

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to York County

Honorable J. Mark Hayes, Circuit Court Judge

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S.C. SUPREME COURT

DAVID ALDEAN DICKERSON,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2018-001181

APPENDIX

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1 STATE OF SOUTH CAROLINA.

2 -----x

3 STATE,

4 Plaintiff,

5 Case No.

6 -against- 2016-GS-46-1861

7 DAVID ALDEN DICKERSON,

8 Defendant.

9 -----x

10 August 23, 2016

11 York, S.C.

12

13 B E F O R E:

14 HONORABLE BRIAN GIBBONS

15

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

17 HATTIE E. BOYCE, Esquire

18 Attorney General

19

20 NATHAN SELDON, Esquire

21 Attorney for the Defendant

22

23 Aileen Butler

24 Official Court Reporter

25

E X H I B I T S

	<u>NO.</u>	<u>DESCRIPTION</u>	<u>I.D.</u>	<u>EVD.</u>
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1 MS. MILES: State versus David Dickerson.

2 DAVID DICKERSON, called as a witness, having been
3 duly sworn by the clerk, was examined and testified as
4 follows:

5 MS. MILES: May it please the Court.

6 THE COURT: Yes, ma'am.

7 MS. MILES: This is the State versus David
8 Dickerson, Indictments 2016-GS-46-1858 through 1863.
9 I am Bethany Miles with the Attorney General's Office.
10 Representing Mr. Dickerson is Mr. Nathan Sheldon.

11 Mr. Dickerson is charged with one count of
12 criminal sexual conduct in the third degree, one count
13 of incest, one count of assault with intent to commit
14 criminal sexual conduct in the third degree, sexual
15 exploitation of a minor in the first degree, one count
16 of criminal sexual conduct with a minor in the 2nd
17 degree when the victim was between the ages of 11 and
18 14, and one count of criminal sexual conduct with a
19 minor in the second degree for which he was between
20 the ages of 14 and 16.

21 Your Honor, in an effort to work out a plea in this
22 case the defendant is pleading guilty to one count of
23 criminal sexual conduct with a minor, second degree,
24 and one count of sexual exploitation of a minor, first
25 degree.

1 The State is dismissing the additional charges
2 which carry anywhere from zero to ten years, zero to
3 twenty years, another zero to ten years, zero to three
4 years. We are also agreeing to not go forward on
5 additional sexual exploitation of a minor first
6 degree, which would carry consecutive three to twenty
7 sentences, as well as any child pornography possession
8 charges which would carry zero to ten.

9 Your Honor, the State is recommending the maximum
10 forty years on this charge due to the facts of this
11 case that we will get into in a few minutes. The
12 defendant has also signed a consent for forfeiture
13 Order for the equipment in this case that contain
14 child pornography agree that we can't give back. I
15 believe that was passed up with the paperwork.

16 THE COURT: All right, Mr. Sheldon, your client
17 consents to the forfeiture of the seized equipment?

18 MR. SHELDON: Yes, sir, Your Honor.

19 THE COURT: I've signed that order as well.

20 Anything further madam attorney general?

21 MS. MILES: Not until you are ready for the facts,
22 Your Honor.

23 THE COURT: Thank you.

24 MS. MILES: Thank you.

25 THE COURT: All right. Mr. Sheldon, you represent

1 Mr. Dickerson?

2 MR .SHELDON: Yes, sir, Your Honor.

3 THE COURT: Have you had a full opportunity to go
4 over all these matters with your client?

5 MR. SHELDON: I have Your Honor.

6 THE COURT: All right. Based upon your
7 investigation into the alleged facts and law do you
8 agree with your client's decision to plead guilty to
9 these two charges today?

10 MR. SHELDON: Yes, sir, Your Honor. And if I may
11 Your Honor, before you get into the the plea colloquy
12 with Mr. Dickerson I'd like to make a Court's exhibit
13 the plea affidavit that he and I and the solicitor
14 have all signed.

15 THE COURT: Any objection?

16 MS. MILES: No, sir Your Honor.

17 THE COURT: All right, then this will be marked and
18 then and entered as Court's Exhibit One and we will do
19 that after this hearing.

20 (Court's Exhibit One, Plea Affidavit, marked in
21 evidence as of this date.)

22 All right. Mr. Dickerson, let me speak with you
23 just a moment, sir. You are forty years of age?

24 THE DEFENDANT: Yes.

25 THE COURT: All right. What do you do for a

1 living?

2 THE DEFENDANT: I'm an electronic's maintenance
3 technician in industrial equipment.

4 THE COURT: Okay. And how long have you done that
5 type of work?

6 THE DEFENDANT: Since 1999.

7 THE COURT: All right. So you understand what you
8 are doing in court today?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: All right. Do you understand what
11 these two charges are that are against you?

12 THE DEFENDANT: Yes, Your Honor.

13 THE COURT: Have you been over the elements of
14 these crimes with your lawyer?

15 THE DEFENDANT: Yes, Your Honor.

16 THE COURT: So you understand what criminal sexual
17 conduct with a minor in the second degree is and the
18 other charge of sexual exploitation of a minor, first
19 degree?

20 THE DEFENDANT: Yes, Your Honor.

21 THE COURT: All right. Have you and your lawyer
22 been over the penalties or the punishment, the
23 possible punishments for these charges?

24 THE DEFENDANT: Yes, Your Honor.

25 THE COURT: All right. So you understand the CSC

1 with a minor in the second second degree is punishable
2 up to twenty years?

3 THE DEFENDANT: Yes, Your Honor.

4 THE COURT: And the sexual exploitation of a
5 minor, first degree, is anywhere from three to twenty
6 years. Do you understand that?

7 THE DEFENDANT: Yes.

8 THE COURT: All right. So understanding then the
9 elements of the crime that have been charged as well
10 as the possible maximum punishments you could receive
11 how do you plead?

12 THE DEFENDANT: I plead guilty Your Honor.

13 THE COURT: Now Mr. Dickerson has anyone forced,
14 pressured, coerced or made you come to Court today to
15 tell me you did something that you really didn't do?

16 THE DEFENDANT: No, Your Honor.

17 THE COURT: Did you do these things?

18 THE DEFENDANT: Yes, Your Honor.

19 THE COURT: Has anybody promised you anything or
20 held out any hope or reward to get you to plead
21 guilty?

22 THE DEFENDANT: Absolutely not Your Honor.

23 THE COURT: Have you told your lawyer everything
24 you need to tell him?

25 THE DEFENDANT: Yes, Your Honor.

1 THE COURT: Do you need any more time with your
2 lawyer?

3 THE DEFENDANT: I don't believe so Your Honor.

4 THE COURT: Has your lawyer answered all your
5 questions?

6 THE DEFENDANT: Yes, Your Honor.

7 THE COURT: Are you satisfied with the services of
8 your attorney?

9 THE DEFENDANT: Yes, Your Honor.

10 THE COURT: Did you and your attorney go over all
11 your trial rights?

12 THE DEFENDANT: Yes, Your Honor.

13 THE COURT: Let me go over those with you. I want
14 to me make sure.

15 You have a right to a jury trial of course, and at
16 a jury trial the State of South Carolina has to prove
17 you guilty beyond a reasonable doubt on each and every
18 charge against you. Do you understand that?

19 THE DEFENDANT: Yes, Your Honor.

20 THE COURT: You don't have to prove anything
21 because you are presumed innocent until proven guilty.
22 Do you understand that?

23 THE DEFENDANT: Yes, Your Honor.

24 THE COURT: Do you understand that you and your
25 lawyer have the right to confront the witnesses

1 against you and try to make them look bad and not
2 believable in front of a jury?

3 THE DEFENDANT: Yes, Your Honor.

4 THE COURT: Do you understand that any jury verdict
5 has to be unanimous. That means all 12 jurors have to
6 agree to a verdict. Do you understand that?

7 THE DEFENDANT: Yes, Your Honor.

8 THE COURT: Do you also understand you do not have
9 to prove anything and have the right to remain silent.
10 Do you understand that?

11 THE DEFENDANT: Yes, Your Honor.

12 THE COURT: You see those are very valuable trial
13 rights that you give up when you plead guilty. Do you
14 understand those trial rights?

15 THE DEFENDANT: Yes, Your Honor.

16 THE COURT: Do you still wish to go forward and
17 plead guilty?

18 THE DEFENDANT: Yes, Your Honor.

19 THE COURT: Are you under the influence of anything
20 today that would make you not understand what is going
21 on?

22 THE DEFENDANT: Absolutely not, Your Honor.

23 THE COURT: All right. Do you understand that you
24 have ten days to appeal anything from this sentencing
25 hearing after the conclusion of this hearing? Do you

1 understand that?

2 THE DEFENDANT: Yes, Your Honor.

3 THE COURT: All right. What's going to happen now
4 I want you to listen carefully. I will ask the State
5 to give me a brief factual summary of what they say
6 you did and then I will come back to you with more
7 questions before I decide whether or not I can accept
8 your plea. Okay?

9 THE DEFENDANT: Yes, Your Honor.

10 THE COURT: Yes, ma'am.

11 MS. MILES: May it please the Court, Your Honor.
12 In September of 2015 law enforcement was called to a
13 local high school where a 16-year old victim reported
14 that her father had sexually assaulted her on their
15 living room couch having vaginal intercourse with her
16 before wiping off on a navy blue t-shirt.

17 The victim disclosed that during the summer of 2012
18 when she was 12 years old her father came into her
19 room and got in bed beside her and began digitally
20 penetrating her. She disclosed that her father would
21 continue these assaults but escalated to putting his
22 penis inside his child's mouth to have her perform
23 oral sex on him. The victim also disclosed her father
24 performing oral sex on her and the assaults ultimately
25 progressing to her father raping her vaginally. The

1 victim disclosed that over the next three years the
2 assaults would occur frequently, sometimes several
3 times a week. The assaults would include oral sex but
4 most frequently would include her father vaginally
5 raping her.

6 The victim disclosed within the past month her
7 father had attempted to rape her anally but wasn't
8 able to insert his penis into his child's anus
9 completely. The victim also disclosed and her father
10 admitted calling her names such as whore and slut.
11 She also disclosed that he had gotten angry and
12 punched holes in the walls of the home.

13 The victim was taken for a rape kit. Her underwear
14 as well as the baby blue t-shirt that was found in the
15 home they were both examined forensically and a
16 mixture of the defendant's sperm with the child's DNA
17 were found on both of those items.

18 The defendant's phone was also forensically
19 examined. On that phone there was a video of the
20 defendant being masturbated by his daughter. There
21 were also pictures of his daughter nude in her bedroom
22 window -- bedroom mirror, as well as photos of her
23 masturbating. When I spoke with the victim she
24 disclosed that her father would make her take these
25 photos and then send them to him. There are also

1 images of child pornography located not of his
2 daughter but of other unknown girls.

3 Your Honor, I believe that's all the facts. I know
4 the detectives from Rock Hill PD as well as myself
5 would like to address sentencing at the appropriate
6 time whenever that may be.

7 THE COURT: All right. Mr. Dickerson, did you hear
8 the facts as alleged by the State as to what they say
9 you did?

10 THE DEFENDANT: I did.

11 THE COURT: Do you agree with those facts?

12 THE DEFENDANT: I do.

13 THE COURT: Is that what happened?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: All right, the Court accepts your plea.

16 Now we go through the sentencing phase. I will be
17 glad to hear from the State before I hear mitigation.

18 MR. SHELDON: Judge, prior to that if I may
19 interject --

20 THE COURT: Yes.

21 MR. SHELDON: -- just to obviously we need to
22 protect the record. I'm not sure if the Court covered
23 this or not. I want to make sure. I have explained
24 to Mr. Dickerson, the CSC second is violent, most
25 serious. Is mandatory GPS for life and is registry

1 for life. And those collateral consequences have been
2 discussed with him. I don't know if the Court wants
3 to go over those things with him again.

4 Also, I'm not sure that the Court mentioned, but he
5 is aware that the exploitation charge must be run
6 consecutive to CSC charge. And so, obviously he is
7 aware of that as well.

8 THE COURT: You're an excellent attorney, Mr.
9 Sheldon. I assumed you had gone over all that with
10 him. Has in fact Mr. Sheldon gone over all those
11 things with you?

12 THE DEFENDANT: Yes, Your Honor.

13 THE COURT: All right, so you understand what a
14 violent offense is and what term as a most serious
15 offense is and all the collateral consequences of the
16 Court accepting your plea? You understand all that?

17 THE DEFENDANT: Yes, Your Honor.

18 THE COURT: All right. I'd be glad to hear from
19 the State as to sentencing before I hear from Mr.
20 Sheldon last.

21 MS. MILES: Detective Christopher Quaid.

22 MR. QUAID: Your Honor, if I may. I am Detective
23 Chris Quaid. I am with the Rock Hill Police
24 Department. I have a lot of strong feelings about
25 this case so I opted to type everything down in a

1 short statement just so I can convey everything
2 related to this investigation.

3 I have been with the Rock Hill Police Department
4 since 2005. During my time with the department I've
5 spent just under five years as school resource
6 officer.

7 I'm currently in a position of investigating sexual
8 assaults of adult and children, sexual exploitation of
9 children and child abuse and neglect. During my time
10 in this position I received extensive training and
11 completed programs investigating sexual deviance and
12 abuse through organizations such as the sexual assault
13 task force out of State of Oregon, IPTM of North
14 Florida University, various organizations in South
15 Carolina and many, many others.

16 In 2014 I was awarded law enforcement officer of
17 the year by South Carolina Coalition against domestic
18 violence and sexual assaults. I have dedicated my
19 professional career to the special victims related
20 investigations in youth.

21 I was involved in this investigation from the
22 beginning. I would adopt this investigation as the
23 case agent and I was involved with all aspects of this
24 investigation. I was there to see the couch that Mr.
25 Dickerson systematically raped the victim. I

1 interviewed the victim on multiple occasions about the
2 sexual assaults which began in the victim's preteen
3 years as light as touching and progressing to
4 intercourse and attempted anal penetration.

5 Dickerson groomed the victim for his sexual
6 pleasures. Dickerson had established sexual
7 expectations upon the victim which allowed him to
8 demand sexual favors from the victim. Based on my
9 investigation I believe Dickerson would demand these
10 sexual favors multiple times a week over a period of
11 years. Dickerson ruled the victim through
12 intimidation which was evidence by -- which was
13 evident by based on holes punched in the walls of
14 Dickerson's home. Dickerson violated the most
15 innocent relationship for a man to have. Dickerson
16 violated the victim sexually, mentally, emotionally
17 and spiritually for years.

18 Dickerson even violated the victim electronically
19 by videoing the sexual favors on at least one occasion
20 and demanded a video of the victim in a sexual
21 performance. While I use statutory language to
22 describe what Dickerson has done please do not lose
23 focus that his actions were violent and despicable.
24 Life under the tyranny of Dickerson had been a living
25 hell for the victim. Dickerson had the audacity to

1 question the victim's romantic interest as wrong all
2 the while continuing his deviant deeds on the victim.

3 Furthermore, Dickerson had threatened to remove the
4 one outlet the victim had as a threat. During the
5 course of the investigation I recovered a letter from
6 Dickerson to the victim.

7 In -- excuse me. In the letter Dickerson attempted
8 to encourage the victim to have faith in God.
9 Dickerson spoke about how God will carry him through
10 his pain. While it is my hope that Dickerson finds
11 divine peace, I also encourage him to continue his
12 studying scripture. While the Bible speaks about
13 peace of the father it also speaks about justice
14 system that has been divinely put into place.
15 Scripture states that the authority or the one who
16 carries out justice does not bear the sword for no
17 reason. In our system judgement and sentencing are
18 the sword of justice.

19 As I have already stated these acts are both
20 violent and despicable and they deserve the full
21 attention of justice.

22 I want to conclude this opportunity by presenting a
23 challenge. After Dickerson was served with the second
24 set of warrants he requested to speak with me. I
25 complied with his request and escorted Dickerson to my

1 office to speak with me before his departure to jail.
2 Upon entering the office Dickerson reached out his
3 hand to shake and thanked me for protecting the
4 victim. I didn't spend hours, days and weeks just
5 protecting the victim. I spent hours, days and weeks
6 protecting the victim from him. Dickerson knew this
7 is what he was thanking me for. The mission in which
8 Dickerson thanked me for has not become complete. You
9 see I'm only a -- I'm only one part of the system. I
10 only spoke of the will of justice. This will has not
11 yet been completed its revolution. My challenge is
12 this; to insure the victim is always protected in
13 mind, body and spirit that Dickerson himself thanked
14 me for initiating. Please consider this as you move
15 forward.

16 Thank you for your service.

17 THE COURT: Thank you, sir.

18 MS. MILES: Detective Brooks Feldman.

19 DETECTIVE FELDMAN: Your Honor, may it please the
20 Court.

21 THE COURT: Yes, sir.

22 DETECTIVE FELDMAN: Your Honor, my name is Brooks
23 Feldman. I have been with the Rock Hill Police for
24 nine years. I served as an investigator for special
25 victims defenses for approximately three years now. I

1 don't purport to be involved significantly with the
2 victim in this case or her family or the defendant. I
3 was brought into this investigation as a matter of my
4 duties conducting forensic exams on the electronic
5 devices. Coincidentally I served and continue to serve
6 as investigator combating online child exploitation
7 through the internet crimes against children task
8 force. And unknown to us at the time the initial
9 investigation, this would turn into this kind of case.
10 I would say in my career this is probably one of the
11 most disturbing cases I ever experienced working on so
12 far.

13 When I first discovered the videos on the
14 defendant's cell phone I knew almost immediately what
15 kind of abuser I was dealing with. Not only did the
16 defendant spend untold years grooming and developing
17 his victim he systematically and meticulously abused
18 and exploited her for his own personnel enjoyment for
19 times when he wouldn't have access to the victim.
20 That's why predators like Mr. Dickerson record these
21 videos and create this material. Why else would you
22 record something if you don't intend to either share
23 it with somebody or view it at later time.

24 I have attended numerous hours of training in
25 classrooms, conferences and lectures on the methods

1 and psychology of the abusers. The defendant you see
2 before you today is precisely the kind of -- and I use
3 the term loosely -- "person" that they write text
4 books about.

5 The defendant groomed the victim in just such a way
6 to cause her to accept his perversion of a sacred
7 father daughter relationship. He intimidated her
8 through force and threats to keep it secret and as
9 such exploited her for years.

10 For some background in understanding on the way
11 these videos were recovered, just a little forensic
12 background. When something is store to a device it
13 exists it many forms throughout the device. Not just
14 as a file on the device. Computers, which basically
15 our cell phones are now, they store files in a quick
16 assess storage file called cache. That's where these
17 videos were discovered and it's because the videos
18 have been deleted from the phone. We only got them in
19 the quick access cache that hadn't been cleared for
20 whatever reason. So it's almost by chance we found
21 anything and I point all this out to say that in my
22 professional opinion and based on my training and
23 experience these are not the only ones. These are not
24 the only videos to have ever existed. Also it's my
25 unfortunate duty to report that we have no way or no

1 idea of knowing how many were created, how long this
2 went on or that the defendant didn't share these
3 videos with other people. You see from my training
4 and experience it's highly common for persons who
5 demonstrate an interest or preference in a sexual
6 activity with minors to amass digital collections
7 consisting of pictures and videos of these activities
8 and to share them with other like minded individuals
9 with whom they seek out for validation for their vile
10 behavior. These depictions tend to be extremely
11 important to such individuals and in some instances
12 suspects keep these depictions as a means of
13 titillating the sexual interest of other minor victims
14 or otherwise lowering the inhibitions of potential
15 child sexual partners.

16 I mention all this to point out another such item
17 that was recovered from the defendant's online
18 activities was his participation in online chat
19 application called whisper. Whisper is an
20 application. It's pretty popular with young adults,
21 teenagers. And effectively what they do is they share
22 secrets online with strangers either as a means of
23 getting something off their chest or trying to find
24 advice or validation. To loosely quote the defendant
25 in one such conversation that we recovered he tells a

1 young girl who had admitted that she was having some
2 troubles with her boyfriend and he told her he was a
3 father and could act as a father figure and that he
4 more than most understands the troubles of a young
5 teenage girl. He then offers his availability should
6 she ever need assistance or help or advice. I don't
7 think I need to explain to this Court given what the
8 defendant is here to plead guilty to today what the
9 defendant's real intentions are of these
10 conversations.

