comments which started during adolescence. She stated that Dedric on occasion makes comments such as "life is not worth living." Most recently, he made a similar comment following his September 2013 arrest when he was told that his mother would be informed of the event. Additionally, she stated that Dedric compares himself to other family members who have a better education and are more successful personally and professionally. Ms. Isreal stated that she has no knowledge of any suicidal attempts or self-harm behaviors. Dedric denied past and current suicidal ideations or self-injurious behaviors.

Dedric described a history of participation in mental health treatment services. In 2008 he began seeing Dr. Roger Deal for counseling to manage his sexual urges for approximately 1 year. He expressed overall satisfaction with these services, and he claimed that Dr. Deal did not think that he needed further therapy following the 2009 incident of voyeurism. In 2011, he began seeing Dr. Thornton McKinney for counseling for similar issues. He expressed overall satisfaction with these services as well. However, he decided to discontinue treatment following the 2011 incident because he felt better at this time. Dedric was prescribed 20 mg of Lexapro for depression in the past but he stated that Dr. Rao took him off this medication and prescribed him 10 mg of Prozac. Dedric did not report any history of severe symptoms such as psychosis. He denied any history of problems related to the abuse of illicit substances. Dedric

expressed openness regarding the idea of participating in mental health treatment services to improve his emotional functioning capacity.

PSYCHOLOGICAL TEST RESULTS

Note to the Reader about the Interpretation of Psychological Tests

The interpretations of psychological tests presented in this report are hypotheses and should not be used in isolation from other information in this matter. The interpretative statements are primarily computer-generated, actuarial, and expert predictions based on the test patterns. The interpretations reflect characteristics of persons who have provided test response patterns that are similar to those of the current individual. Test results are probabilistic in nature and should be interpreted cautiously incorporating other data. Therefore, the reader should examine the test interpretations for general trends and not put too much weight on one specific statement. In the integration and presentation of the test data, when the results were unclear or in conflict, this examiner selected the most likely hypotheses for presentation here.

Behavioral/Emotional/Personality Measures

Dedric first completed the PDS, an inventory that measures whether participants respond to questions that depict themselves overly favorable in a conscious manner (IM scale) or in a manner in which they lack insight and exhibit narcissistic tendencies (SDE scale). The results of this inventory suggest that Dedric responded with severe levels of social desirability (Total Score, $T = 81$). His response pattern revealed moderate patterns of positive impression management (IM, $T = 62$). Additionally, Dedric endorsed significant patterns of self-deceptive enhancement (SDE, $T = 76$). These results are suggestive of individuals that deny common, human frailties as well as possess overconfidence in their abilities and limited insight.

Dedric was next administered the SA-45. This is an exercise designed to provide a screen for various psychological conditions, including depression, anxiety, symptom distress, interpersonal problems, and psychotic symptoms. The SA-45 is a multidimensional instrument that provides both a global scale (GSI) and nine symptom subscales. Dedric's overall response pattern suggested that he experienced mild to moderate levels of psychological distress (GSI, $T = 60$) during the past week. Dedric endorsed moderate concerns related to anxiety, depressive symptoms, interpersonal sensitivity, and atypical thought patterns. Examining the individual items, he reported feeling lonely, fearful, feeling watched or talked about by others, and feeling uneasy when others are watching or talking about him. He reported moderate levels of feeling blue, feeling that people are unfriendly or dislike him, feeling inferior to others, and feeling very self-conscious with others.

Dedric was next administered the RISB, an unstructured projective measure of incomplete sentences that the individual is responsible to complete. He responded in an open manner on this exercise. Dedric expressed some feelings of regret with regard to decisions he had made in his life. Many of his responses were related to his recent involvement with the law and not being able to control his impulses. Specifically, he stated that "I regret my actions that have gotten me in trouble legally" and "I hate these urges I have and want to get over them." Another theme in Dedric's responses was his

dissatisfaction with social interactions and lack of romantic relationships. Lastly, Dedric's responses also related to being self-conscious about others' perception of him.