11 I address these facts to point out two
12 considerations for Your Honor. Number one, the abuse
13 of the victim will be far reaching to the rest of her
14 life due to the nature of the online exploitation and
15 the fact that pornography was produced has the
16 likelihood to continue throughout the rest of her
17 life. And number two, Dickerson's threat to future
18 abuses of other children is hardly minimum. And
19 that's precisely what I believe the Court's purpose is
20 in handing down judgement today; to provide justice
21 for the victim based on impact and to protect the
22 public from further actions by the defendant.

23 Our primary goal in investigations of child
24 exploitation is to find and recover live victims and
25 unfortunately it's very rare to get such a chance to

1 do that. And in all cases the damage has already been
2 done. In fact I can't even give credit to myself or
3 Detective Quaid or any prosecution involved in this
4 case for the success of this case. That alone rests
5 with the courage of the victim who had the courage to
6 come forward about the things that had taken place.
7 Before Your Honor considers the extent of this Court's
8 judgement I leave you with a quote of the victim of
9 child abuse and child pornography who bravely spoke
10 out in a statement on behalf of the national center
11 for missing and exploited children. The victim, who
12 refers to herself as Amy, suffered years of
13 psychological abuse, physical abuse and exploitation
14 in the form of child pornography produced by her uncle
15 from the time she was about four years old until she
16 was nine years old. In her statement Amy says I'm
17 still discovering all the ways the abuse and
18 exploitation I suffered from him has hurt. Has set my
19 life on the wrong course and destroyed the normal
20 childhood, teenage years and early adulthood that
21 everyone deserves. In her own words with regards to
22 online exploitation and the production of child
23 pornography she says, "I know that I am being
24 exploited and used every day and every night somewhere
25 in the world by someone." I ask the Court to consider

1 extracting judgement for the fullest extent provided
2 by South Carolina law on behalf of the victim, as well
3 as others like her.

4 Thank you, Your Honor.

5 THE COURT: Thank you. Yes, ma'am, madam attorney
6 general.

7 MS. MILES: Your Honor, the first time I met with
8 the victim in this case I asked her to tell me about
9 herself. Not about what had happened to her but about
10 her in general. She told me how she was in band,
11 honor's classes, Beta club. She told me how she
12 wanted to go to college. Dreams that any parent would
13 be proud of for their child. Because in this life
14 there are very few responsibilities greater than the
15 responsible given to a person as a parent to their
16 child, the responsibility to love and care for and
17 nurture and even appropriately punish that child.
18 That first time I sat down with the victim she said
19 something to me that will probably always stay with
20 me. She said that when her father would rape her if
21 she didn't act like she enjoyed it her father would
22 punish her afterwards by taking away her cell phone.
23 For a teenager that's her lifeline. Her father whose
24 way of being a parent was to sexually assault his
25 child starting at the age of 12 who showed his love by

1 calling the daughter he was raping a whore and a slut
2 would punish his daughter for not pretending to enjoy
3 the fact that her own father was raping her.

4 Your Honor, that's what this case is about. It's
5 about this man who put his own sexual desires for a
6 child, his own child, above the wellbeing of that
7 child. A man who wasn't satisfied with just taking
8 away his own child's virginity by sexually assaulting
9 her but also wanting to take away her dignity and own
10 self esteem by filming at least one of those assaults
11 and by having his daughter take pictures of herself
12 nude and masturbating to send to him so he can enjoy
13 his sexual attraction to his child when she wasn't
14 even present.

15 Your Honor, the victim isn't here today. When I
16 spoke with her recently she told me she didn't want to
17 be here because she never wants to see her father
18 again; her rapist. She never wants to see him. When
19 I asked her what she wanted as far as sentencing she
20 asked that she would like for him to be away for as
21 long as possible.

22 In over six years of prosecuting child sexual abuse
23 cases this is the first time I ever recommended 40
24 years in a plea. It isn't the most time he could have
25 faced given the other charges and potential charges,

1 but I do understand it's a long time.

2 The defense will probably point out that it could
3 consensually be for the rest of his life. I stated a
4 minute ago that this case was about a man, but it's
5 also about this child. The child who isn't yet 18
6 years old. A child who will also deal with this for
7 forty years and for probably another forty after that.
8 Because of the actions of this man his child will deal
9 with this and the sexual abuse that she endured for
10 the rest of her life.

11 While considering the impact this plea will have on
12 the defendant I respectfully ask that you also
13 consider the impact that it will have on the victim
14 and her ability to begin to live the life that she's
15 never been able to live before because of the actions
16 of her father and the sexual abuse that he endured --
17 that she endured because of him.

18 Thank you.

19 THE COURT: All right. Thank you. Mr. Sheldon.

20 MR. SHELDON: May it please the Court, Your Honor.

21 THE COURT: Yes.

22 MR. SHELDON: There are several people that are
23 going to speak on Mr. Dickerson's behalf this morning.
24 I would just point out that all of his family and
25 friends are here in support of him.

1 Your Honor, I want to begin by addressing something
2 I think Detective Quaid said. I agree. I agree that
3 this is obviously very serious. I agree that this
4 sword of justice exists and that it's the Court's job
5 to issue punishment. But on the other side of that
6 sword is mercy, and the Court needs to take both of
7 those into consideration. That is justice. That is
8 our justice system. That is the role of the
9 judiciary.

10 Your Honor, my client as stated is forty years old.
11 He has never been in trouble in his entire life
12 standing before Your Honor today. He's worked his
13 entire life. He has some college. He went to high
14 school. He was in the Navy, Your Honor. I would like
15 to pass up a letter of commendation from his naval
16 service along with his certificate of release and
17 discharge and point out he received a national defense
18 service medal, first good conduct medal, letter of
19 commendation. If I could pass those up to the Court.

20 (WHEREUPON, documents were handed up to the Court.)

21 MR. SHELDON: Your Honor he -- he didn't want to
22 put his daughter through anything else and that's why
23 we are here.

24 The recommendation from the State is forty years
25 which is the maximum on the two charges that he is

1 pleading to. Clearly we don't agree with the maximum
2 sentence. With we are not asking this Court for forty
3 years. We are asking this Court for significantly
4 less than forty years. Forty years is a life
5 sentence. This is a -- this is a child rape life
6 sentence and the time that he is going to do in SCDC
7 will be extremely difficult. He is certainly subject
8 to the sexual violent predator portion of our statute.
9 So any sentence the Court imposes if it's deemed that
10 he is not safe to be in society he would not be
11 released even after any sentence is issued if he is
12 deemed to be a sexual violent predator.

13 Your Honor, he -- since being arrested and before
14 while he was in jail -- and I point out because I
15 don't think I mentioned it to the Court, I have it at
16 about 115 days time served. We ask the Court
17 obviously for any credit he did in jail.

18 While he was in jail he attended numerous,
19 numerous, Bible studies and things like that. If I
20 can pass that up to the Court that's from the jail of
21 all of the Bible studies he attended while here
22 incarcerated in York County. Since being released he
23 has continued to further that and grow his faith. He
24 has continued to seek God for answers. He has found
25 God. He needs God in his life. And he has done so

1 and will continue to do so.

2 At this time Your Honor, I actually would like to
3 have you hear from his preacher at the jail. If you
4 can come on up.

5 THE COURT: Yes, sir.

6 MR. VANDERBEAR: My name is Harold Vanderbear
7 (phonetics). I'm an Anglican priest and I do Bible
8 studies in the Moss Justice Center every Monday night.
9 During my time -- I started in April of 2015 going in
10 there -- Mr. Dickerson has been attending those bible
11 studies. I think that his plea today is recognizing
12 the fact that he realizes that he has done wrong. He
13 sinned. I think he is dealing with that. His time
14 with us in those Bible studies and subsequently when
15 he got out I visited him one time at his parent's home
16 and I had numerous conversations with him on the phone
17 and in those conversations it has been along the lines
18 of he knows he was wrong. He knows what he did was
19 wrong and he's very sorry about it, and the
20 conversation is regardless of what happens here today
21 how do I continue my life in a relationship with God.
22 And so, I have been giving him counsel in the things
23 that he needs to do about his Bible study, about his
24 prayer life. And again, seeking counsel with those
25 when he gets to wherever he ends up of continuing a

1 life of seeking the face of God.

2 THE COURT: Thank you, sir.

3 MR. SHELDON: Your Honor, if I may pass up these
4 are other letters from both preachers and parishioners
5 who know Mr. Dickerson personally. And so, judge, God
6 has been a very important part of his life since this
7 all happened. When it first happened I first became
8 involved in this case as part of the underlying DSS
9 action. He immediately admitted to a finding.
10 Immediately went on the central sexual abuse and
11 neglect registry. He is not putting the victim
12 through anything at that time. He is not putting the
13 victim through anything at this time -- any further
14 trauma that would have created by having them be in a
15 courtroom. At the same time Your Honor we have had
16 Mr. Dickerson evaluated by Doctor Jeff McKee in
17 Columbia, and I will pass up his report to the Court.
18 But the things I would like to point out from Doctor
19 McKee's report are that he is diagnosed with a
20 specified paraphilic disorder, specifically pedophilia
21 which is sexual arousal to early adolescent females
22 but limited to incest.

23 Your Honor, we disagree with -- wholeheartedly --
24 with the forensic unit at the City of Rock Hill. This
25 isn't -- there isn't any suggestion I don't think he

1 is charged with anything, nor has he ever been charged
2 with anything that this was file sharing and this was
3 some -- you know, underground online world. I
4 understand that exists. That isn't the case here.
5 Mr. Dickerson was in love with his daughter, and that
6 is a huge problem and he deserves punishment for that.
7 This is a case of man who was in a troubled marriage
8 and fell in love with his daughter instead of getting
9 divorce and he had sex with his daughter. We aren't
10 denying it. He had sex with his daughter from age 13,
11 14, 15 up until this came to a crashing halt last
12 September. But for him it was a relationship and that
13 is extremely, extremely disturbing to picture. That
14 is a hard picture for me to convey, but that's the
15 truth. That's what was happening here. I don't
16 think, and I don't think Doctor McKee thinks and other
17 than -- other than their quotes from national
18 exploited missing children, I don't think there's
19 anything to suggest that he is a predator to other
20 children. That is not what we have here. This is a
21 case where it's perhaps worse; his own daughter.
22 There is no question we can't sugarcoat the
23 allegations. We can't sugarcoat the facts. But we
24 don't want the Court to sentence on future conduct
25 because I don't -- that's not an issue. That simply

1 isn't going to be an issue and if it is that's for the
2 SPP program to determine. There is no need to deter a
3 man who has never been in trouble that's facing forty
4 years in prison from future conduct.

5 Your Honor, forty years for him it is a life
6 sentence. You would be giving him a life sentence
7 because it would be 34 years before he was able to get
8 out because each each one of those sentences carries
9 up to 85 percent. There is no parole. He would be
10 out at age 74 years old.

11 Your Honor, the victim in this case has suffered.
12 She's suffered greatly and we can not ignore that but
13 we have to have mercy. One of the other people I
14 would like you to speak to his mother, Miss Nealan,
15 (phonetics) if you can please come up and address the
16 Court.

17 THE COURT: Yes, ma'am. Thank you for being here.

18 MS. NEALAN: Judge, my son is a good guy. He's a
19 good man. He was in a horrible marriage. In a
20 terrible marriage. He would not leave the marriage
21 because his father and I had divorced and he never saw
22 his father. It was -- I just can't tell you the
23 situation. The house was filthy. No one would do
24 anything. He worked long, long hours. He had to do
25 everything for the kids's; doctor's appointments

1 everything. And I tried to get his wife to take him
2 for counseling because I told her he was severely
3 depressed and he needed help and she laughed. She
4 laughed in my face and said you're stupid. I deal
5 with educational psychology. I knew what I was
6 talking about.

7 What he did was horrible and I know my
8 granddaughter. He was never violent with any of his
9 children. He might get upset and yell. He never hit
10 those kids. She was not afraid of him. We had them
11 in our house with families. She wasn't afraid of him.
12 She went to him. And I could never see either one of
13 the kids being scared of their father. He tried to
14 get them to help with things because he worked 100
15 hours a week. He went to the band. Assisted the band
16 with hours and hours. He did everything he could to
17 try to stay with his family and keep them together.
18 Some place he got misguided judge. He had no
19 affection from his wife whatsoever. She worked very
20 little. She stole money from her job. I know that
21 because I had to \$1500 back so she didn't have to go
22 to jail. And I have told friends that it was the most
23 disorganized family that I had known and I've talked
24 to thousands of high school kids right here in Rock
25 Hill.

1 Yes, what he did was terrible and I know how it
2 affects the kids that it happens to. But he's not a
3 bad person. He got lost. He was so overwhelmed and
4 his daughter was the only one that showed any love to
5 him. She went to him. She's the one that washed his
6 clothes. She's the one that took care of him, not his
7 wife and it's wrong to fall in love with your
8 daughter. I know that. But it happened.

9 MR .SHELDON: And judge, this is -- his father was
10 here. This is a statement from him as well.

11 Judge, before I give my closing remarks on
12 sentencing I think Mr. Dickerson has something he
13 would like to say as well.

14 THE COURT: All right. Yes, sir.

15 THE DEFENDANT: Your Honor, I stand here today
16 guilty. I did it. And I regret it more than anything
17 in my life. I'm sorry. And that's not enough and it
18 never will be. There's nothing that I can say here or
19 anywhere that will even begin to fix what I broke and
20 I understand that. I am humiliated that I violated
21 the trust and love between myself, my daughter and my
22 son. My daughter is not the only one that got hurt in
23 this. The list is long and I'm sorry. I never meant
24 to hurt her or anybody. I wish I could take it away.
25 I really do. And I have no excuses. There is nothing

1 in this world that could excuse what I have done and I
2 don't want to try, but I feel some need to try to
3 explain something that I'm having an extremely hard
4 time understanding. And I did fall in love with my
5 daughter. It truly was love. It was wrong. It was
6 misguided. It was misdirected and it was bad and
7 standing on this side of this I understand that.

8 When I was young, about third grade, my mother and
9 father divorced and the only memories I have of my
10 father are sitting in school on Thursdays hoping the
11 teacher will tell me I was going with my father home
12 that day, or Fridays sitting at home on the porch
13 waiting and him not showing up. It was always an
14 excuse. And I don't blame him. I don't blame
15 anybody. But that crushed me. My mother remarried
16 and I thought finally I have somebody that cares, a
17 father, and he left in less than a year.

18 When I started sixth grade my mother married
19 another school teacher and he was finally the guy I
20 asked for. He loved me. He cared about me. He took
21 care of me. He wanted to be with me but he was a very
22 unhealthy man and we went to -- I went to a doctor's
23 appointment with him and listened to the doctor tell
24 Michael you had one major heart attack and had open
25 heart surgery you are over 350 pounds. If you don't

1 stop smoking cigars, if you don't start eating the
2 food if you don't start getting active and doing
3 something you're not going to live another year. All
4 you got to do is make some simple changes and you can
5 be here another 15 easy and less than a year later I
6 stood in operating room saying goodbye to man because
7 he died of a heart attack and I just I felt like I
8 wasn't good enough for anybody to stick around for me.
9 And I didn't know what I had done -- excuse me.

10 A couple weeks later it was just before my senior
11 year in high school I came home from work and found my
12 mother had just committed suicide and I had her
13 committed to a mental institution and I was all alone.
14 I was 17 or so. Started my senior year. I had a job
15 and now I had a house and we had a hundred or
16 something cats I had to take care of and I did it. I
17 stuck it out but I wanted to die because my mother
18 didn't love me enough to live.

19 My brother was four years older than me. He was in
20 the Navy at the time, stationed in Norfolk Virginia
21 and I called the American Red Cross as I had done when
22 my stepfather had passed away and asked them if he
23 could come home and help and she told me she would
24 call his command and asked. She called back about a
25 week later and said she had contacted his command and

1 that they had agreed to give him a hardship leave but
2 that he told them that he didn't need to come home.
3 He wouldn't come home to help me. And it was at that
4 time when I decided that if I ever got married and had
5 children that no matter what happened, no matter how
6 good or bad things were I would never leave because I
7 could never put my children through that pain.
8 Fifteen years later I'm married with two wonder kids.
9 The best children any man could ever ask for. I never
10 had any troubles out of them. They were both very
11 smart, very bright, very intelligent, well behaved,
12 well mannered children. My daughter was A/B student,
13 honor classes, wonderful musician. My son was too
14 smart for his own good. Really smart. Never had
15 problems out of them. I heard parents with kids being
16 on drugs and alcohol and going out, sneaking out, and
17 my kids never did any of that. And I loved them and I
18 still do. But my marriage -- my marriage was
19 horrible. It wasn't at first. It was great. But
20 after I got out of the Navy and we came home it just
21 -- I don't know. I don't know what happened. I
22 worked -- I worked 120-hour weeks sometimes. There
23 with two years that I worked. I made \$13 an hour and
24 I made \$70,000 a year each year for two years. I
25 worked so much that my boss finally came to me and

1 told me, if you don't take a vacation I am going to
2 fire you. But I had to because there was no help at
3 all.

4 I would ask her -- I had a budget. I had notebook
5 with a budget and I would sit down and ask her, Linda,
6 please look at this. Help me. I need help. And she
7 would repeatedly look at me and look at it and just
8 tell me that's stupid. I don't care. Just do
9 whatever you need to do. Any time this was a major
10 financial burden I would ask her to please, please
11 help. Get a job that pays more money. You can. And
12 she would just tell me no. That she liked what she
13 did. She enjoyed it. She would -- she would scream
14 at me because nobody would help her with the house and
15 so I would get the kids and sit them down and tell
16 them you got to help. You're part of this family.
17 You got to help. And when I would leave to go to work
18 after I told them what to do she would tell them they
19 don't have to listen to you. Don't listen to your
20 father. It doesn't matter. Do what you want to do.

21 I got many phone calls from my mother that my son
22 had come down there and told her that he wasn't
23 suppose to be down there because he didn't do his
24 chores but that his mother told him not to worry about
25 it. It didn't matter. He could do what he wanted to

1 do. He didn't have to listen to me. My mother made
2 reference to it. She called my wife at work one day
3 and told her she needed to talk to her. It was very
4 important. And she went to my mother and my mother
5 evidently told her that something was wrong and she
6 felt like I was going to hurt myself or kill myself.
7 And she was right. For at least a year I sat on my
8 bed every day. When everybody was gone to school or
9 work and taken my pistol and tried to figure out how
10 to make it look like an accident.

11 When I would drive to work when I crossed the
12 Catawba River Bridge I would just think all I got to
13 do is just turn the wheel, or I would see a big truck
14 and think all I got to do is hit it head on. But I
15 couldn't because it always came back that I couldn't
16 leave my children. I couldn't make them feel like I
17 felt all my life. But that afternoon she came home
18 and she woke me up. I was asleep on the couch because
19 I had been at work that night and I was working the
20 next night, and I will never forget one of the worst
21 days of my life. She was laughing and her exact
22 words, word for word, you won't believe what your
23 silly "blank" mother said to me. She said it was
24 funniest thing she ever heard.

25 There was another evening that I was off that

1 evening for some reason. I was sitting down doing our
2 budget and looking at our bank account and noticed
3 that a lot of money was missing. And as I went
4 through it I noticed there were charges that three
5 dollars here, two dollars there, a dollar here;
6 McDonalds, Taco Bell, Starbucks, Java Hut. So I went
7 upstairs and asked my wife. She was in bed. I asked
8 her about it. I said, honey, you know we are behind
9 on everything. We can't be doing this. And we got
10 into an argument and it was a fairly animated
11 argument. And as I left my bedroom and walked past
12 both of my children's bedrooms. My daughter -- my
13 daughter stopped me and call me into her room. She
14 asked me what was wrong and I tried to tell her don't
15 worry about it. I will be okay. She wouldn't accept
16 it. She kept asking what's wrong? I want to help.
17 So eventually I told her. In that conversation I
18 looked at my daughter and I told her that she would
19 make a better wife for me then her mother and she
20 agreed, and she wanted to help. It didn't happen
21 right away. It was a couple of months. We would talk
22 about the budgets. She would help. She would make
23 sure I had clean clothes for work. She would remind
24 me to take my blood pressure medicine. She would
25 remind me -- stay on me about quitting smoking because

1 the doctor had told me if I didn't quit smoking and
2 change my ways that I was going to have a major heart
3 attack and stroke within five years because my blood
4 pressure was incredibly high and out of control and it
5 had been increasing over the years that he had seen
6 me. And she was the one that said she wanted me
7 around. She was the one that was there. She was the
8 one that didn't just say I love you. She showed me
9 she loved me. She wanted to help. She would say I
10 just want to get a job so I can help you pay the bills
11 so you don't have to work so much. So that you could
12 be at home with me.

13 Your Honor, this was not me being a predator. I
14 did not attack my daughter in that way. I promise you
15 when I looked at her I didn't see my daughter. I saw
16 my wife and I don't understand it. It was wrong. And
17 I'm horribly, horribly ashamed. I did not attack her.

18 When I was incarcerated here at Moss Justice
19 Center the first two weeks I sat in a cell on suicide
20 watch because while I was at my mother's house waiting
21 for the inevitable to be arrested I tried to kill
22 myself. My mother stopped me. She called ambulances
23 and they came multiple times. But after I was out of
24 suicide watch and in population I started going to the
25 Bible studies with the volunteers here. And up to

1 that time I still didn't understand the gravity of
2 what I had done. I didn't. And I was sitting in a
3 Bible study and the volunteer was talking to us about
4 how he had become a christian and how that had
5 transpired. And he said, said he was talking to a
6 pastor and he asked the pastor how do I believe this.
7 How do I believe that a man walked on this heart and
8 just healed sick people. That brought somebody back.
9 It sounds like a fairy tale. And he said that
10 actually that day -- (defendant crying) -- you know
11 how a little girl just crushed her father. Doesn't
12 question anything he says. When he said that that was
13 when -- oh, my God, what have I done.

14 Your Honor, there is no excuse. I can't offer an
15 excuse. There is none. I don't even want to try.
16 The worse thing for this, for me, is having to look in
17 the mirror and know every day that the one person that
18 I hurt the most was the one person that actually loved
19 me. The one person that cared. The one person that I
20 should have protected the most and I could take it all
21 back. I wish I could tell her how sorry I am.

22 Your Honor, I have spend many hours, many hours on
23 my knees praying for forgiveness in the case. I spent
24 countless hours reading the Bible, studying it.
25 Looking for understanding and wisdom, and I know that

1 with the support that I have, with counsel and my
2 renewed faith I will never in my life do anything that
3 would put me or anyone else in jeopardy and I will
4 never step in a courtroom as a defendant again. When
5 I was in jail I asked for help. I asked to speak to
6 professionals and I was told no on multiple occasions.
7 And luckily God brought Mr. Harold Vanderbear to me
8 because I was told I could talk to him because he
9 could never repeat anything I said. And we talked one
10 on one a couple of times and I told him what I had
11 done and he just told me he loved me and he saved my
12 life because up until that time I wanted to bond out
13 so I could go home and kill myself and I thank him
14 every day. He really saved my life.

15 Your Honor, I broke the law and I have earned
16 punishment. I have. And I understand that. What I
17 am asking you today is to please just see that I am
18 not the monster that this situation paints me to be.
19 I am a good man that made horrible mistakes. Horrible
20 choices. And I wish I could do it all over again and
21 I beg you and I beg this Court for mercy.

22 Thank you, Your Honor, for your time.

23 THE COURT: Yes, sir. Thank you Mr. Dickerson.

24 MR .SHELDON: Judge, in conclusion, I would
25 just -- judge, this is unlike anything I've ever seen.

1 In my ten years of practice in law I've never seen a
2 fact pattern that comes close to this. I know the
3 attorney general hasn't. I'm fairly confident Your
4 Honor hasn't since your time on the bench. This is
5 extremely difficult.

6 Your Honor, all we can do is just beg this Court
7 for mercy. Beg this Court to not sentence Mr.
8 Dickerson to essentially a life sentence.

9 Your Honor, we believe somewhere in the range of 15
10 to 18 years would be appropriate knowing that's 85
11 percent sentence. Perhaps even lower than that.
12 Judge, its tragic and I normally would never have a
13 defendant speak for as long as Mr. Dickerson spoke but
14 it's important to understand before in order to
15 understand why we are here today and we would just beg
16 the Court for mercy in considering sentence in this
17 case Your Honor.

18 THE COURT: All right.

19 All right on Indictments 16-GS-46-1861 having
20 plead guilty to criminal sexual conduct with a minor
21 in the 2nd degree, the sentence of the Court is 20
22 years. On Indictment 16-GS-46-1862 having plead
23 guilty to the charge of sexual exploitation of minor,
24 first degree, the sentence of the Court is 16 years.
25 That will consecutive to the previous sentence.

1 Good luck to you sir. Remand him into custody.

2 Court is in recess.

3 (End of Transcript)

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C E R T I F I C A T E

I, the undersigned Aileen Butler, Official Court Reporter for the 16TH 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 in the captioned case, in the Circuit Court for York County, South Carolina, on the 23rd day of August, 2016.

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

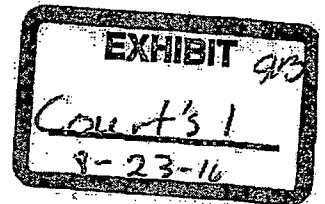
May 19, 2017

Aileen Butler

STATE OF SOUTH CAROLINA
COUNTY OF YORK COUNTY

IN THE COURT OF GENERAL SESSIONS

CERTIFIED TRUE COPY



STATE OF SOUTH CAROLINA APR 12 AM 9:35

VS

DAVID HAMILTON
CLERK OF COURT
YORK COUNTY, SC

☐ = defendant's initials required

David Dickerson
Click here to enter text.

Total Time Served (days): 115 days
Click here to enter text.

I want to plead guilty, no contest, or enter a plea under N.C. v. Alford to the charges listed below. I understand that the minimum and maximum penalties as well as some of the collateral consequences for the charges to which I am pleading are listed below:

CSC 2nd w/ Minor

Truebilled ☒ Waiver ☐

Indictment #: CDR: Statute #:

Original Charge:

Pleading To:

Misdemeanor ☐ Felony ☒

Penalty: 20 years

☐ Non-Violent ☒ Violent ☐ Serious ☒ Most Serious ☐ No Parole ☐ Sex Offender Registry ☐

☐ Mandatory GPS ☒ Increased Punishment for Future Offenses ☐ Murder Day for Day

CSC 2nd w/ Minor Sexual Exploitation w/ Minor 1st degree

Truebilled ☒ Waiver ☐

Indictment #: CDR: Statute #:

Original Charge:

Pleading To:

Misdemeanor ☐ Felony ☒

Penalty: 3-20

☐ Non-Violent ☐ Violent ☐ Serious ☐ Most Serious ☐ No Parole ☐ Sex Offender Registry

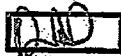
☐ Mandatory GPS ☒ Increased Punishment for Future Offenses ☐ Murder Day for Day

List General Sessions Charges Being Dismissed: Incest, CSC 3rd w/ minor, Assault w/ intent
List Pending General Sessions Charges not being resolved: to commit CSC 2nd

YOA: ☐ Eligible ☒ Ineligible due to: ☒ Age ☐ Offense ☐ Other: Click here to enter text.

List Prior Convictions:

Currently on Probation? ☐ Yes ☒ No Is this plea a violation of the probation? ☐ Yes ☒ No



I have agreed to plead guilty, no contest, or enter a plea under N.C. v. Alford as part of a plea arrangement. The Solicitor, my lawyer, and I have informed the court that the following contains all of the terms of conditions of my plea:

Type of Plea ☒ Guilty ☐ N.C. v. Alford ☐ Nolo

Recommendation ☐ Negotiated ☐ Without Recommendation ☐



State is recommending or the negotiation is: 40 years

☒ This plea is not the product of any other promises or any threats whatsoever, except as indicated below:

☐ I understand that, upon entering a plea under N.C. vs. Alford, I will be treated as being guilty whether or not I admit that I am in fact guilty.

☐ I understand that a no contest plea is treated by the Court the same as a plea of guilty.

☒ The Solicitor is making a recommendation to the judge, as listed above. I understand the Judge is not required to accept the recommendation given by the Solicitor and the Judge may accept it, may go below the recommendation, or may go above the recommendation.

☐ This plea is a negotiated plea and the negotiation is listed above. I understand the Judge may refuse to accept the negotiation and that if the Judge refuses, the plea will not go forward.

☐ This plea is without negotiation and I understand I could receive from the minimum to the maximum sentence on each charge to which I am pleading guilty and that those sentences could also be run consecutive to other.

☒ I am not currently under the influence of any intoxicants, drugs, or narcotics.

☐ I currently DO take the following prescribed medications:

☒ I am entering my plea today freely, voluntarily, knowingly, and intelligently.

☐ I understand that I have the right to be represented by a lawyer at all stages of the proceedings. I can hire my own lawyer, or the court will appoint a lawyer for me if I cannot afford one. I understand an attorney would be of benefit to me, and since I am not an attorney, there is a danger in my representing myself. Understanding this, I give up this right.

☒ I understand that I have the right to plead not guilty and be tried by a jury, and that I am presumed innocent until such time as the jury is convinced of my guilty beyond a reasonable doubt. Understanding this, I give up that right.

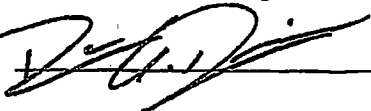
☒ I understand I have the right to have the Court issue subpoenas to bring my witnesses and evidence to a trial at no cost to me. Understanding this, I give up that right.

☒ I understand I have the right to testify or remain silent at trial. Understanding this, I give up this right.

☒ My lawyer has reviewed with me all the factual and legal issues surrounding my case, including any defenses I may have and he or she has done everything I have asked him to do. I am satisfied with his or her services.

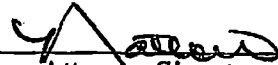
Acknowledgement

I have read or have had read to me this form and have initialed each of the items that applies to my case. If I have an attorney, I have discussed each item with my attorney. By putting my initials next to the items in this form, I am indicating that I understand and agree with what is stated in each item that I have initialed. The nature of the charges, possible defenses, the effects of any prior convictions and enhancements, have been explained to me. I understand each of the rights outlined above, and I give up each of them to enter my plea.

Defendant's Signature: Date: 8-23-2016

Defense Counsel's Statement

I, the attorney for the defendant in the above entitled case, personally read and explained to the defendant the entire contents of this plea form and any addendum thereto. I discussed all charges, all discovery provided by the State, and possible defenses with the defendant and the consequences of the plea, including any immigration consequences. I personally observed the defendant fill in and initial each item, or read and initial each item to acknowledge his or her understanding and waivers. I observed the defendant date and sign this form and any addendum. I concur in the defendant's plea and waiver of constitutional rights.

Print Name: Nathan Sheldon
Attorney SignatureBar # 0074943Date: 8/23/16

Circle One: PD

Retained

Appointed

Solicitor's Review

I have reviewed this form as completed by the Defendant or by the Defendant with his Defense Attorney for completeness and accuracy.

Solicitors Signature: Bellamy B. Niles Bar # 78212

Date: 8/23/16

Judge's Confirmation

Upon consideration of the record, evidence or factual presentation offered, answers of defendant, and statements of the lawyer for the defendant and the prosecutor and the contents of this plea and waiver form, the undersigned finds that:

1. There is a factual basis for the entry of the plea,
2. The defendant is satisfied with his/her lawyer's legal services,
3. The defendant is competent to stand trial, and
4. The plea is the informed choice of the defendant and is made freely, voluntarily, knowingly, and intelligently.

The defendant's plea is hereby accepted by the Court.

Judge's Signature

Judge's Code: _____ Date: _____

FORM 5

STATE OF SOUTH CAROLINA)

IN THE COURT OF COMMON PLEAS

County of York)

#369461)

David Alden Dickerson)

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

v.)

State of South Carolina)

POST-CONVICTION RELIEF)

2017CP9601057

APPLICATION FOR

DAVID H. DICKERSON
C.C.P. & G.S.
YORK COUNTY, SC

2017 APR 11 PM 1:40

FILED-RECEIVED

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 LEE Correctional Institution
2. Name and location of Court which imposed sentence York County
Court of General Sessions
3. Name(s) of co-defendant(s) (if any) N/A
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 2016-GS-46-01861
 - (b) 2016-GS-46-01862

- (c) _____
5. The date upon which sentence was imposed and the terms of the sentence:
- (a) Aug. 23, 2016
- (b) Aug. 23, 2016
- (c) _____
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty ☒
- (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?
yes
8. If you answered "yes" to (7), list:
- (a) the name of each Court to which you appealed:
- i. The South Carolina Court of Appeals
- ii. _____
- iii. _____
- (b) the result in each such Court to which you appealed:
- i. Dismissed - failure to provide a sufficient explanation as required by Rule 203(d)(1)(B)(iv) of the South Carolina Appellate Court Rules.
- ii. _____
- iii. _____
- (c) the date of each such result:
- i. Nov. 22, 2016
- ii. _____
- iii. _____
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. unknown
- ii. _____
- iii. _____
9. If you answered "no" to (7), state your reasons for not so appealing:
- (a) N/A
- (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) Unintelligently and involuntarily entered guilty plea.
- (c) _____
11. State concisely and in the same order the facts which support each of the grounds set out in (10):
- (a) See attached
- (b) See attached
- (c) _____
12. Prior to this application have you filed with respect to this conviction:
- (a) any petition in a State Court under South Carolina Law? NO
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? NO
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? NO
- (d) any other petitions, motions or applications in this or any other Court? NO
13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:
- (a) the specific nature thereof:
- i. N/A
- ii. _____
- iii. _____
- iv. _____
- (b) the name and location of the Court in which each was filed:
- i. N/A
- ii. _____
- iii. _____
- iv. _____

(c) the disposition thereof:

- i. N/A
- ii. _____
- iii. _____
- iv. _____

(d) the date of each such disposition:

- i. N/A
- ii. _____
- iii. _____
- iv. _____

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

- i. N/A
- ii. _____
- iii. _____
- iv. _____

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

NO

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

(a) which grounds have been presented:

- i. N/A
- ii. _____
- iii. _____

(b) the proceedings in which each ground was raised:

- i. N/A
- ii. _____
- iii. _____

16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:

(a) N/A
 (b) _____
 (c) _____

17. Were you represented by an attorney at any time during the course of:

(a) your arraignment and plea? Yes
 (b) your trial, if any? N/A
 (c) your sentencing? Yes
 (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? NO
 (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed?
NO

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. Nathan James Sheldon, 331 East Main St
Suite 200, Rock Hill SC 29730
 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:

Remand back for new trial.

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

NO

STATE OF SOUTH CAROLINA)

County of York)

VERIFICATION

I, David Alden Dickerson, 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.

David A. Dickerson

SWORN to and subscribed before me this 30
day of March, 2017.

Debra Eastwood (L.S.)
Notary Public

My Commission Expires: 3/3/2024

11a)

Trial counsel failed to provide or explain discovery material when asked to do so by the defendant. Counsel also failed to investigate the details of the discovery material.

11a)

Trial counsel failed to have defendant evaluated by a psychiatrist when asked to do so.

11b)

When asked about a trial or refusing the original plea offer, trial counsel stated that the only option was to accept the plea offer and try to mitigate the time. Counsel also stated that if the offer was not accepted and the case went to trial that the defendant "would leave prison in a box!" When counsel was questioned he would only say "they have you and if you take this to trial you will get the max!" He made these statements many times.

Conclusion:

In establishing an ineffective assistance of counsel claim from a guilty plea, an applicant must prove that, but for counsel's deficiencies there is a "reasonable probability" that the applicant would not have pleaded guilty and in this case would not have accepted the plea offer.

Using the facts stated, these deficiencies and prejudices were the reason the petitioner decided to plead guilty.

Wherefore, for the foregoing reasons, the Honorable Court should reverse the conviction and sentence on behalf of the applicant. Applicant also reserves the right to amend this application at a later date, after appointed counsel.

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

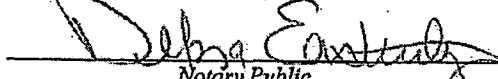
I, David Alden Dickerson, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

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


Applicant

SWORN or affirmed to and subscribed before me this

30 day of March, 2017.


Notary Public

My Commission Expires:

3/3/2024

STATE OF SOUTH CAROLINA
COUNTY OF YORK

David Aldean Dickerson, #369461,

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS
IN THE SIXTEENTH JUDICIAL CIRCUIT

Case No.: 2017-CP-46-1057

RETURN

Respondent, making its Return to the Application for Post-Conviction Relief ("PCR") filed on April 11, 2017, would respectfully show this Court:

I.

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the York County Clerk of Court. In June 2016, the York County Grand Jury indicted Applicant for criminal sexual conduct with a minor, second degree (2016-GS-46-1861) and sexual exploitation of a minor, first degree (2016-GS-46-1862). Nathan Seldon, Esquire represented Applicant. Assistant Attorney General Bethany Miles prosecuted the case. On August 23, 2016, Applicant pled guilty as indicted to criminal sexual conduct with a minor, second degree and sexual exploitation of a minor, first degree before the Honorable Brian Gibbons.¹ Pursuant to the State's recommendation, Judge Gibbons sentenced Applicant to imprisonment for twenty years for criminal sexual conduct with a minor, second degree, and sixteen years for sexual exploitation of a minor, first degree. Both sentences were to run consecutively. Applicant filed a timely notice of appeal. The South Carolina Court of Appeals

¹ Applicant was also indicted for criminal sexual conduct, third degree (2016-GS-46-1858); incest (2016-GS-46-1859); assault with intent to commit criminal sexual conduct, third degree (2016-GS-46-1860); and criminal sexual conduct with a minor, second degree (2016-GS-46-1863). These charges were dismissed as part of Applicant's guilty plea.

dismissed Applicant's appeal on November 22, 2016. The remittitur was sent on December 9, 2016.

II.

In his application for post-conviction relief, Applicant alleges that he is being held in custody unlawfully for the following reasons:

1. "Ineffective Assistance of Counsel"
 - a. "Trial counsel failed to provide or explain discovery material when asked to do so by the defendant. Counsel also failed to investigate the details of the discovery material."
 - b. "Trial counsel failed to have defendant evaluated by a psychiatrist when asked to do so."
2. "Unintelligently and involuntarily entered guilty plea."
 - a. "When asked about a trial or refusing the original plea offer, trial counsel stated the plea offer and try to mitigate the time. Counsel also stated that if the offer was not accepted and the case went to trial that the defendant "would leave prison in a box!" When counsel was questioned, he would only say "they have you and if you take this to trial you will get the max!" He made these statements many times."

Attached to this Return and incorporated by reference are the records of the York County Clerk of Court regarding the subject convictions, Applicant's records from the South Carolina Department of Corrections, the plea transcript, Applicant's appellate records, and the application. Respondent reserves the right to amend this Return upon receipt of any relevant materials.

III.

Respondent submits plea counsel rendered effective assistance of counsel. 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, 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, 466 U.S. 668. Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989). The reviewing court applies a two-pronged test in evaluating allegations of ineffective assistance of plea counsel. First, Applicant must prove that counsel's performance was deficient. Under this prong, the court measures an attorney's performance 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 Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. With respect to guilty plea counsel, Applicant must show that there is a reasonable probability that, but for counsel's alleged errors, he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 106 S.Ct. 366 (1985).

Respondent submits that Applicant cannot satisfy either requirement of the Strickland test. However, the allegation of ineffective assistance of counsel probably raises questions of fact that the record does not conclusively refute. Accordingly, 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.

Applicant further alleges that his plea was not voluntarily made. Respondent submits that this allegation is without merit. In PCR cases, a defendant asserting a constitutional violation must frame the issue as one of ineffective assistance of counsel. Al-Shabazz v. State, 338 S.C. 354, 527 S.E.2d 742 (1999). A defendant who pleads guilty on the advice of counsel may collaterally attack the plea only by showing that (1) counsel was ineffective and (2) there is a reasonable probability that but for counsel's errors, the defendant would not have pled guilty and would have insisted on going to trial. Roscoe v. State, 345 S.C. 16, 546 S.E.2d 417 (2001). A defendant alleging that his guilty plea was induced by ineffective assistance of counsel must prove that counsel's advice was not "within the competence demanded of attorneys in criminal cases." Hill v. Lockhart, 474 U.S. 52, 56, 106 S. Ct. 366, 369 (1985). A guilty plea is a solemn, judicial admission of the truth of the charges against the defendant. Statements made during the plea should be considered conclusive unless the defendant presents reasons why he should be allowed to depart from the truth of those statements. Crawford v. U.S., 519 F.2d 347 (4th Cir. 1975); Edmonds v. Lewis, 546 F.2d 566 (4th Cir. 1976).

Respondent submits that the record fully supports the knowing and voluntary nature of Applicant's plea. However, allegations regarding ineffective assistance of counsel and the voluntariness of the plea may raise a question of fact which is not conclusively refuted by the record. Accordingly, Respondent requests an evidentiary hearing on this allegation. Sharper v. State, 305 S.E.2d 247.