Finally, Dedric completed the PAI, a self-report measure of personality functioning designed to provide diagnostic information of adults regarding their personality tendencies and clinical syndromes. His response pattern on the validity indices suggested that he responded in a somewhat socially desirable manner (PIM=59). Therefore, some caution is recommended regarding these test results given the likelihood that he minimized the true extent of his psychological difficulties. Dedric's response pattern on the PAI suggested that he is experiencing significant symptoms of anxiety. His pattern of responses reveal that he is likely to display a variety of maladaptive behavior patterns aimed at controlling anxiety. He described himself as a socially isolated individual who has few interpersonal relationships that could be described as close or warm. Dedric also endorsed moderate levels of depressive and schizophrenic symptoms.

Continuing Dedric's PAI profile, his self-concept is suggestive of an individual endorsing both positive and negative aspects. His attitude may vary from states of pessimism and self-doubt to periods of self-confidence. During stressful times in particular, he is prone to be somewhat self-critical, uncertain, and indecisive. Interpersonally, Dedric indicated that he is distant in personal relationships. Finally, Dedric presented with high motivation for treatment. In addition, he reports a number of other strengths that are positive indications for a relatively smooth treatment process and a reasonably good prognosis.

DSM-5 DIAGNOSTIC IMPRESSIONS

302.82	Voyeuristic Disorder
311	Unspecified Depressive Disorder
300.00	Unspecified Anxiety Disorder

CONCLUSIONS/RECOMMENDATIONS

- It is recommended that these tests results be utilized to facilitate Dedric's participation in mental health treatment services. The accumulation of acquired data suggests that this is a valid administration of psychological testing. To facilitate data collection, collateral information was obtained from his mother, Ms. Idella Isreal. Diagnostically, it is evident that he is functioning with a sexual paraphilia (voyeurism) that needs to be addressed. Dedric and Ms. Isreal presented as well aware of this issue and the problematic ramifications of him continuing to engage in these behavior patterns. Additionally, moderate symptoms of depression and some levels of situational anxiety persists. He appears to be an appropriate candidate for mental health treatment intervention based on his presenting concerns.
 - o Dedric should continue to participate in psychiatric treatment services with Dr. Rao. He is currently prescribed Prozac, and he has also taken Lexapro in the past. It is recommended that Dedric participate in outpatient therapy to address his paraphilia issues (voyeurism) in addition to his mental health issues. Dr. Peter Kilmann (803-788-9243) would be an appropriate referral source given his expertise in these treatment areas. Additionally, Dedric would benefit from outpatient therapy to address past disappointments which appear to be responsible for the onset of his presenting difficulties. Lastly,

Dedric would benefit from social skills training in order to better manage his situational social anxiety.

Marc Harari, Ph.D.

Marc Harari, Ph.D. 10/8/13
Licensed Counseling Psychologist (875)

WITNESSES

Columbia Police Department

C D Bailey

Law Enforcement Case #: 130029712

LSM

ARREST WARRANT NUMBER

2013A4021603099

ACTION OF GRAND JURY

Foreperson of Grand Jury
Date:

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2014GS3201155

The State of South Carolina

County of Lexington

COURT OF GENERAL SESSIONS

MAY TERM 2014

**THE STATE
vs.**

Dedric Latrone Isreal

CDR #: 0091

Indictment for

Indecent Exposure

§ 16-15-0130

DONALD V. MYERS, SOLICITOR

**I DO HEREBY WAIVE MY RIGHT
TO GRAND JURY PRESENTMENT**

DEFENDANT

DATE

WITNESS

STATE OF SOUTH CAROLINA)
)
 COUNTY OF LEXINGTON)
)

INDICTMENT FOR
 Indecent Exposure

§ 16-15-0130

At a Court of General Sessions, convened on MAY 2014, the Grand Jurors of Lexington County present upon their oath:

That **Dedric Latrone Isreal** did in Lexington County, South Carolina on or about September 17, 2013 did willfully, maliciously, and indecently did expose his person in a public place or property of others or to the view of another person on a street or highway; to wit: the defendant did expose himself to several persons being customers and/or employees while at Kohl's Department Store located at 120 Harbison Blvd. in Lexington County, all in violation of Section 16-15-130 in the Code of Laws of South Carolina, (1976, as amended)

A TRUE COPY

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

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

[Signature: Suzanne Mayes]
 ASSISTANT SOLICITOR