V.

Applicant must specify any claims he intends to raise at the PCR evidentiary hearing. Any claims not specifically laid out in this PCR application or in amendments will be opposed

by the State at an evidentiary hearing pursuant to §§ 17-27-10 to -160 of the South Carolina Code of Laws and Rule 71.1 of the South Carolina Rules of Civil Procedure. See also Rules 15(a)-(b), SCRCP. All claims should be made well in advance of the evidentiary hearing. Because Applicant has been appointed an attorney, the attorney, and not Applicant, is the only individual authorized to file amendments to this application. See Rule 11, SCRCP. Pro se filings will not be considered at the PCR hearing. Respondent reserves the right to request that any amendments withheld until the last minute be stricken because of undue prejudice to Respondent. See Rule 15(a), SCRCP.

VI.

Each and every allegation contained within the application not expressly admitted, qualified, or explained in this Return is hereby denied.

VII.

WHEREFORE, Respondent requests that an evidentiary hearing be held on the claims of ineffective assistance of plea counsel and involuntary guilty plea.

[signature on following page]

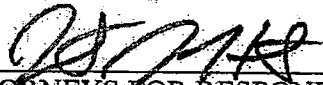
Respectfully submitted,

ALAN WILSON
Attorney General

ROBERT BOLCHOZ
Chief Deputy Attorney General

MEGAN HARRIGAN JAMESON
Senior Assistant Deputy Attorney General

JUSTIN J. HUNTER
Assistant Attorney General

By: 
ATTORNEYS FOR RESPONDENT

Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211
Telephone: (803) 734-3737

June 20, 2017

STATE OF SOUTH CAROLINA

COUNTY OF YORK

DAVID ALDEN DICKERSON, #369461

Applicant,

vs

STATE OF SOUTH CAROLINA,

Respondent,

IN THE COURT OF COMMON PLEAS

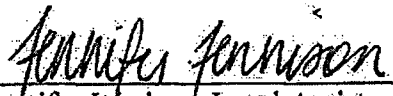
2017-CP-46-1057

AFFIDAVIT OF SERVICE BY MAIL

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 in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

Leah B. Moody, Esquire
 Law Office of Leah B. Moody, LLC
 PO Box 1015
 Rock Hill, SC 29731-7015

DATED this the 20th day of June, 2017.


 Jennifer Jehnison, Legal Assistant
 For Respondent

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF YORK) SIXTEENTH JUDICIAL CIRCUIT
CASE NO.: 2017-CP-46-01057

DAVID ALDEN DICKERSON)
vs.) TRANSCRIPT OF RECORD
STATE OF SOUTH CAROLINA)

JANUARY 31, 2018
YORK, SOUTH CAROLINA

BEFORE THE HONORABLE J. MARK HAYES, II

APPEARANCES:

LEAH B. MOODY, ESQUIRE
ROCK HILL, SOUTH CAROLINA

ATTORNEY FOR THE APPLICANT

JUSTIN HUNTER, ASSISTANT ATTORNEY GENERAL
COLUMBIA, SOUTH CAROLINA

ATTORNEY FOR THE STATE

SHIRLEY BROOM
16TH Circuit Court Reporter

I-N-D-E-X

WITNESSES:	DIRECT	CROSS	RE-DIRECT	RE-CROSS
DAVID ALDEN DICKERSON				
By Ms. Moody	5			
By Mr. Hunter		38		
By Ms. Moody			41	
BONNIE BYERS NALIN				
By Mr. Hunter	43			
NATHAN SHELDON				
By Mr. Hunter	47			
By Ms. Moody		62		

E-X-H-I-B-I-T-SNO.DESCRIPTIONID.

EV.

(NO EXHIBITS)

1 MR. HUNTER - May it please the Court, Your Honor.
2 The next case is David Dickerson vs. The State of South
3 Carolina, 2017-CP-46-1057. Your Honor, he was indicted in
4 June, 2016 in York County for criminal sexual conduct with
5 a minor second degree and sexual exploitation of a minor
6 first degree. He was represented by Mr. Nathan Sheldon.
7 The Attorney General's office prosecuted the case. On
8 August 23rd, 2016 he pled guilty before Judge Gibbons as
9 indicted. Pursuant to a recommendation he was sentenced to
10 twenty years for the CSC charge and sixteen years
11 consecutive for the exploitation charge. Four charges were
12 also dismissed as a result of this plea. He did file a
13 direct appeal. Court of Appeals dismissed that for failure
14 to provide a Rule 203 explanation. The Remittitur was sent
15 December 9th, 2016. He filed this current action April
16 11th, 2017. He's present today represented by Ms. Leah
17 Moody.

18 MS. MOODY - Thank you, Your Honor. May it please
19 the Court. At this time I would like to call Mr. Dickerson
20 to the stand.

21 THE COURT - All right.

22 Sir, just come right here and let the clerk swear
23 you in.

24 DAVID DICKERSON, AFTER BEING FIRST DULY SWORN,
25 TESTIFIES AS FOLLOWS -

1 THE COURT - Sir, watch your step as you're
2 stepping up.

3 MR. DICKERSON - Is it possible to get one hand
4 free so I can handle the papers?

5 DEPUTY - No, we can't take off his cuffs.

6 MR. DICKERSON - Can't --

7 DIRECT EXAMINATION

8 BY MS. MOODY -

9 Q Mr. Dickerson, can you please state your full name for
10 the record.

11 A David Alden Dickerson.

12 Q And where are you currently incarcerated.

13 A Kirkland Correctional Institution.

14 Q Do you remember when you went to Kirkland
15 Correctional?

16 A Right around Christmas-time.

17 Q What year?

18 A This year, or this past year. I'm sorry.

19 Q Okay. Okay, so you've moved ---

20 A Yes, ma'am.

21 Q --- from where you were originally.

22 A Right. I was in Lee.

23 Q Okay. All right, you filed this post-conviction
24 relief action. Correct?

25 A Yes, ma'am.

DAVID DICKERSON - DIRECT BY MS. MOODY

6

1 Q Okay. And who was your attorney with regards to the
2 charges that you're currently serving?

3 A Nathan Sheldon.

4 Q And did you have any other attorneys on your case?

5 A No, ma'am.

6 Q And was Mr. Sheldon the first attorney that you met
7 with?

8 A Yes, ma'am.

9 Q Okay. Did you have an opportunity to meet with Mr.
10 Sheldon?

11 A Yes, ma'am.

12 Q Did you have an opportunity to discuss your case with
13 Mr. Sheldon?

14 A Yes, ma'am.

15 Q In your application you alleged that he was
16 ineffective assistance of counsel.

17 A Yes, ma'am.

18 Q Okay. And you listed in your application several
19 grounds.

20 A Yes, ma'am.

21 Q Okay. I'm want to go through each one of those
22 grounds.

23 A Yes, ma'am.

24 Q All right. And I would ask you to explain to the
25 Court what you mean in terms of those grounds.

1 A Yes, ma'am.

2 Q Okay. All right, you indicated under ineffective
3 assistance of counsel that your trial counsel had failed to
4 provide or explain discovery material when asked to do so.

5 A Yes, ma'am.

6 Q And what -- what discovery materials do you feel he
7 did not provide to you?

8 A I didn't see any of the materials at all, so I don't
9 know what would've been there or what wouldn't have been
10 there.

11 Q And -- now you talked to him. Correct?

12 A Yes.

13 Q Okay. What, if anything, did you all talk about?

14 A He just said basically they have -- they've got you,
15 and if you fight this, you're going to get the max of all
16 six charges. He did say that there was a video on the
17 phone and described the video and he, uh, -- he said that -
18 - he said that they -- he would just say they had evidence
19 and was vague and was never very clear and -- even when I
20 would ask and ---

21 Q Okay. Well, let me back up with you. In terms of
22 discovery, you're talking about the actual physical paper
23 that the State may have against you ---

24 A Yes, ma'am.

25 Q --- that list evidence against you.

1 A Yes, ma'am.

2 Q Okay. Did he review any of that evidence? Do you
3 know?

4 A No, ma'am.

5 Q Okay. And so when you met with him and you talked to
6 him and he said they've got you, did you take him any
7 paperwork?

8 A Nah, I -- no, ma'am, not that I remember.

9 Q And during that meeting that you all had, did he have
10 any paperwork with you? (sic)

11 A Oh, uh, the -- we had -- there was one thing. There
12 was the family court document where the victim's original
13 statement was put into the Court as being at 12:30 a.m. on
14 that particular day, and I would've been at work, and that
15 could've been proven in any number of ways. I wasn't even
16 home at that time.

17 Q Okay. So -- let me back up just a little bit further
18 so the Court's clear on this.

19 A Yes, ma'am.

20 Q When you went to speak with your attorney about the
21 charges that had been -- you know, you had been arrested
22 for ---

23 A Yes, ma'am.

24 Q --- you obviously talked to him about your background.
25 Correct?

1 A Yes, ma'am.

2 Q Okay. What, if anything, did you tell your attorney
3 as it related to the charges?

4 A I don't understand.

5 Q I mean it could've been you told him I didn't do it or
6 --

7 A No, I -- no, I ---

8 Q --- this is what they're saying.

9 A I told him that I was guilty. I said that I was
10 guilty.

11 Q Okay. And from there did he proceed to talk to you
12 about the discovery or the evidence that the State may try
13 to use against you?

14 A Initially we talked on the phone and he said he didn't
15 have anything, and that when he would get it, he'd call me
16 to the office. Talked to him a few times on the telephone
17 and he would say, well, I've got some of it but not all of
18 it, let's wait until I've got everything, and then he
19 finally called and said, I've got an offer, come to my
20 office.

21 Q Okay, but did he say I have the discovery, we're going
22 to go over the discovery and we're going to talk about it?

23 A He told me that he had an offer from the AG, to meet
24 him in the office. That's what -- that's what I was told
25 on the phone.

1 Q Okay. So -- well, you went into office?

2 A Yes.

3 Q Did you go in his office?

4 A Yes.

5 Q All right, when you got in the office, did you have an
6 opportunity to talk to him ---

7 A Yes.

8 Q --- or ask him about how they came up with this offer?

9 A I -- yes. He told me that they had -- that they were
10 offering forty years, and that was the only offer they had,
11 and I really don't remember much after that -- of that
12 meeting. He told me -- we -- we talked for a little bit.
13 I don't remember what about. I was very upset, and he told
14 me to go home and think about it, that we had until a
15 certain date, and I don't remember what that was, to make a
16 decision.

17 Q Okay. So, again, when you went to meet with your
18 attorney, did you meet with him any other time outside that
19 time?

20 A Yes, there were multiple times, yes, ma'am.

21 Q Before or after?

22 A Af -- that was the first time we met in his office.

23 Q Okay.

24 A Yes, ma'am.

1 Q And so when you met with him after that time, did you
2 all go over any documents that they had with regard to what
3 the State had presented to him?

4 A No, ma'am.

5 Q Did you discuss any kind of trial ---

6 A It was -- it was this ---

7 Q --- strategy?

8 A This was the only thing that I --

9 Q When you're saying this, what do you mean?

10 A Was the family court document that stated the 12:30
11 a.m. time.

12 Q So he showed you that?

13 A I had -- no. I had that from the -- the family court
14 mailed those documents to me when I was in county jail.

15 Q Okay. So but -- and in that instance you pointed it
16 out to him.

17 A That -- that's when I brought it up to him in the
18 office and asked him, yes.

19 Q Okay. And did he say he would investigate any of
20 that?

21 A No. He told me that that was probably a mistake that
22 had been made by the family court, that they make those
23 mistakes all the time and that that was -- that they could
24 say anything they wanted to and that they would put her on
25 the stand, a jury would believe anything she said and I

1 would go to prison for the max of all charges if I decided
2 to go to trial.

3 Q Okay. So now you didn't receive any discovery
4 materials from him, and I just asked you about that 12:30
5 a.m. statement in the family court Order, ---

6 A Yes, ma'am.

7 Q --- you allege as a part of not getting your
8 discovery, you tell -- you state in your application that
9 your counsel failed to investigate the details of the
10 discovery material.

11 A Yes.

12 Q You didn't receive any discovery. He didn't discuss
13 the discovery with you. Did he tell you he was going to do
14 any investigation?

15 A Uh, I -- the only other thing I remember was my mother
16 asking him once had he seen any of the pictures or videos
17 that they had claimed that they had and he told her that
18 that would've been illegal, that he was not allowed to look
19 at those files. And then at a later visit he said he had
20 seen them.

21 Q Okay, so -- let me make sure I'm clear.

22 A Yes, ma'am.

23 Q He -- Mr. Sheldon told your mother -- and let me back
24 up. Was your mother at the meeting with you?

25 A Yes. Yes.

1 Q Okay. All right.

2 A Every meeting that I had with him, there were two
3 people in the meetings. It was either my father and my
4 step-father or my step-father and my mother. My mother
5 would not allow me anywhere without them in tow based on
6 the situation, so, yes, they were always there.

7 Q So at the meeting, this was the first meeting where
8 you got the offer.

9 A Yes.

10 Q Okay. When you got that offer, your mother asked them
11 about the video, and when you say ---

12 A No, I'm not -- I don't remember if it was at that
13 meeting or not.

14 Q Okay. Well, when you say video, you're talking about
15 a video that he would've received through discovery?

16 A Yes, ma'am.

17 Q Okay. And you just indicated he said that he was not
18 allowed to have -- have any ---

19 A Right.

20 Q --- documents, but then he later came back and said
21 that he saw the video?

22 A Well, he said he wasn't allowed to look at those
23 pictures or that video.

24 Q Or ---

1 A He said it would've been illegal for him to look at
2 them.

3 Q Okay. So what other investigation did you ask Mr.
4 Sheldon to perform on your behalf?

5 A At that point I -- I didn't.

6 Q Why?

7 A Because I didn't care. I was fully planning on
8 killing myself before any Court date.

9 Q So you didn't ask him to do any kind of investigation
10 at ---

11 A After that, no ma'am.

12 Q --- any point. Okay. And when you say after that,
13 when he gave you the -- the forty year offer?

14 A Well, after we talked about the -- I didn't want to do
15 it from the beginning. I just ---

16 Q Do what?

17 A To -- I just wanted to plead guilty, vilify myself,
18 kill myself and let my family go on about their lives, and
19 my mother convinced me before one of the meetings to
20 finally go in and try to fight and try to say something and
21 so when I did, I went in and I mentioned this 12:30 thing
22 and Mr. Sheldon became very -- I don't know if defensive is
23 the right word, but he was very strong in his opinion of
24 that if I -- I was stupid, I didn't know what I was talking
25 about, that this was possibly just a mistake made by family

1 court, they make these mistakes all the time, and that if I
2 tried to fight this, that they would find my guilty on all
3 charges and I would get the, whatever years it was with all
4 six charges.

5 Q Okay.

6 A And at that point, I just -- I gave up and I begged my
7 mother to just let me kill myself.

8 Q Okay. So there was no investigation done as far as
9 you know.

10 A As far as I know.

11 Q Okay. So you indicated that your trial lawyer failed
12 to have you evaluated by a psychiatrist when asked to do
13 so. Who asked for you to be evaluated by a psychiatrist?

14 A My mother did.

15 Q Okay.

16 A She is a -- she has done -- all of her school work
17 involved in a Ph.D. in psychology and was a school teacher
18 for thirty-one years here in Rock Hill, and in speaking
19 with her now, she tells me she was fully aware at the time
20 that I was not acting reasonable or thinking in reasonable
21 ways, and that she asked him a couple -- I asked for help.
22 I asked to speak to a psychiatrist at multiple times and
23 was told that I should never talk to anybody, because
24 anything I might say that I wouldn't even know would hurt
25 me that they would take and use against me in trial.

- 1 Q So when you say psychi -- when you say you wanted to
2 have a psychiatrist, you -- you wanted to use that person
3 in terms of the defense or -- or what? What was your
4 purpose of thinking that you need to have a psychiatrist or
5 your mom was thinking ---
- 6 A Because I wanted to kill myself. I mean I -- you
7 know, I was -- you know, I ---
- 8 Q Did you -- now, during all this time that you -- when
9 you went to speak with Mr. Sheldon, you were out of
10 custody. You weren't in -- in ---
- 11 A I was out of bond for a few months, yes, out on bond.
- 12 Q Okay. And so this is when you wanted to speak with a
13 psychiatrist.
- 14 A I asked while I was incarcerated here at Moss Justice
15 Center as well.
- 16 Q Okay. And so your attorney didn't follow-up on any of
17 that?
- 18 A No.
- 19 Q Do you know if your attorney had any other follow-up
20 with your mother?
- 21 A Not that I'm aware of.
- 22 Q All right. You indicate as a second part of your
23 application -- post-conviction application that you entered
24 into an unintelligently and involuntarily -- involuntary
25 guilty plea. Do you recall that?

1 A Yes.

2 Q Okay. And specifically you state when you asked about
3 a trial or refused the original plea offer, which is the
4 forty years is the original plea offer, the trial counsel,
5 Mr. Sheldon, stated that the plea offer was the best --
6 basically that you needed to take the plea offer and try to
7 mitigate time.

8 A Yes, ma'am.

9 Q Okay. What do you mean he indicated you needed to
10 take the plea offer? Were you in a discussion with your
11 attorney about the pros and cons of a trial or a plea
12 offer?

13 A Well, I asked him what my options would be and he
14 basically said that the plea option was the only option I
15 had, that I didn't take this plea, that I would -- I would
16 leave prison, in his words, in a box.

17 Q Okay. And what -- what, if anything, did you say
18 after that?

19 A I didn't say anything after that. I mean, you know,
20 that's -- reaffirmed what I was planning to do anyways.

21 Q Okay, now, was this ---

22 A The only reason I made it to Court was because my
23 mother and step-father every day had to watch me.

1 Q But so -- okay, so when this discussion is occurring
2 where you're trying to get his opinion, was this the same
3 day that you received the forty year offer?

4 A No. It was at a subsequent meeting after he --
5 because he told me to go home -- because I couldn't -- the
6 day he gave me that offer, I couldn't even hardly speak,
7 and so he told me to go home and think about it, that we
8 had like a month before we -- that we had to have an answer
9 back.

10 Q So now the plea offer, what was the plea offer for?
11 Which charges did it relate -- you mentioned earlier six
12 charges -- which charge did the plea offer relate to?

13 A It was one of the CSC charges and exploitation first.

14 Q Okay. And the other charges, did he tell you what was
15 going to happen with those charges?

16 A He said they would dismiss them as part of the plea.

17 Q Did you all have a opportunity to discuss each one of
18 those charges?

19 A He told me how much time each charge -- each charge
20 held, yes.

21 Q But did you have an opportunity to talk about the
22 facts of each one of those charges? Like, how they came to
23 ---

24 A No, ma'am.

25 Q --- charge you with -- I'm sorry?

1 A No, ma'am.

2 Q Okay. Did you ask him about it?

3 A No, ma'am. About each individual charge? No.

4 Q Did you have -- what, if any, problem did you have
5 with the charges that you actually pled to?

6 A The four original charges that I was arrested on
7 originally were concerning one specific event, and that was
8 the event that it is said in the family court document to
9 have happened at 12:30 a.m. and that ---

10 Q Okay, could you explain that to the Court, because the
11 Court doesn't have that family court document possibly, so
12 explain to the Court what you mean.

13 A We went to family court first for, I think it was
14 custody or for their investigation -- I don't remember the
15 exact reason -- and that's where I first met Mr. Sheldon
16 and he told me that I needed to sign the Aldefor (sic)
17 plea, Alder (sic) ---

18 Q Alford.

19 A --- okay -- there -- and so that -- that hearing is
20 the hearing that this document comes from.

21 Q Okay, so was Mr. Sheldon your attorney in family
22 court?

23 A Yes.

24 Q Okay. So when you -- you went through a whole
25 separate process in family court with Mr. Sheldon.

1 A That hearing, yes, ma'am.

2 Q Okay, and so Mr. Sheldon understood what allegations
3 for the family court case, they spilt over into this
4 criminal court case.

5 A Yes, ma'am.

6 Q Okay. So did you all have an opportunity to talk
7 about it in the context of the family court?

8 A No, ma'am, we talked for ten minutes or less in the
9 holding cell at family court, ---

10 Q All right.

11 A --- and he -- he just explained that this was not
12 something you wanted to argue in family court because of
13 the criminal proceedings, and that I could sign the
14 whatever plea, Alder (sic) ---

15 Q Alford.

16 A --- okay -- and that way I wasn't admitting guilt but
17 nor was I making any statement I was innocent, it's kind of
18 a just get through this and move on.

19 Q Okay. So now help me understand here, the family
20 court charges were going on at the same time the criminal
21 charges were going on.

22 A I -- yes, ma'am.

23 Q Okay. And you had hired him to represent you in both
24 of the charges?

25 A No, he was appointed for family court.

1 Q Okay. How did he get to be your attorney for the
2 criminal court?

3 A Because I asked him in the holding cell there about
4 representing me for the criminal court.

5 Q Okay. So outside of the family court regarding
6 allegations that were alleged in family court, did you have
7 a separate meeting to talk about just to focus on the
8 criminal charges?

9 A Yes. All of the meetings subsequent to that which
10 would've been the ones at his office were on the criminal
11 charges.

12 Q Okay. And I just need to go back on one thing. When
13 you talked about your plea offer and, you know, you talked
14 about if you didn't accept the plea offer and mitigate that
15 you would go home in a pine box, at that time had you seen
16 any piece of paper that talked about your criminal charges
17 outside of the warrant?

18 A Outside of the warrants, no.

19 Q Did your attorney -- when you met with him, did your
20 attorney have any of those documents in the room with you?

21 A I don't know. We were in his office.

22 Q Okay. Well, what facts did you specifically disagree
23 with in terms of your charges in criminal court?

24 A That would've been based on her original statement and
25 that that incident didn't happen, ---

1 Q Okay.

2 A --- and that it couldn't be proven.

3 Q What was the incident?

4 A She said that I came home from work and that we had
5 sex.

6 Q And that was at 12:30 a.m.

7 A A.M., yes, ma'am.

8 Q Okay, and this is -- the victim was a minor.

9 A Yes, ma'am.

10 Q And this is your daughter.

11 A Yes, ma'am.

12 Q Okay. And so you talked to your attorney about this
13 and asked your attorney to look into it because you were --
14 you were at work.

15 A Yes, ma'am.

16 Q Okay. And did he come back with anything related to
17 that particular ---

18 A No, ma'am.

19 Q --- information?

20 A No, ma'am.

21 Q All right. The phone that you talk about that had --
22 I guess the phone had the video?

23 A Yes, ma'am.

24 Q Okay. Whose phone was it?

25 A That's my phone.

1 Q Okay. And did your attorney obtain that phone or look
2 at the video with the solicitor or how did he review the
3 video?

4 A I do not know. All I know is he said that he had seen
5 it. He had -- I don't recall him saying how he had seen
6 it.

7 Q And did you give anybody permission to look at -- I
8 mean how did they get your phone I guess is what I'm trying
9 to ---

10 A Okay, when I was arrested by the Lancaster County
11 sheriff's deputy, the -- my mother handed me my phone and
12 told me to take it with me. The sheriff's deputy told me
13 and my mother right there that I did not want to take my
14 phone to jail, to keep it, so my mother took it and she put
15 it away. I wasn't there, so I don't -- all I know is what
16 I was told after that, it was -- that it had been put away.
17 A weekend following that, my now ex-wife called her and
18 told her that she wanted to come down and talk to my mother
19 to help me out.

20 Q Okay, well, back up for one second.

21 A Okay.

22 Q When your attorney said that he'd seen the video on
23 the phone, did he tell you where he'd got the video from?

24 A (No response)

1 Q And I may have asked you that. I just need -- I'm
2 trying to follow-up out here. Did he tell you where he'd
3 got the phone from?

4 A Where he got the phone from?

5 Q Yes.

6 A No.

7 Q Okay. Did you give anybody permission to give your
8 phone away?

9 A No.

10 Q Did you give anybody permission or any access to your
11 phone ---

12 A No, ma'am.

13 Q Okay. So as far as you know, your phone was where you
14 left it.

15 A Yeah, well, my mother had put it away, yes.

16 Q This video that your mom asked in your presence about
17 -- or pictures -- did you take pictures with your phone?

18 A No.

19 Q Did you use video -- I mean ---

20 A No.

21 Q Okay, so as far as -- so when you asked your attorney
22 to -- about this, you were trying to find out whether he
23 had investigated anything as it relates to a phone or
24 videos.

25 A Yes.

1 Q Okay.

2 A Because my -- my question about the phone was is they
3 never issued a search warrant for my phone and my wife went
4 down there and while my parents were in bed asleep, got up
5 and searched her house for the phone. Later -- I'm sorry.

6 Q Okay, we're gonna -- I'm going to come back to that,
7 but ---

8 A Okay.

9 Q --- I'm just trying to make sure I understood the --
10 for the Court to understand that there -- you asked your
11 attorney about these videos and these pictures.

12 A My mother actually asked; I didn't asked.

13 Q Okay.

14 A I will say I told Mr. Sheldon I was guilty, and it
15 wasn't out of guilt or innocence. It was because I didn't
16 want to fight, okay.

17 Q All right. What, if anything, else did you ask your
18 attorney to do that he did not do?

19 A Uh, I'm trying to think what you're looking at here.

20 Q So did your attorney negotiate your plea offer down
21 from forty years?

22 A As far as I knew, he told me that was the one and only
23 offer there, you know, that that's all they offered.

24 Q Did you ask him -- I mean what -- did you -- what
25 sentence did you want to receive as it related to you ---

1 A Oh, I asked him -- when -- right before we came to the
2 hearing, when I came back to his office, I asked him to ask
3 for eight to thirteen years originally when I walked in, or
4 eight to ten years, I'm sorry, and he -- he again, he got
5 extremely irate, stood up, threw files on the desk, told me
6 that I was stupid and if I f-ing wanted to die in prison,
7 that I should I go -- to go in there and ask for that time,
8 and then I said, okay, well, what about asking for ten to
9 thirteen, and he -- and that was the end of that - pretty
10 much end of that conversation and that's what initially
11 thought he was going to ask for in Court.

12 Q And when you asked -- when you said all - well,
13 obviously, the eight to ten, he said what he said, and then
14 when you got to the ten and the thirteen, did he -- to your
15 knowledge, did he go back and talk about that with the
16 solicitor's office?

17 A Not to my knowledge, no.

18 Q Okay, so when you asked him that in the meeting, did
19 you -- I mean was there a period of time before you talked
20 to him again?

21 A That was literally days before we came in for the
22 hearing and ---

23 Q For your plea?

24 A Right, before we actually came into the Court hearing.
25 Right.

1 Q Okay. So when you did that, did -- well, did you have
2 to sign any paperwork at that time?

3 A No.

4 Q Okay. What did you have to do at that time? Did you
5 just have to accept the offer or reject it?

6 A Well, prior to that I had -- we went in and I -- I
7 asked him, I said, is there any other option, and he said,
8 no, they're not going to give you anything else, this is
9 what they're offering. It was at a separate meeting and he
10 said, you accept it, and I said, well, what's the best
11 option, and he said, that's it, that's it.

12 Q I mean at ---

13 A So -- and I told him then, I said, well, okay, I guess
14 we'll take it.

15 Q So at that time you didn't ask for a trial?

16 A No, ma'am.

17 Q Okay. So from there when you said, we'll take it, the
18 next time you saw your attorney was when?

19 A Just a day or two before the actual hearing.

20 Q And what was the purpose of that meeting?

21 A To discuss what was going to be said in -- in the
22 hearing, what he was going to ask for or say, who I would
23 have speak for me in Court that day. I had a list of
24 people that would speak.

25 Q And did you give -- you gave him that list.

1 A Yes, I did.

2 Q Okay. And then what, if anything, else did you all
3 discuss?

4 A Other than the time than what he would ask for in
5 Court, that's all I -- I can recall.

6 Q And what did he say he was going to ask for in Court?

7 A The ten to thirteen.

8 Q Okay. So what you wanted to get.

9 A Right.

10 Q Okay. So the day comes that you go to plea, and you
11 go with your attorney. Correct?

12 A Yes.

13 Q Did you have the individuals speak on your behalf?

14 A Not everyone. He only called my mother and an
15 Anglican priest that I had met while here in Moss, ---

16 Q Okay.

17 A --- and my father didn't speak, nor did a Mitchell
18 Hopper (phonetic) that I'd ask to have speak. Neither one
19 of them were called to speak.

20 Q Okay. Before you got -- before -- specifically before
21 the Court, did you go over any paperwork with Mr. Sheldon?

22 A Yes.

23 Q Okay. Do you recall any of that paperwork, what it
24 was?

1 A He said it was basically to say that he had gone over
2 the details of everything there and I had to initial some
3 lines. I don't recall what it all was.

4 Q Okay. Did you know what you were pleading to on that
5 day?

6 A The forty years, yes, ma'am.

7 Q No, I'm talking about -- I'm sorry.

8 A Oh, the charges.

9 Q The charges, yes.

10 A Yes, ma'am, I'm sorry.

11 Q Okay, so you knew what you were pleading to on that
12 day.

13 A The two charges, yes, ma'am.

14 Q And you were going to -- when you say forty years,
15 that was the offer from the State.

16 A They were -- they were going to recommend forty years.

17 Q Okay.

18 A It was not a, you're going to get exactly forty years.
19 It was a recommendation to the Court for forty years.

20 Q Okay. And so as far as you knew, you could get the
21 ten to thirteen.

22 A That's what I had asked him to ask the Court for, yes.

23 Q But I'm saying you knew that you -- when you asked for
24 it he was going -- when you told him he was going to ask

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1 for it, there was a possibility that you could get ten to
2 thirteen, ---

3 A Right, that there was a possibility.

4 Q --- because it was a recommendation.

5 A Right, yes, ma'am. Yes, ma'am.

6 Q Okay. All right. And so you all went into the plea,
7 he asked for that. Was there anything that you felt your
8 attorney should have ---

9 A Actually that is not what he asked for. He asked the
10 Court for fifteen to eighteen.

11 Q Okay, how did he get to fifteen to eighteen?

12 A I don't know.

13 Q So that's something you all didn't discuss?

14 A Not the fifteen to eighteen, no, ma'am.

15 Q Did he discuss it with anybody else that was present
16 with you?

17 A Not that I'm aware of, ma'am, no.

18 Q Okay. And what, if anything, did you say to him at
19 that time when he said fifteen to eighteen?

20 A I -- we were in Court. I didn't say anything.

21 Q So after he asked for the fifteen to eighteen, you
22 proceeded on with the plea obviously.

23 A Yes.

24 Q Okay. And after you got through the plea, the Judge
25 handed down his sentence.

1 A Yes, ma'am.

2 Q Did you have an opportunity to speak with your
3 attorney?

4 A Afterwards, no, I was walking -- walked out the door.

5 Q Did you want to speak to him?

6 A I didn't know there was anything there that I could
7 speak to him about at that time.

8 Q All right. So you all just parted ways and you were
9 satisfied with your sentence that you received.

10 A I wasn't, say, satisfied, but ---

11 Q I guess so that's what I'm asking ---

12 A -- I -- I understood what the Court had said.

13 Q Okay. So did you have any more contact with your
14 attorney after that?

15 A The only other contact I had with him after that was I
16 sent -- mailed him two letters formally requesting a copy
17 of his files so that I could fill out my PCR.

18 Q Okay. And why -- well, obviously you wanted to fill
19 out your PCR because you felt like something didn't occur.

20 A Right.

21 Q And does that go back to your original statement of an
22 involuntarily plea and ineffective assistance of counsel?

23 A Yes, ma'am.

24 Q Is there any other grounds that you want to explain to
25 the Court as far as your ineffective assistance of counsel?

1 A (Pause) The one other thing we haven't talked about
2 was the day that I gave -- I signed the check for Mr.
3 Sheldon and my mother gave Mr. Sheldon the check, and I was
4 unaware of this until after I was incarcerated, was, uh,
5 Mr. Sheldon told her how horrible of a crime and person I
6 was at that time.

7 Q Say that again. I'm sorry.

8 A He told my mother how horrible of a crime it was and
9 that -- that I had done and that how horrible I was for
10 doing it.

11 Q And so was that after you pled or that was ---

12 A That happened before. When I -- when he came to the
13 courthouse and got the check to pay for him representing me
14 before anything -- that was one of the ---

15 Q Oh, at the beginning.

16 A In -- in between family court and then him becoming my
17 attorney ---

18 Q For the criminal ---

19 A --- for -- for criminal.

20 Q Oh, okay. All right. I thought you meant the day of
21 the plea.

22 A No, ma'am, this was long before.

23 Q Okay.

24 A This was while I was still incarcerated here at Moss
25 Justice.

1 Q Okay, and so as far as -- so are you saying that's
2 something he should not have done?

3 A Yes, ma'am.

4 Q Is there anything else, because your application
5 states ineffective assistance of counsel and
6 unintelligently and involuntary guilty plea.

7 A Well, I mean the -- I was -- I don't even know how to
8 explain it. I was -- I was suicidal. I just -- I wanted
9 to die. My family that I loved, everything I had worked
10 for was gone, because I told my daughter she couldn't date
11 a transgender female, a female that wanted to be a male,
12 and we were -- had been arguing about this for over a year,
13 and we had -- I just told her that because she had lied
14 about going somewhere and seeing someone that I was going
15 to take her driver's license away, and that if we couldn't
16 settle this in the family, that we would -- that I would
17 move the family so that she could no longer have contact
18 with this person, and she became very angry.

19 Q Did you explain that to Mr. ---

20 A I did.

21 Q So ---

22 A Yes, I did.

23 Q Okay. And so based on what you testified here today,
24 the two grounds -- you know, the two main issues that you
25 talk about are the ineffective assistance of counsel with

1 the discovery issues and the failure to investigate along
2 with the evaluation by a psychiatrist and basically that
3 your plea was not intelligently and knowingly entered into,
4 what -- how do you feel that you've been harmed or
5 prejudiced by your attorney?

6 A I don't feel like -- during that time with my
7 emotional state, I don't feel like I made rational
8 decisions based on what was faced in front of me. I didn't
9 -- I just didn't care. I wasn't ever going to make it, and
10 if I -- if I take it to Court and fight it, it makes
11 everybody else in my family look bad, horrible, and what it
12 would cause them later wasn't -- to me at the time, wasn't
13 worth my life.

14 Q So again -- so what did your attorney not do -- how
15 did -- how did your attorney's representation prejudice you
16 or cause you the harm that you're seeking relief -- basis
17 of why you're seeking relief ---

18 A When he was told that I was not rationally behaving
19 and thinking. And when I asked to speak to somebody, I was
20 told no, and so I wasn't able -- I feel like if I would've
21 been able to talk to somebody and get help, I could have
22 made a rational decision in what was put in front of me. I
23 would've fought. I would've asked to see these things. I
24 would've done more in own defense. I don't think I was
25 given the fair opportunity to make a defense for myself,

1 because I was never shown exactly what was being used
2 against me. I feel like the fear and the -- oh, what's the
3 word -- the intimidation factor from Mr. Sheldon along with
4 my emotional state -- I mean I just -- I didn't care. I
5 didn't -- I -- once I went in there and said, but what
6 about this, and when I did, I got called stupid, I didn't
7 know what I was talking about, it's just a mistake made by
8 the Court, no matter what we say or do, they're going to
9 put her on the stand, she -- they're going to believe
10 anything she says, and you'll go to prison for whatever the
11 total amount of time was for all of those charges, and I
12 just gave up, that one time that I kind of felt like
13 fighting for myself.

14 Q So you feel that that interaction or that exchange
15 with your attorney caused you to make ---

16 A Yes.

17 Q --- or encouraged you not to make a -- or enter into
18 the plea the way you feel you should have.

19 A Yes.

20 Q And that your attorney's behavior and failure to
21 investigate, as well as his failure to provide you with
22 discovery and go over the discovery, caused you harm.

23 A Yes, ma'am. I was -- I -- when I asked for the
24 discovery to fill my PCR out, I never got it then either.

1 Q And where did -- where -- how did you fill out your
2 PCR?

3 A Just off of people saying things.

4 Q And then did you have an opportunity to get your
5 discovery?

6 A No, I've never seen my discovery.

7 Q Did anyone have your discovery?

8 A Yes. After I filed the second letter, Mr. Sheldon
9 called my mother and told him he (sic) didn't appreciate
10 the threatening letter that I had sent him the second
11 letter requesting my stuff, and then he told her -- I -- we
12 were on lockdown at prison, so I had no communication out.
13 We were on a -- we -- changed wardens and we were on
14 lockdown for a month or so, and that was when all this was
15 occurring. He called her and used those same fear and
16 intimidation and told her that if I had these documents in
17 my cell, that other inmates would get them and they would
18 know what I was convicted for and that I would be in danger
19 in prison, that my life would be in danger.

20 Q Okay. And what happened -- but -- so as far as ---

21 A And she went and got the documents.

22 Q Okay. All right. What relief are you seeking from
23 the judge or this Court?

24 A In the -- in the PCR I was asking to go back basically
25 and start again so that I can get these things laid back

1 out in front of me so that I can make a true rational
2 decision based on the evidence that's there.

3 Q So you -- specifically, you'd stated that you wanted
4 the Court to remand your case back for a new trial.

5 A Yes, ma'am.

6 Q Okay. And so you understand that if he remands it, it
7 starts all the way over.

8 A Yes, ma'am. I do understand.

9 Q Okay. So you want the Court to do -- you want -- you
10 still wish for the Court to remand your case.

11 A Yes, ma'am.

12 Q Even though you know that all the charges would come
13 back up and the significant amount of time that you would
14 be facing.

15 A Yes, ma'am.

16 Q Okay. And is there anything else you would like to
17 relay to the Court?

18 A (Pause) (No response)

19 Q I mean don't feel pressured to say anything. I'm just
20 making sure if you -- if I left out something.

21 A No, I don't -- I don't think we've -- I think we've
22 gone over everything thus far.

23 MS. MOODY - No further questions for this
24 witness. Please answer any questions Mr. Hunter has.

25 MR. HUNTER - A few things.

DAVID DICKERSON - CROSS BY MR. HUNTER

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1 CROSS EXAMINATION2 BY MR. HUNTER -

3 Q So you say you were never evaluated?

4 A By a psychiatrist, no, no, sir.

5 Q Okay. Can you explain who Geoff McKee is?

6 A I'm sorry?

7 Q Can you explain who Dr. Jeff McKee is?

8 A Jeff McKee is a forensic psychologist who in his
9 report also said that I needed to be evaluated by a
10 psychiatrist immediately.

11 Q His report said that, I guess, he diagnosed you with
12 paraphilic disorder, pedophilia which is sexual arousal to
13 early adolescent females but went into incest. Is that
14 correct?

15 A I've never read the report, but I think so, yes, sir.

16 Q That's what they said at the plea hearing?

17 A Yes, sir.

18 Q Okay. And during the plea hearing you spoke for a
19 pretty lengthy amount of time. Is that correct?

20 A Yes, I did.

21 Q And you admitted guilt. Correct?

22 A Yes, I did.

23 Q You said you fell in love with your daughter.

24 A Yes, I did.

1 Q Okay, and you said you knew it was wrong. Is that
2 correct?

3 A Yes.

4 Q Okay, and now you're saying you're innocent of all
5 these?

6 A I'm saying I wasn't given a fair opportunity to
7 present a defense, and that -- that particular -- not
8 everything in that is true and not everything in that is
9 not true.

10 Q So you lied during the hearing?

11 A Some of the statements were not true.

12 Q So that's a yes?

13 A It would be, sir.

14 Q And the State went over, I guess, the facts of these
15 charges. Is that correct?

16 A In the -- during the hearing?

17 Q During the hearing.

18 A Yes, sir.

19 Q Okay. And you agreed with their recitation of the
20 facts?

21 A I did in the hearing. I did not pay attention in the
22 hearing.

23 Q You didn't pay attention to what they were saying
24 during the hearing?

25 A No, did not.

DAVID DICKERSON - CROSS BY MR. HUNTER

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1 Q And yet you pled guilty anyway?

2 A Yes, sir.

3 Q Fully admitted guilt anyway?

4 A Yes, sir, it was the only hope I had not to die in
5 prison. I mean, you know, and which personally I didn't
6 care about. I only did that for my mother. I didn't ever
7 expect to even make it to Court.

8 Q Okay, but now you want a new trial for everything?

9 A Well, yes, sir.

10 Q Okay. And this -- this family court document that
11 mentions a 12:30 time when you say that couldn't have
12 happened. Are you saying that that exonerates you on all
13 charges?

14 A It exonerates me on the charges that they brought up
15 based on that event.

16 Q So the one where they allege, talking about the one
17 you pled to, CSC with the minor second, that alleged, I
18 guess, the dates were June 1st, 2012 and August 15th, 2012,
19 is that unaffected by that document you have?

20 A I don't understand exactly ---

21 Q Well, if the range on that charge is that you
22 committed criminal sexual conduct between the dates of June
23 1st, 2012 and August 15th, 2012, would your family court
24 document exonerate you for that charge?

1 A I don't know. I don't know how to -- I just -- I
2 don't know.

3 Q Do you think it would help you on that charge?

4 A Yes, I think it would prove that she went into this
5 not telling true -- true fact statements.

6 Q And you showed that document to your attorney?

7 A He was the attorney that was representing me at the
8 time.

9 Q Okay. And again you said you never saw any discovery.

10 A That's correct.

11 Q You never saw any photographs or videos.

12 A No, sir.

13 Q Did you ever see any statements that she made?

14 A No, sir.

15 MR. HUNTER - That's all I have.

16 THE COURT - Any re-direct?

17 MR. MOODY - Yes, sir, Your Honor.

18 RE-DIRECT EXAMINATION

19 BY MS. MOODY -

20 Q Mr. Dickerson, when the State just asked you a
21 question, I just want to make sure you understood. When he
22 referred to the family court document and the exoneration,
23 did you understand what he meant by exoneration?

24 A Not really. I mean ---

DAVID DICKERSON - RE-DIRECT BY MS. MOODY

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1 Q So he's asking -- he was asking you whether or not the
2 September statement from the family court document made you
3 not guilty of any of the charges.

4 A I think so. I'm not a hundred percent sure ---

5 Q Did your attorney have an opportunity -- did you have
6 an opportunity to discuss that with your attorney of how
7 that would've helped you?

8 A That was when I had asked him about it, and during me
9 talking to him and asking him was when he interrupted me
10 and told me that that was just a mistake by the family
11 court and that anything she said they would believe and I
12 would end up, you know, in prison for everything.

13 MS. MOODY - No further questions. Thank you.

14 THE COURT - Thank you, sir. Watch your step,
15 sir, as you step down.

16 MR. DICKERSON - Oh, yes, sir.

17 THE COURT - Applicant ready to call their next
18 witness?

19 MS. MOODY - Yes, sir, Your Honor. Beg the
20 Court's indulgence. (Pause)

21 Your Honor, at this time I'd call Ms. Bonnie
22 Nalin to the stand.

23 THE COURT - Just come right up here and let the
24 clerk of court swear you in.

1 BONNIE BYERS NALIN, AFTER BEING FIRST DULY SWORN,
2 TESTIFIES AS FOLLOWS -

3 THE COURT - Just be careful as you step up.

4 MRS. NALIN - Okay.

5 DIRECT EXAMINATION

6 BY MS. MOODY -

7 Q Ms. Nalin, would you please stated your full name for
8 the record.

9 A Bonnie Byers Nalin.

10 Q And how do you know Mr. Dickerson?

11 A He's my son.

12 Q Okay. So that would mean you've known him for quite
13 some time.

14 A Quite some time.

15 Q Okay. You're aware of the facts or the -- not the
16 facts, but the charges that your son pled guilty to?

17 A Kinda.

18 Q Okay. So you understand that he pled to the criminal
19 sexual conduct with a minor second degree and a sexual
20 exploitation of a minor first degree.

21 A (Witness nodding)

22 COURT REPORTER - She needs to answer verbally.

23 MS. MOODY - You've got ---

24 A Yes.

BONNIE NALIN - DIRECT BY MS. MOODY

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1 Q Okay. And his attorney at the time was Nathan
2 Sheldon?

3 A Yes.

4 Q Okay. What, if any, interaction did you have with
5 your son and Mr. Sheldon during this representation?

6 A In the beginning I spoke briefly to Mr. Sheldon at
7 family court, and then later my son asked me to withdraw
8 the money from his bank and take the money to pay Mr.
9 Sheldon, and I did, I went to Mr. Sheldon's office, paid
10 him and we talked briefly and he told me this was such a
11 horrible crime that my son had committed, that I just did
12 not understand and that he would get an extremely long
13 sentence.

14 Q Okay, so you met with him specifically about the
15 charges, ---

16 A Well, we ---

17 Q --- all the charges.

18 A We just -- no, we did not go over the charges or
19 anything.

20 Q Okay.

21 A Just briefly speaking.

22 Q Okay. So now did you have an opportunity to sit in
23 any of the meetings with your son?

24 A I sat in a couple of the meetings with my son.

1 Q Okay. And do you recall any discovery that might've
2 been discussed or evidence that might've been discussed in
3 any of those meetings?

4 A We discussed -- well, at one of the meetings and it
5 may have been when I first met with him, we discussed the
6 telephone.

7 Q Okay, and what telephone?

8 A My son's telephone that -- my daughter-in-law came
9 over one night because we were -- thought we needed to
10 talk. She asked me about his phone. I said I don't know,
11 he had -- it's here some place, he had it. And then when I
12 was asked about the telephone later by either my son or Mr.
13 Sheldon and looked for it, it had been taken. It was no
14 longer at my house.

15 Q Okay. And did it subsequently pop up again?

16 A Yes, I discussed it with Mr. Sheldon about what was on
17 the telephone, asked him if he had seen the pictures. He
18 says, oh, no, I can't see those pictures, it would be
19 illegal for me to see them, that would be child pornography
20 and I can't see them.

21 Q Okay. Well, do you recall if at all Mr. Sheldon
22 actually got to see the evidence that came from the phones
23 -- from the phone?

24 A I believe that in one of the later meetings he told my
25 son he had seen them, but I'm not positive.

1 Q Okay, and so you -- you had the phone originally.

2 A Yes.

3 Q Okay. You didn't give the phone to anyone.

4 A No, I did not.

5 Q But when you -- what -- so your testimony here today
6 is when you went to look for the phone after being
7 requested to provide to Mr. Sheldon, the phone was no
8 longer there?

9 A It was no longer in my house.

10 Q Do you know of anybody else that would've taken the
11 phone or ---

12 A No one else was ever in our house.

13 Q So the first meeting that your son had with Mr.
14 Sheldon and yourself, were you -- was that when there was a
15 forty-year offer made to your son?

16 A No, that was in a later meeting.

17 Q So, but you were present for that meeting.

18 A I was present.

19 Q And what, if anything, do you recall about that
20 meeting?

21 A I recall them disagreeing about it. My son said he
22 would not agree to that length of time, that he would be
23 willing to serve possibly up to fifteen years, was my ---

24 Q Understanding?

25 A --- understanding.

NATHAN SHELDON - DIRECT BY HUNTER

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1 Q So were -- during any of the meetings were you -- you
2 had an opportunity to hear what the evidence was?

3 A (Pause) Probably. I mean the telephone is all I
4 really remember. I remember my son discussing and it may
5 have been in a meeting that he was not -- he was not at
6 home at the time that the first charge was ---

7 Q Alleged to have occurred?

8 A --- alleged. (Indicating yes)

9 MS. MOODY - I beg the Court's indulgence. (Pause)

10 No further questions for this witness. Thank
11 you. Wait, wait ---

12 MS. NALIN - Oh, sorry.

13 THE COURT - Answer any questions ---

14 MR. HUNTER - Nothing from the State.

15 THE COURT - Thank you, ma'am. Watch your step as
16 you're stepping down.

17 MS. NALIN - Okay.

18 MS. MOODY - No further witnesses, Your Honor.

19 MR. HUNTER - Your Honor, the State would call Mr.
20 Nathan Sheldon.

21 NATHAN SHELDON, AFTER BEING FIRST DULY SWORN,

22 TESTIFIES AS FOLLOWS -

23 DIRECT EXAMINATION

24 BY MR. HUNTER -

25 Q Good morning. Please state your name for the record.

NATHAN SHELDON - DIRECT BY MR. HUNTER

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1 A Nathan James Sheldon.

2 Q Where are you currently employed?

3 A The Law Office of Nathan James Sheldon here in Rock
4 Hill in York County.

5 Q And can you please explain how you became involved --
6 how you initially became involved with Mr. Dickerson?

7 A I originally was appointed to represent him in a DSS
8 case, and that's how I originally became involved to
9 knowing Mr. Dickerson. As I guess by-product of that DSS
10 case I was then retained to represent him on the underlying
11 criminal charges that we're here for today.

12 Q How soon after that DSS appointment did these charges
13 come up?

14 A No, the charges were -- the DSS case stemmed from
15 these allegations, so ---

16 Q Okay.

17 A --- the allegations were that Mr. Dickerson for -- I
18 want to say it was two or three years basically -- raped
19 his daughter several times a week, and so the daughter then
20 -- I -- you know, -- Mr. Dickerson and the daughter getting
21 in an argument over I guess it was a transgender girl and
22 the daughter basically says I'm going to the police and
23 that's kind of how it snowballs, so as the police go to Mr.
24 Dickerson, arrest him, they also take the child into

1 emergency protective custody based on the allegations
2 obviously.

3 Q Okay, and how long -- how long was your I guess
4 initially meeting with him to the ultimate plea date?

5 A You mean how many months are we talking about?

6 Q How many months was it in that time period?

7 A Oh, probably ten -- nine or ten months. Yeah, I mean
8 I think -- I want to say it was some time in October or
9 November of 2015 up until -- I want to say we ended up
10 pleading, if I remember, some time in late August of 2016.

11 Q Okay. And how many times total for his plea did you
12 meet with him?

13 A Ten at least, yeah. I met with Mr. Dickerson a lot,
14 and that -- a lot of that was because he wasn't
15 incarcerated. We were -- we had a bond hearing. We got
16 him a bond. I originally advised him that I thought it
17 would be a better idea to kind of get more prison time
18 under his belt, but he said he wanted a bond, so we got
19 one. He was able to make bond, was living with his parents
20 in Lancaster. He was on GPS monitoring at the time, but I
21 was able to meet with him relatively frequently. I don't
22 think that was ever an issue.

23 Q Okay. And this case was handled by the AG's office.
24 Is that correct?

NATHAN SHELDON - DIRECT BY MR. HUNTER

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1 A Yes, and it was the "Internet Crimes Against Children"
2 specifically, so the CSC second with a minor charges were
3 kind of more lumped into the sexual exploitation charges,
4 and they handled the whole case. That's correct.

5 Q Okay, and can you explain how discovery works when
6 you're dealing with a case like this.

7 A Not good. Um, it is definitely very difficult to see
8 the videos that -- in terms of the exploitation charges, so
9 in this case, again, what we have is -- the discovery
10 really consists of about four things, a search warrant for
11 that phone, which they end up getting from the wife, which
12 I think it's her fault. So there was no question that it
13 was some dispute over whether or not there was -- you know,
14 this is a phone that the police can access, but you've got
15 to understand this is her husband, and so she gets the
16 phone, the police get it from her, and there is a search
17 warrant to get into that phone, which I did provide him,
18 because I think that was a big issue for him. And I said,
19 look, I mean this is where the problem arises. The second
20 thing was there was a statement from the child basically in
21 the incident report, and then the third thing, the major
22 thing were the videos that came off this phone, so the
23 incident report was shared with him, the statement from the
24 child and the search warrant but the videos were not. I do
25 agree with him that he did not see the videos, but I did

1 describe them in very specific detail. I had to go to the
2 basement of The Rock Hill Police Department with Ms. Miles,
3 with Detective Quate (phonetic) who was the investigator on
4 the case in order to watch the videos. I was not -- they
5 would not let me have them.

6 Q So you were ultimately able to watch the videos before
7 the plea.

8 A Yeah, absolutely.

9 Q And in your meetings with him you explained to him
10 what was on those videos.

11 A I did, and I explained to him in detail, because I
12 think it was -- that was a big portion of what's going on
13 here. The attorney general only originally indict -- only
14 originally charged him with one count of sexual
15 exploitation with a minor. That charge is three to twenty
16 but must be run consecutive to any other charge, so in our
17 conversations, there's three different videos and then
18 there's some other pic -- or there's two videos, a picture
19 and then some other pictures. In the first video you see a
20 teenager's hand masturbating an adult basically, but the
21 problem is the video was in his home, so it was being taken
22 as sort of a selfie-like video. In that video -- and this
23 was crucial, I discussed it, and I can't remember exactly -
24 - I think it was a ring, a silver ring on her middle finger
25 or a silver bracelet -- I can't -- a piece of identifying

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1 jewelry and a mole on her -- on the arm in that video,
2 because you couldn't see faces. You can see a male penis
3 and a hand and -- and Mr. Dickerson's thumb but it was
4 identifiable as him, but there were other identifying marks
5 in the room that were clearly his home. The second video
6 was the same hand, same -- same ring, same hand, same mole,
7 only in that video is was only a picture of a female
8 masturbating, and so basically what we had is a video of
9 the female masturbating the male, the female masturbating
10 herself and then the third picture which brings it all
11 together is a picture of Mr. Dickerson's daughter full face
12 all the way down to feet in a mirror taking a picture of
13 herself with no clothes on with the same ring, the same
14 mole. And I explained this to him, too, and I said, so, at
15 this point we have a child that's going to testify that she
16 was raped three times a week for three years or two years
17 or whatever it was -- it was a while -- and then we have
18 these videos where she can -- where we can connect the dots
19 that this is all the same person, and these videos and
20 picture were all taken off of Mr. Dickerson's phone. There
21 was an additional picture or two that I saw that I wasn't
22 that concerned with. They were like stock images. I
23 remember Ms. Miles telling me that, oh, we'll indict him on
24 these sexual exploitation charges, too. There was a video
25 of women -- of younger women in a hot tub. I don't think

1 there was any way that they were going to be able to
2 actually show that was child pornography, because -- these
3 are like off of a website, things like that. These are not
4 pictures of his daughter, so I wasn't as concerned with
5 those, but sexual exploitation charges, as I explained to
6 Mr. Dickerson, carries -- they're all consecutive stacked
7 on top of each other, and that was going to be a huge
8 problem for him, because these were very graphic videos
9 that the State had.

10 Q And how soon before the plea did you see these videos?

11 A The plea was in August. I want to say it was in May
12 or June, so it was some time after I originally got
13 involved in the case for sure, but I don't -- I remember
14 talking to Ms. Miles in the parking lot at The Rock Hill
15 Police Department, and at that point there had not been an
16 offer made, so I don't think -- I don't think there was an
17 offer made before I was given the opportunity to see the
18 video, so I -- because I remember talking to her about --
19 specifically about potential offers hoping that we could do
20 something and clearly we were not able to get anywhere
21 close to what I was looking for.

22 Q Okay, and can you just explain how your plea
23 negotiations worked with her?

24 A Yeah, I'm not going to budge. I mean I -- literally I
25 can't do any more begging than I did on this case. And I -

NATHAN SHELDON - DIRECT BY MR. HUNTER

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1 - but more importantly, I'd spoke with numerous other
2 lawyers in different circuits about this, because you have
3 -- this is not a very normal fact pattern in any case.
4 It's not for a CSC. It's not really -- it -- so I didn't
5 really -- I thought and I -- when I first met with Mr.
6 Dickerson, I said, I think if we could get twenty or less
7 that this is a pretty -- that would be a pretty good deal,
8 and so -- and again that was long before I had the offer or
9 anything. Ms. Miles took the position, this is the worse
10 case I've ever had, I am not going to budge one bit off
11 forty years under no circumstances, and I took everything I
12 knew how to do to her to try to do that. Well, you're
13 going to -- I mean we're going to have no choice but to go
14 to trial, you're going to put the child through this,
15 you're going to -- and she just said, if you do that, I'm
16 just going to continue stacking these, and so it was really
17 just absolutely nothing -- um, she wouldn't come off it at
18 all, and I think in the transcript she actually says,
19 Judge, I've never made a forty-year offer, this is the
20 worse case I've ever had, so.

21 Q And there were several charges dismissed as a result
22 of this plea.

23 A There were, but those charges weren't as concerning to
24 me, including -- and I spoke with Mr. (sic) Miles about the
25 12:30 incident, so the CSC second that he was charged with

1 was over a range -- right -- so basically the solicitor's
2 office took the position he was grooming the child,
3 eventually ends up having -- it's not -- I don't want to
4 call it consensual sex, because we're dealing with a minor,
5 but this wasn't forceable rape, this was groomed over time
6 that led to multiple incidents, and so I -- the 12:30
7 incident I said we're simply just not going to plead to
8 anything involving that date, because we don't -- I mean we
9 can show he's at work, but I don't think he ends up
10 pleading to anything that occurred on that date, and it was
11 -- it wasn't the charges that were dismissed that were so
12 problematic to me. It was a combination of the uncharged
13 conduct, basically the potential prior bad acts that were
14 going to come in to show common scheme or plan, something
15 like that, along with the exploitation charges that she had
16 not indicted, which was a huge concern for me, because I --
17 it -- when I say you're going to get life or you're not
18 getting out of a prison in box (sic), which I don't deny
19 saying that -- I mean this is a very serious case, and this
20 is a very serious amount of time we're dealing with -- it's
21 -- it's not -- he was facing a ton of time that must be run
22 consecutive, which I think if this -- and I don't know this
23 to be true -- if this was a CSC second without those
24 videos, I think there's a good chance Mr. Dickerson does
25 get twenty. It's the fact that the Judge had to stack that

1 other stuff that made it a huge problem for him and exposed
2 him to so much time.

3 Q Okay, and just to go back a little bit, when y'all
4 met, did you go over the facts of, I guess, what the State
5 was presenting?

6 A Yeah, and -- and -- but the thing in this case was
7 that it was, um -- when I first met with Mr. Dickerson in
8 the jail, not necessarily at the family court, because
9 family court I didn't really understand what was going on,
10 but when I got retained on the criminal case, when I met
11 with him in the jail, I mean his defense from day one was,
12 I'm in love with my daughter, I don't consider this rape, I
13 considered her to be my wife, my wife had abandoned me,
14 basically my home life is terrible, and I fell in love with
15 my daughter. That's -- that's essentially where we were
16 the entire time through this case. For better or worse,
17 that's -- that's where we were and that's kind of what we
18 were going with, so, yeah, I mean I'd provided him with --
19 like I said, I mean there was a lot of discovery that just
20 wasn't relevant at all, like nothing that met -- so they
21 burned the phone but they don't give me the good stuff off
22 of it, they just give me, you know, -- and -- so it really
23 came down to those three videos -- or the two videos, the
24 two pictures, the statement of the child. Mr. Dickerson, I
25 believe wrote a letter, too, to the child or to the family

1 in general, and that, of course, made it's way into a
2 discovery file, which I said this really doesn't help us
3 much any with this letter, but, so, yeah, I mean this whole
4 time, I mean I've really spent ten months trying to
5 mitigate this case for him.

6 Q And let's go over a little bit about Dr. McKee I think
7 his name was, ---

8 A Yes.

9 Q --- the evaluator? Who is that?

10 A Geoffrey McKee's a doctor in Columbia, and I had for
11 the purposes of mitigation -- and I've used Dr. McKee
12 before -- I -- for two things. One, he's pretty good at,
13 if possible -- his background is in sexual violent
14 predators, so he's -- he's pretty good, if possible, to get
15 in a report that some idea if Mr. Dickerson fits into the
16 classification of a sexual violent predator, which is
17 extremely important if -- because obviously this case would
18 be eligible for screening based on what he was pleading to.
19 So what I try to do and what I try to do in a lot of cases
20 is, if possible, to get Dr. McKee to put specifically in
21 his report that he does not believe this individual meets
22 the criteria under sexual violent predator. That makes its
23 way into the Court file which files it down to Columbia,
24 which during that SVP screening at some point in the future
25 they can use to show, hey, look, you know, and hopefully

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1 help them keep them off the SVP. The other thing I think
2 it does in a case like is you have to have something, and
3 so that -- that was really my go-to was, we're going to get
4 a psychologist or psychiatrist to explain all this. I
5 thought he was psychiatrist. He may be a psychologist.
6 But we're going to get somebody to try to explain this to
7 the Judge, which is exactly what we did.

8 Q And that report was presented to the Judge. Correct?

9 A Absolutely, yes.

10 Q And after that, did you believe there should be any
11 further examination?

12 A I never believed at any point in time that he wasn't
13 competent to stand trial and that he did not -- that there
14 was any culpability issues, not any point in time. The
15 evaluation that I had done was not for the purposes of
16 trying to determine competency or culpability but more to
17 try to explain what's going on. At no point in time --
18 yeah, I mean I understood that he would say, you know, I'm
19 - you know, I want to kill myself. I don't deny that that
20 conversation was happening, but it wasn't in the context of
21 me thinking that he didn't know the difference between
22 right or wrong that he was somehow not competent. It was,
23 I'm under the stress of facing multiple CSC charges against
24 my own child and a long, long prison sentence. I mean I --
25 I've -- he didn't seem under any more duress to me than any

1 normal defendant and he was out on bond, so I it also -- I
2 mean he wasn't in jail, so it's not like he couldn't have
3 gone to see a psychiatrist. In fact, I think he went to go
4 see -- the priest that got involved I think had been
5 working with him, talking him through some of this stuff,
6 and -- and so -- I mean I don't think it's really fair to -
7 - if -- if he wanted me to evaluate him for competency or
8 culpability, there was no need. If he wanted to go see a
9 psychiatrist -- at no point did I tell him you can't walk
10 across and see a psychiatrist, I guess, is -- for lack of a
11 better -- better word.

12 Q So just to -- as far as that point, did you think his
13 stress level negatively affected his decision-making at
14 that point?

15 A I don't think so. I -- he was in -- he was in a tough
16 spot. I mean there's no question and I -- so, I think his
17 stress level just like mine would be would be through the
18 roof, but no more so than any -- any other person faced in
19 a similar circumstance.

20 Q And throughout your representation, did he ever tell
21 you that he wanted to go to trial?

22 A No. No, no, no, no, no.

23 Q And ---

24 A And I did discuss those videos with him specifically.
25 I mean I remember having that conversation, this is what

NATHAN SHELDON - DIRECT BY MR. HUNTER

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1 they show. And he said, did it show my face, and I said,
2 it doesn't, but it shows your living room, and I think at -
3 - in the child's statement she said something about him
4 wiping off his semen on a sweatshirt. That sweatshirt was
5 actually in the video. I mean there were specific things
6 in the most -- in -- damming for like of a better word,
7 video that suggests that it was, in fact, him and his child
8 on tape. And I don't think he's -- I -- and to be clear, I
9 don't think he took the picture of her in the mirror. I
10 don't think that he took the picture of her masturbating,
11 but they were on his phone, so I think those would've been
12 sent to him. So the child at some point also believes that
13 this is kind of appropriate behavior. I can't remember if
14 Mr. Dickerson said he would ask for stuff like that and she
15 would send it. I can't remember exactly how that happened,
16 but there's no question that -- that in the one video I
17 think it -- it's pretty clear that he was video-taping, and
18 the other two would've been sent by the child to him.

19 Q Okay. And did you see the other evidence? I believe
20 they said there was a rape kit done. Did you see that?

21 A Yeah, but I don't think there was any -- I -- my
22 recollection in this case is that there wasn't -- this
23 wasn't a big time forensic case. Like I don't -- I -- I
24 think that maybe on the CSC second -- like I said, the one
25 incident that sticks -- so there's a pattern of contact

1 over years here, but the one incident is the one that the
2 child ends up -- she and Mr. Dickerson get in a huge fight,
3 she goes to the police, and I believe there was an incident
4 earlier that afternoon, so, yeah, I think there was for
5 that red sweatshirt, but, again, I -- it was the
6 exploitation charges that were the huge problem, and I
7 don't think those were the CSC second that -- I don't think
8 those were tied to the -- to where it -- essentially where
9 it all comes crumbling down for Mr. Dickerson.

10 Q Can you explain, I guess, his statement about you not
11 wanting to give him discovery, because if he had it his
12 life would be in danger? Can you explain ---

13 A Yeah, so -- and I don't -- I disagree with my tone of
14 voice to him, but so I get a letter from him -- or two --
15 and called Ms. - called Ms. Nalin, so -- Mr. and Ms. Nalin
16 who are sitting back there -- and I said listen -- because
17 I filed an appeal. They called me about the appeal. I
18 said I'll help however I can. He specifically asked for
19 his discovery, some of which is on -- was on a disk, but
20 nothing -- none of the pornographic stuff, so you can't --
21 you're not going to get that in prison anyways, so I said,
22 look, I called Ms. Nalin and I said, I need -- you can have
23 the discovery, he can have it, but is -- this is going to
24 be extremely easier for you to come get it from my office,
25 which I gave her my original file and just said, here's my

NATHAN SHELDON - CROSS BY MS. MOODY

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1 file, you can have anything in it, I just need it back
2 because he -- this appeal's going nowhere, he's going to
3 file a PCR, which he did, and I'm going to be able to need
4 to get that file to his PCR attorney as well. So she came
5 to my office and got it, but I - yes, no question that
6 somebody -- that the contents of that file you do not want
7 to end up at Lee Correctional. I do a ton of PCRs; I deal
8 with this a lot, and it's not like I was saying, you can't
9 -- you can't have your file. I was saying Ms. Nalin needs
10 to get the file and figure out how to present this to Mr.
11 Dickerson in such a manner where people at Lee Correctional
12 aren't looking at it and saying you had sex with your
13 thirteen year old daughter every day for, you know, three
14 years. I don't -- I agree that that would not have been
15 the best approach for him.

16 MR. HUNTER - Beg the Court's indulgence for a
17 second. (Brief pause)

18 That's all I have. Thank you, sir.

19 MS. MOODY - Good afternoon, Mr. Sheldon.

20 MR. SHELDON - Good afternoon.

21 CROSS EXAMINATION

22 BY MS. MOODY -

23 Q So, you represented Mr. Dickerson and you talked about
24 the case with him and the discovery -- we talked about the
25 discovery. So at the appointment that you met with him

1 where it was forty years -- a forty year offer provided to
2 him, did you all discuss the pros and cons of going forward
3 with a trial?

4 A Yes.

5 Q And what specifically did you explain to him about --
6 you gave all this information just a second ago about the
7 exploitation and the CSC ---

8 A I gave all of that information to him. That's right.
9 I -- but I don't know if that -- like I said, the offer
10 comes after I go to view those videos, so I don't know -- I
11 - I don't know if the offer and the videos were discussed
12 at the same time or if I discussed the video -- what was on
13 the videos first and then later discussed the offer, but I
14 know -- and -- and just to be clear, it's not like I
15 thought forty years was a good deal. I did everything I
16 could to get it down and said -- I -- basically we just got
17 to mitigate the you-know-what out of this case so we can --
18 because that's the only we're going to -- she is not coming
19 off of this number at all.

20 Q And I believe earlier you testified that there was --
21 I think you believed there were more exploi -- more child
22 exploitation charges that could've come out of ---

23 A That was the threat that I -- that they kept hanging
24 over my head. And I think if you read the plea transcript,
25 Ms. Miles references that when she says, in addition to

NATHAN SHELDON - CROSS BY MS. MOODY

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1 dismissing these, we are not going forward on other
2 exploitation charges we could have. Each -- each incident
3 -- so there's a least three, maybe four or five. Again,
4 four or five I'm not really concerned with. Those are
5 stock photos from a porn website. They would've had a hard
6 time with those, but the three specific images, the two
7 videos and the picture of his daughter would've been three
8 separate counts, each of which would carry three to twenty
9 consecutive to the others and consecutive to anything else
10 he was charged with.

11 Q Now, did you explain that to Mr. Dickerson?

12 A Yes.

13 Q Okay. And when you explained it to him, did you think
14 that he understood -- or did you get the sense that he
15 understood that -- what consecutive versus concurrent
16 would've been?

17 A Yeah, I don't think there's any question, because he
18 couldn't have gotten the forty years any other way. The
19 CSC only carries twenty, which ---

20 Q Right.

21 A --- is why I think this is a twenty year case if they
22 don't -- if they're not literally, you know, hanging us by
23 these exploitations which are clear as day, no way around
24 saying that they're first degree exploitations, just no way
25 from what I saw.

1 Q Okay. And so did y'all -- when you talk about the
2 trial aspect going, that's different trials or that's one
3 trial, did you explain to him how the trial situation would
4 go?

5 A Yes. I -- you mean that it would be multiple trials
6 or just one trial?

7 Q It will be one trial but he would have all of these
8 particular charges that are going to be consecutive. I
9 mean did you ---

10 A Yeah, I -- I think so. I mean but -- I don't -- I
11 definitely went over his generic trial rights. I don't
12 specif -- but at no point in time did this -- to either one
13 of this while we're working on this -- I mean we're sitting
14 in here today and obviously -- this was in a plea posture
15 from the very beginning. I mean I went to Mr. Dickerson
16 and said, I really truly hope that in my opinion that this
17 is a twenty to twenty-five year is a good, good sentence in
18 this case. At that point I didn't know how many CSCs he
19 was going to be charged with, because you got to remember,
20 there is just a ton of stuff out there. It wasn't until --
21 -

22 Q Let me interrupt there. When you say it's just a ton
23 of stuff out there, you mean a ton of stuff as it relates
24 to him ---

1 A No, just -- no, just allegations in general. That
2 this occurred, you know -- I don't want to say hundreds of
3 times, but you get the gist, that this was going on
4 frequently for over a pattern of years and year.

5 Q Okay. All right, so going into the plea Mr. Dickerson
6 knew where the AG stood in terms of what they were seeking
7 and they were not budging ---

8 A Yeah.

9 Q --- I believe you testified.

10 A Yeah, and I -- and just to be -- I mean just to
11 clarify a little bit, I had several conversa -- I've never
12 had anyone offer me the maximum sentence that I'm pleading
13 to. And I had several conversations basically -- I mean
14 you can imagine that I -- I was floored when the offer came
15 at forty. I was floored. I mean I have never -- probably
16 eight murder cases -- I don't think I've ever gotten an
17 offer over forty and so I -- I mean I was -- I was really
18 surprised. So I called her and said, look, I mean, this --
19 come on, you know, what - what are we supposed to do here,
20 negotiate and - and she was like, I'm not budging one inch,
21 and I knew then that I had to pick a - as best - the other
22 thing is they were going to set this case for trial in
23 front of Judge Cole, which I knew they were planning on
24 doing that in August, who I knew if we lost, would've -- he
25 would've gotten hit pretty good at sentencing, really good

1 at sentencing on all this stuff, and so I got to start
2 looking for judges, and that was my -- my number -- my goal
3 was to just basically completely throw us before the Court
4 and beg for mercy, which I did in the transcript.

5 Q Okay. All right, and at that time Mr. Dickerson was
6 aware of all of this ---

7 A Yes.

8 Q --- and you discussed all of this with him.

9 A Yes. Originally I was going to plea this case in
10 front of Judge Verdin, who after conversations with -- who
11 -- so I spoke with the head public defender in Lancaster
12 County, Mike Lifsey, I spoke with Craig Pasarik here I
13 town, Trey Cook, next -- I spoke with a lot of lawyers
14 about -- not, hey, guess what I got, but I need -- what
15 judge do I have any chance to try to get the -- you know,
16 and these are the options I have, and this is what I can
17 do. Judge Verdin -- I believe her father died, and so we
18 ended up going with -- Judge Gibbons was the best that I
19 had -- that I had who I ultimately probably think was a
20 better choice than Judge Verdin anyways, but I -- there
21 weren't a -- there wasn't a whole lot of options or a whole
22 lot of time to pick judges, so it was forty, but you could
23 pick your judge.

24 MS. MOODY - Okay. No further questions.

25 THE COURT - Any re-direct?

1 MR. HUNTER - Nothing else from the State, Your
2 Honor.

3 THE COURT - Sir, watch your step as you step
4 down.

5 MR. SHELDON - Thank you, Your Honor.

6 THE COURT - Any reason why the witness cannot be
7 excused?

8 MR. HUNTER - No, Your Honor.

9 MS. MOODY - Only because his office is down the
10 street.

11 THE COURT - All right. You may be excused.

12 Does the State have any further witnesses?

13 MR. HUNTER - Nothing else from the State, Your
14 Honor.

15 THE COURT - Any reply witnesses?

16 MS. MOODY - No, sir, Your Honor.

17 THE COURT - All right, thank you very much. I'll
18 let you know.

19 MS. MOODY - Thank you, Your Honor.

20 MR. HUNTER - Thank you, Judge.

21 (END OF TRANSCRIPT)

22

23

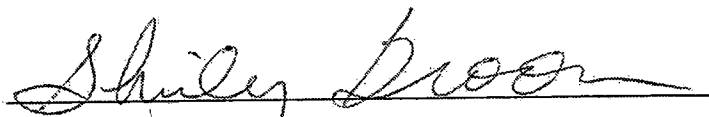
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C E R T I F I C A T E

I, Shirley Broom, Official Court Reporter for the Sixteenth Judicial Circuit for the State of South Carolina, do hereby certify that the foregoing 68 pages is a true, accurate and complete Transcript of Record of the proceedings had and the evidence introduced in the proceedings of David Alden Dickerson vs. State of South Carolina, as taken by me in Court of Common Pleas for the Sixteenth Judicial Circuit on January 31, 2018, and provided by me this the 4th day of September, 2018.

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



Shirley Broom, CVR-M
Official Court Reporter,
Certified Verbatim Reporter, In and
for the State of South Carolina

STATE OF SOUTH CAROLINA)
COUNTY OF YORK)

David Aldean Dickerson,
SCDC #369461,

Applicant,

v.

State of South Carolina,

Respondent.

THE COURT OF COMMON PLEAS
FOR THE SIXTEENTH JUDICIAL CIRCUIT

2017-CP-46-1057

ORDER OF DISMISSAL

2018 MAY 17 AM 9:51
CLERK OF COURT
JAMES HAMILTON
CLERK OF COURT
JAMES HAMILTON

FILED-RECEIVED

This matter comes before the Court by way of an Application for Post-Conviction Relief (PCR) filed April 11, 2017. An evidentiary hearing into the matter was convened on January 31, 2018, at the Moss Justice Center in York, South Carolina. Applicant was present at the hearing and represented by Leah Moody, Esquire. Justin Hunter, Esquire, of the South Carolina Attorney General's Office represented Respondent. At the hearing, Applicant testified on his own behalf. Nathan Sheldon, Esquire, also testified. This Court also had before it a copy of Applicant's PCR application and amendment, the records of the York County Clerk of Court regarding the subject convictions, Respondent's Return, and the plea transcript.

I. BACKGROUND

Factual History

The following facts were presented by the State and confirmed by Applicant at Applicant's plea hearing:

In September of 2015 law enforcement was called to a local high school where a sixteen-year old victim reported that her father (Applicant) had sexually assaulted her on their living room couch having vaginal intercourse with her before wiping off on a navy blue t-shirt.


Page 1 of 13

The victim disclosed that during the summer of 2012 when she was twelve years old Applicant came into her room and got in bed beside her and began digitally penetrating her. She disclosed that Applicant would continue these assaults but escalated to putting his penis inside her mouth to have her perform oral sex on him. The victim also disclosed Applicant performing oral sex on her and the assaults ultimately progressing to Applicant raping her vaginally. The victim disclosed that over the next three years the assaults would occur frequently, sometimes several times a week. The assaults would include oral sex but most frequently would include Applicant vaginally raping her.

The victim disclosed within the past month Applicant had attempted to rape her anally but was not able to insert his penis into her anus completely. The victim also disclosed, and Applicant admitted, calling her names such as whore and slut. She also disclosed that Applicant had gotten angry and punched holes in the walls of the home.

The victim was taken for a rape kit. Her underwear as well as the baby blue t-shirt that was found in the home were both examined forensically and a mixture of Applicant's sperm with the victim's DNA were found on both of those items.

Applicant's phone was also forensically examined. On that phone there was a video of Applicant being masturbated by his daughter. There were also pictures of his daughter nude in her bedroom mirror, as well as photos of her masturbating. The victim disclosed that Applicant would make her take these photos and then send them to him. There are also images of child pornography located not of his daughter but of other unknown girls.

Procedural History

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the York County Clerk of Court. In June 2016, the York County

Grand Jury indicted Applicant for criminal sexual conduct with a minor, second degree (2016-GS-46-1861) and sexual exploitation of a minor, first degree (2016-GS-46-1862). Nathan Seldon, Esquire represented Applicant. Assistant Attorney General Bethany Miles prosecuted the case. On August 23, 2016, Applicant pled guilty as indicted to criminal sexual conduct with a minor, second degree and sexual exploitation of a minor, first degree before the Honorable Brian Gibbons.¹ Pursuant to the State's recommendation, Judge Gibbons sentenced Applicant to imprisonment for twenty years for criminal sexual conduct with a minor, second degree, and sixteen years for sexual exploitation of a minor, first degree. Both sentences were to run consecutively.

Applicant filed a timely notice of appeal. The South Carolina Court of Appeals dismissed Applicant's appeal on November 22, 2016. The remittitur was sent on December 9, 2016.

Allegations

In his application for post-conviction relief, and the amendment filed thereto, Applicant alleges he is being held unlawfully for the following reasons:

1. Ineffective Assistance of Counsel
 - a. "Trial counsel failed to provide or explain discovery material when asked to do so by the defendant. Counsel also failed to investigate the details of the discovery material."
 - b. "Trial counsel failed to have defendant evaluated by a psychiatrist when asked to do so."
2. "Unintelligently and involuntarily entered guilty plea"
 - a. "When asked about a trial or refusing the original plea offer, trial counsel stated the plea offer and try to mitigate the time. Counsel also stated that if the offer was not accepted and the case went to trial that the defendant 'would leave prison in a box!' When counsel was questioned, he would only say 'they have you and if you take this to trial you will get the max!' He made these statements many times."

¹ Applicant was also indicted for criminal sexual conduct, third degree (2016-GS-46-1858); incest (2016-GS-46-1859); assault with intent to commit criminal sexual conduct, third degree (2016-GS-46-1860); and criminal sexual conduct with a minor, second degree (2016-GS-46-1863). These charges were dismissed as part of Applicant's guilty plea.

II. APPLICABLE LAW

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, 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, 466 U.S. 668. Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

Courts use a two-pronged test in evaluating allegations of ineffective assistance of counsel. Id. at 117, 386 S.E.2d at 625. First, the applicant must prove counsel's performance was deficient. Id. Under this prong, courts measure an attorney's performance by its "reasonableness under prevailing professional norms." Id. (citing Strickland, 466 U.S. at 688). Second, any 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." Id. at 117-18, 386 S.E.2d at 625. With respect to guilty plea counsel, the Applicant must show there is a reasonable probability that, but for counsel's alleged errors, he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 59 (1985).



III. SUMMARY OF RELEVANT TESTIMONY AT PCR HEARING

Applicant's Testimony

Applicant testified Counsel did not review the State's evidence with him and he never saw any discovery. He testified he was at home at the time when the victim alleged the crime to have occurred, but he also told Counsel he was guilty. Applicant testified Counsel relayed an offer from the State of a forty-year sentence. He testified he met with Counsel several times after this offer was relayed and did not go over any evidence. He testified Counsel told him there was a video on Applicant's cell phone and Counsel had seen it. He testified he asked Counsel about the videos and photos located on his cell phone.

Applicant testified Counsel was ineffective for failing to investigate. He testified he did not ask Counsel to do any investigation because he planned to kill himself. He testified Counsel told him he was not allowed to see the State's files, but he had eventually seen them.

Applicant testified Counsel was ineffective for failing to have him evaluated. He testified his mother told Counsel to get Applicant evaluated because he was not acting reasonably. Applicant testified Counsel told him not to talk to a doctor.

Applicant testified his plea was not made knowingly and voluntarily. He testified Counsel pressured him by telling him he would leave prison in a box. He testified Counsel discussed with him how much time he faced. Applicant testified the four original charges were based on a Family Court document that alleged the conduct occurred at 12:30AM, but he believed these allegations were false. He testified Counsel first met him in Family Court. Applicant testified he wanted an eight to ten-year sentence and Counsel said he would ask for a ten to thirteen-year sentence. He testified he did not ask for a jury trial. He testified he signed paperwork that said Counsel discussed everything with him. Applicant testified he did not make



rational decisions and was not given the opportunity to defend himself on these claims. Applicant testified he did admit his guilt to the plea court and agree with the State's version of the facts.

Bonnie Nealan's Testimony

Applicant's mother, Bonnie Nealan, testified at the PCR hearing. She testified she spoke to Counsel in Family Court and paid him. She testified Counsel did not go over the charges with Applicant and she sat in meetings with Counsel and Applicant. She testified Applicant's phone was taken one night and Counsel said he had seen photos from the phone. Ms. Nealan testified Applicant did not agree to do a long amount of time but only agreed to about fifteen years.

Counsel Nathan Sheldon's Testimony

Counsel testified he was appointed to represent Applicant on a DSS matter stemming from these allegations. He testified Applicant and his daughter got in an argument and his daughter went to the police. Counsel testified he met with Applicant roughly ten times prior to the plea. He testified he explained the charges against Applicant and how Applicant would face these at trial. Counsel testified the discovery included videos the State got via warrant from Applicant's wife's phone. He testified the discovery also included a statement from the victim.

Counsel testified he went to the Rock Hill Police Department to watch the videos and explained to Applicant in detail what the videos showed. He testified one video depicted a teen's hand masturbating an adult. He testified a silver ring or bracelet and a mole on the teen's hand identified the victim and the video was clearly taken in Applicant's home. He testified a second video showed a female masturbating and the same hand from the first video was identified. Counsel testified a picture of the victim was found on the phone, where she was fully naked in front of a mirror and her hand showed the same ring and mole. Counsel testified other images on

the phone were stock photos that the State would probably not be able to use against Applicant.

Counsel testified he saw the videos and pictures in May or June prior to the plea. He testified there was no offer and, despite his begging, the State would not negotiate lower than forty years. He testified the Assistant Attorney General said Applicant's case was the worst she had ever seen and she would not come off of the forty-year offer. Counsel testified the State threatened to bring nine more exploitation charges based off of the photos from Applicant's phone.

Counsel testified he discussed with Applicant the issue of Applicant not being home at 12:30AM the night the victim alleged misconduct. Counsel testified he explained to Applicant that he was not pleading guilty to conduct stemming from that date in particular but over a range of time. He testified he explained that the exploitation charges would have to run consecutive to the criminal sexual conduct charges. Counsel testified Applicant said his defense was that he was in love with his daughter and saw her as his wife. Counsel testified he explained to Applicant that a lot of the discovery was not relevant except two videos, two photos, and the victim's statement.

Counsel testified he hired Dr. Jeff McKee from Columbia to examine Applicant. He testified he had used Dr. McKee before. Counsel testified this case would be potentially eligible for the Sexually Violent Predator program and he wanted an evaluation to show Applicant's case should not meet that eligibility. He testified he never believed Applicant was not competent or that he had culpability issues in distinguishing right from wrong. He testified Applicant experienced stress but no more than any other criminal defendant and the stress did not seem to impact Applicant's decision-making. Counsel testified he saw no need for an evaluation to determine competency or criminal responsibility.

Counsel testified Applicant never wanted a jury trial. He testified they discussed the videos including the specific identifiers of Applicant's sweatshirt and his living room. He testified the facts clearly showed a pattern of conduct over several years. He testified he discussed with Applicant the pros and cons of pleading guilty versus proceeding to trial.

IV. FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has reviewed the testimony presented at the evidentiary hearing, observed the witnesses presented at the hearing, passed upon their credibility, and weighed the testimony accordingly. Further, this Court has reviewed the Clerk of Court records regarding the subject convictions, the plea transcript, Applicant's records from the South Carolina Department of Corrections, the application for post-conviction relief and amendment, and the legal arguments made by the attorneys. Pursuant to S.C. Code Ann. § 17-27-80 (2003), this Court makes the following findings of fact based upon all of the probative evidence presented.

Ineffective Assistance of Counsel

Counsel failed to provide or explain discovery material and investigate

Applicant alleged Counsel was ineffective for failing to provide or explain the State's discovery material. "[C]riminal defense attorneys have a duty to undertake a reasonable investigation, which at a minimum includes interviewing potential witnesses and making an independent investigation of the facts and circumstances of the case." Walker v. State, 397 S.C. 226, 235, 723 S.E.2d 610, 615 (Ct. App. 2012). "Failure to conduct an independent investigation does not constitute ineffective assistance of counsel when the allegation is supported only by mere speculation as to result." Porter v. State, 368 S.C. 378, 385-86, 629 S.E.2d 353, 357 (2006) (citing Moorehead v. State, 329 S.C. 329, 334, 496 S.E.2d 415, 417 (1998)).

This Court finds Counsel provided credible testimony that he investigated the case by

going to the Rock Hill Police Department and watching the videos and viewing the photographs months before the plea. He testified he explained the Applicant exactly what these videos and photographs showed and also went over the victim's statement. He testified they discussed the specific identifiers in the videos including Applicant's sweatshirt and his living room. Counsel also testified he explained to Applicant that the indictment alleged misconduct over a range of time and not the one night in particular that Applicant was focused on from the Family Court document.

Applicant has failed to show that Counsel's investigation was deficient and has failed to show what further investigation or more adequate investigation would have revealed, and this Court will not speculate as to what further investigation would have revealed. Furthermore, this Court finds Applicant has failed to prove Counsel did not explain or share discovery. This Court finds Counsel did thoroughly explain the photographs, videos, and victim's statement. Applicant has failed to prove prejudice, as he has failed to meet his burden of showing the he would not have pled guilty but would have proceeded to trial had Counsel undertaken different investigation and gone over the discovery differently. Accordingly, this allegation must be dismissed.

Counsel failed to have Applicant evaluated by a psychiatrist

Applicant alleged Counsel was ineffective for failing to have him evaluated by a psychiatrist. This Court finds Applicant has failed to meet his burden of proving Counsel was deficient. This Court finds Counsel hired Dr. Jeff McKee to examine Applicant as this case had potential to be eligible for the Sexually Violent Predator program and he wanted an evaluation to show Applicant's case should not meet that eligibility. This Court finds Counsel provided credible testimony that he saw no need for an evaluation to determine competency or criminal

responsibility, and never believed that Applicant was not competent or could not distinguish right and wrong. This Court finds Applicant testified his mother believed he was "not acting reasonably," but Applicant has failed to provide any testimony or evidence that would suggest he needed to be evaluated for competency or criminal responsibility. Applicant has failed to provide this Court with any evidence to show what an evaluation would have revealed, and this Court will not speculate as to its possible results.

Furthermore, this Court finds that Applicant has failed to show that he was prejudiced by Counsel's actions because Applicant has failed to show that he otherwise would have elected to go to trial. Similarly, Applicant has not shown any error in Counsel's assistance that led him to plead guilty instead. Applicant admitted guilt at the plea and PCR hearings and made no indication that he would have gone to trial but for Counsel's actions regarding an evaluation. Therefore he cannot prove any prejudice. Accordingly, this allegation is dismissed.

Involuntary Guilty Plea

Applicant alleges that his plea was given involuntarily. This Court finds that Applicant's allegation must be dismissed. To find a guilty plea is voluntarily and knowingly entered into, the record must establish the defendant had a full understanding of the consequences of his plea and the charges against him. Boykin v. Alabama, 395 U.S. 238, 89 S. Ct. 1709, 23 L.Ed.2d 274 (1969). Defendant's knowing and voluntary waiver of statutory or constitutional rights must be established by a complete record, and "may be accomplished by colloquy between court and defendant, between court and defendant's counsel, or both." Roddy v. State, 339 S.C. 29, 34, 528 S.E.2d 418, 421 (2000) (citing State v. Ray, 310 S.C. 431, 437, 427 S.E.2d 171, 174 (1993)). A guilty plea is a solemn, judicial admission of the truth of the charges against an individual; thus, a criminal inmate's right to contest the validity of such a plea is usually, but not invariably,

foreclosed. Dalton v. State, 376 S.C. 130, 137-38, 654 S.E.2d 870, 874 (Ct. App. 2007) (citing Blackledge v. Allison, 431 U.S. 63, 97 S. Ct. 1621, 52 L.Ed.2d 136 (1977)). Therefore, statements made during a guilty plea should be considered conclusive unless a criminal inmate presents valid reasons why he should be allowed to depart from the truth of his statements. Crawford v. United States, 519 F.2d 347 (4th Cir.1975).

"A guilty plea constitutes a waiver of nonjurisdictional defects and claims of violations of constitutional rights." Jamison v. State, 410 S.C. 456, 467, 765 S.E.2d 123, 129 (2014) (citing State v. Rice, 401 S.C. 330, 331-32, 737 S.E.2d 485, 485-86 (2013); Hyman v. State, 397 S.C. 35, 44, 723 S.E.2d 375, 379 (2012)). Notably the South Carolina Supreme Court has held "[a] guilty plea represents a break in the chain of events which has preceded it in the criminal process." Id. (citations omitted). "When a criminal defendant has solemnly admitted in open court that he is in fact guilty of the offense with which he is charged, he may not thereafter raise independent claims relating to the deprivation of constitutional rights that occurred prior to the entry of the guilty plea." Id. (citing Rice, 401 S.C. at 332, 737 S.E.2d at 486).

This Court finds, and the record reflects, Applicant was fully advised that he was pleading guilty and therefore waiving any challenges to the evidence against him. The plea court's thorough colloquy with Applicant demonstrates that he understood the consequences of pleading guilty and the potential sentences he could receive. Applicant advised the plea court that no one had promised him anything in order to get him to plead guilty. Applicant also advised the plea court that he was pleading guilty freely and voluntarily. The record also reflects that Applicant fully admitted his guilt to the plea court and agreed with the State's version of the facts. Applicant presented no credible evidence at the PCR hearing as to why he should be able to depart from his statements at the plea hearing. This Court finds credible Counsel's testimony

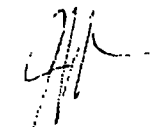


regarding his preparation and advice to Applicant prior to the guilty plea. After a full review of the guilty plea transcript, this Court finds the plea judge correctly found Applicant's plea was freely, voluntary, and intelligently made. This Court also finds that Applicant has presented no evidence that he did not understand the plea proceeding or that his plea was not freely, voluntarily, or intelligently made.

Furthermore, this Court finds Applicant's allegation that Counsel pressured him into pleading guilty is without merit. Applicant alleged Counsel pressured him into pleading guilty by telling him he would "leave prison in a box" and get the maximum sentence if he went to trial. This Court finds Applicant's responses at the plea hearing indicate he was not coerced or pressured into pleading guilty and Applicant was well aware of the potential lengthy sentences he faced when pleading guilty. This Court finds Applicant has failed to meet his burden of proving Counsel improperly coerced him into pleading guilty or that Counsel's actions made Applicant's plea involuntary. Furthermore, Applicant has failed to show that but for Counsel's actions, he would not have pled guilty but would have proceeded to trial. Applicant openly admitted guilt several times during the plea hearing and during the PCR hearing and did not prove that he would rather have a trial. Accordingly, this allegation must be dismissed.

V. CONCLUSION

Based on the foregoing, the Court finds and concludes Applicant has not established any constitutional violations or deprivations that would require this Court to grant his application. Applicant failed to demonstrate Counsel's performance was unreasonable under prevailing professional norms. Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625; Stalk v. State, 383 S.C. 559, 563, 681 S.E.2d 592, 594 (2009). Therefore, this application for post-conviction relief must be denied and dismissed with prejudice.

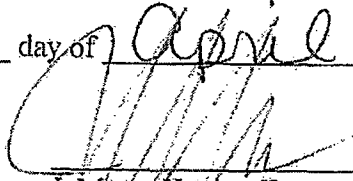


The Court notes Applicant must file and serve a notice of appeal within thirty (30) days from PCR counsel's receipt of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453, 409 S.E.2d 395 (1991), Applicant has a right to appellate counsel's assistance in seeking review of the denial of post-conviction relief. Rule 71.1(g), SCRCP, provides that if Applicant wishes to seek appellate review, PCR counsel must serve and file a notice of appeal on Applicant's behalf. Applicant is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

IT IS THEREFORE ORDERED THAT:

1. The application for Post-Conviction Relief is denied and dismissed with prejudice; and
2. Applicant will remain in the custody of the South Carolina Department of Corrections to complete service of his sentence.

AND IT IS SO ORDERED this 5th day of April, 2018.


 J. MARK HAYES, II
 Presiding Judge
 Sixteenth Judicial Circuit

York, South Carolina

WITNESSES

RHPD / Quate

ARREST WARRANT NUMBER

2015-A-46-20307424

ACTION OF GRAND JURY

[Signature]
Foreperson of Grand Jury
Date: 6-16-16

VERDICT

Foreperson of Petit Jury

Date:

TRUE BILL

DOCKET NO. 2016-GS-46-

01861

The State of South Carolina

County of York

COURT OF GENERAL SESSIONS

June 16 2016 TERM

THE STATE

vs.

DAVID ALDEN DICKERSON
D.O.B. 07/15/1976

Indictment for

CRIMINAL SEXUAL CONDUCT WITH A
MINOR IN THE SECOND DEGREE

S.C. CODE §16-3-655(B)(1)
CDR Code: 0396

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

Defendant

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

[Signature]
Defendant

Witness: *[Signature]*
C.C.C. PLS. AND G.S. Specialist

STATE OF SOUTH CAROLINA)

INDICTMENT

COUNTY OF YORK)

CRIMINAL SEXUAL CONDUCT
WITH A MINOR IN THE SECOND DEGREE

At a Court of General Sessions, convened on June 16, 2016, the
Grand Jurors of York County present upon their oath:

That David Alden Dickerson, did in York County, between the dates of June 1, 2012 and August 15, 2012, willfully and knowingly commit the crime of Criminal Sexual Conduct with a Minor in the Second Degree. To wit: David Alden Dickerson, a person over the age of eighteen, did engage in sexual battery with a minor [REDACTED] DOB [REDACTED] 99) who was between the ages of 11 and 14. This is in direct violation of Section 16-3-655(B)(1) of the South Carolina Code of Laws (1976), as amended.

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

OFFICE OF THE ATTORNEY GENERAL



ALAN WILSON (BBM)
ATTORNEY GENERAL

DAVID HAMILTON
CLERK OF COURT
YORK COUNTY, SC

2017 APR 12 AM 9:34

CERTIFIED TRUE COPY

WITNESSES

RHPD / Quate

ARREST WARRANT NUMBER

2015-A-46-20307458

ACTION OF GRAND JURY

James L. Smith
Foreperson of Grand Jury
Date: 6-16-16

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2016-GS-46-

01862

The State of South Carolina

County of York

COURT OF GENERAL SESSIONS

June 16th 2016 TERM

THE STATE

vs.

DAVID ALDEN DICKERSON
D.O.B. 07/15/1976

Indictment for

SEXUAL EXPLOITATION OF A MINOR
FIRST DEGREE

S.C. CODE §16-15-395(A)
CDR Code: 0379

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

Defendant

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

[Signature]
Defendant

Witness [Signature]
C.C.C. PLS. AND G.S. Specialist

STATE OF SOUTH CAROLINA)
)
)
 COUNTY OF YORK)

INDICTMENT

SEXUAL EXPLOITATION OF A MINOR,
 FIRST DEGREE

At a Court of General Sessions, convened on June 16, 2016, the
 Grand Jurors of York County present upon their oath:

That David Alden Dickerson, on or about April 2, 2015, did willfully and knowingly commit the crime of Sexual Exploitation of a Minor, First Degree. To wit: David Alden Dickerson, did knowingly use, employ, induce, coerce, encourage or facilitate a minor [REDACTED], DOB [REDACTED] 99) to engage in or assist others to engage in sexual activity for the purpose of producing material that contains a visual representation depicting this activity or appear in a state of sexually explicit nudity, as defined by Section 16-15-375(5) and (6) of the South Carolina Code of Laws. This incident occurred within the County of York, State of South Carolina, and is in direct violation of Section 16-15-395(A) of the South Carolina Code of Laws (1976), as amended.

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

OFFICE OF THE ATTORNEY GENERAL


 ALAN WILSON (BBM)
 ATTORNEY GENERAL

DAVID HAMILTON
 CLERK OF COURT
 YORK COUNTY, SC
 2017 APR 12 AM 9:35
 CERTIFIED TRUE COPY

STATE OF SOUTH CAROLINA

COUNTY OF

York

STATE

VS.

David Aldean Dickerson

AKA:

Race: W

Sex: M

Age: 40

DOB: [REDACTED]

SS#: [REDACTED]

Address: [REDACTED]

City, State, Zip: Rock Hill, SC 29732 Lancaster, SC 29120

DL#

SID#

*CDL Yes ☐ No ☒ CMV Yes ☐ No ☒ Hazmat Yes ☐ No ☒

In disposition of the said indictment comes now the Defendant who was

TO: Criminal Sexual Conduct with a Minor, Second Degree

In violation of § 16-3-655(B)(1) of the S.C. Code of Laws, bearing CDR Code # 0396

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45(CSC w/minor 1st or Lewd Act)The charge is: ☒ As indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (def.'s initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☒ Recommendation by the State

ATTEST:

B. B. [REDACTED]

78212

Assistant Attorney General

SC Bar #

Defendant

Attorney for Defendant

SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections ☐ County Detention Center, for a determinate term of 20 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and or payment of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

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

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

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

PTUP

Total: \$ _____ plus 20% fee: \$ _____

_____ days/hours Public Service Employment

Payment Terms: _____

Obtain GED ☐☐ Set by SCDPPPS

Attend Voc. Rehab. Or Job Corp. _____

Recipient: _____

May serve W/E beginning _____

Substance Abuse Counseling ☐

*Fine:

\$14-1-206 (Assessments 107.5%)	\$	
\$14-1-211 (A)(1)(Conv. Surcharge)	\$100	\$ 100
\$14-1-211 (A)(2)(DUI Surcharge)	\$100	\$
\$56-5-2995 (DUI Assessment)	\$12	\$
\$56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
\$14-1-212 (Law Enforce. Funding)	\$25	\$ 25
\$14-1-213 (Drug Court Surcharge)	\$150	\$
\$50-21-114 (BUI Breath Test Fee)	\$50	\$
\$56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCCJA Surcharge)	\$5	\$
3% to County (if paid in installments)		\$
TOTAL		\$ 825

Random Drug/Alcohol Testing ☐

Fine may be pd. In equal consecutive weekly/monthly

pmts. of \$ _____ Beginning _____

\$ _____ Paid to Public Defender Fund

Other: _____

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

Clerk of Court/Deputy Clerk

Court Reporter: [REDACTED]

David Hamilton

Presiding Judge

Judge Code: [REDACTED]

Sentence Date: 3-23-16

STATE OF SOUTH CAROLINA

ORIGINAL

IN THE COURT OF GENERAL SESSIONS

COUNTY OF

York

STATE

VS.

David Aldean Dickerson

AKA:

Race:

W

Sex:

M

Age:

40

DOB:

SS#:

Address:

City, State, Zip: Reek Hill, SC 299732

Lancaster, SC 29170

DL#

SID#

*CDL Yes ☐ No ☒ CMV Yes ☐ No ☒ Hazmat Yes ☐ No ☒

In disposition of the said indictment comes now the Defendant who was

☐ CONVICTED OF or ☒ PLEADS

TO: Sexual Exploitation of a Minor, 1st degree

In violation of S. 16-15-395(A) of the S.C. Code of Laws, bearing CDR Code # 0379.

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ \$17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense,☐ Defendant Waives Presentment to Grand Jury.

(def.'s initials)

The plea is: ☐ Without Negotiations or Recommendation,☐ Negotiated Sentence,☒ Recommendation by the State

ATTEST:

Bethany B. Miles

78212

Assistant Attorney General

SC Bar #

Defendant

Attorney for Defendant

SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections ☐ County Detention Center, for a determinate term of 16-65-46-1861 days/months/years or ☐ under the Youthful Offender Act not to exceed years and/or to pay a fine of \$; provided that upon the service of days/months/years and or payment of \$; plus costs and assessments as applicable*; the balance is suspended with probation for months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☒ CONSECUTIVE to sentence on: 16-65-46-1861☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUPTotal: \$ plus 20% fee: \$ days/hours Public Service EmploymentPayment Terms: Obtain GED ☐☒ Set by SCDPPPSAttend Voc. Rehab. Or Job Corp. Recipient:

May serve W/E beginning

Substance Abuse Counseling ☐

*Fine:

\$14-1-206 (Assessments 107.5%)	\$	\$
\$14-1-211 (A)(1)(Conv. Surcharge)	\$100	\$ 100
\$14-1-211 (A)(2)(DUI Surcharge)	\$100	\$
\$56-5-2995 (DUI Assessment)	\$12	\$
\$56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
\$14-1-212 (Law Enforce. Funding)	\$25	\$ 75
\$14-1-213 (Drug Court Surcharge)	\$150	\$
\$50-21-114 (BUI Breath Test Fee)	\$50	\$
\$56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCJA Surcharge)	\$5	\$
3% to County (if paid in installments)	\$	\$
TOTAL	\$	\$ 100

Random Drug/Alcohol Testing ☐

Fine may be pd. in equal consecutive weekly/monthly

pmts. of \$ Beginning\$ Paid to Public Defender FundOther:

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

Clerk of Court/Deputy Clerk

David Hamilton

Court Reporter:

Residing Judge

Judge Code: Sentence Date: